

Evoenergy FY19-20 Ring-fencing Compliance Report

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Introduction

Background

The Australian Energy Regulator (**AER**) released its draft Ring-fencing Guideline in November 2016 and the current Ring-fencing Guideline (**Guideline**) in October 2017.

The Guideline is binding on distribution network service providers (**DNSPs**) and seeks to promote competition in the provision of electricity services, whilst preventing DNSPs from providing competitive advantages to its affiliates, operating in unregulated markets.

A key objective of ring-fencing is to provide a level playing field for participants in contestable electricity markets through accounting and functional separation of the provision of direct control services by DNSPs from the provision of other distribution services by them, or their affiliated entities.

ActewAGL Distribution (AAD) is committed to continuous improvement in the implementation of the Guideline in the interests of maintaining a high level of trust from our customers that our investment in the network is prudent and efficient.

Further, AAD has an interest in promoting the growth of a market for contestable electricity services in the ACT. A vibrant market for electricity services will allow it to drive further efficiencies and innovation in our operations, which will ultimately result in lower prices for its customers.

In FY18-19, AAD engaged DELOITTE to undertake an independent assessment of AAD's Annual Compliance Report to be submitted to the AER. That independent assessment identified 3 exceptions. An exception is defined as "The requirements of the obligation have not been fully met. Findings noted require remedial action". All three exceptions were addressed.

Purpose of Report

This report sets out AAD's compliance with the Guideline for the period 1 July 2019 to 30 June 2020 (**FY19-20**), specifically:

- the measures taken to ensure compliance with the Guideline;
- any breaches of the Guideline by AAD, or which otherwise related to AAD;
- all *other services* provided by AAD in accordance with the Guideline; and
- the purpose of all transactions between AAD and its affiliated entities.

Key AAD documents to ensure compliance with the Guideline are described in **Appendix 1**.

This report is also accompanied by an independent assessment of AAD's FY19-20 ring-fencing compliance by Deloitte.

Compliance Management Framework

Compliance with the Guideline is managed in accordance with AAD's Compliance Management Manual, which sets out three lines of assurance as shown in Table 1 below.

Assurance is provided by a range of activities across the organisation at three broad levels:

- Level 1 – quality assurance – this refers to the operation and continuous or frequent monitoring of day-to-day controls embedded into work processes.
- Level 2 – management assurance – this includes routine and regular line management review of risks and their treatments.
- Level 3 – independent assurance – this refers to selective (generally risk-based) independent and objective review of systems of management or a defined scope of activity.

TABLE 1 – AAD ASSURANCE LEVELS

Assurance Level	Example Activities	Responsibility
First line	Self-assessments on effectiveness of controls and processes (e.g. procedures, processes, reporting mechanisms)	Functional Managers & teams
Second line	Semi-independent assurance of control effectiveness and process performance through Management Initiated Reviews and Audits	Risk and Compliance Team / Environment and Technical Regulation Team
Third line	Independent assurance through Internal Audit Program and Regulatory Audits	Internal Audit and Fraud Control

For the most part, the focus of FY18-19 was on developing, implementing and communicating ring-fencing controls in response to the FY17-18 audit findings.

The focus of FY19-20 has been the second and third line of assurance and in particular how functional managers and staff continuously assess ring-fencing compliance and proactively engage the Regulatory and Compliance teams to validate control health and compliance as input to the annual compliance reporting process. AAD conducted a Compliance Management Framework program in which a specific assurance program for FY21 to FY23 was developed. Assurance mapping identifies the assurance activities undertaken to address significant risks impacting an organisation.

Compliance Measures

Prevent cross subsidies

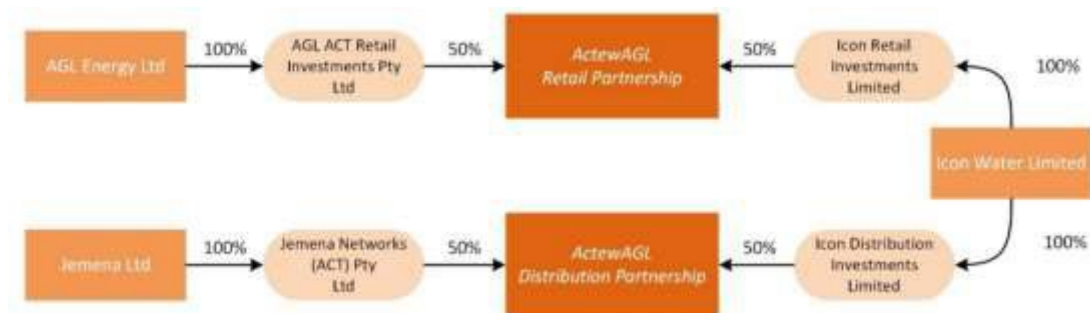
Legal Separation

Considerations

ActewAGL comprises two partnerships – the AAD partnership and the ActewAGL Retail (AAR) partnership. The AAD partnership owns and operates the ACT electricity network and owns the gas networks in the ACT, Queanbeyan and Palerang shires, and Nowra. AAR sells electricity and natural gas, along with managing customer service and marketing functions in a competitive market.

The AAD partnership is a legal entity and is the DNSP for the purposes of the Guideline. AAD is owned equally by Icon Water Ltd and Jemena Ltd via subsidiary companies. The AAR partnership is owned equally by Icon Water Limited and AGL Energy Ltd via subsidiary companies. This ownership structure is shown in Figure 1 below.

FIGURE 1 – ACTEWAGL LEGAL AND OWNERSHIP STRUCTURE



AAD comprises three business units:

- Evoenergy – which provides direct control services (and other non-electricity services under a waiver);
- The Contestable Business Unit (CBU) - which provides other distribution services
- Corporate Services, which provides shared corporate services.

The legal separation obligations in the Guideline prevent AAD from using regulated funds to subsidise services provided by Related Electricity Service Providers (RESPs). AAD's RESPs are ActewAGL Retail, Zinfra, CBU and Illuminact.

Summary of Previous Audit Findings

TABLE 2 – SUMMARY OF OBLIGATIONS AND AUDIT FINDINGS

Ring-fencing Obligation	FY18-19 Audit findings	FY19-20 Compliance actions
Legal separation	AAD complies with the Guideline	Nil required
Establish and maintain accounts	AAD complies with the Guideline	Nil required
Obligation not to discriminate	AAD complies with the Guideline	Nil required
Physical separation/co-location	AAD complies with the Guideline	Nil required
Staff sharing	AAD complies with the Guideline	Nil required
Branding and cross-promotion	AAD complies with the Guideline	Nil required
Office and staff registers	Issues were identified by the auditor	Action recommended
Protection of confidential information	AAD complies with the Guideline	Nil required
Disclosure and sharing of information	AAD complies with the Guideline	Nil required. No requests received.
Information register	AAD complies with the Guideline	Nil required.
Conduct of service providers	AAD complies with the Guideline	Nil required
Waivers	AAD complies with the Guideline	Nil required
Compliance and enforcement	AAD complies with the Guideline	Refresher training delivered. Enquiries from staff managed.
Compliance reporting	AAD complies with the Guideline	Nil required

Office and staff registers

FY17-18 Audit findings

In its FY18-19 audit, Deloitte found that the nature of the positions included in the Staff Register were not linked to actual secondments carried out over the audit period and that the Staff Register provided by Evoenergy did not clearly outline the roles of the staff members who were seconded across the business. This made it difficult to confirm if seconded staff were subject to staff sharing.

FY19-20 Compliance actions

In FY19-20, AAD continued to monitor its *Office Register* (O.7) and *Staff Register* (O.5) on its website. In relation to the Staff Register, AAD's interpretation of clause 4.2.2(a) of the Guidelines is that it covers staff involved in the provision or marketing of both direct control and contestable electricity services at the same time and not staff that are seconded to provide one or the other of these service types. Additionally, secondments of staff were discontinued.

Disclosure and sharing of information

During FY19-20, AAD received no third party requests for electricity information – including specific requests from RESPs. No confidential information was shared by AAD and no requests for access to AAD's Information Register were received from third parties.

Compliance and Enforcement

FY19-20 Compliance actions

AAD has delivered ring-fencing refresher training. Online refresher training was conducted June 2020 for all AAD staff. Audit results show that 99% of staff completed the training (with those who did not complete the training being on extended leave).

All new AAD staff complete the online training at their induction session which requires confirmation of completion by their supervisors within one week of commencement.

The Ring-fencing Staff Information Manual (SM4648) and online training sets out AAD's commitment to comply with the Guideline and the process for staff to make enquiries or identify potential breaches via the ring-fencing enquiry mailbox.

For FY2019/20, there were 20 enquiries from Evoenergy personnel. Each enquiry was assessed against the Guideline before responding to the enquirers to advise the appropriate form of action. Of those enquiries, 14 were determined not to be breaches of the Ring-fencing Guideline, 3 had the potential to be breaches had they proceeded (and they did not proceed) and 3 were non-material breaches.

Evoenergy assessed those 3 as non-material breaches because they had no impact to a customer or advantage to other contestable business, and were a result of a weakness of a control that could be rectified. The non-material breaches are summarized as follows:

1. 9th July 2019 – Access by CBU seconded employee to Evoenergy domain email account.

An employee had been on secondment to the CBU for a year and a half. It was discovered by chance that he could access his own historical emails in his Evoenergy address.

A directive was issued to the IT branch to change the employee's computer access company details from Evoenergy to Contestable Business unit and remove the Evoenergy access entirely.

2. 3rd December 2019 - The use of an Evoenergy email address by an employee of CBU.

An employee had transferred from Evoenergy to a role in the Contestable Business Unit. It was observed thereafter that the employee was using his Evoenergy email signature block when contacting external parties. Evoenergy IT investigated and found that upon the employees transfer, they were not advised therefore their systems did not identify the breach. Given the short length of time of exposure by the employee and his limited use of email, Evoenergy formed a view that the breach is non-material.

The employee was instructed to remove the Evoenergy logo from his signature block.

3. 11th May 2020 – access to SharePoint by all ActewAGL employees.

ActewAGL's legal team undertook a scan of access permissions for ring-fencing monitoring. They identified 16 employees of a RESP may have access to the Evoenergy intranet SharePoint site "The Grid".

All staff identified in the list had their access permissions to the Evoenergy Grid pages removed immediately. It is noted that access to 'the Grid' does not mean those staff had access to information within the SharePoint folders set up for each team within The Grid, as these are owned by individual business units and permission to access these files must be requested and then specifically granted.

Upon further investigation it was identified that the CBU staff had permission to access an historical *Evoenergy Projects* SharePoint site. These permissions were immediately revoked.

An assessment of this for materiality was undertaken. The first consideration was whether those related entities had access to any Evoenergy "confidential information" or "electricity information".

Evoenergy's sharepoint platform is classified in the Information Sharing Procedure as selectively confidential; that may contain confidential information. The Grid is the platform that provides general information. Electricity information and confidential information should not be maintained within the general Evoenergy Grid SharePoint environment. Access to electricity information such as a procedure, standard or drawing could be accessible via the Policies and Procedures area on the Grid only if those people have been grouped as Evoenergy, and only where permission had been specifically granted to those non-Evoenergy staff.

A review (by the IT branch) of access by the select personnel to the file areas does not show that staff actually opened, downloaded or used information.

Evoenergy IT revised legacy access groups so that access controls are much stricter in order to prevent potential for unauthorised access to electricity information.

Evoenergy sent an update via The Grid to all Evoenergy staff reminding of the requirements to consult Confidential Information – RFG 4.3 in the legal site or in the Evoenergy ring-fencing site when choosing where to save information, before releasing information and when granting access permissions to sharepoint folders.

Evoenergy has assessed this issue and formed a view that it is a non-material breach because there was no access to confidential or electricity information likely to provide the parties with a competitive advantage to perform contestable works, and the revocation of access was able to be put in place immediately.

Breaches

In FY19-20, Evoenergy did not report any breach of the Guideline.

AAD other services

AAD has been granted a waiver to continue to own and operate its:

- Natural gas distribution pipelines located in the ACT and the Queanbeyan-Palerang council area east of Canberra (ACT Gas Network) 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 until 30 June 2024).
- Compressed natural gas refuelling facility in the Canberra suburb of Fyshwick (CNG Refuelling Facility) until 31 December 2019. AAD no longer provides this “other service” having been transferred to Illuminact, as a separate legal entity.

AAD transactions with related entities

Table 3 sets out the transactions for services provided by affiliates to AAD and Table 4 set out transactions for services provided by AAD to its affiliates.

TABLE 3 – SERVICES PROVIDED BY AFFILIATES TO AAD

Affiliate	Overview of service provided by affiliate	Comment
ActewAGL Retail, a partnership of AGL ACT Retail Investments Pty Ltd and Icon Retail Investments Limited	Electricity and gas retail services to Evoenergy.	See Section 2.2.1 for procurement processes
ActewAGL Retail, a partnership of AGL ACT Retail Investments Pty Ltd and Icon Retail Investments Limited	Manage the CNG Refuelling Station and pass on wholesale fuel costs to Evoenergy.	This transaction has been included for completeness.
Icon Water Limited	Water and sewerage services to Evoenergy	Icon Water is the regulated monopoly provider of water and sewerage services in ACT and therefore is not subject to the procurement process described in Section 2.2.2)
Icon Water Limited	Reimbursement of employee-related costs for seconded employees.	See Section 2.2.3
Zinfra	Construction services to AAD’s electricity distribution network business	See Section 2.2.1 for procurement processes
Jemena Limited	Jemena provide various management services to Evoenergy, including asset management, general management and construction management, for both routine and non-routine	AAD’s gas network business provides an “other service” for which a waiver to comply with the Guidelines has been granted by the AER. The gas network business is subject to separate ring-fencing requirements under the National Gas (South Australia) Act 2008 (SA).

	activities within the Gas business.	This transaction has been included for completeness
Jemena Limited	Jemena undertake works on behalf of external parties on the gas network, and gift these to Evoenergy. These are recorded at fair value by Evoenergy however there is no exchange of cash.	AAD's gas network business provides an "other service" for which a waiver to comply with the Guidelines has been granted by the AER. The gas network business is subject to separate ring-fencing requirements under the National Gas (South Australia) Act 2008 (SA). This transaction has been included for completeness.

TABLE 4 – SERVICES PROVIDED BY AAD TO AFFILIATES

Affiliate	Overview of service provided by AAD	Comment
ActewAGL Retail, a partnership of AGL ACT Retail Investments Pty Ltd and Icon Retail Investments Limited	Regulated electricity and gas services	Regulated service
ActewAGL Retail, a partnership of AGL ACT Retail Investments Pty Ltd and Icon Retail Investments Limited	Warehousing services	Warehousing costs are allocated according to floor space occupied for inventory belonging to each division in accordance with Evoenergy's AER approved cost allocation method
ActewAGL Retail, a partnership of AGL ACT Retail Investments Pty Ltd and Icon Retail Investments Limited	Compress and deliver natural gas for ActewAGL Retail to on sell to customers through the CNG Refuelling Station.	This transaction has been included for completeness.
Icon Water Limited	Evoenergy provide dial before you dig and call centre services to Icon Water	
Icon Water Limited	AAD charge a fee to Icon Water for use of shared IT systems.	IT costs are allocated according to floor space occupied for inventory belonging to each division in accordance with Evoenergy's AER approved cost allocation method
Icon Water Limited	Evoenergy have a lease agreement with Icon Water for the CNG refuelling station.	See Section 2.2.1 for procurement processes
Icon Water Limited	Evoenergy have a lease agreement with Icon Water for the CNG refuelling station.	This transaction has been included for completeness.
Icon Water Limited	Reimbursement of employee-related costs for seconded employees.	See Section 2.2.3

Appendix 1. AAD Key Ring-fencing Documents

ID	Document Name	Purpose/Description	Relevant obligations
GENERAL			
G.1	Ring-fencing Staff Information Manual	To provide all staff with resources for ring-fencing protocols and compliance requirements under the Guideline, where ring-fencing protocols can be stored and accessed as well as where breaches can be reported.	All
G.2	Ring-fencing Compliance Fact Sheet	To provide a ring-fence compliance fact sheet that stipulates the requirements for staff to comply with the guidelines. The fact sheet has a particular focus on call centre staff and technical (hot spot) staff.	All
G.3	Corporate Procedure Ring-fencing	To set out AAD's requirements to comply with the Guideline.	All
LEGAL SEPARATION			
L.1	Classification of Services Flowchart	To set out how are AAD services are classified as either regulated distribution services, unregulated distribution services or other services. Does not include the current classification which has yet to be incorporated within an AAD document.	3.1
SEPARATE ACCOUNTS			
A.1	Intercompany and Related Accounting Policy	To provide the intercompany and related accounting policy that sets out; the internal accounting procedures, report on transactions between the DNSP and its affiliated entities and any additional information to demonstrate the extent and nature of transactions between the DNSP and its affiliated entities.	3.2.1
A.2	AER Decision - ActewAGL Distribution (Evoenergy) Cost Allocation Method	To set out how AAD allocates its costs between the different services that it provides. Includes information on how AAD allocates costs for services that it provides to RESPs and other affiliated entities.	3.2.2
OBLIGATION TO NOT DISCRIMINATE			
D.1	Procurement Management Manual - Phase 2 Sourcing and Selection	To provide guidance on the Sourcing and Selection phase of the procurement process. Includes the requirement that at least one quote must be sourced from a non-affiliated entity in order to meet the minimum market approach requirements	4.1 4.4.1
D.2	Obligation not to Discriminate Flowchart	To set out the obligations for AAD staff when interacting with RESPs and other contestable energy service providers.	4.1

ID	Document Name	Purpose/Description	Relevant obligations
OFFICES, STAFF BRANDING AND PROMOTIONS			
O.1	Security Pass and ID Card Procedure	To ensure all persons are clearly identified as being an employee of AAD or a contractor working for AAD and are provided identity cards and electronic access as appropriate to complete their duties. Sets out how the corporate team is to oversee access	4.2.1 4.2.2
O.2	Physical Separation and Staff Sharing- flowchart	To capture the physical separation and staff-sharing requirements that stipulates the requirements for staff to comply with the Guideline.	4.2.1 4.2.2
O.3	Cardholder/Activity Report "Monthly CBU Ring-fencing Report"	Provides a monthly report of all offices accessed by AAD staff, distinguishing between CBU, Corporate and Evoenergy staff	4.2.1
O.4	System Access User Group	Defined system access permission for CBU staff.	4.2.1
O.5	Staff Register	To provide Evoenergy's staff register via a publicly available website, identifying the nature of positions (including description of the roles, functions and duties) of its members of staff, to which staff involved in the provision or marketing of direct control services are involved in the provision or marketing of contestable electricity services by a related electricity service provider by reason of clauses 4.2.2(b)i.a, 4.2.2(b)i.b., 4.2.2(b)ii. Or 4.2.2(d) of the Guideline.	4.2.2 4.2.4
O.6	Branding and Cross-Promotion Flowchart	To capture the branding and cross-promotion requirements for Evoenergy's direct control services separately to that used by a related electricity service provider for contestable electricity services, without promoting contestable electricity services provided by a related electricity service provider other than the DNSP itself, including any exceptions as per the Guideline.	4.2.3
O.7	Office Register	To provide Evoenergy's office register via a publicly available website, identifying the classes of offices to which physical separation or co-location requirements have not been applied by reason of clauses 4.2.1(b)i, or 4.2.1(b)iii.	4.2.1 4.2.4
INFORMATION ACCESS AND DISCLOSURE			
I.1	Confidential Information Flowchart	To provide assistance in identifying electricity information and confidential information.	4.3.2 4.3.3 4.3.4
I.2	Information Sharing Protocol	To provide the information sharing protocol via a publicly available website, that sets out how and when it will make confidential information available to RESPs and other legal entities on an equal basis.	4.3.2 4.3.3 4.3.4 4.3.5

ID	Document Name	Purpose/Description	Relevant obligations
I.3	Information Register	To provide the information register via a publicly available website, that publishes all valid requests for access to confidential information (including the kind of information requested and their description) made by RESPs and other legal entities who provide contestable electricity services.	4.3.3 4.3.4 4.3.5
I.4	CBU Permissions	To document the information that CBU personnel have access to.	4.3.5
I.5	Listed Legal Entities	To provide the record of listed legal entities via a publicly available website, involving all requests for being included on the register, the date added to the list and information types requested.	4.3.5
I.6	Information Request Form	To provide a form for legal entities seeking to apply for access to information identified on the information register, such that they can be assessed by Evoenergy for disclosure of information, and responded to with; a confirmation of whether the information request is complete and valid under the Guideline, and the timeframe and communication mechanism for the provision of information.	4.3.3 4.3.4 4.3.5
I.7	Register Inclusion Form	To provide a form that legal entities can use to request to be included on the information register with respect to all or specific kinds of information.	4.3.4 4.3.5
I.8	Privacy Policy	To provide a privacy policy that sets out that confidential information is kept confidential, and that confidential information is only used for the purpose for which it was acquired or generated.	4.3.2
SERVICE PROVIDERS			
P.1	Ring-fencing Fact Sheet for Evoenergy Service Providers	To provide guidance to Evoenergy service providers/contractors.	4.4.1
P.2	Conduct of Service Providers-Flowchart	To capture the obligations for conduct of service providers under any new or varied agreements involve; complying with clauses 4.1, 4.2.1, 4.2.2, 4.2.3 and 4.3.2 of the Guideline, and not encouraging or incentivising a service provider to engage in conduct that would go against the DNSP's obligations under clause 4 of the Guideline.	4.4.1
WAIVERS			
W.1	Waiver Register	To provide the waiver register via a publicly available website, that records; waivers that have been successfully submitted to the AER, the description of the waiver, the terms and conditions of the waiver and its expiration date.	5.7
COMPLIANCE AND ENFORCEMENT			
C.1	Legal Compliance Process	To document the end to end process for capturing new and amended legislation relevant to ActewAGL's operations within the ActewAGL compliance management database (CMO), including the required monitoring of operational	6.1 6.2

ID	Document Name	Purpose/Description	Relevant obligations
C.2	Compliance Management Manual	<p>compliance against obligations. This document is relevant to compliance controls already in place to address compliance with existing legal obligations.</p> <p>To provide business with tools and knowledge of practices and systems to support legislative compliance.</p>	<p>6.3</p> <p>6.1</p> <p>6.3</p> <p>6.4</p>
C.3	Breach Identification and Reporting Manual	<p>To provide work instruction/ guide detailing Evoenergy's approach to breach identification and reporting requirements under the Guideline.</p>	<p>6.1</p> <p>6.2</p> <p>6.3</p> <p>6.4</p>
C.4	Incident Management Manual	Documents the process for all incident management within ActewAGL and Evoenergy	6.3