

Submission on IPART's review of electricity network operators' critical infrastructure licence conditions

20 December 2024

Thank you for the opportunity for Endeavour Energy to provide its submission of IPART's review of electricity network operators' critical infrastructure licence conditions.

We acknowledge the importance of these licence conditions and the objective of safeguarding the people of NSW from risk. In recognising the intent of the proposed changes being to enhance efficiency in compliance monitoring, improve network operators' security outcomes and align with the evolving Commonwealth critical infrastructure frameworks, our submission highlights the following:

- **greater clarity in licence conditions:** we seek clearer definitions and scope of the licence conditions, particularly where ambiguity exists (as outlined in our response); and
- **opportunity for licence conditions to support the energy transition and enable the adoption of new technologies in a cost-effective manner:** we advocate for licence conditions that enable the adoption of new technologies in a cost-effective manner. As currently drafted, we are concerned that the licence conditions may give rise to challenges in collaborating with established global organisations. Specifically, we believe significant quality and cost benefits from being able to access a diverse global supplier base for new technologies such as distributed energy resource management systems (DERMS), battery energy storage systems (BESS), and microgrids.

We have set out in the attachment provided responses to the questions raised by IPART and reasoning to support the proposed changes.

We appreciate IPART's consultative approach in seeking submissions for this review and would be grateful for the opportunity to meet and provide further information prior to the final report being submitted to the Minister in March 2025.

Yours sincerely

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IPART question	Endeavour Energy response
<p>1. Do you consider the applicable critical infrastructure reporting manual and audit guidelines contain significant issues in complying the requirements in these documents, and if so, what are these issues?</p>	<p>We recommend aligning regulatory obligations with the existing SOCI risk-based approach to enable DNSPs to efficiently manage regulatory obligations and associated resourcing. In particular, we note that:</p> <ul style="list-style-type: none"> the 2024 SOCI Act amendment grants the Secretary or regulator the authority to mandate changes to a CIRMP if it poses risks to socioeconomic stability, national security, or defence; and the National Electricity Amendment (Cyber Security Roles and Responsibilities) Rule 2024 empowers AEMO to coordinate annual assessments according to the AESCSF, in line with Clause 4.3.2A (b1 & b2). <p>We also recommend amendments to the critical infrastructure reporting manual and audit guidelines to ensure consistent reporting and alignment with IPART's principles 2, 3, and 4. Aligning regulatory obligations with the SOCI risk-based approach avoids the risk that regulatory audits can become unnecessarily burdensome through requiring the same information to be provided repeatedly. We further note that as Endeavour Energy is ISO 27001 certified, many of the IPART audit guidelines overlap with areas already assessed by ISO 27001.</p>
<p>2. Do you agree with our proposal to retain the maintenance of the distribution/transmission system conditions?</p>	<p>We support the substantial presence requirements, which mandate that the maintenance of transmission or distribution systems be carried out within Australia. However, the definition and boundaries of "transmission or distribution system" should be clearly articulated to avoid misinterpretation and unnecessary restrictions on accessing expertise for non-distribution systems.</p> <p>We welcome the clarification allowing exemptions for servicing outside Australia in circumstances where it is not practicable. We note, however, that many solutions, particularly software-as-a-service models, rely on a "follow-the-sun" support model, which would require virtual servicing. The absence of a clear exemption could lead to service level challenges. For example, the product development team for the ADMS (provided by Schneider) is based in Serbia; similarly, GE (Schneider's key competitor) also provides support outside Australia. To accommodate this need, it is likely that remote access protocols would be necessary (see further our comments in relation to question 3 below). Alternatively, the draft position on virtual servicing could be updated to articulate specific carve-outs / circumstances.</p>
<p>3. Do you agree with our proposal to retain the exception to the maintenance condition allowing for a protocol to be agreed with the CISC?</p>	<p>We support the proposal to retain the exception and would recommend that clear guidance and processes be established for agreeing on the Protocol with the CISC regarding alternative maintenance arrangements.</p>



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<p>4. Do you agree with our proposal to maintain the requirements for operation and control of the transmission/distribution system?</p>	<p>We support maintaining the current requirement that, except as permitted under a Protocol, a network operator must manage and control the transmission/distribution system from within Australia. To facilitate that, we recommend clearly defining and delineating the boundaries of the transmission/distribution system to prevent misinterpretations and avoid imposing unnecessary restrictions on access to expertise for non-distribution systems.</p> <p>We request clarity around IPART's proposal to amend LC3.2(5) to provide that the sharing of information with other electricity sector participants must be in accordance with 'Best Industry Practice' (which is defined by reference to regulatory requirements) rather than "in the ordinary course of business and in accordance with good electricity industry practice".</p> <p>'Best Industry Practice' is defined in the existing and proposed licence conditions as including "access required by relevant Australian regulators and market system operators" but the definition does not otherwise include any underlying conceptual guidance as to what would be captured by the definition.</p> <p>We query whether "<u>best</u> industry practice" implies a higher standard than "in the <u>ordinary course of business</u> and in accordance with <u>good</u> electricity industry practice" (emphasis added). Accordingly, we request that IPART provide further clarity on what would objectively constitute 'Best Industry Practice', given network operators achieve best industry practice by "using a variety of different controls, standards and frameworks", and whether Licence Holders' compliance with this provision has become more onerous as a result of this amendment.</p>
<p>5. Do you agree with our proposal to amend the security clearance requirements by allowing a network operator to choose between NV1 security clearance or the background checks under the AusCheck scheme?</p>	<p>We support IPART's recommendation. While our Directors hold NV1 national security clearance as required under FIRB condition 1.2(a), IPART's proposed amendment would offer flexibility to consider using AusCheck instead of NV1 clearance for Senior Officers. However, we are likely to continue with NV1 clearance across the organisation due to the need for confidential and sensitive discussions with agencies such as ASIO and the Department of Home Affairs on cyber and physical security matters.</p> <p>Regarding the proposed reduction of the maximum allowable timeframe from 8 to 4 months, our experience is that obtaining NV1 clearance typically takes longer than 4 months, especially as Endeavour Energy rely on AGSVA. While AusCheck compliance may be achievable within 4 months, our view is that NV1 clearance should remain at 8 months due to its more comprehensive nature. Moving exclusively to AusCheck would increase risk for Endeavour Energy and, in the event of an issue, we would likely face scrutiny for not adhering to the more robust NV1 process. Our recommendation is therefore that the existing 8-month timeframe for NV1 clearance be retained.</p>



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<p>6. Do you agree with our proposal to retain the data security requirements?</p>	<p>We are concerned about the feasibility of the proposal to retain the data security requirements, particularly in relation to load data and third-party data, as outlined in the proposed changes. Although we recommend maintaining the storage of load data and third-party data within Australia, limiting access solely within Australia would not be feasible for our operations. We also note that this requirement does not currently exist for load data under the existing licence conditions, and would not be reasonably practicable as it does not align with our current third-party risk management strategy and would create significant operational and compliance challenges. Furthermore, this approach does not seem to be supported by either the draft report or the CyberCX IPART licence conditions review.</p> <p>We would also like to request that IPART clearly defines the term “operational technology” since the interpretation of this term has been inconsistent to date - see further our comments in response to question 10 below.</p> <p>We also recommend that further clarification be provided regarding third-party data, particularly in relation to Personal Identifiable Information (PII) under the Australian Privacy Act. In particular, we seek clarification on whether third-party data, as referenced in recommendation 4, includes PII from third parties or excludes it, where we manage such data in accordance with Privacy Act requirements. A further question arises as to whether, if the bulk personal data requirement is removed, IPART will no longer have scope to assess PII during audits such that the obligation will shift entirely to compliance with the Privacy Act.</p> <p>In relation to the proposal to introduce "sensitive information" as a new category under licence conditions, we recommend that IPART retain the current, more specific classification, rather than generalising to "sensitive information." This is because this may give rise to confusion, given the overlap with existing classifications such as "Business Critical Data" under the SOCI Act and Endeavour Energy's own internal classification of Restricted Operational Technology Information.</p> <p>From an operational perspective, if the proposed revisions to the licence conditions were to be made, Endeavour Energy would not be able to comply immediately. This is because several of our critical applications that process load data or third-party data currently rely on overseas support (as permitted under the current licence conditions). Changing this model to a local support model would require Endeavour Energy to incur significant cost (that has not been provisioned for within the current regulatory period), as well as time and operational disruption to enable the transition to occur.</p>



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7. Do you agree with our proposal to remove the Bulk Personal Data requirements?	<p>We are supportive of IPART's recommendation to remove the licence conditions related to Bulk Personal Data Records (i.e., personal information) as the Australian Privacy Principles 8 and 11 already fulfill the same function.</p> <p>We would be grateful for confirmation from IPART that, if this recommendation is implemented, the scope of licence condition audits will no longer include assessment of the arrangements for storage, handling and accessing personal information.</p>
8. Do you agree with our proposal to replace the data agreement provisions with a new provision enabling the Commonwealth Representative to agree to a Protocol?	<p>We are supportive of an exemption process but consider that it should be limited to Operational Technology information. Load data and third-party data access should be reconsidered to support critical processes and projects including Future Grid, Energy Transition, and business-critical applications. If the recommendations in R4 are adopted, they may lead to an excessive number of exceptions for load data and third-party data; in addition, as noted above, when regulatory obligations are not aligned with the SOCI risk-based approach, audits become redundant, often requiring the same information to be submitted. Furthermore, as an ISO 27001 certified organisation, Endeavour Energy undergoes annual internal and external audits that already assess much of the IPART audit scope.</p>
9. Do you agree with our proposal to retain the compliance reporting and auditing requirements?	<p>We are supportive of CyberCX's recommendation that Licence Holders provide IPART with a copy of the annual report required under section 30AG of the SOCI Act, along with a supplementary report covering matters not included in the SOCI Act's annual report, and that doing so will be more efficient and avoid duplication.</p>
10. Are there any additional comments you wish to make on the draft licence conditions or the draft report?	<p>We would be grateful for the opportunity to meet to discuss the comments below to share additional context:</p> <ol style="list-style-type: none"> 1. We are concerned that the focus on data security in the draft licence conditions conflicts with existing requirements of the SOCI Act, particularly regarding 'critical business data,' as well as the Privacy Act. We recommend that licence conditions should focus primarily on Critical Infrastructure, specifically: <ul style="list-style-type: none"> • the maintenance of the transmission/distribution system; and • access, operation, and control of the transmission/distribution system. 2. Consistent with previous discussions (and as flagged earlier in response to question 6), we remain of the view that the term "operational technology" should be defined to ensure consistency in interpretation and application. We propose the following definition for consideration: <p><i>Operational Technology: Technology that directly controls devices on the distribution system and transmission system, including:</i></p>



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	<p>(a) <i>the SCADA Master Stations and Distribution Management Systems (where they have operational control functionality) and other associated systems that directly control primary equipment on the distribution system; and</i></p> <p>(b) <i>the ICT infrastructure on which the systems referred to in (a) above operate, the remote devices these systems control, and the associated telecommunication network.</i></p> <p>We consider that defining the term “operational technology” on industry-accepted principles will reduce ambiguity, provide a level playing field and ensure that the CI licence conditions are able to accommodate developments in electricity distribution networks relating to the energy transition.</p> <p>3. We consider that clarification is required in relation to the reference to “physical servicing” under clause 2.2. We also note that the clause and licence are silent on “virtual servicing”; accordingly, there is ambiguity as to whether software debugging, patches, new version components etc can, or cannot, be done outside of Australia.</p> <p>4. We would recommend amending LC3.2(6), which allows Licence Holders to disclose, hold, use or access Sensitive Information without restriction where this is reasonably required for “providing aggregated data that does not permit identification of any customer, Connection Points <u>or a customer’s demand characteristics</u>” (emphasis added). This is inconsistent with the definition of ‘Load Data’, which, per limb (c) of that definition, will be data as to the quantum of electricity delivered which “describes a location that allows a customer or Connection Point to be identified”. ‘Load Data’, by its very nature, provides details of the demand characteristics and the concern should be to ensure the data security licence conditions apply in respect of such details that are matched to particular customers or connection points (as is contemplated in limb (c) of the definition of ‘Load Data’). Accordingly, we recommend the words “or a customer’s demand characteristics” in LC3.2(6) be deleted.</p>