

12 November 2025

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Chief Executive
Top Energy Limited

By email only: [REDACTED]

Tēnā koe Russell

Top Energy Limited – compliance advice letter for admitted non-compliance with the quality standard under DPP3 2023 assessment period

1. The purpose of this letter is to advise you of our enforcement decision regarding Top Energy Limited's (**TOP**) admitted non-compliance with the quality standards under the *Electricity Distribution Services Default Price-Quality Path Determination 2020* [2019] NZCC 21 (as amended) (**DPP3**) in the 2023 assessment period (**AP**).¹
2. In summary, TOP admitted to failing to comply with the quality standards under DPP3 for AP 2023 by exceeding its unplanned 'system average interruption duration index' (**SAIDI**) limit and its unplanned 'system average interruption frequency index' (**SAIFI**) limit.² After considering the information available, we have decided that issuing a compliance advice letter to TOP is the appropriate enforcement response in this instance. We set out our reasons below.

Background

3. TOP is subject to price-quality regulation under Part 4 of the Commerce Act 1986. The DPP3 determination sets out regulatory requirements for the five-year period covering AP 2023. Under DPP3, TOP is subject to quality standards set out in clause 9.7 of the determination.
4. On 31 August 2023, TOP submitted its annual compliance statement and unplanned interruptions report for AP 2023.³

¹ [Electricity Distribution Services Default Price-Quality Path Determination 2020](#) [2019] NZCC 21.

² Top Energy "[Default Price-Quality Path Annual Compliance Statement: 1 April 2022 – 31 March 2023 Assessment Period](#)" (29 August 2023).

³ As required under clause 12.4 of the DPP3 determination if an EDB did not comply with the unplanned SAIDI quality standard.

Table 1 – TOP's quality standard limit exceedance for 2023

Quality measure	Limit	Assessed	% difference over limit
SAIDI	380.24	513.96	35.2%
SAIFI	5.07	5.50	8.4%

Our investigation

5. Our investigation considered:

- 5.1 TOP's letter to the Commission dated 1 April 2025;
- 5.2 TOP's annual compliance statement and unplanned interruptions reporting for AP 2023; and
- 5.3 TOP's responses to our requests for information.

TOP's explanation for its non-compliance

6. TOP provided three reasons for not complying with the annual unplanned interruptions limits.

- 6.1 Severe weather conditions were the main cause of TOP's non-compliance. The 2023 AP was marked by extreme weather events, including two tropical cyclones and one ex-tropical cyclone. These events led to two states of emergency being declared in Northland. Analysis by NIWA determined that TOP had the most extreme weather days (27 days) since records began in 1940, far exceeding the previous record (19 days). In addition, TOP had the second most extreme precipitation days since recording began in 1940.
- 6.2 The secondary reason for the non-compliance was vegetation damage beyond TOP's control. The largest cause for faults in AP 2023 was vegetation. According to TOP's estimates approximately 100 trees fell through or across its lines during Cyclone Gabrielle alone. Vegetation contributed 151 minutes to interruptions in AP 2023 compared to an average of 68 minutes over the previous 5 years.
- 6.3 Another contributing factor was the increase in distribution (11kV) related faults.

7. The aggregated SAIDI impact of the three reasons listed above was 380.7 minutes, 77% higher than the corresponding measure in AP 2022.

8. TOP carried out internal and external investigations both prior to and during the period of non-compliance to understand the reasons behind the trends in its performance generally and non-compliance specifically.

Our findings

9. Our view is that while there were actions TOP could have implemented in a timely manner to lessen the impact of weather events on its network, TOP's non-compliance was not caused by failures to meet good industry practice (**GIP**).
10. We analysed the information gathered against the enforcement criteria of seriousness of conduct, extent of detriment and public interest.

Seriousness of conduct

Adverse weather conditions

11. We accept that weather conditions impacted TOP's network significantly beyond the initial storm events. When considering the seriousness of TOP's conduct, we note that, despite the weather being a major factor outside of its control, TOP *can* control how it responds and prepares for these severe weather events.
12. TOP proactively commissioned independent reviews in advance of the non-compliance and carried out numerous investigations post Cyclone Gabrielle to mitigate the impact of future potential non-compliances.
13. The commissioning of these independent reviews demonstrates that TOP took the risk of a potential contravention seriously and acted with due diligence. TOP proactively implemented recommendations from the reports, including enhancing asset information maturity and recruiting additional field personnel. Following one external review in November 2021, TOP undertook concerted efforts to implement the recommendations provided by the reviewers.
14. In May 2023, after Cyclone Gabrielle, TOP undertook a resilience assessment of its network and its preparedness for managing high impact events based on the Electricity Engineers Association (**EEA**) Resilience Guide using the EEA's Resilience Management Maturity Assessment Tool (**RMMAT**). The analysis from this review was presented to TOP's Board in August 2023 to approve resilience improvements across the network and we consider this to be GIP.
15. TOP's management also conducted a commercial assessment of resilience improvement initiatives and developed a corresponding plan to replace poles (including cross arms) and focus on the worst performing feeders. Focusing on reducing SAIDI on the worst performing feeder approach reflects GIP and is expected to mitigate the potential impact of future events. Our view is that the resilience assessment could have been conducted earlier, however it was in line with where the industry practice was at in 2023.

16. Poles and hardware in poor condition or designed for lower extreme wind loading will fail in extreme events. In our view, TOP could have acted earlier to ascertain the condition of pole hardware and develop a proactive plan. The impact of not having a clear strategy earlier is likely to have contributed to unplanned interruptions.
17. TOP's distribution conductors were predominantly installed in the 1960's and 1970's, with health condition ranging from H1 requiring replacement to H5, as new. Our view is that while TOP could have increased its investment in conductor replacement, it needed to weigh the associated costs against the expected benefits. In making such decisions, TOP has demonstrated that it applies a prioritisation framework to evaluate its options.
18. If TOP's assets had not experienced such high winds, cross arm and conductor failure frequency may have been acceptable and not caused such large interruptions. Since failing to comply with its quality standard limit, TOP has made several changes to its approach and strategy in replacing crossarms and poles. The frequency of pole and cross arm inspections is not specified in the information we received; however vegetation inspections are conducted every two years, which is consistent with GIP.

Vegetation Management

19. In AP 2023, prior to Cyclone Gabrielle, TOP initiated changes to the way vegetation potentially affecting its network was managed and assessed. As described in detail in its formal Vegetation Maintenance Plan, TOP developed a risk score for each sub transmission line and distribution feeder, and prioritised vegetation clearance on the distribution network based on feeder risk. TOP also moved away from the substation time-based approach. In AP 2023, the vegetation strategy improved to a risk-based approach in line with GIP continual improvements.

11kV reliability improvement plan

20. We regard TOP's Board decisions to prioritise investments that are aimed at reducing rising SAIDI to reflect GIP.
21. TOP's 11kV reliability improvement plan, initiated in AP 2023 and extending beyond AP 2030 through to AP 2035, includes additional components specifically targeting network resilience. This consists of acceleration of the pole replacement programme to include replacement of all concrete poles older than 70 years based on age, regardless of condition.

Ongoing or repeat behaviour

22. When considering seriousness of conduct, we also consider whether it is ongoing or repeat behaviour. TOP has not previously failed to comply with its quality standards. TOP has since returned to compliance for APs 2024 and 2025.

Extent of detriment

23. TOP's electricity network covers a large area of the northern most part of New Zealand's North Island.
24. Where a quality standard non-compliance is caused by exceeding the SAIDI or SAIFI limit, we consider the extent to which TOP's SAIDI or SAIFI was above its limit. In 2023, SAIDI was 513.96 minutes (35.2% over the limit) and SAIFI was 5.50 (8.4% over the limit).

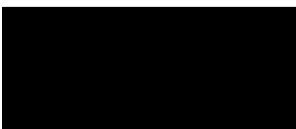
Public interest

25. TOP exceeded its quality standards, largely due to circumstances outside its control. TOP took positive steps to improve the resilience of its network both prior to and after the severe weather events. We consider that an enforcement response, comprising this compliance advice letter, is sufficient to ensure TOP understands the public interest in the resilience of its network.
26. We do not think that a stronger deterrence message is required in this situation, as TOP engaged two external independent reviewers to gain insight on the increasing unplanned SAIDI and SAIFI, as well as introduced strategies to improve its network reliability. TOP has demonstrated GIP through re-prioritisation of projects and development of new initiatives to improve reliability. It has now returned to compliance.

Enforcement decision: compliance advice letter

27. We have decided that issuing a compliance advice letter to TOP is the appropriate enforcement response in this instance. In reviewing TOP's non-compliance, we have identified potential room for improvements, namely that TOP could have acted earlier to mitigate the impact of weather events, eg, TOP could have acted earlier to ascertain the condition of pole hardware and develop a proactive plan.
28. As we consider that the subject matter giving rise to this compliance advice letter is in the public interest, we intend to publish this letter on our website.
29. Thank you for your assistance with this investigation. Please contact Jo Lipscombe, Principal Investigator, by email at [REDACTED] if you have any questions about this letter.

Nāku iti noa, nā



Vhari McWha
Commissioner