

Utilities Commission Annual Report **2011-12**





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The Hon. Robyn Lambley, MLA
The Treasurer
Parliament House
DARWIN NT 0800

Dear Treasurer

In accordance with section 35 of the *Utilities Commission Act* (the Act), I am pleased to provide you with the Annual Report of the Utilities Commission of the Northern Territory (the Commission) for the financial year ended 30 June 2012.

The Report covers:

- the administration of the Act during the year;
- activities of the Commission under the Electricity Networks (Third Party Access) Code during the year;
- activities of the Commission under the *Electricity Reform Act* and *Water Supply and Sewerage Services Act* during the year.

The Commission notes that the Act provides that a copy of this report is to be tabled in the Legislative Assembly within six sittings days of receipt.

Yours sincerely

A handwritten signature in black ink, appearing to read "Dr Patrick Walsh". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dr Patrick Walsh
Utilities Commissioner
30 September 2012



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Published by the Department of Treasury and Finance

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ISSN: 2201-2109

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Chapter 1 Commissioner's Overview

Electricity Priority Work Program

I have pleasure in presenting this Annual Report, which records the key achievements and activities of the Utilities Commission of the Northern Territory (the Commission) in 2011-12. This is the first annual report since my appointment in October 2011 as Utilities Commissioner.

During 2011-12, the Commission delivered reports for the final three reviews of its Priority Work Program, referred to the Commission by the Treasurer in August 2009, to increase the efficiency of the dominant service provider, the Power and Water Corporation (PWC), improve customer standards of service and reliability and, where possible, align the Territory electricity industry with arrangements in the National Electricity Market (NEM).

The Priority Work Program involved eight reviews, all of which have now been completed. The completed reviews provide a framework for change to the regulatory and institutional arrangements governing the Territory electricity industry, covering:

- retail contestability and customer protection;
- customer service and reliability standards;
- retail price oversight;
- wholesale electricity market operation;
- industry governance structures;
- system planning requirements; and
- compliance and performance monitoring and reporting.

The Commission looks forward to working with the new Government to progress the findings and recommendations from the reviews and ensure the Territory has a clear regulatory framework for the Territory electricity market that conforms with good industry practice in terms of the electricity market reforms and economic regulation. The Commission's view is that this should be done through the development of an Electricity Industry Code to better align with NEM rules and procedures.

Retail Market Competition

The entry of two new retailers, QEnergy Limited (QEnergy) and ERM Power Retail Pty Ltd (ERM Retail) has seen an increase in competition within the existing retail market and has presented the Commission with new challenges.

The previous framework provided limited guidance to market participants on the conduct of retail supply activities because business to business transaction rules were not fully developed.

During 2011-12, the Commission implemented an Electricity Retail Supply Code (Retail Supply Code) to provide electricity market participants in the Territory with a regulatory instrument that provides the framework and mechanisms for retail competition between retailers for contestable customers. The Retail Supply Code took effect from 3 August 2011.

The development of the Retail Supply Code represents significant progress in enabling competition within the retail supply market in the Territory. In

Guaranteed Service Level Code

2012-13, the Commission will undertake a review of aspects of the Code to ensure it remains relevant and effective.

On 1 January 2012, the Commission developed a Guaranteed Service Level (GSL) Code to establish arrangements for payments by an electricity network service provider to small customers who do not receive a specified level of service. Essentially, the GSL Code sets payments from an electricity network service provider to an eligible customer for having experienced exceptionally poor service.

The GSL scheme is one mechanism for the Commission to monitor the level of service provided to customers and is also designed to provide an incentive for a network service provider to improve service to its worst served customers.

Technical Performance

The Commission has continued to focus on the technical performance of the Territory's power systems in 2011-12.

A revised System Control Technical Code was approved to provide more comprehensive incident reporting arrangements. The incident reporting arrangements are intended to formalise investigation and reporting on major power system incidents, to inform the implementation of preventative measures and the response to adverse events.

The Commission has continued to develop and expand the scope of the annual Power System Review, so that, over time, it evolves toward a more robust system planning report containing comprehensive and authoritative data to industry participants, prospective participants, customers, regulators and policymakers.

Standards of Service

During 2011-12, the Commission developed and commenced consultation with stakeholders on a new Electricity Standards of Service Code (ESS Code). The new ESS Code aims to establish standards of service and performance measures in the Territory electricity supply industry, develop, monitor and enforce compliance with and promote improvement in standards of service by regulated electricity entities, and will require regulated electricity entities to have adequate systems, processes and procedures in place that allow for the monitoring of actual performance against target standards.

Water Supply and Sewerage Services

Although the Commission's authority in relation to water supply and sewerage services is limited, the Commission continued to monitor licensee compliance with licence obligations in 2011-12. The Commission reviewed water and sewerage asset management plans provided by PWC and noted PWC's progress in developing strategic asset and project implementation plans. Given the significant investment planned for water and sewerage infrastructure in the next five years, the Commission will continue to place emphasis on the need for robust asset management plans.

Future Priorities

The Commission commenced work on the 2014 Network Price Determination. This is a legislatively required major price review undertaken by the Commission in consultation with stakeholders, every five years, to set the regulated network charges. The price review determines the revenue or price cap to be applied to regulated network services for the five-year regulatory control period and the methodology by which prices may be escalated during that period. The Commission released a Draft Statement of Framework and Approach to facilitate public consultation on its proposed

approach to the 2014 Network Price Determination in June 2012. The Statement of Framework and Approach is scheduled to be finalised in November 2012. The network component (transmission and distribution) is a key element of retail electricity prices and the Commission aims to ensure that network tariffs are transparent and provide appropriate pricing signals to network users.

In 2011-12, the Commission varied PWC's networks and generation licences to include a provision for safety management and mitigation plans relating to public, employee and contractor safety. In 2012-13, the Commission will continue to work with PWC on the development of these plans.

The Commission will continue to work with PWC to ensure that its compliance audit processes and reports are useful tools for providing assurance that PWC's compliance framework is appropriate for meeting its licensee obligations.

The Commission will continue to monitor the progress of competition in the electricity retail market and, as authorised, develop market conduct rules to provide appropriate certainty to electricity retailers, the electricity network service provider and electricity generators about the rules and obligations associated with retail electricity supply activities. In this regard, the Commission acknowledges the advice and assistance provided to the Commission by the Australian Energy Market Operator (AEMO) and the Australian Energy Regulator (AER) on arrangements in the NEM.

The Commission will continue to work with Government, relevant agencies and industry participants to progress the findings and recommendations from the Commission's Priority Work Program reviews, including the development of an Electricity Industry Code to ensure the Territory has a clear regulatory framework for the Territory electricity market that conforms with good industry practice.

I thank the various stakeholders (PWC, other industry participants, Territory Government representatives, consumer groups and the general public) who have engaged with the Commission during its various regulatory processes in 2011-12.

As the new Commissioner, I would like to express my appreciation to my predecessor Mr Andrew Reeves for his progress of the Commission's objectives, in particular, the Commission's Priority Work Program and the leadership and guidance provided to the Commission.

I thank the staff of the Commission for the assistance they have provided me in my role as Utilities Commissioner. I also acknowledge the commitment and professionalism of the staff as displayed through the conduct of their work.



Dr Patrick Walsh
Utilities Commissioner
30 September 2012



Chapter 2 About the Commission

Role and Functions of the Commission

The Commission is an independent statutory body with defined roles and functions for economic regulation in the electricity, water and sewerage industries in the Territory. The Commission was established on 21 March 2000 by the *Utilities Commission Act* as part of an economic framework for regulated industries that promotes and safeguards competition and fair and efficient market conduct or, in the absence of a competitive market, that promotes the simulation of competitive market conduct and the prevention of the misuse of monopoly power.

The Commission's functions and powers are defined in the *Utilities Commission Act*, with specific responsibilities regarding a particular industry assigned to the Commission by provisions in relevant industry regulation Acts. The Commission currently has responsibilities assigned in the electricity, water and sewerage services industries.

The key regulatory functions of the Commission are:

- to regulate prices charged by government and other businesses for providing certain monopoly services and for providing certain services in regulated industries;
- to develop, monitor and enforce compliance with and promote improvement in, standards and conditions of service and supply;
- to make and monitor the operation of codes and rules relating to the conduct or operations of a regulated industry or licensed entities;
- to investigate and help resolve complaints relating to the conduct or operations of licensed entities;
- to assist consumers and others with information;
- to advise the Minister on any matter referred by the Minister; and
- to perform licensing functions.

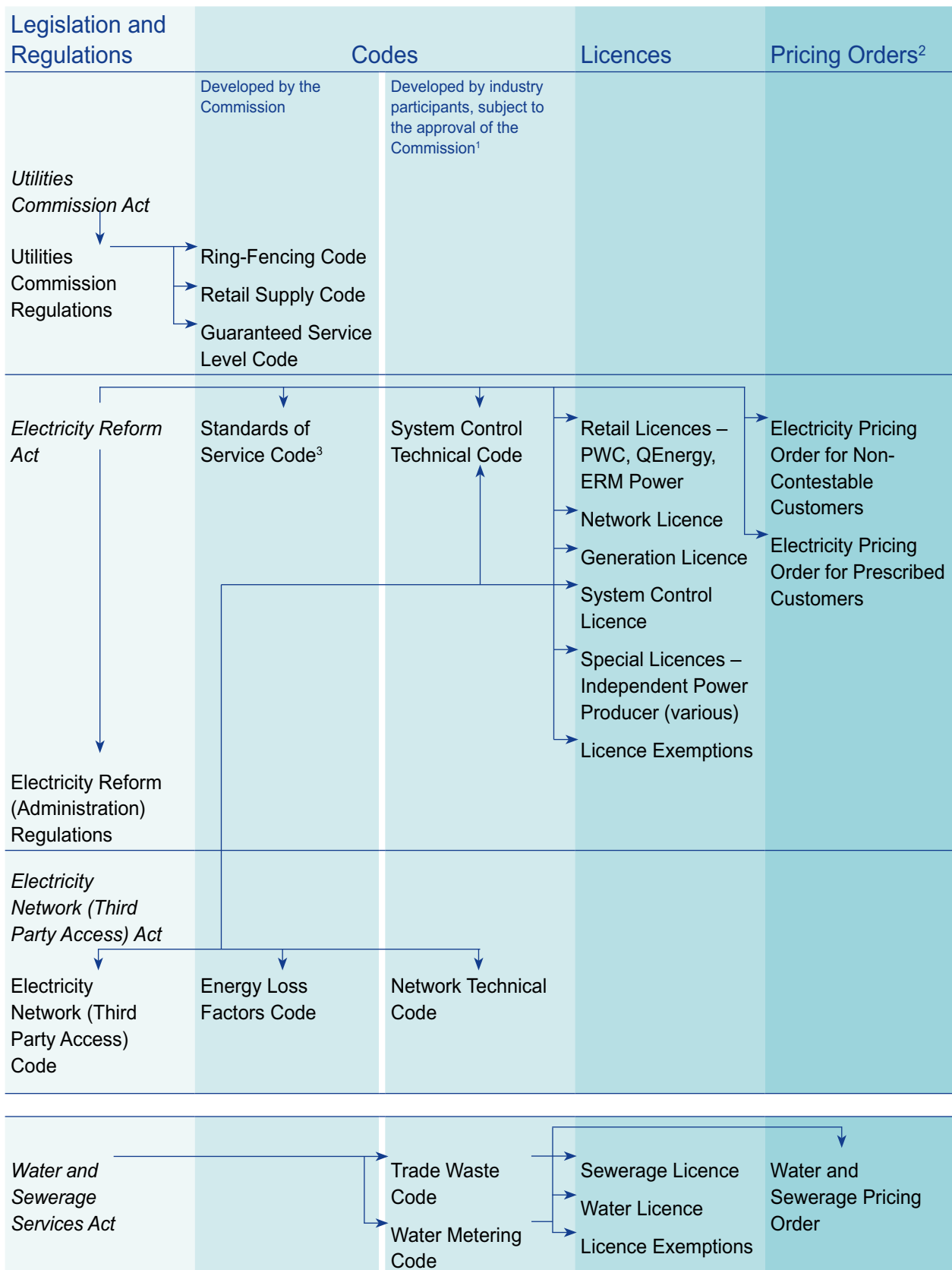
The relevant industry regulation Acts applying to the electricity supply industry are:

- the *Electricity Reform Act*; and
- the *Electricity Networks (Third Party Access) Act*.

The relevant industry regulation Act applying to the water supply and sewerage services industries is the *Water Supply and Sewerage Services Act*.

Commission acknowledges the complexity of the regulatory framework governing the electricity, water supply and sewerage services in the Territory. It also recognises the role of Government, other government agencies and industry participants in the regulatory framework. The diagram provided on page 8 provides an overview of the regulatory environment for the Territory.

Existing Northern Territory Regulatory Architecture



1 Various instruments, policies and procedures are issued under different codes that require the approval of the Commission.

2 Pricing Orders are issued by the Treasurer. The Commission is responsible for monitoring compliance with the pricing orders, enforcement and investigation of complaints from customers in relation to pricing orders.

3 The Standards of Service Code draws its authority from both the *Electricity Reform Act* and the *Electricity Networks (Third Party Access) Code*. A new Standards of Service Code is currently being developed under the Utilities Commission Regulations.

The Commission

On 28 October 2011, Dr Patrick Walsh was appointed to the position of Utilities Commissioner, replacing Mr Andrew Reeves who resigned to concentrate on his role as chair of the AER.

Dr Walsh is joined on the Commission by two Associate Utilities Commissioners, Mr Peter Caldwell and Mr Mike Robson. All Commissioners perform their roles on a part-time basis.

Dr Patrick Walsh

Dr Walsh commenced a five-year term as Chairperson of the Utilities Commission in October 2011. He is also currently Chairperson of the Essential Services Commission of South Australia. He is a Fellow of the Australian Institute of Energy, Member of the Australian Institute of Company Directors, and member of the Advisory Board of the Centre for Regulation and Market Analysis (University of South Australia).

Dr Walsh has held senior public sector positions in the energy regulation and reform area in South Australia over the past 25 years. He holds a PhD in Applied Mathematics from the University of Adelaide.

Mr Mike Robson

Mr Robson was appointed as an Associate Utilities Commissioner with the Utilities Commission for a five-year term on 23 June 2009. He has more than 40 years experience as an electricity industry engineer, including 11 years with the NEM Management Company (NEMMCO).

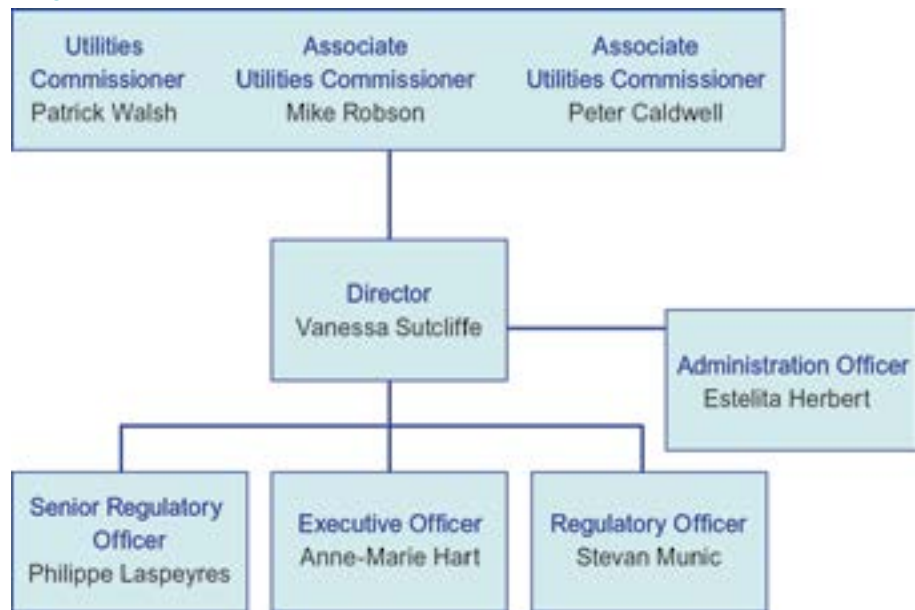
Mr Peter Caldwell

Mr Caldwell was appointed as an Associate Utilities Commissioner with the Utilities Commission for a five-year term on 30 July 2009. He has more than 40 years experience in a range of Territory and Commonwealth government departments in economic, resources, trade and capital policy areas at senior management levels.

Commission staff and resources

The Commission is supported by five staff seconded from Northern Territory Treasury.

Organisational chart as at 30 June 2012



The Commission’s expenditures are funded directly from consolidated revenue.

Appendix C provides a summary of the Commission’s expenditures in 2011-12, as well as the associated receipts.

The Commission also accesses expert technical advice through consultants as detailed in Appendix D.

Staff Achievements

In February 2012, Philippe Laspeyres, Senior Regulatory Officer, graduated from the Public Service Management Program (PSMP). The PSMP is a joint venture between the Commonwealth, state and local governments across Australia and designed to enhance the existing knowledge, skills, attitudes and behaviours of middle and senior managers in order to improve public sector outcomes.

Anne-Marie Hart, Executive Officer, commenced with the Commission on 29 January 2000. During 2011-12, the Commission celebrated Anne-Marie’s 12-year anniversary with the Commission.

Chapter 3 Performance

Priority Work Program

The Commission has continued to focus on the reliability of the Territory's electricity supply and performance of the electricity industry in 2011-12, in particular the development of more specific and detailed regulatory arrangements to facilitate retail contestability and the associated electricity retail supply activities.

Decisions made by the Commission during 2011-12 are set out in Appendix A, and Appendix B provides a list of reports published by the Commission during the year.

The Commission was given an expanded role in April 2009 as part of a reform program to strengthen oversight of the electricity supply, water supply and sewerage sectors.

The Commission undertook a Priority Work Program intended to:

- identify options to increase the efficiency of PWC;
- improve customer standards of service and reliability; and
- where possible, align electricity industry regulatory arrangements with those of the NEM.

The Priority Work Program required the Commission to undertake a number of reviews. Each review involved extensive analysis, taking into account local circumstances and frameworks and practice in other Australian jurisdictions. Consultation was conducted by inviting submissions from key interest groups and affected parties on an initial issues paper and then on a draft report that set out the Commission's proposed response to the terms of reference for the review.¹

During 2011-12, the Commission completed the final three reviews of the Priority Work Program:

- a review of PWC's capital and maintenance programs;
- a review of system planning, monitoring and reporting; and
- a review of electricity system planning and market operation roles and structures.

The Commission also worked with relevant agencies and industry participants to develop a terms of reference to progress the implementation of the Commission's review recommendations. The Commission looks forward to working with the new Government, relevant government agencies and industry participants to progress the findings and recommendations from the reviews and ensure the Territory has a clear regulatory framework for the Territory electricity market that conforms with good industry practice in terms of the electricity market reforms and economic regulation.

¹ Additional information on the views in submissions and the Commission's response can be found in relevant papers on the Commission's website.

Economic Regulation

During 2011-12, the Commission's regulatory activities included:

- approving the regulated network tariffs and charges that took effect from 1 July 2012;
- performing licensing functions including the assessment of license suitability and granting of a retail electricity license to ERM Retail and an Independent Power Producer license to TKLN Pty Ltd, as well as monitoring of licence compliance;
- publishing the 2010-11 Power System Review which reports on the trends in adequacy and security of the Territory's power system;
- developing and publishing a Guaranteed Service Level (GSL) Code which sets out arrangements for payments by an electricity network service provider to small customers who have received a very poor level of service;
- implementing an Electricity Retail Supply Code to codify arrangements necessary to support effective business to business interactions and to provide appropriate customer protection (including consultation with industry participants on the operation of the new Code);
- developing and commencing consultation on a new Electricity Standards of Service Code;
- commencing consultation on the 2014 Network Price Determination process; and
- providing information to customers and market participants on the Territory electricity market and regulatory arrangements.

Future Priorities

The Commission's priorities for 2012-13 include:

- working with Government, relevant government agencies and industry participants to progress the findings and recommendations from the Commission's Priority Work Program reviews and ensure the Territory has a clear regulatory framework, through the development of an Electricity Industry Code, for the Territory electricity market that conforms with good industry practice in terms of the electricity market reforms and economic regulation;
- continuing the 2014 Network Price Determination process and monitoring the network price regulation arrangements to apply from 1 July 2014;
- continuing to focus on regulatory and technical compliance of electricity industry participants, including monitoring the progress of licensees in establishing and maintaining their compliance processes in accordance with the appropriate Australian Standards;
- developing the scope and structure of the Power System Review through increased interaction with industry participants, technical advisors and advice from other regulators with the objective of publishing a more robust system planning report, consistent with those published for the NEM, and able to be used for assessing the supply-demand balance and investment needs of the Territory's electricity industry; and
- continuing to develop more specific and detailed regulatory arrangements to facilitate retail contestability and the associated electricity retail supply activities.

Chapter 4 Electricity Supply Industry

The electricity supply industry in the Territory is regulated by the *Electricity Reform Act, Electricity Networks (Third Party Access) Act, Utilities Commission Act* and associated legislation. This statutory framework was introduced on 1 April 2000. The statutory framework is primarily focused on regulating the activities of electricity industry participants and customers in the Darwin-Katherine, Alice Springs and Tennant Creek power systems – referred to as the market systems. Key elements of the statutory framework are:

- third-party access to the Darwin-Katherine, Alice Springs and Tennant Creek electricity networks;
- staged introduction of retail contestability, with all customers becoming contestable from 1 April 2010; and
- an independent economic regulator, the Utilities Commission, to regulate monopoly electricity services, licence market participants and enforce regulatory standards for market conduct and service performance.

There are currently three retailers operating in the market systems – PWC, QEnergy and ERM Retail.

In the three market systems, PWC is currently the main electricity generator, with almost 92 per cent of generation capacity. Although there are privately owned generators operating in the Darwin-Katherine and Alice Springs systems and exporting electricity into those systems, these suppliers generate electricity under contract for PWC Generation rather than selling directly to an electricity retailer. PWC Generation provides the fuel used for electricity generation and takes all electricity generated.

PWC is also the network service provider and is responsible for system control. The Darwin-Katherine, Alice Springs and Tennant Creek networks are not interconnected, and are separated by long distances.

Electricity supply in regional and remote centres of the Territory is mainly managed by the Territory Government and the service provider through a contract for service model. The Commission has limited regulatory functions in regional and remote centres, with the main responsibility being licensing.

The Commission has the following functions in the electricity supply industry:

- to perform licensing functions, granting licences to firms to undertake electricity generation, electricity networks, system control and retail operations in the Territory;
- to develop standards of service and supply and to make codes and rules relating to the conduct or operations of the electricity supply industry or individual licensed entities;
- to monitor, and promote improvement in, standards and conditions of service and supply and the operations of the electricity supply industry and licensed entities;
- to regulate prices charged by PWC Networks for provision of electricity network services (transport of electricity across the network) and charges

imposed by the System Controller relating to the operations of system control;

- to monitor and enforce compliance with standards and conditions of service and supply and to monitor the operation of and enforce compliance with codes and rules relating to the conduct or operations of the electricity industry or licensed entities;
- to advise the Treasurer on any matter referred by the Treasurer; and
- to assist consumers and others with information on the market and regulatory framework.

This chapter details the work carried out by the Commission during the 2011-12 financial year in performing these functions.

Licensing Licensing framework

The Commission issues licences to persons seeking to operate in the Territory’s electricity supply industries, in accordance with the provisions of the *Electricity Reform Act*.

The Commission has the power to customise licences and has developed subcategories of licences and combined licences to suit particular circumstances.

Table 1: Types of licences currently issued

Licence type	Scope
Standard Generation licence	<ul style="list-style-type: none"> • to generate electricity for sale; and • to sell electricity to electricity entities holding generation or retail licences (or as otherwise stated in the licence).
Special Generation licence – Independent Power Producer (IPP) ¹	<ul style="list-style-type: none"> • to generate electricity for sale; and • to sell electricity only to electricity entities holding a standard generation licence (or as otherwise stated in the licence).
Network licence	<ul style="list-style-type: none"> • to operate the electricity network in the geographical area stated in the licence; and • if stated in the licence – to connect the electricity network to another electricity network.
Retail licence	<ul style="list-style-type: none"> • to trade in electricity (where ‘trade’ means the buying and selling of electricity other than to final consumers); and • to retail electricity to customers who own or occupy premises anywhere in the Territory (where ‘retail’ means the selling of electricity to specified groups of final consumers).

continued

Licence type	Scope
Special licence – Isolated system operations ²	<ul style="list-style-type: none"> • to generate electricity at specified electricity generating plants; • to sell electricity to electricity entities holding a generation licence or a retail licence; • to sell electricity to customers, but only in respect of electrical installations or premises that are situated within specified locations; and • to own and operate an electricity network within specified geographic areas and connect that network to another specified electricity network.
System Control licence ³	<ul style="list-style-type: none"> • to monitor and control the operation of the power system with a view to ensuring that the system operates safely and securely, including by issuing directions to electricity entities that are engaged in the operation of the power system, or contribute electricity to, or take electricity from, the power system.

1 An Independent Power Producer licence is a 'cut down' version of a generation licence for those parties who do not wish to participate fully in the electricity supply market and instead generate electricity under contract for another generator.

2 An isolated system operations licence is a combination generation, network and retail licence for entities operating in remote locations, for example where a mining company supplies electricity to a nearby town that predominantly houses workers associated with the mine.

3 A system control licence is only issued where the power system is of sufficient size and complexity to warrant monitoring and control by an arm's length system controller. In isolated communities with a single generator of electricity, management of system loads and frequency control is undertaken by the generator. Coordination of generation with third-party inter-connected networks would be a matter for normal commercial contractual arrangements.

The Electricity Reform (Administration) Regulations provide an exemption from the requirement to be licensed for some activities. Licences are not currently required for:

- small scale and own-use generation and low volume sales of electricity; and
- on-supply of electricity, as long as the on-supplier complies with certain conditions.

The Commission may, with the approval of the Minister, grant an exemption from the requirement to be licensed.

Licensing activities in 2011-12

On 30 June 2012, PWC held four licences:

- system control (until superseded, surrendered or cancelled);
- retail (until superseded, surrendered or cancelled);
- generation (until superseded, surrendered or cancelled); and
- network (to 30 June 2020).

Retail electricity licences were also held by:

- QEnergy (until superseded, surrendered or cancelled); and
- ERM Retail (until superseded, surrendered or cancelled).

Independent Power Producer (IPP) licences were held by the following producers who do not participate fully in the electricity supply industry and instead generate electricity under contract for another generator:

- EDL NGD (NT) Pty Ltd (McArthur River power station, McArthur River, and Pine Creek A power station, Pine Creek);
- Cosmo Power Pty Ltd (Pine Creek B power station, Pine Creek);
- Central Energy Power Pty Ltd (Brewer Estate power station, Alice Springs);
- Energy Resources of Australia Ltd (Ranger power station, Jabiru);
- Landfill Management Services Pty Ltd (Shoal Bay power station, Darwin);
- Uterne Power Plant Pty Ltd (photovoltaic system at Alice Springs); and
- TKLN Solar Pty Ltd (Alice Springs).

An isolated system licence was held by:

- Groote Eylandt Mining Company Pty Ltd.

On 30 June 2012, the following exemptions were current:

- an exemption from the requirement for Pacific Aluminium Pty Ltd to hold a licence with respect to its electricity operations in the township of Nhulunbuy and at the mine; and
- an exemption from the requirement for installations defined as small scale renewable energy operations from the need to hold a licence.

PWC Generation licence and Network licence

In late 2010, the Commission became aware of a possible deficiency in the electricity industry regulatory framework in that there was no specific statutory requirement on owners or operators of electricity infrastructures to develop a safety management plan for public safety around electricity infrastructure. The Commission, as an interim measure while further consideration is given to appropriate legislative amendments, varied PWC's Generation and Network licences requiring the licensee to prepare a safety management and mitigation plan in accordance with good industry practice.

The plan must be consistent with and reflect good electricity industry practice and must be submitted to the Commission for approval. PWC is also required to review the plan annually and submit an updated plan to the Commission for approval if required.

TKLN Solar Pty Ltd IPP licence

In March 2012, TKLN Solar Pty Ltd (TKLN Solar) applied for a licence to operate three remote solar photovoltaic installations in Ti Tree, Kalkarindji and Alpururulam, respectively. TKLN Solar will sell the electricity generated at the three plants to PWC under three separate Power Purchase Agreements.

TKLN Solar is a special purpose company whose sole purpose is to own and operate the Ti Tree, Kalkarindji and Lake Nash (Alpururulam) projects. TKLN Solar is a subsidiary of Epuron Pty Ltd (Epuron). Epuron is a renewable energy development company and a developer of utility scale solar energy projects.

The Commission granted a licence to TKLN Solar on 24 May 2012. One licence has been issued covering all facilities.

ERM Power Retail Pty Ltd Retail licence

In May 2012, ERM Retail applied for a retail licence to sell electricity in the Territory. ERM Retail is an integrated energy company that operates electricity sales, generation and gas procurement businesses. ERM was founded in 1980 and is an Australian Proprietary Company.

In accordance with the *Electricity Reform Act*, the Commission undertook a detailed assessment of ERM Retail's suitability to hold a retail licence and, consistent with good regulatory practice, sought public consultation as a part of the licence application assessment process.

No concerns were raised by stakeholders, interested parties or the public.

The Commission granted a licence to ERM Retail on 1 June 2012.

Pacific Aluminium Pty Ltd (previously Alcan Gove Pty Limited)

On 28 April 2005, the Commission granted an exemption to Alcan Gove Pty Ltd, now Pacific Aluminium Pty Ltd, from the need to hold a licence with respect to its electricity operations located within the geographic area associated with the township of Nhulunbuy.

The exemption was granted on the condition that the exemption be reviewed at three-year intervals until the earlier of:

- the date on which normalisation for the supply of electricity to the township of Nhulunbuy is finalised; or
- the date on which Special Purpose Lease No. 214 expires.

In May 2012, the Commission reviewed the exemption. Following consultation with Pacific Aluminium and Northern Territory Treasury, the Commission agreed that the exemption should continue subject to further review in three years time and further discussions with Pacific Aluminium on electricity supply arrangements in Nhulunbuy.

Market Conduct Regulation

The Commission monitors the conduct and operations of the electricity supply industry and licensed entities. The Commission may also make codes and rules relating to the conduct or operations of the electricity supply industry or licensed entities, where authorised by legislation.

All electricity customers became contestable from April 2010. Full retail contestability means that all electricity customers in the Territory could have a choice of either remaining with PWC or accepting an offer from another licensed retailer.

Following the entry of additional electricity retailers, QEnergy in February 2011 and ERM Retail in June 2012, the Commission recognised the need to provide further guidance to market participants on the conduct of retail supply activities.

During the year, the Commission focussed on developing more detailed and specific regulatory arrangements to facilitate retail contestability, in particular, the documentation of business to business transaction rules and initiated plans to develop a comprehensive Electricity Industry Code to align with NEM rules and procedures.

Electricity Retail Supply Code

Following public consultation, the Commission published the Retail Supply Code, which took effect from 3 August 2011, as an interim code until an Electricity Industry Code is developed.

The purpose of the Retail Supply Code is to provide electricity market participants in the Territory with a regulatory instrument, which provides the framework and mechanisms for retail competition between retailers for contestable customers and protect the ongoing integrity of the market. The Retail Supply Code specifically deals with issues relating to:

- the transfer of customers between retailers;
- credit support arrangements, so as to ensure the financial integrity of the electricity market;
- billing arrangements;
- metrology and business to business arrangements; and
- retailer of last resort (RoLR) mechanism to cater for any retailer failure.

The Retail Supply Code restricts customer transfer to those customers with interval meters, as PWC does not currently have the capability to accommodate the transfer of customers with accumulation meters. However, these arrangements are temporary and the Commission expects to review this matter at a later stage. The Retail Supply Code does not preclude customers from requesting the installation of interval meters.

Service Order Procedures

Under the Retail Supply Code, PWC, as the network service provider, is required to submit Service Order Procedures to the Commission for approval.

On 14 December 2011, the Commission approved procedures submitted by PWC, on the basis that the procedures meet the minimum requirements set out in the Code and provide a workable basis for retail competition in the Territory.

The Commission acknowledged that a longer timeframe would be required to develop comprehensive procedures, but this had to be balanced with the need to get something in place quickly given the arrival of a new retailer, QEnergy and ERM Retail, in the Territory market.

Accordingly, the Commission approved the procedures for use until 30 June 2013, with PWC to review the procedures, in consultation with stakeholders and the Commission, with the aim of developing more detailed and robust procedures more consistent with those applicable in the NEM, to be submitted to the Commission for approval before 29 March 2013.

Application to vary the Electricity Retail Supply Code

On 15 May 2012, QEnergy made an application to the Commission to amend the Retail Supply Code.

The application covered matters relating to credit support arrangements between generators and retailers, access to metering data and customer transfers prescribed in the Retail Supply Code.

Service Performance

The Commission considered that the matters raised by QEnergy and determined that a review of the Retail Supply Code was warranted. In July 2012, the Commission released a consultation paper to facilitate public consultation on the amendments proposed by QEnergy.

The Commission extended the scope of the consultation to consider any additional proposed amendments from other stakeholders and other areas of the Retail Supply Code identified by the Commission that may require amendments.

Submissions were received from the Northern Territory Major Energy Users (NTMEU), PWC and QEnergy. The NTMEU and QEnergy are supportive of further amendments to the Code, while PWC supports the arrangements as they stand.

The Commission intends to release an Options Paper for public consultation in late September 2012, which will detail potential options for amending the Retail Supply Code.

The Commission monitors standards and conditions of service and supply and the operations of the electricity supply industry and licensed entities. The Commission may also develop standards of service and supply, where authorised by legislation.

The Commission publishes an annual Power System Review, reporting on power system performance during the year, and providing an assessment of the adequacy of the power systems to meet forecast demand in the medium term.

Regular and comprehensive reporting on power system and distribution network performance and health is a feature of the electricity supply industry throughout Australia. Electricity businesses in other Australian jurisdictions have developed systems and processes for regular and comprehensive reporting of power system and distribution network performance over a period of time.

The 2010-11 Review was released in March 2012 and continues the increased focus on electricity demand analysis that was commenced in the 2009-10 Review, in order to provide a robust assessment of the adequacy of the power system, including generation, transmission and distribution networks.

The Commission engaged Evans & Peck to assist the Commission to prepare the 2010-11 Review, particularly by providing expert advice on power system and reliability performance.

For 2010-11, the Power System Review provided:

- an assessment of the adequacy of PWC's forecasts;
- a review of methodologies used to develop energy and demand forecasts, and provide a view as to the reasonableness of the underlying assumptions;
- an assessment of the adequacy of electricity generation supplies relative to forecast peak demand and an assessment of fuel supply adequacy for the medium and long term;

- analysis of major power system incidents to identify design and operational matters that require addressing;
- an assessment of the adequacy of the electricity transmission/ sub-transmission and distribution networks capacity relative to forecast peak demand for the medium term; and
- a report on customer service performance and reliability of supply.

The 2010-11 Power System Review noted an improvement in the data provided by electricity industry participants in the Territory, primarily PWC. PWC is continuing to progress the development of information technology systems and business processes to develop a system demand forecast that is sufficiently robust for the purpose of accurately assessing overall supply-demand balance.

Highlights of service performance for 2011-12

Generation adequacy

Currently, a system is deemed to have adequate generation if there is sufficient capacity available to maintain supply despite the loss of the two largest units of generation plant, known as an N-2 event. In assessing generation adequacy over the medium term, the Commission assessed generation capacity against the N-2 standard.

The Commission found that it appears unlikely new capacity on the Darwin-Katherine system will be needed until the end of 2020-21, following the commissioning of additional units at Channel Island power station, Weddell power station and Katherine power station.

The Commission found that the Alice Springs system is expected to have sufficient generation capacity to meet forecast peak demand under any credible electricity demand growth scenario from mid 2011 to 2019-20. The level of the available capacity in the Alice Springs system is influenced by the timing of commissioning new capacity at Owen Springs power station and decommissioning of capacity at Ron Goodin power station.

The Commission found that under both the baseline and high growth scenarios, generation adequacy in Tennant Creek was adequate for the period to 2019-20.

Fuel adequacy

Natural gas is the primary fuel for electricity generation in the Darwin-Katherine, Tennant Creek and Alice Springs systems. However, a number of generation sets are dual fuel and able to use liquid fuels (for example, diesel) as an alternative fuel source.

The Commission found that the volumes of gas available under the PWC/Eni gas supply contracts are sufficient to meet forecast electricity demand.

PWC has a range of contingency arrangements to maintain electricity supply in the event of the partial or complete loss of the primary gas supply from Black Tip, with a contingency supply arrangement with the Darwin liquefied natural gas plant, line-pack gas and diesel stocks. These arrangements provide multiple fuel supply contingencies.

Network adequacy

For the 2010-11 Power System Review, the Commission sought equivalent information to be provided that is routinely reported by transmission and distribution network operators in the NEM. The Commission noted that PWC is continuing to build its capacity to provide information equivalent to that in the NEM and that PWC Networks, PWC Generation and the System Controller are jointly developing an integrated model of the generation/transmission system that will enable both transient and steady state analysis of the system to be conducted in accordance with good industry practice.

The Commission acknowledges that reporting arrangements in the NEM have developed over the past decade or more, during which time industry participants have built their capacity to provide relevant information. The Commission anticipates that PWC Networks will take two or three years to establish the systems and processes necessary to routinely record the relevant information.

As in the 2009-10 Review, the Commission again performed a high level assessment to identify potential capacity constraints in the transmission network and at zone substations. No critical capacity constraints were identified with all transformers in service, however, some constraints may begin to emerge under N-1 conditions (such as the loss of one transformer).

The Review also noted that the condition of equipment at the City Zone and Snell Street substations, in particular, makes a multiple contingency event a possibility, which warrants a continued priority being given to the capital program associated with the development of Frances Bay substation, the development of Woolner substation to replace Snell Street substation and replacement of City Zone substation. The Commission noted PWC's program to upgrade or replace a number of zone substations to increase reliability and security of supply.

The Commission noted that PWC Networks was not able to provide the load flow studies or measurements on the low voltage (11/22 kV) distribution network necessary for an assessment of loading and capacity for both 2009-10 and 2010-11 reviews. The Commission's view is that the availability of this data is important and it is expected that PWC Networks will provide such information for future reviews.

As in the 2009-10 Review, the reliance on a single, dual-circuit transmission connection from major generation on Channel Island power station is seen as a high risk, having suffered failure in the past that resulted in loss of supply to Darwin. Mitigation of this risk by the development of an alternative supply route is recommended as a high priority.

Customer service and reliability performance

The Electricity Standards of Service Code requires PWC to report annually on indicators of generation and network reliability.

Territory customers experienced an average of 2.6 generation-related outages a year between 2006-07 and 2010-11. This is significantly more than observed in the NEM-connected systems (for example, for the 12 months ended 31 March 2010, Ergon Energy reported a generation SAIFI of 0.02) due to poor spinning reserves and load shedding.

The Commission expects that generation reliability performance will improve in the coming years with the commissioning of a new generation plant (especially new generation plant at Channel Island, which were commissioned in January 2012).

The Commission identified that there would be merit in reviewing PWC spinning reserves policies with the levels of spinning reserves being clearly defined and the costs associated with spinning reserves being balanced against the economic impact of load shedding practices on customers.

After accounting for exclusions, Territory customers experienced an average of 5.25 network-related outages in 2010-11, with a total average minutes of off supply of 351.6 minutes.

In comparison to average performance standards applicable to comparable network categories in Queensland, PWC feeder performance in 2009-10 was reasonable but deteriorated during 2010-11. While much of the poor performance has been attributed to the impacts of cyclone Carlos, underlying performance of the network at times other than those impacted by the cyclone were also comparatively poor in 2010-11. The Commission noted that PWC is proposing significant increases in both capital and maintenance expenditure on network assets over coming years.

PWC received 2220 electricity service-related complaints during 2011-12, down slightly from 2009-10.

The Power System Review continues to be an evolving project. Over time, the Commission's preference is for the Power System Review to move towards more NEM-like reporting, involving the routine release of comprehensive and authoritative data to industry participants, prospective participants, customers, regulators and policymakers, in order to:

- support planning and monitoring activities by providing data to assist identification of the optimal investment options, and to facilitate coordination of investment actions;
- advise on system performance against the price and service expectations of the regulatory bargain (for example, that associated with the monopoly network business); and
- assist in holding electricity businesses accountable for reliability performance outcomes.

Power system performance

The System Control Technical Code requires the System Controller to report to the Commission on the performance and major incidents of the power system on or before 31 January and 31 July each year.

During the year, the Commission received reports for January to June 2011 and July to December 2011 for the Darwin-Katherine, Alice Springs and Tennant Creek systems, covering:

- periods where the power system was in a satisfactory operating state;
- periods where the power system was in a secure operating state;
- other power system security matters (for example, unscheduled busbar outages, firm capacity or reserve, and minimum spinning reserves);

- formal advice (for example, directions issued or declaration of lack of standby generation);
- system constraints;
- major power system incidents; and
- system performance statistics.

The System Control Technical Code also allows the System Controller to instigate investigations into faults and major incidents, to issue official reports on major incidents and to distribute these reports to system participants.

One report was provided to the Commission in relation to a system black incident that occurred in Alice Springs in February 2012.

These reports have identified some issues that are being addressed by the System Controller, including spinning reserve policies and the possible alignment of system black procedures in the Territory with those standards adopted in the NEM.

Northern Territory Electricity Standards of Service Code

The Electricity Standards of Service Code establishes a process by which PWC is to set certain minimum standards of service benchmarks for both its regulated network services and its non-contestable electricity supply services.

Following the recommendations from the Review of Minimum Standards of Service undertaken in 2010 as part of the Commission's Priority Work Program, the Commission found that the existing Standards of Service Code was inadequate and during the year the Commission commenced development of a new code.

In May 2012, the Commission advised that it proposed to revoke the existing Electricity Standards of Service Code and make a new Electricity Standards of Service Code. A draft Code was released for public consultation, with an accompanying consultation paper outlining the key issues.

The proposed Code broadly follows the Commission's recommendations in the Review of Electricity Standards of Service for the Territory.

The recommendations highlighted the need for improvement in standards of service and reliability of supply. Moreover, a greater emphasis on customer service and the development of a performance monitoring framework should be a primary objective.

The Commission expects the new Code to take effect from late 2012. As a transitional arrangement, the Commission will look to the existing Code to guide reporting obligations.

System Control Technical Code

The System Control Technical Code sets out the Power System Controller's competitively neutral operating protocols, arrangements for system security and system dispatch, as well as arrangements for the interruption of supply.

The System Control Technical Code was developed and is maintained by the System Control business unit of PWC. The System Controller, a statutory position established by the *Electricity Reform Act*, may amend the Code at

anytime, but only with the prior written approval of the Utilities Commission and following consultation with all relevant stakeholders.

In 2011-12, the Commission continued to progress the development of more comprehensive incident reporting arrangements to establish a clear framework and requirements for investigating and reporting on power system incidents.

Following extensive consultation with the Commission, in March 2012 the System Controller sought public comment on proposed amendments to the Code. The proposed amendments aimed to:

- provide clearer incident reporting arrangements consistent with good industry practice interstate; and
- address a number of other changes and administrative issues identified by PWC to clarify and improve efficiency of operations.

Following the consultation process, the revised Code was submitted by the System Controller to the Commission and approved on 10 May 2012.

Price Regulation

The Commission regulates certain prices in the monopoly sectors of the Territory's electricity supply industry in accordance with relevant industry regulation Acts.

Network access charges

In the third regulatory control period, which commenced on 1 July 2009, the Commission continued the price cap methodology that had been used in the previous regulatory period, in which a weighted average tariff basket is adjusted annually by an externally-determined price cap escalation factor.

Prior to the start of each financial year, PWC must submit to the Commission for approval its proposed tariffs and charges for the coming financial year, with a statement detailing how the tariffs and charges have been calculated consistent with the Commission's determination for the regulatory period and other requirements of the NT Access Code.

In May 2012, the Commission approved the reference tariffs and charges for standard network access services to apply during the 2012-13 financial year. The Commission also approved the schedule of Alternative Control Services – Fee-based Services and the pricing methodology for Alternative Control Services – Quoted Services relating to the use of PWC's prescribed electricity networks for the financial year commencing 1 July 2012.

In approving the proposed tariffs, the Commission considered the approved tariffs and charges to comply with the requirements and relevant principles laid down in the NT Access Code.

The NT Access Code empowers the Commission to act as an alternative dispute resolution body should there be any concerns that the prices charges are not fair and reasonable.

Networks Capital Contribution

On 13 February 2012, PWC submitted a revised Networks Capital Contribution Policy for use for the remainder of the third regulatory control period.

The Commission is currently considering this submission and will undertake a stakeholder consultation process prior to approving any changes to the policy.

2014 network price determination

In the lead-up to the commencement of the fourth regulatory control period, the NT Access Code requires the Commission, in consultation with interested parties, to review the network price regulation methodology used in the previous regulatory control period, with a view to modifying the methodology as appropriate.

The NT Access Code requires the Commission in consultation with interested parties, to review the network price regulation methodology used in the previous regulatory period (2009-2014), with modification as appropriate.

The NT Access Code requires the Commission to conduct its determination and approval processes in an open, transparent and competitively neutral manner, including by consulting with network users, end-use customers, members of the public and all licensed electricity entities that may be affected, directly or indirectly, by the resultant prices.

The price review is an extensive two-year process. The Commission released a consultation paper in June 2012, setting out the Commission's preliminary position on the Framework and Approach for the 2014 Network Price Determination.

The Commission's preliminary position is to adopt where possible, the approach used by the AER and on the application of those parts of Chapter 6 of the National Electricity Rules (NER) in relation to electricity network businesses in the NEM that are consistent with the NT Access Code.

The Commission considers that this framework represents generally accepted regulatory practice at this time.

During the determination process, the Commission will seek input from PWC on the constraints affecting the network business capacity to provide information to the standard required under the NER.

The Commission also foreshadowed its intention to undertake a more comprehensive review of network tariff classes and tariff structures, noting that developments nationally over the last decade have led to more comprehensive documentation and justification of the methodologies underlying the structure of regulated network tariffs.

System control charges and pricing of ancillary services

The Commission approves charges imposed by the System Controller and also has authority to determine prices for ancillary services in the electricity supply industry.

The system control charges that applied during 2011-12 are those approved by the Commission with effect from 1 July 2004, which continue until superseded.

The Commission has deferred further development of pricing for ancillary services until prospects of generation competition re-emerge.

System imbalance charges

The Commission is responsible for overseeing prices paid (or received) by third-party generators when purchasing (or selling) any mismatches

between energy generated by such generators and the load attributable to end-use customers supplied by these generators. The System Controller, in consultation with licensed generators, is required to develop arrangements for settlement of any out-of-balance payments between generators, with the arrangements subject to the approval of the Commission.

Following revisions to the NT Access Code from 1 July 2001, in May 2002 the Commission accepted PWC's proposed economic dispatch arrangements pursuant to clause 85 of the Code.

The System Control Technical Code contains a broad outline of economic dispatch arrangements and out-of-balance settlement.

During 2011-12, the Commission commenced discussion with the System Controller on the further development of operational arrangements. This issue will continue to be progressed in 2012-13.

Electricity Pricing Orders

Retail electricity prices paid by non-contestable customers, whether residential or commercial, are regulated directly by the Government through an Electricity Pricing Order. The Commission is required to enforce compliance with the Electricity Pricing Order as if it were a determination of the Commission under the *Utilities Commission Act*.

The following Electricity Pricing Orders are currently in effect:

- for customers using up to 750 MWh a year, setting a price path for increases in electricity prices charged by PWC from 1 July 2009 to 30 June 2013, with prices increasing by 18 per cent in the first year, a further 5 per cent in the second year and then in line with the Consumer Price Index (CPI) in the two subsequent years.
- for the fourth tranche of contestable customers (who use between 750 MWh and 2 GWh of electricity per annum) whose prices remained below cost-reflective levels, regulating the maximum price that can be charged to relevant customers until 30 June 2013. PWC is allowed to increase prices by 18 per cent in the first year, a further 5 per cent in the second year and then in line with the CPI in the two subsequent years, until cost-reflective levels are reached.

Full retail contestability

All electricity customers in the Territory became contestable from 1 April 2010.

PWC Retail is obliged to continue to maintain newly contestable customers on their current tariff arrangements for a 'grace period' until 30 June 2013. This means that the tariffs set under the Electricity Pricing Order applying to previously non-contestable electricity customers effectively continue to apply to customers using less than 750 MWh per annum until the end of the grace period.

Guaranteed Service Level Code

In line with the recommendations arising from the Review of Options for Implementation of a Customer Service Incentive Scheme for Northern Territory Electricity Customers, the Commission released a draft GSL Code for comment on 28 November 2011. The purpose of the GSL Code is to

establish arrangements for payments by an electricity network service provider to small customers who have received a very poor level of service. The Commission also published an explanatory document setting out the reasons and rationale for developing the GSL Code.

The scope of the consultation was limited to seeking comments on the terminology used in the GSL Code and the process underpinning the GSL scheme. The Commission did not re-consider the recommendations made in the Final Report on the Review.

The Commission received submissions from Government, QEnergy and PWC. All submitters expressed their support for the introduction of a GSL Code in the Territory.

Following promulgation of Utilities Commission Regulation 2B on 20 December 2011 authorising the making of the GSL Code, and following consideration of matters raised in the first round of consultation, the Commission released a further draft GSL Code for comment.

The GSL Code took effect from 1 January 2012, with staged implementation of one performance measure (duration of a single interruption) commencing from 1 January 2012, with other measures taking effect from 1 July 2012.

Pricing complaint investigation

Under section 48 of the *Electricity Reform Act*, the Commission is obliged to investigate complaints against any electricity entity made on the grounds that the entity is engaging in conduct that is contrary to the objects of that Act or the *Utilities Commission Act*. Such objects include promoting efficiency and competition in the electricity supply industry.

In March 2012, the Commission received a letter from a customer with concerns regarding their negotiations with PWC for supply of electricity.

Following further discussion with the customer, the Commission decided that the complaint warranted an investigation in accordance with s.48 of the *Electricity Reform Act*.

The Commission is currently reviewing information provided by the complainant and PWC.

Advice to the Minister

The Commission provides independent advice to Government on matters such as utility pricing, access to infrastructure, service quality and security of supply.

Advice to the Minister can be provided:

- when the Minister refers a matter to the Commission for inquiry under s.31 of the *Utilities Commission Act*. Inquiries conducted under s.31 of the Act are public inquiries and the Commission's final report must be tabled in the Legislative Assembly;
- when the Minister requests advice from the Commission in accordance with section 6(1)(g) of the *Utilities Commission Act*. The Minister may include a requirement in the terms of reference that the reports setting out the Commission's findings and recommendations remain confidential to Government; or
- the Commission is also empowered to provide advice to the Minister at its own initiative on the operation of the *Electricity Reform Act*.

Inquiries referred under section 31 of the *Utilities Commission Act*

Review of system planning, monitoring and reporting

Planning, monitoring and reporting are an inter-related set of activities for managing the current and future performance of electricity supply infrastructure to achieve price, quality, safety, reliability and security of supply outcomes that are in the long-term interests of customers.

The purpose of the review was to report on the adequacy of current performance monitoring and reporting arrangements under the *Electricity Reform Act*, and to recommend a course of action that ensures that planning, monitoring and reporting promote acceptable performance outcomes.

A Draft Report was released for public comment in August 2011. The Commission delivered a Final Report with final recommendations in December 2011. The report provides an overview of planning, reporting and monitoring functions and activities undertaken by electricity suppliers, industry regulators and governments to ensure that power system security and reliability outcomes are in the long-term interests of customers. It sets out the Commission's recommendations for system and distribution planning, monitoring and reporting arrangements in the Territory, and discusses implementation considerations.

The Commission recommended the development of a clear process for oversight and regular review of the technical obligations and parameters for the power system established through the regulatory framework.

Review of electricity system planning and market operation roles and structures

The purpose of the review was to report on the efficiency of system planning and market operation arrangements, including the role and structure of the system control unit of PWC and to recommend a course of action that ensures that the allocation of functions to do with system planning and market operation promote efficient and reliable electricity system performance.

The focus of the review was on the effectiveness of the Territory's governance arrangements for system and market operation and system planning, including the role and structure of the system control unit of PWC, so that these activities contribute to achieving the reliability and price levels nominated through the regulatory bargain.²

A Draft Report was released for comment in August 2011. The Final Report was delivered in December 2011, setting out the Commission's proposals for the allocation of responsibility for market and system operation activities in the Territory electricity supply industry and implementation considerations.

The Commission recommended improvements be made to the Territory's regulatory and institutional framework for market and system operation and system planning roles and functions to adopt the characteristics and

² An optimisation of the price, service and risk relationship between the supplier and customers so service performance is maintained according to customer needs and customers pay a fair price for the level of service.

principles of good governance. These improvements should provide clarity about which entity is responsible for functions and activities associated with electricity supply (through the introduction of appropriately detailed rules established by legislation).

These improvements may also help to avoid or minimise the actual or perceived risk of a conflict of interest of a particular entity in performing an activity or function and hold accountable the respective entity responsible for the performance of functions and outcomes against stated requirements. The improvements should ensure appropriate oversight of the performance of functions and activities to confirm that the entity responsible for a task is complying with relevant legislation including monitoring of compliance with the rules by an independent and expert body.

Government acceptance of the recommendations from the reviews is yet to be received but the Commission will continue to work with Government, agencies and regulated entities to progress the implementation of the recommendations.

Inquiries referred under section 6(1)(g) of the Utilities Commission Act

Review of the PWC's capital and maintenance programs

The purpose of the review was to provide an independent and expert assessment of PWC's capital and maintenance programs to ascertain whether the programs represent an efficient and prudent response to forecast demand and applicable service performance outcomes.

The Commission commenced this review in January 2010 with the engagement of technical advisors to undertake a review and report to the Commission on the forecast costs and assumptions underpinning PWC's capital and maintenance programs, and on the efficiency of the program, given forecast demand and service standards.

The Commission also examined PWC's decision-making systems and their consistency with efficient and prudent asset management practice to identify if these systems, assuming they are applied as stated, would achieve outcomes that reflect efficient and prudent asset management practice.

Finalisation of this review was delayed while the Commission completed other reviews under its Priority Work Program and implemented the Retail Supply Code.

The Commission delivered its Final Report with final recommendations in October 2011.



Chapter 5 Water Supply and Sewerage Services

The Commission is responsible for certain regulatory functions in the water supply and sewerage services industries.

The *Water Supply and Sewerage Services Act* regulates the water supply and sewerage services industries to:

- promote the safe and efficient provision of water supply and sewerage services;
- establish and enforce standards of service in water supply and sewerage services;
- facilitate the provision of financially viable water supply and sewerage services; and
- protect the interests of customers.

The Commission shares responsibility for administration of the *Water Supply and Sewerage Services Act* with other areas of government. The Commission, reporting to the Treasurer, is responsible for those sections of the Act that relate to economic regulation. The Minister for Essential Services is responsible for those sections of the Act that relate to supply and service provision under licence and the Department of Health is responsible for those sections of the Act that relate to water quality standards.

Roles and functions of the Commission

The Commission's regulatory role in the water and sewerage industry is more limited than its role in the electricity supply industry.

The Commission's activities in the water and sewerage industries relate mainly to licensing and some compliance monitoring, although the Treasurer may assign some price monitoring functions and the Minister for Essential Services may assign some service standard monitoring functions to the Commission under their respective regulatory powers.

In addition, the *Water Supply and Sewerage Services Act* requires PWC to develop a Water Metering Code and a Trade Waste Code, with those Codes being subject to approval by the Commission.

The Commission has the following functions in the water and sewerage industry:

- perform licensing functions;
- monitor and enforce licensees' compliance with the Act, the terms and conditions of their licence and the minimum standards; and
- advise the Minister on any matter referred by the Minister.

Licensing Licensing framework

The Commission issues licences to persons wishing to carry on operations in the Territory's water and sewerage industries under a sole supplier model.

Specific geographical areas may be declared by the Minister, by way of a notice in the Gazette, to be a water or sewerage supply licence area pursuant to sections 8 and 9 of the *Water Supply and Sewerage Services Act*.

A licence is required for the provision of water supply services and sewerage supply services within an area gazetted under the Act as a water or sewerage supply licence area.

For each water or sewerage supply service within a gazetted water or sewerage supply licence area, the Commission may only grant a single licence for each of the relevant services provided. The Commission is not empowered to issue licences for service provision that takes place outside a water or sewerage licence area.

The Commission must make a water supply or sewerage services licence subject to conditions approved by the Minister.

Licensing activities in 2011-12

On 30 June 2012, PWC held two licences under Part 2 of the *Water Supply and Sewerage Services Act*:

- water supply (to 31 December 2027); and
- sewerage services (to 31 December 2027).

A general exemption from the need to hold a licence is also in effect for persons on-supplying water services within prescribed licence areas, on the condition that they have been granted the approval of the licensee of the water supply licence area to carry on on-supply operations in the water supply licence area.

There were no applications for water or sewerage licences or exemptions and no variations applied for or made to the terms and conditions of existing licences during the year.

The Commission has no authority in developing service standards in the water and sewerage industry.

Minimum standards that a licensee must meet in providing water supply and sewerage services to customers are set by the Minister for Essential Services.

Water and sewerage prices paid by customers, whether residential or commercial, are regulated directly by the Territory Government via a Water and Sewerage Pricing Order (WSPO) made under section 60 of the *Water Supply and Sewerage Services Act*.

The Commission is required to enforce compliance with the WSPO as if the WSPO were a determination of the Commission under the *Utilities Commission Act*.

On 1 July 2009, a WSPO was made by the Minister that set a price path for increases in water and sewerage prices through to 30 June 2013, with prices increasing by 20 per cent in each of the first three years and then in line with the CPI in the final year.

As discussed in the previous chapter, during 2011-12 the Commission continued to focus on its Priority Work Program.

Of the final three reviews completed in 2011-12, one review relating to PWC's capital and maintenance programs referred to the Commission under section 6(1)(g) of the *Utilities Commission Act*, included PWC's water and sewerage operations as well as its operations in the electricity supply industry.

Service Performance

Price Regulation

Advice to the Minister

Chapter 6 Compliance Monitoring

Development of a Compliance Process

The Commission is required under the *Utilities Commission Act* to monitor and enforce compliance by licensed electricity entities with regulatory instruments – legislation, licences, codes and guidelines.

Good compliance practice means that an organisation is able to demonstrate its commitment to compliance with relevant laws, including legislative requirements, industry codes and organisational standards, as well as standards of good corporate governance, ethics and community expectations. It enables an organisation to identify deficiencies and take action before problems eventuate.

Following consultation with relevant stakeholders, the Commission released its Statement of Approach on Compliance in January 2012.

The Commission's Statement of Approach on Compliance outlines the Commission's compliance program for monitoring compliance with electricity laws, rules, and regulations. It contains the Commission's risk assessment methodology, monitoring and reporting mechanisms, and enforcement options in response to regulatory breaches.

The Commission's Statement of Approach on Compliance is applicable to all regulated entities (including Independent Power Producers), and is intended to supplement a regulated entity's compliance process or framework (not replace) to ensure compliance with the regulatory framework.

The objectives set out in the Statement of Approach are to:

- communicate to stakeholders the Commission's objectives regarding compliance and how these fit within the Commission's strategic vision (public value);
- bring together the different initiatives implemented thus far under one umbrella;
- communicate to the regulated industry the value of adopting and endorsing a compliance process (risk management perspective);
- inform the industry about the expected outcomes resulting from the implementation of a compliance process;
- provide guidance to the regulated entities about the development of a robust and comprehensive compliance process;
- inform the regulated industry about compliance monitoring and audit scope; and
- clarify the enforcement and disciplinary process in case of noncompliance.

Electricity

Licensed electricity entities are obliged to comply with applicable codes, rules, protocols and standards, and to notify the Commission of becoming aware of a material breach of any applicable regulatory instrument.

The following Codes made by the Commission are in effect:

- Electricity Ring-fencing Code version 3, which aims at ensuring that monopoly businesses in regulated industries affiliated to contestable businesses do not discriminate against a competitor of that affiliated business, or financially or competitively advantage that affiliated business to the detriment of a competitor of that affiliated business;
- Electricity Standards of Service Code, which establishes a process by which PWC is to set certain minimum standards of service benchmarks for both its regulated network services and its non-contestable electricity supply services;
- Energy Loss Factors Code, which sets out the high-level principles underlying the calculation of the energy loss factors to be used by the System Controller in determining out of balance energy supplied or demanded by generators operating in the Territory's electricity supply market;
- GSL Code, which establishes a guaranteed service level scheme providing for GSL payments to be made by a network provider to small customers where the supply of electricity and other related services does not meet the predetermined guaranteed service levels; and
- Electricity Retail Supply Code, which provides the framework and mechanisms for retail competition between retailers for contestable customers and protects the ongoing integrity of the market.

The following Codes developed by PWC and approved by the Commission are in effect:

- System Control Technical Code, which sets out the System Controller's competitively neutral operating protocols, arrangements for system security and system dispatch, as well as arrangements for the interruption of supply; and
- Network Technical Code, which specifies the technical performance requirements of the network, and the requirements for co-ordination between network users and the network operator to achieve these.

Compliance reporting in 2011-12

Annual licence returns

During the year, PWC lodged returns with respect to the 2010-11 financial year for each of its licensed areas of operation.

QEnergy also lodged a return for 2010-11 with respect to its retail operations.

For those entities for which activities in the electricity supply industry are more limited, licence returns are not required to contain the same level of detail as those required from PWC.

During the year, the following licensees also lodged returns with respect to the 2010-11 financial year for their licensed areas of operation:

- NGD (NT) Pty Ltd;
- Cosmo Power Pty Ltd;
- Central Energy Power Pty Ltd;
- Energy Resources of Australia Ltd;
- Landfill Management Services Pty Ltd;
- Groote Eylandt Mining Company Pty Ltd; and
- Uterne Power Plant Pty Ltd.

No substantive issues arose as a consequence of these licence returns.

Compliance report of operations of PWC

PWC is also required to undertake an audit when requested by the Commission by condition of licence.

On 8 August 2011, the Commission gave notice to PWC that it required PWC to appoint an independent auditor to undertake an audit of PWC's compliance with its licence obligations.

The 2010-11 compliance audit was undertaken by an independent auditor, KPMG. The engagement scope for 2010-11 included:

- examining compliance with licence obligations and Ring-Fencing Code by testing for compliance with a sample of obligations;
- examining compliance with procedural requirements of the System Control Technical Code by testing for compliance with a sample of obligations; and
- examining the adequacy of PWC's compliance frameworks against the requirements of AS3806 (Compliance Programs) by requesting PWC business units to undertake a self-assessment process (based on a questionnaire developed by KPMG).

The audit report found that PWC has made progress in developing its compliance framework including the approval of a Compliance Management Strategy and Compliance Policy outlining the roles, responsibilities and accountabilities of employees and oversight committees in respect to compliance formally endorsed and changes made to induction training programs.

It was noted that PWC is still working towards full development and implementation of its compliance framework. The Commission considers this is a positive first step towards good compliance practice.

KPMG reported that PWC is compliant in most areas, although some issues were identified in relation to notification of planned plant outages and routine tests, and there was potential for compliance issues under the Ring-fencing Code.

In developing the scope for the 2011-12 compliance audit, the Commission has advised PWC that the audit should have further regard to the compliance obligations in PWC's register of compliance, Territory environmental factors

and developments, the Commission’s Statement of Approach on Compliance and assess compliance obligations based on the intent of an obligation.

The Commission is committed to working with PWC to ensure that the 2011-12 compliance audit process and report are useful tools for providing assurance that PWC’s compliance framework is appropriate for meeting its licensee obligations.

Compliance by QEnergy

QEnergy submitted a Compliance Plan and Large Customer Charter on 17 June 2011 as required under its licence.

The Commission approved the plan on the basis that it demonstrated a good understanding of the Commission’s expectations and the capabilities needed to establish a comprehensive and robust compliance process.

The Commission did not require a compliance audit for the 2010-11 year.

PWC Safety Management and Mitigation Plan

PWC Network and Generation licences were amended in October 2011 to require PWC to develop and implement a Safety Management and Mitigation Plan. PWC submitted a plan (encompassing both the network and generation requirements) in May 2012.

The Commission took the view that further development of the plan was required to ensure it reflects industry best practice and provided further guidance to PWC on how this should be achieved. The Commission expects that a revised plan will be submitted by PWC for Commission consideration in late 2012.

Water Supply and Sewerage Services

Licensed water and sewerage entities are obliged to comply with applicable codes, rules, protocols and standards, and to notify the Commission of becoming aware of a material breach of any applicable regulatory instrument.

The following Codes developed by PWC and approved by the Commission are in effect:

- Water Metering Code, approved by the Commission in July 2006, which sets out the arrangements and conditions for installing, testing, verifying and replacing meters owned by the licensee and must be in accordance with guidelines published by the National Standards Commission.
- Trade Waste Code, approved by the Commission in December 2001, which sets out the conditions on which the licensee will approve trade waste being discharged into the licensee’s sewerage services infrastructure.

Compliance reporting in 2011-12

Annual licence returns

During the year, PWC lodged returns with respect to the 2011-12 financial year for each of its licensed areas of operation.

No substantive issues arose as a consequence of these licence returns.

Compliance report of operations

PWC is required to undertake an audit of operations authorised by each licence and compliance with licence obligations.

The 2010-11 audit was undertaken by an independent auditor, KPMG as part of a broader audit that also encompassed a review of compliance management processes and compliance in relation to PWC's electricity licence obligations.

Water and sewerage asset management plans

PWC is required to maintain and implement asset management plans and submit an updated copy of the plan to the Commission each year.

In 2011, the Commission granted PWC an exemption from having to submit asset management plans in 2011 to allow PWC to focus on the Asset Management Capability project, involving the development and implementation of an integrated IT system and development of new asset management policies and processes.

PWC submitted updated Water and Sewerage Asset Management Plans on 14 February 2012 and also provided an update on its progress for developing more detailed and robust asset management plans.

The Commission considered the plans submitted by PWC to be an improvement from those previously submitted and noted PWC progress in developing a strategic asset management framework.

Appendix A: Decisions in 2011-12

During 2011-12, the Commission made the following decisions:

Decision	Type	Date of decision	Expires
Electricity Retail Supply Code	Code	11 August 2011	Until revoked or superseded
PWC – Electricity Network Licence	Variation	28 October 2011	To 30 June 2020
PWC – Electricity Generation Licence	Variation	28 October 2011	Until superseded
Network Access Tariffs	Approval	22 May 2012	1 July 2012 to 30 June 2013
Business to Business Procedures	Approval	14 December 2011	To 29 March 2013
Guaranteed Service Level (GSL) Code	Code	1 January 2012	Until revoked or superseded
TKLN Pty Ltd	Grant of Independent Producers Licence	24 May 2012	Until superseded
ERM Power Retail Pty Ltd	Grant of Retail licence	24 May 2012	Until superseded
System Control Technical Code	Approval of variation	30 May 2012	Until revoked or superseded

Appendix B: Publications and Reports

During 2011-12, the Commission published the following reports:

Date released	Publication
3 August 2011	Statement of Reasons – Electricity Retail Supply Code
August 2011	Review of Electricity System Planning, Monitoring and Reporting – Draft Report
August 2011	Review of Electricity System Planning and Market Operation Roles and Structures – Draft Report
September 2011	Statement of Approach on Compliance – Draft for Consultation
October 2011	Annual Report 2010-11
November 2011	Consultation Paper – Proposed Draft GSL Code
16 December 2011	Draft Statement of Reasons – Proposed Second Draft GSL Code
January 2012	Review of Electricity System Planning and Operation Roles and Structures Final Report
January 2012	Review of Electricity System Planning, Monitoring and Reporting – Final Report
January 2012	Commission's Statement of Approach on Compliance
March 2012	2010-11 Power System Review
March 2012	Standards of Service Performance Report 2010-11
April 2012	Commission reasoning on Approval of Network Tariffs (PWC)
May 2012	Consultation Paper – Draft Electricity Standards of Service Code
May 2012	Commission Analysis for 2012-13 Tariffs
June 2012	2014 Network Price Determination: Framework and Approach Consultation Paper

These publications can be viewed on the Commission's website:
www.utilicom.nt.gov.au

The Commission also produced a report referred to under section 6(1)(g) of the *Utilities Commission Act*, Review of Power and Water Corporation's Capital and Maintenance Programs.

Appendix C: Expenditure and Receipts

The Utilities Commission is established as a separate administrative unit within the Northern Territory Treasury. The Commission does not separately compile its own financial statements but its activities are included in the consolidated financial statements provided in Treasury's Annual Report. This Appendix publishes the expenditures of the Commission that are funded directly from Consolidated Revenue, as well as the associated receipts.

Expenditure by Category of Cost

Category of cost	2010-11	2011-12
	\$000	\$000
PERSONNEL COSTS	486.9	574.5 ¹
OPERATIONAL EXPENDITURE	312.1	360.6
Expert advice	242.1	277.8
Official travel, accommodation and related expenses	44.5	36.6
Recruitment and staff training	15.0	29.2
Office expenses and administration	10.5	17.0
OVERHEADS ALLOCATION	198.0	202.0
TOTAL EXPENDITURE	997.0	1 137.1

1 Increase due to changed arrangements for Utilities Commissioner and an additional Commission staff member.

Receipts by Account

Account	2010-11	2011-12
	\$000	\$000
FEES AND CHARGES	162.5	185.4
Licence application fees	1.5	1.0
Electricity licence fees	116.0	140.4 ¹
Water and sewerage licence fees	45.0	45.0
TOTAL REVENUE	162.5	185.4

1 Increase in electricity licence fee income is made up of an increase in variable component of PWC Network licence fee due to more accurate identification of network line length and licence fees from new licensees, QEnergy and Uterne.

Note: Section 19 of the *Utilities Commission Act* provides that, unless otherwise directed by the Treasurer, fees and other monies received by the Commission are paid into the Consolidated Revenue Account. No such direction has been issued.

Appendix D: Advisers to the Commission

In 2011-12, the Commission used the services of the following consultants. The costs for the year totalled \$277 807 compared with \$242 094 in the previous year.

Greater than \$50 000

Evans & Peck Pty Ltd

During 2011-12, the Commission received technical advice from Evans & Peck in relation to the preparation of the annual Power System Review.

CQ Partners

During 2011-12, the Commission received economic and technical advice from CQ Partners in relation to development of an Electricity Standards of Service Code.

Less than \$50 000

Page Consulting Group

During 2011-12, the Commission received advice from Page Consulting Group on the possible scope and structure of an Electricity Industry Code.

Minter Ellison

During 2011-12, the Commission received advice from Minter Ellison in relation to legal issues associated with the drafting of the Guaranteed Service Level (GSL) Code and the Electricity Standards of Service Code.