

Mr Alan Tregilgas
Utilities Commissioner
Utilities Commission
5th Floor, 38 Cavenagh Street
Darwin NT 0800

Dear Alan

Re: Issues Paper - Possible Review of Certain Regulatory Instruments

In response to your letter dated 7 September 2007 on the above, Power and Water Corporation (Power and Water) welcomes the opportunity to comment on the Issues Paper and submits the following for consideration by the Utilities Commission (the Commission). Power and Water has highlighted and marked relevant sections of this submission as confidential and requests that the Commission does not make these sections available for public inspection at the Commission's office or on its website.

Issue: (1) Is there any disagreement with the Commission's views regarding the nature and extent of current regulatory deficiencies and their implications for the Commission? If so, why?

The Commission states that current regulatory deficiencies include the way power system planning and reliability are managed in the Northern Territory electricity market, Power and Water's position as a vertically-integrated monopoly utility, and generation and retail barriers to entry for potential market entrants.

Securing long-term gas supplies and commissioning a new power station to provide sufficient capacity are considered by Power and Water to be prudent business planning and investment decisions, rather than acts to construct barriers to entry. The fact that successful competition has failed to emerge has not been due to any direct hindrance by Power and Water.

The NT Government, as shareholder, has ultimate responsibility for determining whether Power and Water remains a vertically integrated utility. Moreover, legal separation of Power and Water's generation, networks and retail businesses and its franchise and contestable retail businesses is not necessarily a pre-requisite for effective competition in the Territory electricity industry.

In this regard, Power and Water notes that while the original design of the National Electricity Market was based on structural separation of generators from retailers, there was no explicit stated national policy requiring vertical separation. The Energy Reform Implementation Group, for example, cites international experience to conclude that vertical integration between a generator and retailer is not a source of inefficiency or anti-competitive outcomes per se. The Victorian and South Australian markets have seen the emergence of 'gentailers', with two of the three dominant retailers in those markets being substantially integrated.

In relation to paragraph 1.10, Power and Water advises that the new power station being constructed at Weddell will add 39MW of capacity to the Darwin-Katherine system in 2007-08 and again in 2008-09 (*Power and Water Corporation, 2007-08 Statement of Corporate Intent, pg. 16*).

Issue: (2) Is there any disagreement with the Commission's views regarding the nature and extent of prospective policy developments and their implications for the Commission? If so, why?

Power and Water will allow the Commission to determine its own work plan and priorities. However, in investigating a possible transition to the national regulatory regime, including modifications required to accommodate Territory-specific circumstances, it is important that all parties' efforts are coordinated in order to minimise the cost of regulatory reform, administration and compliance, while maximising the reform objectives of competition and efficiency.

Issue: (3) Is there any disagreement with the Commission's proposal to undertake a major review of the NT electricity ring-fencing code and to develop certain contestable pricing guidelines? If so, why?

Power and Water supports, in principle, the Commission's proposal to review the electricity ring-fencing code and to develop contestable pricing guidelines. However, any changes to the ring-fencing code should not increase the complexity or costs of regulatory compliance as this could potentially provide as much of a disincentive for competitors as the size and characteristics of the Territory's electricity market itself. These costs could potentially be further increased if any major review was undertaken without consideration of the broader reform program.

Power and Water considers the Commission to be well-placed to provide advice on, *inter alia*, the electricity ring-fencing arrangements and contestable pricing guidelines, however these efforts should be integrated into the development of the broader NT energy reform agenda.

Please contact Ms Djuna Pollard, Manager Regulatory Affairs and Business Analysis, on 8985 8431 should you have any further queries in relation to the comments provided.

Yours sincerely

Andrew Macrides
Managing Director

19 October 2007