

# Review of the Northern Territory's Electricity Supply Licensing Regime

## Decision paper – standard licence conditions

A paper presenting the  
Commission's decisions on  
standard conditions for retail,  
generation and network licences

January 2024

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## Abbreviations and acronyms

Commission	Utilities Commission of the Northern Territory
EDL	Energy Developments Pty Ltd
EIP Code	Electricity Industry Performance Code
EPO	Electricity Pricing Order
ER Act	<i>Electricity Reform Act 2000</i>
ER Regulations	Electricity Reform (Administration) Regulations 2000
ERS Code	Electricity Retail Supply Code
ES Act	<i>Electrical Safety Act 2022</i>
Jacana	Jacana Energy
Licensing regime	electricity supply licensing regime
NTC	Network Technical Code and Planning Criteria
PWC	Power and Water Corporation
SCTC	System Control Technical Code
SMMP	Safety Management and Mitigation Plan
Territory	Northern Territory
TGen	Territory Generation
UC Act	<i>Utilities Commission Act 2000</i>

## Executive summary

In 2022, the Utilities Commission (Commission) commenced a review of the Northern Territory's (Territory's) electricity supply licensing regime (Licensing Review). In this second stage (stage 2) of the Licensing Review, the Commission assessed the consistency, efficiency and effectiveness of the form and content of electricity supply licences. A key outcome of stage 2 is the development of a new set of standard conditions for electricity supply licences to address inconsistencies, outdated references, duplication and other issues with the conditions in existing licences.

This Decision Paper presents the Commission's decisions and associated reasoning on a new set of standard conditions for electricity supply licences. In determining the standard conditions, the Commission considered stakeholders' feedback to its Consultation Paper, released in July 2023, which presented a preliminary set of standard conditions.

The standard conditions fall into three categories:

- Administrative conditions – these include a description of the licensed operations, changes that can be made to licences and licence fees and charges.
- General conditions – these cover obligations regarding information requirements, compliance matters, community service obligations and requirements when an operator is appointed to take over a licensee's operations.
- Operational conditions – these differ and are specific to the type of licence to be granted (retail, generation or network operations).

The new standard conditions will be applied to existing licences (through variations) and new licences going forward, except where an applicant can demonstrate (or existing licensee has demonstrated) that the standard conditions are not appropriate for its electricity operations. This will ensure consistency in obligations placed on licensees and provide transparency on requirements for prospective industry participants so they can make informed decisions prior to entering the Territory's electricity supply industry. Notwithstanding this, there may be instances where the Commission imposes additional 'non-standard' conditions on a licensee specific to that licensee's circumstances or operations.

# 1 | Introduction

This Decision Paper explains the Commission's decisions and associated reasoning for a new set of standard conditions that will apply to retail, generation and network licences for operations in the Territory's electricity supply industry.

## Context to the Decision Paper

The Commission commenced its Licensing Review in 2022. The Licensing Review consists of three consecutive stages. In the first stage, completed in August 2023, the Commission assessed the coverage, relevance and flexibility (scope and design) of the licensing regime. In this second stage (stage 2), the Commission assessed the consistency, efficiency and effectiveness of the form and content of electricity supply licences. In the final stage of the review, the Commission will consider the efficiency and effectiveness of its licensing and related reporting and compliance processes.

Further information about the Licensing Review, the Commission's role and responsibilities in the electricity supply industry and a description of the licensing regime is provided in issues and decision papers for the first stage of the licensing review, which can be accessed on the Commission's website<sup>1</sup>.

The Decision Paper completes stage 2 of the Licensing Review, which commenced with release of a Consultation Paper in July 2023. The Consultation Paper invited stakeholders to respond to questions posed on proposed standard conditions for electricity supply licences. Feedback was received from four stakeholders:

Energy Developments Pty Ltd (EDL)

Jacana Energy (Jacana)

Power and Water Corporation (PWC)

Territory Generation (TGen)

Submissions and further information can be found on the project page for stage 2 of the Licensing Review on the Commission's website<sup>2</sup>.

## Structure of the Decision Paper

After considering feedback from stakeholders, the Commission has refined and finalised its standard conditions for electricity supply licences. This Decision Paper presents the finalised standard conditions showing how they have changed compared to those proposed in the Consultation Paper. It also provides the Commission's reasoning for those changes and responses to stakeholder feedback.

The Decision Paper is structured as follows:

- Chapter 2 presents the standard administrative conditions to be included in all electricity supply licences
- Chapter 3 presents the general conditions to be included in all electricity supply licences
- Chapters 4 to 6 present the standard conditions for each licence type (retail, generation and network)
- Chapter 7 discusses the form of electricity supply licences (licence template).

### Disclaimer

This Decision Paper has been prepared by the Commission in accordance with the *Utilities Commission Act 2000* (UC Act). To the maximum extent permitted by law, the Commission disclaims and excludes all liability

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<sup>1</sup> At <https://utilicom.nt.gov.au/projects/projects/review-of-the-northern-territory-electricity-licensing-regime-scope-and-design>

<sup>2</sup> At <https://utilicom.nt.gov.au/projects/projects/review-of-the-northern-territory-electricity-supply-licensing-regime-stage-2-form-and-content-of-licenses>

for any loss, claim, demand, damages, costs and expenses of any nature (whether or not foreseeable and whether direct, indirect or consequential and whether arising from negligence or otherwise):

- suffered or incurred by any person relying or acting on any information provided in, referred to or omitted from, this document
- or arising as a result of, or in connection with, information in this document being inaccurate or incomplete in any way or by reason of any reliance on it by any person, including by reason of any negligence, default or lack of care.

## Application of the new standard conditions

Following release of the Decision Paper, and in accordance with section 32 of the *Electricity Reform Act 2000* (ER Act), the Commission will commence the process of writing to existing licensees proposing a variation of their licence based on the finalised standard conditions (noting some licensees have already evidenced some standard conditions are not appropriate for their operations). Licensees will be invited to make representations on the proposed variation to their licence. Following consideration of any representations, the Commission will issue licensees with a finalised copy of their varied licence. The varied licences will be published on the Commission's licence register.

For new applicants, the finalised standard conditions will be applied unless an applicant can demonstrate that some of those standard conditions are not relevant or appropriate to their electricity supply operations.

Application of the new standard conditions will ensure consistency in obligations placed on licensees and provide transparency on requirements for prospective industry participants. However, the Commission notes there may be instances where it imposes (or continues to impose in the case of existing licensees) additional 'non-standard' conditions specific to a licensee's circumstances or operations. This is consistent with the Commission's power under section 24(4) of the ER Act to make a licence subject to further conditions (to those mandated in the ER Act) as it considers appropriate.

## 2 | Standard administrative conditions – all licences

The Commission has decided the standard administrative conditions set out in **Box 1** will be included in electricity supply licences.

### Box 1 Standard administrative licence conditions

#### Definitions and Interpretation

In this licence a word or phrase in italics:

- (a) has the meaning given to it in [insert relevant reference in licence]; or
- (b) if the word or phrase is not defined in [insert reference to Definitions], then it has the meaning given to it in the *Electricity Reform Act 2000*.

This licence must be interpreted in accordance with the rules set out in [insert reference to Interpretations].

#### Grant of licence

Under Part 3 of the *Electricity Reform Act 2000*, the *Utilities Commission* grants the licensee a licence to:

- (a) [insert description of electricity supply operations]; and
- (b) [insert description of electricity supply operations],

in accordance with the terms and conditions of this licence.

#### Term

This licence commences on the date it is issued and continues until the earlier of:

- (a) when it is surrendered by the licensee under section 35 of the *Electricity Reform Act 2000*; or
- (b) when it is cancelled by the *Utilities Commission* under section 36 of the *Electricity Reform Act 2000*.

#### Suspension or cancellation of licence

This licence may be suspended or cancelled under section 36 of the *Electricity Reform Act 2000*.

#### Variation of licence

This licence may only be varied in accordance with section 32 of the *Electricity Reform Act 2000*.

#### Transfer of licence

This licence may only be transferred in accordance with section 33 of the *Electricity Reform Act 2000*.

#### Licence fee and other charges

1. The licensee must pay an annual licence fee or instalment of the annual licence fee, as the case may be, to the *Utilities Commission* as determined by the *Minister* under section 19 of the *Electricity Reform Act 2000*.
2. The licensee must pay the *System Controller* and *Market Operator* any applicable charges relating to the operations of system control and market operations as approved by the *Utilities Commission*.

The finalised standard administrative conditions are unchanged from those proposed in the Consultation Paper released in July 2023.

The standard administrative conditions proposed in the Consultation Paper were largely the same as those used in existing licences with the only substantive change to being the addition of a reference to the Market Operator and market operations in relation to the condition on licence fees and other charges.

With the exception of the licence for EDL Jabiru Pty Ltd<sup>3</sup>, retail and generation licences contain a condition requiring the licensee to pay the System Controller any applicable charges relating to the operations of system control. The purpose of the inclusion of the reference to Market Operator functions in the condition is to improve transparency and reinforce the requirement to pay those charges, where they apply. Market operator charges are already imposed on relevant licensees as part of charges for functions undertaken by PWC's System Control and the licence condition does not impose any new charges on licensees.

A Market Operator is a person licensed under regulation 3E or 3F of the Electricity Reform (Administration) Regulations 2000 (ER Regulations) to operate a wholesale market in relation to a power system. A definition

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<sup>3</sup> There is not a system control function in the Jabiru power system.

for the Market Operator is included in the definitions section of a licence. Updated definitions and interpretations for the standard conditions are set out in Appendix A.

Presently, PWC's System Control operates a wholesale market in the Darwin-Katherine power system (in accordance with regulation 3F) and recovers the cost of this and its system control operations through the imposition of charges approved by the Commission. Further information on system control and market operator charges and the licensees that these apply to can be found on the Commission's website at <https://utilicom.nt.gov.au/electricity/price-regulation/system-control-charges>.

#### Submissions to the Consultation Paper and Commission's decision

The Consultation Paper asked whether stakeholders had feedback and comments on the proposed standard administrative conditions. Respondents either indicated their support or made no comment.

The Commission considers the standard administrative conditions to be more informative and contemporary and has made no refinements to the administrative conditions proposed in the Consultation Paper.



## 3 | Standard general conditions – all licences

The Commission has decided the standard general conditions set out in **Box 2**, which have been amended compared to those proposed in the Consultation Paper (the amendments are shown in red), will be included in electricity supply licences.

### Box 2 Standard general licence conditions

#### Responsibility for operating contractors

- ~~1. If the licensee engages a contractor or other party to perform any operations covered by this licence (operating contractor), the licensee remains responsible for ensuring that all operations covered by this licence comply with the conditions of this licence regardless of who carries out those operations.~~
- ~~2. The licensee must use best endeavours to ensure each operating contractor engaged by the licensee complies with the conditions of this licence to the extent that such conditions are relevant to that operating contractor.~~

#### Information to the Utilities Commission

- Annual return  
The licensee must lodge an annual return by 1 August each year. The annual return must contain such information as specified by the *Utilities Commission* by written notice. At a minimum, the licensee will be required to provide information on:
  - key ~~contact~~ person/s for the *Utilities Commission to contact* regarding the licensed operations and
  - details of electricity supply operations for use in the calculation of licence fees.
- Change in circumstances  
The licensee must give a notice in writing to the *Utilities Commission* if:
  - ~~there is a change in the identity of any operating contractor engaged by the licensee to perform operations covered by this licence within 10 business days of the day on which that contract was executed;~~
  - the licensee ~~or an operating contractor~~ is put under external administration as defined by the *Corporations Act 2001* (Cth), within 2 *business days* of that external administration occurring;
  - an application is made to, or an order is made by, a court for the winding up or dissolution or a resolution is passed or any steps are taken to pass a resolution for the winding up or dissolution of the licensee ~~or an operating contractor~~ in accordance with relevant legislation including the *Bankruptcy Act 1996* (Cth) or *Corporations Act 2001* (Cth), within 2 *business days* of that event occurring;
  - there is a change to the financial or technical capacity of the licensee ~~or an operating contractor~~, such that the licensee's capacity to carry on operations or comply with obligations under this licence may be materially affected, within 10 *business days* of that change.
- Change in officers  
The licensee must give a notice in writing to the *Utilities Commission* of any change of directors or Board members, Chief Executive Officer, Chief Financial Officer and Company Secretary (or equivalent positions) as well as the key contact person/s of the licensee (*as advised in the licensee's annual return*) within 20 *business days* of that change.
- Change in shareholders (if applicable)  
The licensee must give a notice in writing to the *Utilities Commission* of any change in the shareholding of the licensee resulting in the transfer of more than 50% of the shares in the licensee to a third party or a change in the entity that exercises control over the licensee within the meaning of section 50AA of the *Corporations Act 2001* (Cth), within 20 *business days* of that change.
- Other information *to the Utilities Commission*  
The licensee must, from time to time, provide the *Utilities Commission*, in a manner and form to be determined by the *Utilities Commission*, such information as the *Utilities Commission* may request.

#### Information to the System Controller

The licensee must, from time to time, provide the *System Controller* such information as the *System Controller* may request in accordance with the *System Control Technical Code*.

### Compliance with regulatory instruments

The licensee must, as amended from time to time, comply with:

- (a) all *applicable laws*
- (b) all applicable provisions of a *code* or *rule* made under the *Utilities Commission Act 2000* or the *Electricity Reform Act 2000*;
- (c) any applicable protocol, standard or *code* applying to the licensee under the *Regulations* or the *Utilities Commission Regulations 2001*; and
- (d) any **applicable** guideline made under a *code*, the *Regulations*, or the *Utilities Commission Act 2000*.

### Compliance process

1. Establishment and maintenance of a compliance process
  - (a) Within 3 months of issue of this licence, the licensee must establish, document, maintain and comply with appropriate auditable internal policies, procedures and systems (“compliance process”) for ensuring that it complies with its obligations under this licence, and all *applicable laws*, codes, rules, standards or guidelines.
  - (b) The compliance process must include policies, procedures and systems for:
    - (i) training of employees about the obligations of the licensee under this licence;
    - (ii) regular internal audit by the licensee of its compliance with its obligations under this licence;
    - (iii) regular reporting to, and consideration by, the Board of the licensee concerning compliance with the obligations of the licensee under this licence;
    - (iv) dealing with any complaints made by a customer or other third party to the licensee in connection with non-compliance by the licensee with its obligations under this licence;
    - (v) detecting and reporting to the *Utilities Commission* any breach of the **licensee's** compliance **procedures with its obligations under this licence**.
  - (c) The *Utilities Commission* may (after giving reasonable notice to the licensee) require the licensee to demonstrate to the *Utilities Commission's* satisfaction that:
    - (i) the licensee's compliance **procedures are process is** adequate; and/or
    - (ii) the licensee is complying with its compliance **procedures process**.
  - (d) Any notification made by the *Utilities Commission* to the licensee concerning the *Utilities Commission's* opinion of the adequacy of the compliance process of the licensee will not affect the licensee's obligations under this licence.
2. Independent audit
  - (a) Upon reasonable notice to a licensee, the *Utilities Commission* may appoint, or require the licensee to appoint, an independent auditor to undertake an audit of the licensee's compliance with any of its obligations under this licence (independent audit).
  - (b) The licensee must consult with, and gain the approval of, the *Utilities Commission* for its preferred independent auditor and proposed scope for the audit.
  - (c) The scope of the audit and the standards or requirements to apply to an independent audit must comply with any guidelines published by the *Utilities Commission* from time to time. In the absence of guidelines, the scope and standards or requirements will be determined by the *Utilities Commission* in consultation with the licensee. Where the *Utilities Commission* appoints the auditor, the *Utilities Commission* will nominate the standards or requirements.
  - (d) The licensee must cooperate with any reasonable requests made by the independent auditor in undertaking the audit.
  - (e) The licensee will be responsible to pay the costs of undertaking the audit.

### Compliance reporting

1. Notification of material non-compliance (material breach)
  - (a) The licensee must notify the *Utilities Commission* if it commits a material breach of an applicable regulatory obligation within 2 *business days* of becoming aware of that breach.
  - (b) Following the initial notification, the licensee must advise the *Utilities Commission*, within 20 *business days* or other such time as agreed by the *Utilities Commission*, of the circumstances of, and reasons for, the material breach, consequences of the breach and remedial action that is being undertaken to rectify the breach.
  - (c) The notification of material breaches, including the assessment of which breaches are a material breach, must be undertaken in accordance with any reporting guidelines published by the *Utilities Commission* from time to time.

### Compliance reporting (continued)

#### 2. Annual compliance report

- (a) A licensee must provide an annual report to the *Utilities Commission* describing the measures taken by the licensee to ensure compliance with its obligations and identifying all instances (material and non-material) of non-compliance (annual compliance report).
- (b) The annual compliance report must be in accordance with any reporting guidelines published by the *Utilities Commission* from time to time.
- (c) The annual compliance report, and the *Utilities Commission's* assessment of compliance, may be made publicly available by the *Utilities Commission*.

### Community service obligations

The licensee must comply with the requirements of any scheme approved and funded by the *Minister* for the performance of community service obligations by *electricity entities*.

### Operator

If an operator is appointed to the licensee's business under section 42 of the *Electricity Reform Act 2000*, the operator must exercise its functions and powers in such a manner as may be specified by the *Utilities Commission* in the instrument of appointment.

## Existing licence conditions not included in standard conditions

### Participation in development of regulatory instruments

Most electricity supply licences contain a condition requiring the licensee to participate in the development of regulatory instruments; however, this will not be included in the new set of standard conditions.

The Commission's development of regulatory instruments is conducted transparently and openly including public consultation on draft instruments. This provides licensees and any other interested parties with the opportunity to provide input into the development process. It is in the interests of licensees to participate in the development process as they are required to comply with relevant regulatory instruments, but the Commission considers the level of participation is a matter for licensees to determine for themselves.

### Submissions to the Consultation Paper and Commission's decision

The Consultation Paper did not specifically seek feedback on this proposal and no respondents commented on the proposal. The Commission confirms the condition requiring a licensee to participate in the development of regulatory instruments will not be included in electricity supply licences.

## Responsibility for operating contractors

Following feedback from stakeholders and further consideration, the Commission has decided that the proposed condition requiring advice on operating contractors will not be a standard general condition. Instead, it will be included in the standard conditions for generation and network licences. The condition and the Commission's decision is discussed in Chapter 5 Standard conditions – generation licences.

The removal of this condition resulted in amendments to the Change in circumstances general condition (reference to operating contractors has been removed) and these now form part of the Responsibility for operating contractors standard condition in generation and network licences. This is also discussed in Chapter 5.

## Information to the Commission

The conditions requiring licensees to provide information to the Commission are a consolidation of existing conditions with the addition of specific timeframes for the provision of that information and inclusion of further detail to clarify requirements. Notification of the information and changes specified under these conditions are important for enabling the Commission to be satisfied that, in accordance with section 16 of

the ER Act, the licensee continues to be a suitable person to hold a licence and to assess the implications for consumers of any major changes in a licensee's circumstances.

### Annual return

Section 19(2)(a) of the ER Act requires the holder of a licence granted for two years or more to lodge an annual return with the Commission. The annual return is to contain information specified by the Commission in the licence condition or by written notice. The requirement for an annual return is a condition of current licences, and provides for the Commission to specify the information required and timeframe for provision of the information through written notice. The standard condition includes the Commission's standard due date for annual returns (1 August each year) and indicates the standard (minimum) information that is sought. This is intended to increase transparency on the annual information requirement, particularly for prospective licensees (existing licensees will be familiar with the Commission's annual return specifications).

### Change in circumstances

In accordance with section 24(1)(c) of the ER Act, a licence must include a condition relating to the licensee's financial or other capacity to continue operations under the licence. This standard condition fulfils this requirement and reflects the existing obligation to inform the Commission of changes in financial and technical capability. This requirement has, however, been revised from that in current licences so that it is no longer a passive obligation (that is, information is required only when requested by the Commission) and is instead an active obligation with the licensee required to provide a written notification within 10 business days of the change occurring (rather than 20 business days after receipt of a request from the Commission).

Additionally, there is now a stronger obligation if a licensee is placed under external administration, an application is made to, or an order is made by, a court for the winding up or dissolution of the licensee, or actions are taken to wind up or dissolve a licensee in accordance with relevant legislation. In this circumstance, notification is required within 2 business days of the change occurring. These matters have implications for the financial capability of a licensee and whether the licensee continues to meet the suitable person test under section 16 of the ER Act.

### Changes in officers and shareholders

In accordance with section 24(1)(e) of the ER Act, existing licences include a requirement to provide advice of changes in officers and shareholders. In this condition, the existing requirement has been separated and information previously in the definitions section of the licence has been incorporated to improve clarity on requirements. The condition provides further detail identifying, at a minimum, the positions (or equivalents) for which changes in the person occupying that position must be reported to the Commission. This is to address uncertainty indicated by licensees about the officers requiring notification. The timeframe for notifications is unchanged.

### Other information to the Utilities Commission

The existing licence condition relating to the provision of other information to the Commission has been consolidated with other information obligations. This condition enables the Commission to request other information, as might be needed. It is also consistent with the Commission's power to require information, provided for under section 25 of the UC Act.

### Submissions to the Consultation Paper

The Consultation Paper asked whether the proposed changes to general conditions requiring the provision of information to the Commission improved transparency on requirements and applied reasonable timeframes for the provision of information. The Consultation Paper also asked whether there was other information the Commission should consider including in the conditions. Jacana and PWC responded to the questions.

Jacana provided the following feedback:

- Jacana proposed detailed requirements for annual returns should be laid out in the licence or the annual return standard condition should reference the Compliance Framework and Reporting Guidelines (Compliance Guidelines) and the submission date for the annual return should be aligned with the due date for Annual Compliance Reports (31 August rather than 1 August).
- Jacana queried whether the reference to notifying of changes in the key contact person/s was a reference to the nominated and alternative contact officer provided on a licence application and was of the view that more clarity was needed on who would constitute a notifiable key contact person.
- Jacana recommended the title of the Other information be changed to “Provision of information to the Utilities Commission”.

PWC recommended increasing the timeframe for notification of external administration, dissolution or a resolution from 2 to 5 days; a change it also suggested for initial reporting of a material non-compliance (discussed in subsequent sections). PWC also recommended further definition be provided on what constitutes a change in financial capacity, noting further definition related to a potential participant default would assist in managing the impacts to other market participants. PWC considered this could include the licensee having to notify the Commission of payments not made by the due date or the inability to meet their financial obligations within the Northern Territory electricity market.

### Commission's decision and reasoning

The Commission has not adopted the changes proposed by Jacana relating to the Annual return condition. The minimum list of requirements in the condition is intended for guidance and transparency. Actual requirements will continue to be specified in the Commission's annual return notice sent to licensees in June each year (in accordance with section 19(2)(a) of the ER Act). The due date for annual returns is set in regulation 4(1) of the ER Regulations. Information from the annual returns informs the calculations for annual fees and a change in the date would defer the issuance of invoices.

The Commission has not adopted PWC's suggestions to increase the timeframe for notifications of administration, dissolution or a resolution and to further define what constitutes a change in financial capacity under the Change in circumstances condition. The Commission wants to be notified immediately or as soon as possible in such circumstances and extending the timeframe, as suggested by PWC, is not appropriate. The Commission considers the current wording in relation to financial capacity is sufficient and should licensees be concerned about the materiality of a change in their circumstances, they are encouraged to discuss their situation with the Commission.

The Commission has made some amendments to the Change in officers and Annual return conditions to create a link between the two conditions in response to Jacana's request for more clarity on key contact persons. This should result in a licensee's annual return providing the current contacts and then during the year, the Change in officers condition keeps those details up to date.

The Commission notes Jacana's proposal regarding the title of Other information would duplicate the overarching title for information obligations, but has expanded the Other information title to Other information to the Commission. This improves clarity and follows the style used for the condition requiring information to be provided to the System Controller.

### Information to the System Controller

In some licences, the obligation to provide information to the System Controller is combined with the obligation to provide other information to the Commission, but these are now established as a separate conditions. The obligation to provide information to the System Controller will only have implications for licensees operating in a power system where there has been a licence granted to an electricity entity to perform system control functions. Currently, PWC holds the only system control licence covering the Darwin-Katherine, Alice Springs and Tennant Creek power systems. In other power systems, control will typically reside with the network provider.

## Submissions to the Consultation Paper and Commission's decision

There was no feedback from stakeholders on the separate condition requiring the provision of information to the System Controller and the condition remains the same as that proposed in the Consultation Paper

## Compliance with regulatory instruments

As outlined in the Consultation Paper, this standard condition meets requirements under sections 24(1)(a) and 24(1)(b) of the ER Act and is based on the current condition in licences, updated through reordering the list of regulatory instruments to place the key requirement first, that is, that a licensee must comply with all applicable laws. "Applicable laws" has been added to the Definitions list (refer Appendix A) providing further information on relevant laws, noting that the examples are not exhaustive. Other updates included removing reference to specific code names (to avoid the need for variations when there are new, discontinued or renamed codes) and reference to safety obligations with these now established under the *Electrical Safety Act 2022* (ES Act).

The condition has been expanded to require a licensee to comply with any guideline made under a code or the UC Act. Guidelines are omitted from the list of regulatory instruments in current licences. While the Commission acknowledges the name implies there should be discretion in whether or not to adhere to a guideline, in reality the Commission's guidelines tend to contain information on requirements that must be met and recommendations for best practice or a minimum standard of performance. For example, the Commission's Compliance Framework and Reporting Guidelines specify the due date for compliance reports and provide a template for compliance reports and other matters. The Commission notes electricity supply licences in the Australian Capital Territory, Victoria and Tasmania have obligations to comply with guidelines (among other regulatory instruments).

## Submissions to the Consultation Paper

The Consultation Paper asked if the proposed condition clearly and sufficiently set out the types of regulatory instruments that licensees must comply with. All respondents provided feedback on this condition.

EDL considered the proposed condition to be clear and sufficient.

Jacana suggested that the UC Act and Utilities Commission Regulations 2001 be included in the definition for applicable laws as they were referred to in the Compliance with regulatory instruments condition.

In relation to the inclusion of guidelines in the list of regulatory instruments, PWC was supportive, but Jacana and TGen objected to the proposal.

Jacana expressed a preference that guidelines are not made mandatory as there is a need for, and benefit to having, guidance documents. If mandatory compliance is required, Jacana considers an Act or Code (or even the guideline itself) should specify whether compliance is mandatory and be drafted in an appropriate manner. Jacana suggested the definition of a guideline should be included in the definitions list, in a similar way to how a code is defined.

TGen was uncomfortable with the Commission's justification for requiring compliance with guidelines, that is, they contain requirements that must be met. TGen considers the proposed change would imbed poor drafting choices as such information should be in a directive instrument.

## Commission's position and reasoning

The Commission has expanded the definition for applicable laws (refer Appendix A) to include the UC Act and Utilities Commission Regulations 2001, as recommended by Jacana. The Commission considers this helpful for new and prospective licensees to ensure awareness of requirements other than those in the ER Act and Regulations.

The Commission has retained the requirement for compliance with guidelines, but has modified the obligation to refer to any applicable guideline. Where compliance is required with particular conditions in a

guideline, this will be made clear in the guideline, as currently occurs in the Commission's Compliance Framework and Reporting Guidelines.

The Commission has not included a definition of guideline as the condition already refers to the relevant regulatory instruments that give the Commission the power to make guidelines. While examples of guidelines could be included in the definitions list, they are few in number and can readily be found on the Commission's website. Furthermore, maintaining a contemporary list (for example, if the title of a guideline changes or new guidelines are issued) may be duly burdensome, requiring the Commission to vary licences.

## Compliance process and reporting

Conditions relating to compliance processes and reporting are grouped together in existing electricity supply licences. The Commission has separated these into separate conditions. The Compliance process condition includes obligations relating to establishing and maintaining a compliance process and the conduct of independent audits. The Compliance reporting condition contains obligations relating to notification of non-compliance.

### Compliance process

Some existing licences require the compliance process to detect and report to the Commission "any breach", while others restrict this to "any material breach". Given most licensees must, in accordance with clause 3.43 of the Compliance Framework and Reporting Guidelines, report any instance of non-compliance (material or non-material), this has been standardised to "any breach". This reflects the Commission's expectation that regardless of reporting requirements, as a matter of good business practice, a licensee should have compliance processes in place that detect any breach (with classification as material or non-material to follow identification of the breach) and suitable remedial action taken to avoid a reoccurrence regardless of the materiality of the breach.

Previous headings and reference to "external audits" have been replaced by the term "independent audit". Conditions relating to independent audits have been consolidated to remove duplication. A single set of conditions applies to independent audits where the licensee appoints an independent auditor and those where the Commission appoints the auditor. Compared to the current conditions, the standard condition has been broadened to state the scope of an independent audit must also comply with any guidelines published by the Commission (as do the standards or requirements that apply to the audit) and in the absence of guidelines, the Commission will determine both the scope and standards or requirements. The Commission's Compliance Framework and Reporting Guidelines, published on the Commission's website, include matters relating to audits (refer clauses 3.55 to 3.71). The Commission will be reviewing the efficiency and effectiveness of the Compliance Framework and Reporting Guidelines, including audit provisions, as part of the next stage of the licensing review.

For independent audits, the Commission would typically require that the licensee consult with and gain the approval of the Commission for its proposed independent auditor and audit scope, for example, as occurs for independent audits under the Electricity Industry Performance (EIP) Code. The Commission has included a specific requirement for these approvals in relation to independent audits of compliance with obligations under licence. This is intended to improve transparency on the process and obligations, should an independent audit of compliance be required, rather than an indication of a change in requirements.

Conditions relating to reporting by an auditor were proposed to be removed as a licence condition cannot bind an auditor. Instead, the timeframe for an auditor to provide its report and the recipients of the auditor's report should be specified in the standards and requirements to apply to an independent audit. The Commission's Compliance Framework and Reporting Guidelines include further information and requirements in relation to independent audits.

### Compliance reporting

Under the Compliance reporting condition, the Commission amended the content to clarify a licensee must report any material breach within 2 business days of becoming aware of the breach (rather than as soon as

reasonably practicable). The Commission's definition of a material breach is set out in its Compliance Framework and Reporting Guidelines. Specifying a notification time reflects the serious nature of a material breach and the need for the Commission to understand the potential impact on customers.

The reporting conditions also clarify information requirements in relation to reporting a material breach. At present, licences only require reporting of the breach and advice on remedial action. The revised condition clarifies a licensee must advise of the circumstances of, and reasons for, the material breach and consequences of the breach as well as the remedial action that is being undertaken to rectify the breach. It is likely a licensee would report this information as good practice; however, inclusion in the licence condition makes the requirement transparent and compulsory.

The Commission notes provision of fulsome information on a material breach may take some time and as such, there are likely to be several instances where a licensee will engage with the Commission on a material breach before all of the required information is provided. Notwithstanding this, the Commission placed a timeframe of 20 business days (following the initial notification) for the provision of a full report on the material breach. The Commission acknowledges more time may be needed depending on the nature and circumstances of the breach, for example, the licensee may need to commission an independent investigation of the breach. Where it is not possible to fully report within the designated timeframe, the Commission expects the licensee to engage with the Commission to determine an alternative timeframe and any interim reporting requirements, as may be appropriate.

The Compliance reporting condition also makes it clear a licensee must report, in its annual compliance report, all instances of non-compliance regardless of their materiality. This is set out in the Compliance Framework and Reporting Guidelines (refer clause 3.43) so it imposes no additional burden on licensees, but is intended to make the requirement transparent.

### Submissions to the Consultation Paper

The Consultation Paper asked whether the proposed changes improved transparency on requirements, applied reasonable timeframes for the provision of information on instances of non-compliance and whether there was other information the Commission should require in relation to a material breach. All respondents provided feedback on the Compliance process and reporting conditions.

EDL noted the higher baseline (notification of any breach) is consistent with other jurisdictions.

Jacana noted that clause 1(b)(v) of the Compliance process condition uses the term "compliance procedures". Jacana stated this should be "licensee's compliance with its obligations under this licence" with this being less broad and consistent with wording in clause 1(b)(iii). Jacana also raised issues with and provided suggestions regarding the definition of materiality and its interaction with the risk matrix in the Commission's Compliance Framework and Reporting Guidelines.

PWC noted that the Australian Energy Regulator had removed requirements for 5 day reporting of material incidents in place of 15 days for all non-compliance. Noting that this approach may not be suitable for the Commission, PWC recommended requiring material non-compliance to be reported as soon as possible, once aware, with a 5 business day limit on written notification. PWC considers alignment across jurisdictions can reduce complexity in both compliance processes and training.

TGen does not support the proposed change to report all breaches questioning the value of reporting trivial breaches. It also noted the distinction between detection and reporting and the Commission's position that as a manner of good practice a licensee should have compliance processes that detect breaches.

### Commission's position and reasoning

The Commission agrees the term "compliance procedures" in clauses (b)(v) and (c) of the Compliance process condition may create unintended confusion and has replaced this with "compliance processes" or other appropriate wording to ensure consistency in terminology.

The Commission does not propose to make any changes to the definition of materiality and the risk matrix as part of this stage of the Licensing Review. Instead, these will be considered in the review of the Commission's Compliance Framework and Reporting Guidelines (in stage 3 of the Licensing Review).



The Commission considers its timeframes for reporting material non-compliance to be appropriate and proposes no change. The Commission notes the Australian Energy Regulator's Compliance Procedures and Guidelines National Energy Retail Law, Retail Rules and Regulations Version 6 (effective 1 April 2019 and listed as current as at 2 January 2024<sup>4</sup>) has timeframes that are the same as those in the Commission's standard condition for breaches that require immediate reporting (that is, 2 business days for initial report and a final report 20 business days after the initial report).

No changes are proposed in relation to TGen's proposal that 'trivial' breaches are not reported. The Commission does not consider any breaches to be trivial, noting obligations are imposed in order to achieve the objects of the ER and UC Acts. Further, as all licensees should be complying with the Compliance Framework and Reporting Guidelines, their annual reports would include all instances of non-compliance and the standard condition imposes no new reporting burden. Commission staff note that the use of the term compliance procedure rather than compliance process in the Compliance process condition (discussed above) may have caused some confusion about whether failures to comply with a licensee's own internal procedures or standards are reportable, but this should be addressed by the amendment to that condition.

## Other general standard conditions

The standard conditions relating to community service obligations and the appointment of an operator are unchanged from conditions in existing licences.

Section 24(1)(f) of the ER Act requires the Commission to include a licence condition requiring the licensee to comply with the requirements of any scheme approved and funded by the Minister (in this case the Treasurer) for the performance of community service obligations. The Territory Government's electricity pricing order (EPO) and the associated regulated retail electricity tariff community service obligation is an example of such a scheme.

While there is no requirement to include a condition relating to appointment of an operator, it informs of the Commission's power (under section 41 of the ER Act) and that the appointed operator (under section 42 of the ER Act) must comply with terms and conditions agreed with the Commission.

## Submissions to the Consultation Paper and Commission's decision

The Consultation Paper did not seek feedback on the community service obligation and appointment of an operator conditions and no respondents commented on the conditions. The Commission has made no refinements to the conditions and they remain unchanged from those in the Consultation Paper.

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<sup>4</sup> Accessed at [https://www.aer.gov.au/system/files/AER%20compliance%20procedures%20and%20guidelines%20-%20Version%206%20-%20Final%20-%20September%202018\\_1.pdf](https://www.aer.gov.au/system/files/AER%20compliance%20procedures%20and%20guidelines%20-%20Version%206%20-%20Final%20-%20September%202018_1.pdf).

## 4 | Standard conditions – retail licences

The Commission has decided the standard retail conditions set out in **Box 3**, which have been amended compared to those proposed in the Consultation Paper (amendments are shown in red), will be included in electricity supply licences for retail operations.

### Box 3 Standard retail licence conditions

#### Adequate supply arrangements

The licensee must take reasonable steps to ensure that it has in place at all times arrangements to ~~provide a supply of~~ electricity ~~that is safe, reliable and of a satisfactory quality~~ to its customers.

#### Disconnection

The licensee must not disconnect or discontinue the supply of electricity, or take any action that may lead to the disconnection or discontinuance of the supply of electricity to a *customer*, except in accordance with the disconnection procedures prescribed in the *System Control Technical Code*, where it applies, or otherwise in accordance with the *customer's* contract.

#### Customer related standards and procedures

~~Prior to the commencement of operations,~~ The licensee must ~~develop, publish and~~ comply with:

- (a) standards and procedures set out in any relevant *code* or rule made under the *Utilities Commission Act 2000* or the *Electricity Reform Act 2000* and
- (b) fixed standard terms and conditions for customers of a prescribed class as may be required under the *Electricity Reform Act 2000* and *Regulations*.

#### Customer notification of changes

1. The licensee must notify *customers* of any changes in charges, rights or obligations applicable to the sale of electricity to that *customer* before the change occurs.
2. Where the licensee changes charges applicable to the sale of electricity to a *customer*, the licensee must also include an explanatory notice in the next statement of charges sent to that *customer*.

## Existing licence conditions not included in standard conditions

A number of conditions in existing licences are excluded from the standard retail conditions.

### Standards of service and other matters relating to contestability

From 1 April 2020, all customers became contestable customers; there are now no longer any non-contestable customers. Some retail licences still include references to non-contestable customers and to arrangements relating to the transition of non-contestable customers to contestable customers. These are no longer relevant given the passage of time and the existence of standards and requirements under the Commission's Electricity Retail Supply Code (ERS Code) and EIP Code. Accordingly, conditions relating to standards of service existing at the date of issue of a licence and the continuation of terms and conditions for transitioning (to contestable) customers for a grace period are excluded from standard conditions.

### Coordination agreement

The Commission's ERS Code requires that for electricity networks where the *National Electricity (Northern Territory) (National Uniform Legislation) Act 2015* applies (presently, the Darwin-Katherine, Alice Springs and Tennant Creek power systems), the network provider and the retailer must enter into a coordination agreement for the provision of network access services and the coordination of various matters (refer clause 4.1). Currently, retail and network licences contain conditions duplicating this requirement, which aligns with section 28(1)(j) of the ER Act; however, the ER Act does not require that a retail licence includes this condition, giving the Commission discretion about how it chooses to impose such a requirement.

To remove duplication, ensure consistency in requirements and minimise administration, the Commission proposes requirements relating to coordination agreements will only be contained in the ERS Code. While

there will be no direct reference to the requirement for a coordination agreement in either retail or network licences, licensees must comply with the ERS Code (in accordance with the general conditions of a licence – refer standard general conditions in the previous chapter). The Commission notes that under the ERS Code, holders of retail licences are not required to enter into a coordination agreement if they have no customers. This reflects the fact that some licence holders are not currently active in the Territory's retail market and in that case a coordination agreement has no purpose.

### Statement of charges

Retail licences currently require a retailer to, if requested by a customer, display separately in the customer's statement of charges (bill) the amount charged for electricity consumed and the total amount charged for network services. The condition only provides for the customer to request the separation of charges at the time of entering into a contract with a retailer.

The Commission notes the regulated (EPO) tariff is a bundled tariff so it would not be possible to separate out these components for small customers. Accordingly, application of the condition is only relevant for large customers who are not covered by the EPO. These customers negotiate a supply agreement with their retailer and can include any requirements in relation to billing during that process. As such, the Commission considers the condition unnecessary and has not included it in the standard retail conditions.

### Submissions to the Consultation Paper

The Consultation Paper asked whether stakeholders had any comments or feedback on existing licence conditions proposed to be excluded from the standard retail conditions. Only Jacana responded to the question agreeing with the excluded conditions, but Jacana noted that some licences include specific obligations relating to "contestable customers" and assumed that these may, in some circumstances be retained but the reference changed to "customers", for example, Jacana's obligation to sell to out-of-contract contestable customers.

### Commission's position and reasoning

The Commission confirms its decision to exclude existing licence conditions relating to standards of service and contestability, coordination agreements and statement of charges.

In relation to Jacana's feedback, the Commission will address specific obligations relating to contestable customers with each retailer during the upcoming process of varying licences. The Commission notes that the retail licences for Jacana and PWC both contain an obligation (under condition 21 in the licences) requiring these licensees to offer to sell to out-of-contract contestable customers. The Commission intends to retain this obligation in Jacana and PWC's licences as a condition specific to those retailers; however, the condition will be updated and simplified to suit current circumstances. The Commission's decision is based on the following reasoning:

- an early form of the condition was put in place in the retail licence for the (then) Power and Water Authority, issued in 2000 when the NT electricity supply industry was opened up for competition. The condition was revised to its current form in 2005 and has been carried forward, without review, in subsequent licence variations including when PWC was structurally separated in 2014.
- there is no obligation for the Commission to include this condition under the ER Act, the *Power Retail Corporation Act 2014*, *Power and Water Corporation Act 1987* or other regulatory provisions that have the same or direct effect as the current licence condition. Notwithstanding this, retail competition for customers in the Territory's three major power systems is limited (there are only two active retailers) and in other power systems, Jacana or PWC are the sole retailer.
- there is no equivalent condition in the licences for other retailers including Rimfire Energy. Although this creates a discrepancy in terms of obligations between retailers, those retailers are not dominant in the market and would be unlikely to be able to exercise market power in offering to sell to customers.
- the condition is most relevant to large commercial and industrial customers who are not covered by the EPO (which caps prices for residential and small business customers). These customers are required to

negotiate a contract with a retailer for the supply of electricity. Large commercial and industrial customers have been contestable for 20 years and should be experienced in negotiation of contracts including making provisions should negotiations not be concluded at expiry of the current contract and have considerable bargaining power with retailers; however, there may still be some benefit from the condition in mitigating a dominant retailer's ability to exercise market power.

- the offer to sell to an out-of-contract contestable customer does not have to be on same terms and conditions as the expiring contract only what is "considered fair and reasonable in the circumstances by the licensee". This at least ensures an offer will be made to a customer.
- a retailer can make an offer if a contract has expired regardless of whether or not it is a condition of a licence. Given competition among retailers is strongest for large commercial and industrial customers, it is unlikely such a customer would not receive an offer from their current retailer, but the condition will oblige (at least) the dominant retailer to offer to sell to the customer.

## Unchanged conditions

The following two standard retail conditions are already in existing retail licences and are included as standard retail licence conditions without change:

- Adequate supply arrangements (consistent with section 28(1)(e) of the ER Act)
- Disconnection

### Submissions to the Consultation Paper

The Consultation Paper asked whether stakeholders had any comments or feedback on existing licence conditions to be included in the standard retail conditions without change. Only Jacana responded to this question agreeing with the inclusion of the disconnection and adequate supply arrangements conditions, but noting that for the latter, Jacana advised it does not have the ability to ensure that the supply of electricity to customers is safe, reliable and of a satisfactory quality. Jacana considers those obligations should be placed on network providers and generators. Jacana proposed that the condition be changed to "The licensee must take reasonable steps to ensure that it has in place at all times arrangements to generate and supply electricity to its customers", consistent with the wording in the ER Act.

### Commission's position and reasoning

The Commission agrees with Jacana and has amended the wording of the Adequate supply arrangements condition to require that the holder of a retail licence must take reasonable steps to ensure that it has in place at all times arrangements to supply electricity to its customers. The Commission has not included the term "generate" (as in the ER Act) as retailers may only be a purchaser of electricity and have no role or responsibility for the generation of that electricity. Matters relating to the safety, reliability and quality electricity generated are dealt with under relevant regulatory instruments, which apply to network, generation and system control licensees.

## Customer related standards and procedures

Section 24(3)(b) of the ER Act requires the Commission to make a licence subject to requiring an electricity entity to develop and comply with customer related standards and procedures. Retail licences include this condition (or a similar requirement) with the licensee required to publish the standards and procedures, and for the development and publication of the standards and procedures to occur within three months of the issue of the licence. In the Consultation Paper, the Commission included the existing condition in the proposed standard retail licence conditions, but replaced the three month timeframe with the requirement that the standards and procedures are in place and published prior to the commencement of operations. The Consultation Paper noted the change in the timeframe would have no practical impact on existing licensees who will already have standards and procedures in place (in accordance with their licence), but would require

future retail licence applicants to have standards and procedures in place and available to prospective customers prior to the licensee commencing sales.

To provide more clarity on the coverage of “standards and procedures”, the Commission included further detail in the standard condition proposed in the Consultation Paper. Sub-clauses of the proposed condition pointed to the need for licensees to consider requirements in codes and the ER Regulations and ER Act when developing their standards and procedures. For example, licensees would need to consider the retail performance indicators under the EIP Code and requirements relating to life support customers, complaints and dispute resolution procedures, and hardship and family violence policies under the ERS Code. Licensees, depending on their intended customers and the nature of their operations, may also need to consider the relevance of section 91 of the ER Act to their operations or business model. Section 91 requires the fixing of standard terms and conditions for customers of a prescribed class, which are defined in regulation 22 of the ER Regulations as customers to whom an electricity entity sells electricity and who have not negotiated a written agreement with the entity.

### Submissions to the Consultation Paper

The Consultation Paper asked whether the proposed change to the timeframe for standards and procedures to be in place would create any barriers to entry for new retailers, whether the additional guidance pointing to requirements in codes and section 91 of the ER Act was useful and if there were any suggestions for other information to be included in the condition. Responses were received from EDL, Jacana and PWC.

EDL and PWC were supportive of the revised condition. EDL considered the proposed change may afford a licensee more time to ensure the best processes practicable are implemented while protecting customers' interests. PWC did not consider the change in timeframe posed a significant barrier to entry.

Jacana agreed that if a retailer has an obligation to develop, publish and comply with fixed standard terms and conditions, it should do so prior to commencement of operations. Jacana advised, however, there should be a greater time period for developing, publishing and complying with other standards and procedures (with these approaches consistent with that in the National Electricity Market), exemplifying this with the three month timeframe for a hardship policy.

### Commission's position and reasoning

The Commission has amended the wording of the Customer related standards and procedures condition to ensure it applies broadly, noting the term “customer related standards and procedures” is not defined in the ER Act. The Commission has also removed the requirement for customer standards and procedures to be in place prior to the commencement of operations, but the wording of the condition clarifies that compliance with the standards and procedures is an ongoing obligation.

A prospective licensee should have fixed standard terms and conditions of sale established prior to being granted a licence (as it can commence operations once the licence is issued); however, other standards and procedures may need to be established after a licence is granted. For example, a licensee is required to develop and have approved by the Commission hardship, family violence and other policies in accordance with the ERS Code. This requirement only applies after the grant of a licence approval process and does not form part of the licence application approval process.

### Customer notification of changes

Existing retail licences typically contain a condition requiring the licensee to notify its customers of any changes in rights, obligations and charges by including an explanatory notice with the next statement sent to that customer. There is also a condition requiring licensees, at times and in a manner and form determined by the Commission, to notify customers of changes in market circumstances that might affect those customers.

The Commission notes the current condition relating to changes in market circumstances likely reflected major changes to the retail market in the past, in particular, the transition to a contestable market. That transition directly changed how sales of electricity could be made to customers with contestability allowing

retailers to compete for customers and for customers to have choice in their retailer. The Commission considers the condition is no longer needed, noting the Territory Government would publicly consult on any market reforms and there are a range of means by which government and retailers communicate with customers.

The Commission notes the current condition requiring notification of changes in rights, obligations and charges requires advice of the change to occur in the next statement. This allows for a customer to be informed of a change after it has taken effect. For customers on a quarterly billing cycle, the likelihood of retrospective advice may be even greater. For example, these customers may not receive a bill including new electricity tariffs and an accompanying explanation until after the price change has occurred because a new EPO was issued and came into effect during the billing cycle.

The Commission considers it is important retailers provide advance notice of changes. While the requirement to include an explanatory notice in the next statement of charges sent to a customer is retained, the standard condition has been modified to require advance notice of changes. As noted above, there will be a range of means by which retailers communicate with customers, but at a minimum, the Commission would expect a licensee to publish a notice informing of the change prior to its occurrence. Such a notice could be published on a retailer's website and provided through other avenues (such as social media or direct email). A notice will provide a low cost avenue for giving advance notice, noting that the majority of customers in the Territory are covered by the EPO and the Territory Government typically advises of forthcoming changes in utilities tariffs in its budget.<sup>5</sup> This means for most customers, a retailer's notice would supplement information already in the public arena.

For large customers, retailers are likely to engage on a more frequent basis and through means other than the billing cycle. Consequently, the requirement to provide advance notice of changes is expected to impose little additional burden.

### Submissions to the Consultation Paper

The Consultation Paper asked whether the proposed approach appropriately balances the benefits and costs of providing customers with advance notice of changes. Responses were received from EDL, Jacana and PWC.

All respondents considered an appropriate balance was achieved; however, PWC noted licensees could be required to make changes immediately or at short notice and it might not be possible for licensees to notify customers of changes with sufficient notice. PWC recommended the conditions be modified to account for these circumstances.

### Commission's position and reasoning

The Commission has made no changes to the Customer notification of changes condition compare to that proposed in the Consultation Paper. It is unclear to the Commission what changes might need to be made immediately and without giving customers prior notice. The Commission notes the most important change for customers relates to pricing and the Territory Government is in control of the timing for the issuing and commencement of an EPO. The notice of the making of an EPO must be published in the Northern Territory Government Gazette in a Territory newspaper.

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<sup>5</sup> See [https://budget.nt.gov.au/\\_data/assets/pdf\\_file/0005/1224077/cost-of-living.pdf](https://budget.nt.gov.au/_data/assets/pdf_file/0005/1224077/cost-of-living.pdf)

## 5 | Standard conditions – generation licences

The Commission has decided the standard generation conditions set out in **Box 4**, which have been amended compared to those proposed in the Consultation Paper (amendments are shown in red), will be included in electricity supply licences for generation operations.

### Box 4 Standard generation licence conditions

#### Responsibility for operating contractors

1. If the licensee engages a contractor or other party to perform a material part of the operations covered by this licence (operating contractor), the licensee remains responsible for ensuring that all operations covered by this licence comply with the conditions of this licence regardless of who carries out those operations.
2. The licensee must use best endeavours to ensure each operating contractor engaged by the licensee complies with the conditions of this licence to the extent that such conditions are relevant to that operating contractor.
3. For any operating contractor engaged by the licensee to perform a material part of operations covered by this licence, the licensee must give a notice in writing to the *Utilities Commission* if:
  - (a) there is a change in the identity of the operating contractor, within 10 *business days* of that change;
  - (b) the operating contractor is put under external administration as defined by the *Corporations Act 2001* (Cth), within 2 *business days* of that external administration occurring;
  - (c) an application is made to, or an order is made by, a court for the winding up or dissolution or a resolution is passed or any steps are taken to pass a resolution for the winding up or dissolution of the operating contractor in accordance with relevant legislation including the *Bankruptcy Act 1996* (Cth) or *Corporations Act 2001* (Cth), within 2 *business days* of that event occurring;
  - (d) there is a change to the financial or technical capacity of the operating contractor, such that the licensee's capacity to carry on operations or comply with obligations under this licence may be materially affected, within 10 *business days* of that change.

#### Directions of the System Controller

The licensee must comply with the directions of the *System Controller*.

#### Quality of electricity

The licensee must provide electricity of a quality suitable for any *electricity network* which is interconnected or interfaces with the licensee's *electricity generating plants*.

#### Compatibility

The licensee must not do anything to its *electricity generating plants* affecting the compatibility of its *electricity generating plants* with any *electricity network* so as to prejudice public safety or the security of *supply*.

#### Right of use

The licensee must:

- (a) grant each *electricity entity* holding a *network licence* rights to use or have access to the licensee's *electricity generating plants* that are interconnected or interface with the *electricity entity's assets* for the purposes of ensuring the proper integrated operation of the *power system* and the proper conduct of the operations authorised by the *electricity entity's licence*; and
- (b) in the absence of agreement as to the terms on which such rights are granted, comply with any determination by the *Utilities Commission* as to those terms.

## Existing licence conditions not included in standard conditions

Three conditions in existing licences are excluded from the standard generation conditions.

### Coordination agreement

Currently, generation licences include a condition requiring a coordination agreement with an electricity entity holding a retail or network licence which provides services to the licensee's customers. The relevance of this condition to generation licensees is unclear as they do not typically sell to end use customers (and a retail licence is required for that purpose). Further, the condition does not refer to a connection agreement with a network provider, with those requirements set out in the National Electricity (NT) Rules and

applicable to the Territory's three main power systems. For other power systems, connection requirements are specified by the network provider for each power system. The Commission does not consider it necessary to include a condition relating to coordination or connection agreements. Requirements for these agreements would be captured by the general condition requiring a licensee to comply with all applicable laws, which would include the ERS Code and National Electricity (NT) Rules.

### Safety management and mitigation plan

Holders of generation and network licences are required to, within three months of issuance of their licence, prepare and submit for approval a safety management and mitigation plan (SMMP). The SMMP licence condition also requires licensees to comply with the approved SMMP, annually review the SMMP and, where amendments are needed, the revised SMMP must be provided to the Commission for approval.

The SMMP licence condition will be superseded by obligations under the ES Act<sup>6</sup> when it commences. Under the ES Act, approval of SMMPs will reside with the Electrical Safety Regulator, NT WorkSafe, and the Commission will no longer have a role relating to SMMPs. There are provisions to allow for SMMPs approved by the Commission to be taken as approved under the ES Act.<sup>7</sup> There is, however, at most a three year grace period before new requirements relating to assessment and expiration of an approval apply to a SMMP currently in place. The Commission strongly recommends licensees make themselves aware of the obligations under the ES Act (if they have not done so already) and, if necessary, discuss the new obligations with NT WorkSafe as a matter of priority.

The Commission notes it is a requirement (under general conditions) for licensees to comply with all applicable laws. This would include the ES Act.

### Provision of ancillary services

In stage 1 of the licensing review, the Commission received feedback from PWC advising the omission of the condition to provide ancillary services (also known as essential system services) from the licences of independent power producers operating in the Territory's three regulated (major) power systems (Darwin-Katherine, Alice Springs and Tennant Creek) was misleading. PWC advised the requirement applies to all generators in those power systems as they must (in accordance with the general licence condition) comply with all relevant requirements in the Network Technical Code and Planning Criteria (NTC), System Control Technical Code (SCTC) and ER Regulations. In particular, PWC advised System Control is authorised to operate generation plant in the major power systems within the full range of technical capabilities and in accordance with the dispatch principles outlined in section 4.3 of the SCTC. Section 4.3 includes a dispatch principle for ancillary problems.

While PWC advised it would be preferable for generation licences, including relevant independent power producer licences, to contain the same wording related to ancillary service provision, the Commission has, consistent with its approach to not duplicate requirements in codes in licence conditions, removed the ancillary service provision from the standard conditions for generation licences. As noted by PWC, the provision and procurement of ancillary services is governed by obligations within PWC's NTC, SCTC and System Secure Guidelines. The requirement to comply with these codes is already captured under the general licence condition requiring compliance with regulatory instruments. Furthermore, the standard generation conditions require licensees to comply with the directions of the System Controller.

### Submissions to the Consultation Paper

The Consultation Paper asked whether stakeholders had any comments or feedback on the exclusion of conditions relating to coordination agreements, SMMP and ancillary services. Responses were received from EDL, Jacana and PWC.

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<sup>6</sup> Refer Part 4, Division 2.

<sup>7</sup> Refer section 263.



EDL and Jacana agreed with the proposed exclusions. PWC agreed with the reduction in duplication, except in relation to ancillary services. PWC advised these were a primary obligation that generators must follow to ensure power is safe and reliable and recommended they are explicitly referenced. PWC recommended the following wording be added to the Quality of electricity condition:

meeting the ancillary services requirements set by the Market Operator under the Network Technical Code or other relevant documents such as the System Control Technical Code and the System Secure Guidelines.

### Commission's position and reasoning

The Commission confirms its decision to exclude the three conditions relating to coordination agreements, SMMPs and ancillary services from the standard conditions for generation licences.

The Commission has not implemented PWC's suggestion to amend the Quality of electricity condition. If a code requires a generator to provide ancillary services then the generator must comply with the code and there is no need for the requirement to be duplicated in the licence.

### Responsibility for operating contractors

As noted in Chapter 3, the standard condition relating to operating contractors has been moved from general conditions to conditions specific to generators and network providers.

There are instances where licensees have contracted out the construction, maintenance and operation of generation assets to third parties. Contracting out enables existing licensees to draw on skills and expertise in order to expand or update their operations, for example, adopting new generation technologies. It also facilitates entry by new investors who have the financial resources, but not the technical capability, to participate in the electricity supply industry.

The Commission is following the approach in the Australian Capital Territory, Tasmania and Victoria and including a standard condition that acknowledges the existence of arrangements where a licensee contracts with a third party to perform the operations covered by their licence. Importantly, the conditions make clear that regardless of whether a licensee has engaged a third party to perform the operations covered under the licence, the licensee remains responsible for compliance with the obligations under its licence. Accordingly, the licensee should ensure that any agreement with a contractor, subcontractor, agent or other third party for the performance of licensed operations (operating contractor) contains such provisions as are necessary to ensure that operating contractor provides its services in a way that enables the licensee to comply with the conditions of its licence.

There is also a requirement for the licensee to notify the Commission where there is a change in the identity of any operating contractor undertaking operations on behalf of the licensee. This requirement is intended to ensure the Commission is made aware of when a major contract ends and a new operating contractor is appointed. It is expected most contractual arrangements will be relatively long term in nature and this should not impose an undue burden on licensees.

Consistent with the general conditions relating to notifications to the Commission, a licensee is required to notify the Commission if an operating contractor is placed under administration, subject to winding up or dissolution or there is a change in the financial or technical capacity of an operating contractor that will materially affect the licensee's ability to carry on operations or comply with obligations under its licence. The requirement to notify of changes in circumstances is important as the Commission needs to remain satisfied that the licensee continues to have the necessary capability to continue operations under the licence.

### Submissions to the Consultation Paper

The Consultation Paper asked if the proposed Responsibility for operating contractors condition appropriately reflected and addressed the risks, and accommodated the benefits of, contracting out operations covered by a licence. Responses were received from EDL, Jacana and PWC.

All respondents agreed the condition was appropriate; however, Jacana considered further clarity was needed on what constitutes an operating contractor including a materiality threshold so the obligation does not apply to all contractors.

Furthermore, Jacana was of the view that the requirement to give notice of a change in the identity of an operating contractor should only apply where a licence is granted to an entity that does not have the technical capability to undertake the operations in the licence and relies specifically on an operating contractor. Jacana was concerned that the condition would place an administrative burden on the licensee, require imposing contractual obligations on the operator to provide information required by the condition and could act as a barrier to competition.

EDL advised clarification was needed on when notice of a change in the identity of an operating contractor needed to be given, for example, whether notice should be given at the time when a contract with a new operating contractor is executed or the day the new operating contractor commences services.

### Commission's position and reasoning

The Commission considers the risk to electricity supply from contracting out operations is greatest in relation to generation and network operations, but relatively low for retailers who contract out billing or other functions. Accordingly, the Commission has decided to apply the condition to generation and network licences and for it to be limited to where the contractor or third party performs a material part of the operations covered by the licence. This minimises the administrative burden on licensees and ensures the obligation is focussed on matters where the risk to supply is greatest.

Requirements to notify the Commission of changes in operating contractors and their circumstances now also form part of the Responsibility for operating contractors condition rather than being contained in the general condition. The requirements and timeframes are the same as those proposed in the Consultation Paper.

The Commission notes EDL's feedback which sought clarity on the timing for notification when there is a change in contractor. The Commission considers in this instance notification would generally be tied to execution of the contract. The requirement to notify the Commission of the change within 10 business days will likely mean the Commission is informed of the change before it actually occurs, which is also desirable given potential risks to continuous supply of a changeover.

### Unchanged conditions

The following four standard generation conditions are already in existing generation licences and are included as standard generation licence conditions without change:

- Directions of the System Controller (consistent with section 25(1)(a) of the ER Act)
- Quality of electricity (consistent with section 25(1)(b) of the ER Act)
- Compatibility (consistent with section 25(1)(c) of the ER Act)
- Right of use (consistent with section 25(1)(d) of the ER Act)

### Submissions to the Consultation Paper

The Consultation Paper asked whether stakeholders had any feedback or comments on the relevance or need to change the four proposed standard generation conditions relating to directions of the System Controller, quality of electricity, compatibility and right of use. Responses were received from Jacana and PWC.

Jacana agreed the conditions did not require change except that the condition relating to compatibility should be expanded to include reliability. As noted above, PWC proposed including requirements relating to ancillary services in the condition relating to quality of electricity, which the Commission has not implemented.

### Commission's position and reasoning

The Commission has not implemented Jacana's suggestion to include reliability in the Compatibility condition. The Commission notes that it is not a generator's obligation to ensure the power system has sufficient capacity (including generation, demand response and network capacity) to produce and transport electricity to meet customer demand (i.e., ensure reliability of supply). A generator contributes to ensuring the reliability of supply, but is not the sole source or controller of capacity.

## 6 | Standard conditions – network licences

The Commission has decided the standard network conditions set out in **Box 5**, which have been amended compared to those proposed in the Consultation Paper (amendments are shown in red), will be included in electricity supply licences for network operations.

### Box 5 Standard network licence conditions

#### Responsibility for operating contractors

1. If the licensee engages a contractor or other party to perform a material part of the operations covered by this licence (operating contractor), the licensee remains responsible for ensuring that all operations covered by this licence comply with the conditions of this licence regardless of who carries out those operations.
2. The licensee must use best endeavours to ensure each operating contractor engaged by the licensee complies with the conditions of this licence to the extent that such conditions are relevant to that operating contractor.
3. For any operating contractor engaged by the licensee to perform a material part of operations covered by this licence, the licensee must give a notice in writing to the *Utilities Commission* if:
  - (a) there is a change in the identity of the operating contractor, within 10 *business days* of that change;
  - (b) the operating contractor is put under external administration as defined by the *Corporations Act 2001* (Cth), within 2 *business days* of that external administration occurring;
  - (c) an application is made to, or an order is made by, a court for the winding up or dissolution or a resolution is passed or any steps are taken to pass a resolution for the winding up or dissolution of the operating contractor in accordance with relevant legislation including the *Bankruptcy Act 1996* (Cth) or *Corporations Act 2001* (Cth), within 2 *business days* of that event occurring;
  - (d) there is a change to the financial or technical capacity of the operating contractor, such that the licensee's capacity to carry on operations or comply with obligations under this licence may be materially affected, within 10 *business days* of that change.

#### Network control

1. Subject to section 38 of the *Electricity Reform Act 2000*, the licensee must be responsible for network control of its *electricity network*.
2. Where, under section 38 of the *Electricity Reform Act 2000*, a *System Controller* has the function of monitoring and controlling the operation of the power system of which the licensee's *electricity network* forms part or is connected to, the licensee must comply with the directions of the *System Controller*.

#### Compatibility

The licensee must not do anything to its *electricity network* affecting the compatibility of its *electricity network* with any other *electricity network* or *electricity generating plant* so as to prejudice public safety or the security of supply.

#### Coordination

The licensee must operate its *electricity network* in coordination with other *electricity networks* to which it is connected directly or indirectly.

#### Operation and maintenance

The licensee must operate, maintain (including repair and replace if necessary) and protect its *electricity network* so as not to prejudice public safety, ~~reliability~~ and security of supply, and in accordance with any technical code made under the *Electricity Reform Act 2000* and the *National Electricity (NT) Rules*, where they apply.

#### Restrictions on trading

~~Unless the licensee holds a retail licence authorising those operations,~~ the licensee must not buy or sell electricity directly or indirectly in connection with conducting operations authorised by this licence, except if it is necessary:

- (a) to operate the *electricity network*;
- (b) for a purpose associated with planning, designing, constructing, maintaining or operating the *electricity network*;
- (c) for the licensee's administrative purposes; ~~or~~
- ~~(d) the licensee holds a retail licence.~~

#### Disconnection

The licensee must not disconnect or discontinue supply of electricity, or take any action which may lead to the disconnection or discontinuance of the supply of electricity to a *customer*, except in accordance with section 27(2) of the *Electricity Reform Act 2000* and the disconnection procedures prescribed in the *System Control Technical Code*, where it applies, or otherwise in accordance with the *customer's* contract.

To date, the Commission has only issued one network licence, to PWC, which covers electricity networks in the Territory's three major power systems, most minor urban centres and the remote communities in the Indigenous Essential Services Program. The Commission notes the Isolated System Licence issued to Groote Eylandt Mining Company Pty Ltd covers the electricity network at Alyangula and the electricity network at Nhulunbuy owned by Alcan Gove Pty Limited operates under an exemption granted under section 87 of the ER Act.

Requirements under the ER Act and conditions in PWC's network licence informed the development of standard network licence conditions.

### Existing licence conditions not included in standard conditions

Five existing conditions in PWC's network licence will not be included as standard network conditions.

#### Coordination agreement

As noted in Chapter 4, the requirement for a network provider to have a coordination agreement with retailers is now captured under the Commission's ERS Code (clause 4.1). While there will be no direct reference to the requirement for a coordination agreement, a network licensee must comply with the ERS Code. This requirement will be captured in the general conditions of a licence, which require compliance with all applicable laws (refer to discussion on the Compliance with regulatory instruments condition in Chapter 3).

#### Safety management and mitigation plan

As discussed in the previous chapter, oversight of SMMP will transition to NT WorkSafe in accordance with the ES Act. There will no longer be a condition relating to SMMPs, but a network licensee must comply with the ES Act (as required by the Compliance with regulatory instruments general condition).

#### Dispute resolution procedures

PWC's network licence requires PWC to, within three months of issue of the licence, establish and comply with procedures to do with customer consultation, enquiries or disputes on terms approved by the Commission. This condition is largely redundant having been replaced by requirements under clause 11.4 of the ERS Code, which requires retailers and network providers to develop, make and publish on their websites procedures for handling customer complaints and disputes. For a new network provider (or retailer), these procedures would need to be in place before commencement of operations. The Commission does not propose duplicating requirements under the ERS Code in licences and the requirement to comply with the ERS Code is captured under general conditions. The Commission does not consider it necessary to specify that a licensee has procedures to do with customer consultation and enquiries as this should be standard practice for any business.

#### Provision of customer data

PWC's network licence requires PWC to, in relation to its three major electricity networks, provide a customer, or any person nominated by the customer (in writing), with data relating to the customer's historical energy consumption within three business days of the request. The condition provides for PWC to

charge a fee (which must be published) for the provision of the data. This condition is redundant having been replaced by requirements under clause 6.2 of the ERS Code, relating to customer access to data.

### Right to use

Section 26(1)(j) of the ER Act provides for the Commission, if it so chooses, to require the licensee, in relation to an electricity network regulated in accordance with the Network Access Code (now superseded by the National Electricity (NT) Rules), to grant a generation licensee the right to use or have physical access to the licensee's electricity network as necessary for the purpose of ensuring the proper integrated operation of the power system and the proper carrying on of the operations authorised by the licence. In the absence of agreement as to the terms on which such rights are to be granted, the licensee must comply with any determination by the Utilities Commission as to those terms.

PWC's licence includes such a condition because the National Electricity (NT) Rules applies explicitly to PWC's networks in the Darwin-Katherine, Alice Springs and Tennant Creek power systems as local electricity systems under the *National Electricity (Northern Territory) (National Uniform Legislation) Act 2015*. The National Electricity (NT) Rules does not apply to networks in other urban centres or to networks operated by other entities including embedded networks in the three major power systems. Given the narrow application of the National Electricity (NT) Rules, the Commission considers this condition is not relevant for inclusion as a standard network licence condition.

### Submissions to the Consultation Paper

The Consultation Paper asked whether stakeholders had any comments or feedback on the exclusion of conditions relating to coordination agreements, SMMP, dispute resolution procedures, provision of customer data and right to use.

Jacana, PWC and TGen responded to the question.

PWC supported the removal of the provisions to streamline licensing and avoid unnecessary duplication. Jacana agreed with the removal of the conditions, except for the right to use condition, which it considers for consistency with generation licences, should be retained in network licences. TGen was amenable to the exclusion of the right to use condition, but noted that as the reason for exclusion was that it only applied to the three major power systems, that it would still be required to be included in PWC's network licence (as the network operator in those systems).

### Commission's position and reasoning

The Commission confirms that the five conditions will be excluded from standard conditions for network licences.

The Commission notes that the Right to use condition is relevant to PWC's licence and will remain in the licence as a non-standard condition. In other power systems (not regulated under the National Electricity (NT) Rules), the network provider will choose whether or not to connect a generator (a generator does not have a right of access to the network). In connecting a generator, it would be expected that the network provider would require access as provided for under the Right to use condition in a generation licence.

### Responsibility for operating contractors

As discussed in the previous chapter, the standard condition relating to operating contractors has been moved from general conditions and is now specific to generation and network licences.

### Network control

In accordance with section 26(1)(m) of the ER Act, PWC's network licence includes a condition requiring it to be responsible for network control of its electricity network. The condition acknowledges the licensee's

control of its network may be influenced by directions from the System Controller where such a function is in place for a power system (that is, in the Territory's three major power systems).

For the purposes of clarity, and in accordance with section 26(1)(a) of the ER Act, a subclause is proposed to be added to the existing condition requiring a licensee to comply with the directions of the System Controller. This will only apply where a system controller is monitoring and controlling the operation of the power system of which the licensee's electricity network forms part or is connected to that power system. In the case of PWC, inclusion of the condition in its licence acknowledges PWC's network and system control and market operation functions operate as separate businesses.

### Submissions to the Consultation Paper

The Consultation Paper asked if stakeholders had any feedback or comments on the inclusion of the proposed sub-condition requiring compliance with the directions of the System Controller.

Jacana and PWC supported inclusion of the sub-condition. PWC noted it was important given the separation of the responsibilities of the System Controller and network operation.

### Commission's position and reasoning

The Commission has made no refinements to the Network control condition and it remains the same as that proposed in the Consultation Paper

## Compatibility, Coordination and Disconnection

The following three standard network conditions are in PWC's network licence and are included as standard network licence conditions without change:

- Compatibility (consistent with section 26(1)(b) of the ER Act)
- Coordination (consistent with section 26(1)(f) of the ER Act)
- Disconnection

### Submissions to the Consultation Paper

The Consultation Paper asked whether stakeholders had any feedback or comments on the relevance or need to change the proposed standard network conditions relating to compatibility, coordination, and disconnections.

Jacana and PWC responded to the question. Jacana advised the condition relating to compatibility should be expanded to include reliability. PWC supported inclusion of the three conditions on compatibility, coordination and disconnection, but suggested to make the clauses more consistent, they all be explicitly linked to relevant sections in the ER Act, as has been done in the Disconnection condition.

### Commission's position and reasoning

The Commission has made no changes in response to the feedback and the conditions remain the same as those in the Consultation Paper.

As discussed in the previous chapter, the Commission has not included reliability in the Compatibility condition as it is not a network provider's obligation to ensure the power system has sufficient capacity to achieve reliability of supply (although the network provider contributes to reliability of supply).

The Commission notes a different approach and non-standard conditions may be needed for licensees providing operations in small isolated power systems. This will be considered a part of licensing those arrangements with the party responsible for reliability to be clear in among relevant licensees.

The Commission notes that section 27 (Limitation on obligation to connect and distribute), which is referenced in the Disconnection condition, is relevant to that condition and not relevant to obligations

regarding compatibility and coordination. More generally, licence conditions do not typically refer the legislation requiring or permitting their inclusion in a licence and the Commission will not include reference to relevant sections in the ER Act in the Compatibility and Coordination conditions.

## Restrictions on trading

Consistent with section 26(1)(d) of the ER Act, PWC's network licence includes a clause restricting PWC from buying or selling electricity unless it is necessary to operate the electricity network, for a purpose associated with planning, designing, constructing, maintaining or operating the electricity network or for the licensee's administrative purposes. The current clause is included in the standard conditions, but has been modified to allow for the situation where a network operator holds a retail licence.

### Submissions to the Consultation Paper

The Consultation Paper asked whether stakeholders had any feedback or comments on the relevance or need to change the standard network condition relating to restrictions on trading.

Jacana advised that the wording of paragraph (d) of the Restrictions on trading condition in the Consultation Paper did not work as currently drafted (and demonstrated this by removing paragraphs (a) to (c)). Jacana was of the view that a network licensee in its capacity as the holder of a network licence should only buy electricity for the purposes set out in paragraphs (a) to (c).

### Commission's position and reasoning

The Commission agrees with Jacana's advice and has redrafted the wording of the Restrictions on trading condition to ensure it is fit for purpose. The revised condition acknowledges that the holder of a network licence may also be the holder of a retail licence and under that licence is permitted to buy or sell electricity.

## Operation and maintenance

Section 26(1)(e) of the ER Act provides for the Commission, if it so chooses, to make a network licence subject to a condition requiring the licensee, in accordance with the Network Access Code, to operate, maintain (including repair and replace if necessary) and protect its network. Such a condition is included in PWC's network licence, but the condition refers to the National Electricity (NT) Rules (which replaced the Network Access Code) and the NTC with these relevant to operation and maintenance of its network in the three major power systems. For its other networks, the licence condition requires PWC to operate, maintain and protect its networks so as not to prejudice public safety or security of supply. The condition acknowledges operation and maintenance in other networks may also depend on arrangements that PWC has under any funding agreements entered into with the Territory Government.

The standard condition relating to operation and maintenance is similar to the condition in PWC's licence except for removal of components relating to funding agreements, which are contractual arrangements specific to PWC and not relevant to a standard condition (but if funding agreements or like arrangements apply to a new licensee, the standard condition would be modified for their inclusion). The condition has also been expanded to include reliability as well as public safety and security of supply as a risk factor of concern. The condition continues to encapsulate potential instruments that may govern operation and maintenance of an electricity network such as technical codes (system control technical codes and network technical codes) and the National Electricity (NT) Rules (were their application to be changed or extended).

### Submissions to the Consultation Paper

The Consultation Paper asked whether stakeholders had any feedback or comments on the modification and inclusion of the standard network licence condition on operation and maintenance.

Jacana and PWC responded to the question with both supporting the inclusion and expansion of the obligation to include reliability, public safety and security of supply.



### Commission's position and reasoning

The Commission has reconsidered the inclusion of “reliability” in the Operation and Maintenance condition and consistent with its approach and reasoning for excluding reliability from the Compatibility condition in generation and network licences, it has removed the term.

## 7 | Form of electricity supply licences

The Commission will make a number of cosmetic changes to the form of licences. These will include:

- a refreshed 'look' for the licence template with new formatting and styles
- the Commission's common seal and information on variations to the licence will be in the early part of the licence rather than toward its end
- definitions and interpretations moved to the early part of the licence rather than toward its end
- updated definitions (refer Appendix A, as relevant to particular licence types) with changes including
  - the definition of business day to be consistent with the definition in the ERS Code
  - redundant legislative and related references removed
- addition of the licensee's ACN number
- reordering of licence conditions as follows: administrative, general and operational (retail, generation or network) conditions. Any conditions unique to a licensee will be included in a final section (licensee specific conditions).

### Submissions to the Consultation Paper and the Commission's decision

The Consultation Paper asked if improvements could be made to better present and structure information in electricity supply licences compared to those proposed.

Only PWC responded to this question and supported setting out of unique conditions in a separate section of the licence. PWC considers this would help participants understand their unique responsibilities separate to other licence holders.

The Commission will be proceeding with the proposed changes to the form of licences following release of this Decision Paper.

## Appendix A – Definitions and interpretations

### Definitions

In this licence:

**applicable laws** includes the *Electricity Reform Act 2000*, the *Regulations* and any technical requirements or standards contained in the *Regulations*, the *Pricing Order*, the *National Electricity (Northern Territory) (National Uniform Legislation) Act 2015*, the *Utilities Commission Act 2000*, *Utilities Commission Regulations 2001* and the *Electrical Safety Act 2022*;

**business day** means a day that is not a Saturday, a Sunday or a public holiday in the Northern Territory of Australia as declared under the *Public Holidays Act 1981*;

**code** means any code made by the *Utilities Commission* under section 24 of the *Utilities Commission Act 2000* or a code made under the *Electricity Reform Act 2000*;

**customer** has the meaning given to that term under the *Electricity Reform Act 2000*;

**electricity entity** means a person licensed under Part 3 of the *Electricity Reform Act 2000* to carry on operations in the electricity supply industry;

**electricity generating plants** means the electricity generating plants described in the schedules to this licence

**electricity network** has the meaning given to that term under the *Electricity Reform Act 2000* and in relation to the licensee's *electricity network*, it is the *electricity network* within the geographic area specified in the schedules to this licence;

**financial year** means a period of 12 months ending at the end on 30 June;

**generation licence** means a licence to generate electricity granted under Part 3 of the *Electricity Reform Act 2000*;

**Market Operator** means a person licensed under regulation 3E or 3F of the *Electricity Reform (Administration) Regulations 2000* to operate a wholesale market in relation to a power system;

**Minister** means the Minister of the Crown who is responsible for the administration of the relevant provision under the *Electricity Reform Act 2000*;

**National Electricity (NT) Rules** see section 3(1) of the *National Electricity (Northern Territory) (National Uniform Legislation) Act 2015*;

**network licence** means a licence to operate or own an *electricity network*;

**Network Technical Code** means the technical code prepared under *Electricity Reform Act 2000* and *Electricity Reform (Administration) Regulations 2000*;

**operation** has the meaning given to that term under the *Electricity Reform Act 2000*;

**power system** means the system for generating, transmitting, distributing and supplying electricity and includes a part of the system;

**Pricing Order** means the pricing order issued by the *Minister* and any pricing determination made by the *Utilities Commission* under the *Electricity Reform Act 2000*;

**Regulations** means the regulations made under the *Electricity Reform Act 2000*;

**retail area** means the geographical area or areas specified in the schedules to this licence;

**retailer** means a holder of a retail licence under Part 3 of the *Electricity Reform Act 2000*;

**retail licence** means a licence to sell electricity granted under Part 3 of the *Electricity Reform Act 2000*;

**rule** means any rule made by the *Utilities Commission* under section 24 of the *Utilities Commission Act 2000*;

**supply** has the meaning given to that term under the *Electricity Reform Act 2000*;

**System Controller** means a person licensed under Part 3 of the *Electricity Reform Act 2000* to exercise system control over the *power system*;

**System Control Technical Code** means the code of that name made under *Electricity Reform Act 2000*;

**Utilities Commission** means the Utilities Commission established under the *Utilities Commission Act 2000*.

## Interpretation

In this licence, unless the contrary intention appears:

- i. headings are inserted for convenience and do not affect the interpretation of this licence;
- ii. the singular includes the plural and vice versa;
- iii. words importing a gender include any gender;
- iv. the word “person” includes a firm, a body corporate, a partnership, joint venture, an unincorporated body or association, trust or any governmental agency;
- v. a reference to a condition, clause or schedule is to a condition, clause or schedule of this licence;
- vi. a reference to terms of an offer or agreement is to all terms, conditions and provisions of the offer or agreement;
- vii. a reference to this licence or another document includes any variation or replacement of any of them;
- viii. a reference to a statute, regulation, proclamation, order in council, ordinance, by-laws, code, law or similar instrument includes all statutes, regulations, proclamations, orders in council, ordinances, by-laws, codes, laws and similar instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- ix. a reference to a person includes that person’s executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns;
- x. the verb “include” (in all its parts, tenses and variants) is not used as, nor is it to be interpreted as, a word of limitation; and
- xi. if an event must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next Business Day.



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UTILITIES COMMISSION  
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