

Annual Compliance Monitoring Report 2023-24

A summary and assessment
of compliance reports
received from licensees for
the 2023-24 financial year

December 2024

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1 | Executive Summary

This compliance monitoring report provides a summary of the breaches of compliance obligations reported by electricity supply, water supply and sewerage services licensees for the 2023-24 period. This report also provides the Commission's assessment of, and any enforcement action it has taken in relation to, those breaches.

The following summarises the 2023-24 Annual Compliance Monitoring Report's key findings:

- one material breach was reported during 2023-24, in relation to a breach by Power and Water Corporation (PWC) of its life support equipment customer protection obligations (see below)
- non-material breaches were reported by five licensed entities
- some issues with licensees' annual compliance reporting raised in the previous year's report continued. The Commission amended the Compliance Framework and Reporting Guidelines (the Guidelines) in 2023-24 to resolve any uncertainty and will not accept annual compliance reports for 2024-25 that are contrary to these requirements.



Life support equipment customers

In 2023-24, PWC reported a material breach of life support equipment obligations whereby electricity supply was disrupted to four customers without the required notice. The Commission was made aware of the breach and has since been monitoring PWC's progress against the associated remedial actions.

Jacana Energy (Jacana) also reported two serious breaches of life support obligations, and three matters have been reported by other licensees, indicating the Commission will need to continue to focus on this issue for the foreseeable future.



Technical codes

PWC is required under legislation to make and comply with various technical codes.

In 2023-24, there were six key PWC compliance issues associated with these technical codes. When considered together, these breaches demonstrate a concerning trend in PWC's management of and approach to compliance with these codes. Of particular concern, PWC remains non-compliant with the Trade Waste Code.

During 2024-25, the Commission intends to continue closely monitoring PWC to ensure that all remaining identified issues are resolved.



Performance reporting

In 2023-24, licensees were required to conduct an independent audit of performance data reported under the Electricity Industry Performance (EIP) Code.

The audits helped assure the robustness of data reported by the Commission in the annual Northern Territory Electricity Retail Review (NTERR) and Northern Territory Power System Performance Review (NTPSPR). While nine breaches were identified, along with numerous data errors, the variances in historical data were not material in terms of the overall trends.



Wrongful disconnections

Jacana did not demonstrate any improvement (or deterioration) in the number or rate of wrongful disconnections in 2023-24. While it is difficult to compare to other retailers, the number of wrongful disconnections reported by Jacana appears high.

However, Jacana has made proactive and meaningful improvements in how it manages customers experiencing wrongful disconnections, with Jacana advising that the overwhelming majority of customers are now reconnected on the same day, including after hours if possible. Jacana has also made it easier for customers to access compensation.

2 | Introduction

The Commission is an independent statutory body established by the *Utilities Commission Act 2000* (UC Act) with defined roles and functions, including economic regulation of the electricity supply, water supply and sewerage services industries. The Commission is responsible for administering licensing of the electricity supply industry under the *Electricity Reform Act 2000* (ER Act) and water supply and sewerage services industry under the *Water Supply and Sewerage Services Act 2000* (WSSS Act). A licence is required for the following operations under the ER Act and associated regulations and the WSSS Act:

- the generation of electricity
- owning or operating an electricity network or a dedicated connection asset
- selling electricity (retail)
- monitoring and controlling the operation of a power system (system control)
- operating a wholesale market
- water supply services
- sewerage services.

Under the *Ports Management Act 2015*, the Commission also regulates access to and pricing of prescribed services provided by a private port operator of a designed port, currently Darwin Port Operations Pty Ltd for the Port of Darwin. Compliance reporting by Darwin Port Operations Pty Ltd is excluded from this report, but it is subject to separate reporting obligations under the *Ports Management Act 2015* and related regulatory instruments. Reports produced by the Commission relating to the port access and pricing regime can be found on the Commission's website at <https://utilicom.nt.gov.au/ports/reporting>.

The purpose of this report is to provide transparency on the compliance performance of relevant licensees. Further, the report promotes licensee accountability for rectifying breaches and informs how the Commission implements its approach to compliance.

In July 2024, the Commission finalised a review of the Guidelines. Version 2 of the Guidelines commenced 28 October 2024. Unless otherwise stated, references to the Guidelines in this report means version 1 of the Guidelines as this is the version that was in force during the 2023-24 period.

Licensing and compliance reporting

Licensees are required to comply with the conditions of their licence and relevant laws, codes and other regulatory instruments. Obligations under these instruments provide important protections for customers and help ensure services are reliable, safe, efficient and cost-effective.

Each year licensees are required to report to the Commission on compliance with the requirements of their licence, relevant legislation, codes and other regulatory instruments, as well as their framework to support compliance. As part of reporting requirements, licensees submit an annual compliance report to the Commission, which declares, among other matters, instances of non-compliance (referred to as breaches) in the immediately preceding financial year.

The Guidelines outline the requirements for the licensee's annual compliance report, including by requiring inclusion in the report of a declaration of responsibility from the Board of the licensee on the following:

- that the licensee maintains an appropriate compliance framework that complies with the requirements of its licence
- the licensee has complied with all licence obligations during the reporting period, with the exception of those non-compliances listed in its compliance report.

The information sought by the Commission as part of the annual compliance report is consistent with the type of information that the licensee should be providing to its Board, with further information supplemented by an audit process from time to time.

The requirement to submit an annual compliance report does not extend to all licensees. For example, independent power producer (IPP) licence holders do not have annual compliance reporting requirements, noting IPP licences are legacy arrangements. IPP licence holders are, however, still required to comply with all applicable laws and regulatory instruments and report material breaches to the Commission, consistent with their licence conditions. Entities holding an exemption from the requirement to be licensed are also not required to submit an annual compliance report. However, the Commission requires some relevant licensees and exemption holders to provide annual confirmation that there have been no material breaches of licence conditions or other applicable regulatory instruments.

Classification and reporting of breaches

Breaches are classified as either material or non-material, as defined in the Guidelines. While a licensee's annual compliance report is to list all breaches (material and non-material), in the case of material breaches, there are immediate actions to be taken when one is identified, as explained below.

As defined in the Guidelines, a breach is material when it has the following attributes:

- the incident adversely affects customers (financially and/or service provision)
- a significant number of customers are affected
- regulated entity's ability to provide services is compromised or
- public health and safety is threatened.

Licensees must also consider the impact of repeated individual non-material breaches and the possibility that, in totality, these lead to a material breach.

In accordance with the Guidelines, licensees are required to notify the Commission of any material breach as soon as reasonably practicable after becoming aware that the breach has occurred. The Guidelines also require that the licensee's compliance framework contains a process for escalating and reporting breaches, and that the licensee must make its Chief Executive Officer (CEO or equivalent) and Board aware of any material breaches without delay.

If a licensee is in doubt as to whether or not a breach is material, the licensee should immediately notify the Commission and seek guidance.

The Commission's approach to compliance

The Commission aims to promote compliance with regulatory obligations by granting licences on the condition that regulated entities:

- establish a compliance process
- report on identified material breaches
- undertake compliance audits and
- submit an annual compliance report and declaration.

The Commission requires licensees to establish, implement, maintain and comply with appropriate auditable internal policies, procedures and systems to ensure compliance (a compliance process). The compliance process must reflect industry best practice (*ISO AS 37301:2023 Compliance Management Systems* or equivalent). The requirement for a licensee to develop and maintain an adequate compliance process assists licensees to manage risk in a systematic and proactive manner. Failure to establish a compliance process is considered a breach of licence condition.

As part of the compliance process, licensees must maintain a compliance register which systematically identifies compliance obligations and the way which they impact on activities, products and services.

The compliance register must be sufficiently detailed in identifying all of the licensed entity's compliance obligations. Licensees must appropriately assess risks associated with the compliance obligations listed in the compliance register.

Licensees must also have processes in place to identify new and changed laws, regulations, codes and other compliance obligations and evaluate the impact of the identified changes and implement any changes in the management of compliance obligations.

Monitoring and enforcement

The Commission primarily monitors licensees' compliance through audit requirements and material breach and annual compliance reporting. The Commission may also investigate complaints from members of the public.

In most cases, where a breach has occurred, the Commission expects to resolve compliance matters with the regulated entity by requesting that active steps be taken to remedy the breach. However, the Commission may escalate the matter to punitive action where appropriate.

In all cases, the Commission exercises judgement and discretion in determining what enforcement measures to take in response to a breach. In determining its response, the Commission will take a risk-based approach that considers the nature and impact of the breach, the compliance attitude and history of the licensee, the licensee's remedial actions and other relevant factors.

When a licensee identifies a breach, the Commission expects licensees to address matters promptly and proactively, taking steps to remedy the impact of a breach and prevent reoccurrence of similar breaches. However, where the Commission is not satisfied with the sufficiency of the licensee's actions, the Commission will request additional steps be taken. Should the licensee fail to respond to such a request, the Commission's response to the matter will escalate and could include taking disciplinary action.

The statutory enforcement instruments available to the Commission under legislation are limited and tend to be punitive such as a fine or recovery of amounts equal to any benefit to the licensee of contravening a licence condition. The Commission may also suspend or cancel a licence. These measures would typically only be applied in the most serious cases where other enforcement measures have not resulted in compliance, are not considered to be sufficient or where there is significant public benefit from applying statutory enforcements, for example, to deter others from engaging in similar conduct.

The Commission considers that transparency on compliance matters is in the public interest and that public scrutiny may incentivise licensed entities to maintain a positive reputation. To this end, the Commission publishes information on breaches in this report. To inform the public of licensees' compliance performance. Reporting is not, however, intended to be solely of a negative nature with the Commission seeking to also highlight positive outcomes where remedial action results in better protection or greater benefits for consumers. Proactive identification, reporting and rectification of breaches reflects a robust compliance process and appropriate compliance culture within an organisation.

3 | Licensees

Most licences issued by the Commission require the licence holder to provide an annual compliance report to the Commission. For 2023-24, 14 licensees submitted annual compliance reports, in relation to 21 licences. As shown in Table 1 below, a licensee is able to hold multiple licences.

Table 1 Summary of licensees' compliance reporting 2023-24

Licensee	Licence held	Breaches reported		No breaches reported
		Material	Non-material	
Assure Energy Asset Pty Ltd (Assure Energy)	Generation			X
BSF Co Pty Ltd as trustee for the BSF Unit Trust (BSF)	Generation			X
Darwin International Airport Pty Limited (DIA)	Generation		X	
EDL Jabiru Pty Ltd (EDL Jabiru)	Generation			X
EDL NGD (NT) Pty Ltd (EDL NGD)	Generation, Retail			X
Eni Australia Limited and Eni New Energy Batchelor Pty Ltd (Eni ENEB)	Generation			X
Eni Australia Limited and Eni New Energy Katherine Pty Ltd (Eni ENEK)	Generation			X
Eni Australia Limited and Eni New Energy Manton Dam Pty Ltd (Eni ENEMD)	Generation			X
HCPS Co Pty Ltd as trustee for the HCPS Unit Trust (HCPS)	Generation			X
Next Business Energy Pty Ltd (Next Business Energy)	Retail		X	
Power and Water Corporation (PWC)	Generation, Network, Retail, Sewerage Services, System Control, Water Supply	X	X	
Power Generation Corporation trading as Territory Generation (TGen)	Generation, Retail		X	
Power Retail Corporation trading as Jacana Energy (Jacana)	Retail		X	
Rimfire Energy Pty Ltd (Rimfire)	Retail			X

The reporting of breaches does provide some assurance that the relevant licensees' compliance process is operating effectively, and indicates that the relevant licensee takes responsibility and has an internal culture of compliance. Therefore the reporting of breaches should not, in and of itself, reflect poorly on a licensed entity. Further, some entities may naturally report a greater number of breaches due to having larger and more complex operations.

Some licensees were not required to submit an annual compliance report, and are excluded from Table 1 above.

The conditions of the Commonwealth Department of Defence's retail licence do not require the Department of Defence to submit an annual compliance report, however they are required to report on material breaches each year under their licence return. No material breaches were subsequently reported by this licensee for 2023-24.

QEnergy Limited's (QEnergy) retail licence was suspended by the Commission, effective 23 January 2023. QEnergy later wrote to the Commission in relation to its intent to surrender the licence, which the Commission accepted, effective 24 July 2023. QEnergy was not asked to provide an annual compliance report and QEnergy is not included in this report.

IPPs are exempt from the requirement to provide annual compliance reports; however, the Commission requests that IPPs confirm that there have been no material breaches of licence conditions or other applicable regulatory instruments as part of their annual licence return reporting processes. All five IPPs advised there had been no material breaches in 2023-24.

The Groote Eylandt Mining Company Pty Ltd holds an isolated system licence and is only required to declare material breaches. Groote Eylandt Mining Company Pty Ltd also advised there had been no material breaches in 2023-24.

The Commission has not received any advice from other sources (such as complaints) to indicate that there were any material breaches by these licensees in 2023-24.

Compliance report declarations

As part of a licensee's annual compliance report, the Commission requires a declaration that a licensee has maintained an appropriate compliance framework that complies with the requirements of its licence. The Guidelines include a template declaration which most licensees have adopted. The template declaration includes confirmation that licensees have met their licence obligation to establish and maintain a compliance process. The Commission also requires a declaration of responsibility and sign-off of the annual compliance report by the CEO and chair of the board. In recognition of other corporate structures, a licensee can propose reasonable alternative arrangements for sign-off for the Commission to consider and approve.

Fourteen licensees submitted annual compliance reports, and thirteen reports were received by the due date of 31 August 2023. One report was received one day late.

In the Commission's Annual Compliance Monitoring Report 2022-23, the Commission discussed issues in the annual compliance reports submitted by licensees, including that most licensees had, to varying degrees, changed the wording in the template declaration. These issues remained in many of the declarations submitted to the Commission for the 2023-24 period.

As part of the 2024 Review of the Compliance Framework and Reporting Guidelines, the Commission decided to include a clause in version 2 of the Guidelines (clause 5.2.1) (now in effect) that annual compliance reports submitted by licensees must contain the information specified in the template. As the Guidelines have now been amended to provide clarity on this obligation, the Commission will not accept any declarations for the 2024-25 period that are not in accordance with the template. Licensees who adopt alternative wording for the declaration will be considered to be in breach of the Guidelines. The Commission has written to licensees that did not follow the template for 2023-24 to advise of the Commission's concern and approach moving forward.

Where a licensee considers that it is unable to sign the template declaration, the licensee should contact the Commission office as soon as possible to advise of the specific issue and to seek guidance on meeting its reporting obligations. In some cases, the licensee may be required to report a breach of the licence obligation to establish and maintain a compliance process.

4 | Non-compliance relating to life support customers

In 2019, the Commission varied its Electricity Retail Supply Code (ERS Code) to include, among other things, strengthened protections for customers requiring life support equipment at their premises (life support customers). This addressed the lack of formal protections under the ER Act or other legislation, which posed a significant risk to these vulnerable customers. The ERS Code was again amended in 2023 to strengthen protections for life support customers.

The obligations under clause 10 of the ERS Code are based on rules introduced in 2017 by the Australian Energy Market Commission for jurisdictions in the National Electricity Market subject to the National Energy Retail Rules.¹ Clause 10 of the ERS Code places obligations on retailer and network providers to advise each other of life support customers, keep updated registers of these customers and undertake specific actions designed to protect life support customers in relation to interruptions and disconnection.

For the purposes of the provisions under clause 10 of the ERS Code, life support customers are persons who have medical confirmation that a person residing, or intending to reside at the customer's premises requires any of the following equipment:

- an oxygen concentrator
- intermittent peritoneal dialysis machine
- a kidney dialysis machine
- a chronic positive airways pressure respirator
- crigler najjar syndrome phototherapy equipment
- a ventilator for life support and
- in relation to a particular customer – any other equipment that a registered medical practitioner certifies is required for a person residing at the premises for life support.

Any non-compliance with the life support provisions in the ERS Code is a serious matter as the failure to comply with these obligations could have detrimental and even fatal consequences.

Material breaches

PWC

Failure to notify life support customers of a planned interruption

ERS Code clause 10.4B.1(d) requires a network provider to give a life support customer at least four business days written notice of a planned interruption to electricity supply, or alternatively, obtain the life support customer's consent to the interruption occurring on a specified date. While electricity supply can never be guaranteed, and unplanned interruptions to electricity supply do occur, the obligation is intended to mitigate the risk associated with interruptions and assist life support customers plan for and manage interruptions to the extent possible.

In October 2023, PWC notified the Commission that a material breach of clause 10.4B.1(d) of the ERS Code occurred during the previous month, with electricity supply interrupted to four life support customers during a planned outage. Electricity supply was interrupted for approximately ninety minutes, as once aware, the issue was escalated to senior management who issued a direction to restore power as soon as possible. PWC subsequently confirmed with the affected customers that there were no adverse impacts as a result of the outage.

¹ The National Energy Retail Rules apply in the Australian Capital Territory, New South Wales, Queensland, South Australia and Tasmania.

Notification of the material breach was provided to the Commission almost two weeks after the incident (discussed in more detail on page 22). In response, the Commission communicated to PWC that the slow response to reporting the incident was well below the Commission's expectations. The Commission reiterated the importance of life support equipment obligations and the seriousness of the material breach.

Following PWC's investigation of the incident, it committed to undertake a number of action items and remedial measures. The Commission required PWC to report at set intervals to advise on its progress against these. Some action items that PWC have reported as complete include:

- updating of work instructions to include a new preventative control and clarification of roles and responsibilities
- implementation of weekly discussion of planned outage notifications with the relevant team
- updated life support equipment procedures submitted to the Commission for approval and
- improved access and scope of life support training for relevant staff.

The Commission considers the remedial actions taken or committed to by PWC in response to this breach are appropriate and proportionate. The Commission does not propose to take disciplinary action in relation to the breach, however, this does not imply that the Commission accepts or tolerates the breach. Rather, the Commission is satisfied that appropriate action has been taken or will be taken to reduce the risk of recurrence. The Commission will continue to closely monitor PWC's compliance with life support customer obligations, and may consider requiring an audit of PWC's compliance with life support customer obligations once the remaining action items are completed.

Non-material breaches

Jacana

Failure to register a life support customer within 1 business day

ERS Code clause 10.3B.1(a) requires an electricity retailer to register, within one business day of receiving advice from the network provider, that a person residing or intending to reside at the customer's premises requires life support equipment. Both the retailer and the network provider are required to register life support customers under the ERS Code, as it assists to reduce the risk to life support customers, noting the arrangements are consistent with customer protections in other jurisdictions.

In its annual compliance report, Jacana advised that it had identified a control measure failure whereby employees failed to register a life support customer within one business day of receiving advice from the network provider. While Jacana understands the network provider registered the customer within its own systems, it was 28 days before Jacana identified its breach through quality assurance checks. Jacana has confirmed that there was no interruption to the supply of electricity for the life support customer during this period.

Jacana advised it has taken a number of remedial actions in response to the breach, including:

- changes to the notification process to implement additional controls
- implementation of daily quality assurance checks of life support reports
- disciplinary action for the staff involved
- additional training regarding the correct process.

Incorrect deregistration of a life support customer

Where an electricity retailer is advised that a life support customer has vacated a premises, ERS Code clause 10.5C.1 requires the retailer to provide 15 days written notice to the customer prior to deregistration. The purpose of the provision is to ensure the customer has the opportunity to advise the electricity retailer if a mistake has been made prior to the deregistration occurring.

In its annual compliance report, Jacana advised that it had identified an incident whereby, upon notification from the property owner that the life support customer had vacated the premises, Jacana arranged for a meter to be changed to a prepaid meter during the 15-day period. The meter change was actioned and reprogrammed by the network provider on the same day, although there was no interruption to the supply of electricity.

Jacana advised that it investigated the incident and found that its internal process did not account for a situation where a new customer took over a registered life support site and requested a prepaid meter. In response to the breach, Jacana has updated its business process instructions to account for the situation.

Classification of Jacana's breaches

In Jacana's view, the life support customer protection breaches should be classified as non-material because each incident involved a single customer and there were no adverse or serious effects. In Jacana's view, the issues were 'one-offs' and should not be considered systemic. Jacana considers customer health and safety was not threatened.

In the Commission's view, breaches associated with life support obligations are high-risk because of the potentially detrimental impacts to customers, and these breaches should be treated with urgency in terms of identification and response.

In regards to the first breach, during the 28-day period where the customer was not registered, some potential flow-on impacts of the failure to register the customer could have included:

- when advised by the life support customer of any updates to the customer's requirements or contact details, Jacana may not have provided this information to the network provider (in breach of clause 10.4A.1(a)), and the network provider's registration may not have been updated accordingly
- Jacana could have arranged for the de-energisation of the premises (in breach of clause 10.4A.1(c)).

The purpose of having numerous controls in place is to reduce the risk of serious consequences where one control fails. In the case of life support customers, dual registration obligations have been put in place to protect customers due to the potential serious consequences of a breach. Had the network provider also breached its obligation to register the customer, there may have been no protections in place for the customer for the 28-day period, or longer had the breach not been detected.

In regards to the second breach, the customer was not provided sufficient opportunity to notify Jacana if an error had been made with regard to deregistration. There is a risk that the life support customer may have been unaware the credit meter had been changed to a prepaid meter and may have been at risk of an interruption to electricity supply had the prepaid meter run out of credit.

The Commission acknowledges that the definition of 'material breach' in the Guidelines in force at the time the breach occurred was not as clear and comprehensive as it could have been, and may not have captured these breaches. Accordingly, the Commission has amended the definition of 'material breach' as part of the 2024 Review of the Compliance Framework and Reporting Guidelines. The updated definition commenced 28 October 2024 and, in simplified terms, focuses on whether the breach had, may have or could reasonably have had a serious consequence on a customer or regulated entity.

The Commission considers the breaches would fall under the amended definition of 'material breach' under version 2 of the Guidelines, and expects that, in future, similar breaches will be reported in accordance with the material breach provisions under the Guidelines and in accordance with Jacana's licence.

Assessment of remedial action

The Commission considers the remedial actions taken by Jacana in response to these breaches is appropriate and proportionate. The Commission understands that Jacana has undertaken a full review of each incident and that the incidents were escalated to the CEO-level. The Commission does not propose to take disciplinary action in relation to the breaches, however, this does not imply that the Commission accepts or tolerates Jacana's breaches. Rather, the Commission is satisfied that appropriate action has been taken to reduce the risk of recurrence. The Commission will continue to closely monitor Jacana's compliance with life support customer obligations and may consider requiring an audit of Jacana's compliance with life support customer obligations in the future.

Next Business Energy

Failure to publish life support information on website

ERS Code clause 10.4A.2 requires a retailer to publish on its website certain information to assist customers to notify the retailer that a person residing at the premises requires life support equipment. Next Business Energy has reported a non-material breach of clause 10.4A.2 as its website did not include the information required for Territory customers. The Commission considers the breach is lower risk compared with other breaches mentioned in this chapter as Next Business Energy is not currently active in the Territory's electricity retail market.

In May 2024, Next Business Energy updated its website to include the required information. The Commission is satisfied the breach has been appropriately rectified and does not intend to take further action.

PWC

Requirement to comply with approved life support equipment procedures

ERS Code clause 10.7.10 requires a network provider to comply with its approved life support equipment procedures. PWC has reported two breaches associated with this obligation, a single incident and a separate long-term non-compliance.

In regards to the incident, PWC reported an ICT outage event lasting a few days that required PWC to use manual life support registration practices which did not conform to PWC's approved life support equipment procedure. PWC advised that there was no impact to customers as a result of the incident.

In response to the single incident, PWC reviewed its life support equipment procedure and included manual practices which may be followed in the case of business disruption. The Commission is satisfied this breach has been appropriately rectified.

In regards to the long-term non-compliance, PWC has been unable to comply with its procedures for some remote areas, as it has not been possible to deliver the required written correspondence. Instead, PWC has been delivering correspondence to local clinics and shops. PWC has advised that it is not aware of any negative impact to customers as a result of the breach.

To address the long-term non-compliance, PWC updated its life support equipment procedure to include procedures for remote customers, and states its recorded procedure is now culturally and situationally appropriate. The Commission approved PWC's updated procedure in June 2024. The Commission is satisfied this breach has been appropriately rectified.

5 | Non-compliance relating to technical codes

Under the frameworks established under the ER Act and WSSS Act, PWC is responsible for making various technical codes in the electricity supply, water supply and sewerage services industries, including the:

- System Control Technical Code (SCTC)
- Network Technical Code
- Connection Code
- Trade Waste Code
- Water Metering Code.

The Commission's role is to enforce compliance with these codes, noting PWC must comply with its own codes as a condition of its licences. With the exception of the Connection Code, the Commission also has a role in approving any amendments to the codes. While the codes can be described as technical, the Commission considers the codes play an important role in protecting consumers and licensees from the misuse of monopoly power, including by establishing uniform processes and standard approaches to enforcement.

During the 2023-24 period, the Commission observed a number of non-material breaches that, when considered together, demonstrate a concerning trend in PWC's management of and approach to compliance with these codes. While some non-compliance issues were resolved during 2023-24, ensuring compliance with these codes is a focus for the Commission for the 2024-25 period and as such, the Commission intends to closely monitor PWC to ensure all identified issues are resolved.

Non-material breaches

PWC

SCTC – Settlement statements not issued in accordance with the published timetable

SCTC clause A6.5(b) requires that the timing of settlements statements is to be as specified in the settlements timetable. PWC has reported six incidents in the 2023-24 period where settlement statements were not issued in accordance with the timetable. These breaches are summarised below:

- There were two incidents where PWC did not meet the timeframe for issuing a revision settlement statement.
- There were three incidents where PWC did not meet the timeframe for issuing a preliminary settlement statement.
- There was one incident where PWC did not meet the timeframe for issuing a final settlement statement.

PWC has advised of the reasons for each breach, and these include:

- Data inaccuracies
- Delayed entry of meter data
- Challenges and issues with the settlement system
- Impacts of the smart meter rollout
- Insufficient resourcing to meet demands
- Discrepancies in calculations.

Settlement statements are used to determine amounts owed for electricity production and distribution to retail customers. In most cases the statements were only a few days late, however in one instance a revision statement was 41 days late.

PWC advised that it has taken remedial action in relation to the breaches, including:

- Data errors were investigated and calculations rerun
- Market participants were advised of the delay
- PWC met with the system developer to understand how to rectify and rerun calculations, and resolve issues associated with producing settlement results
- Resolution of some identified issues with the new settlement system
- PWC changed the way data is entered to avoid the risk of error
- PWC has been working on the meter-to-cash project and advised the project is expected to go live in the 2024-25 period. PWC expects the project delivery will resolve some of the issues which occurred
- The Market Operator has secured approval for additional personnel to ease resourcing constraints
- The Market Operator has requested additional computer storage space to assist with the loading of data.

The Commission is concerned by the number of breaches that have occurred over such a short period of time and by the potential financial or operational impact on market participants that rely on these statements. PWC's remedial action appears, at face value, to be appropriate, however, there is a concern that breaches may continue to occur during 2024-25. As part of monitoring PWC's compliance, the Commission has requested PWC provide the Commission with an update on any breaches that have occurred since 30 June 2024 in relation to settlement statements.

SCTC – Non-publication of the SCTC

Section 37E of the ER Act requires PWC to publish the SCTC on its website. The Commission approved version 7.0 of the SCTC in late-2023 and the approved SCTC came into effect on 14 February 2024. In early-March 2024, Commission staff alerted PWC that the SCTC and associated guideline had not been published on PWC's website.

PWC acknowledged the breach and published the SCTC on its website shortly thereafter. PWC reported that the breach occurred due to internal miscommunication, and has advised that the matter was discussed with relevant team members.

The Commission considers this specific breach has been rectified and that no further remedial action is required. However, the Commission is concerned the issue may be reflective of a broader issue of lack of concern for or awareness of the importance of maintaining technical codes and ensuring compliance, noting there are a range of organisations and system participants that must comply with the SCTC that need to know what their current obligations are.

SCTC – Minor incident reporting

SCTC clause 7.4 (version 6, in force at the time the breach occurred) required PWC to provide the Commission with an initial report within 14 working days of a 'reportable incident,' including for those incidents defined as 'minor' by the SCTC. PWC was also required to provide a final incident report 'as soon as reasonably practicable' after the event occurred, in regards to incidents described as 'major' by the SCTC.

PWC has reported, and the Commission has observed, that there have been delays in PWC providing final incident reports to the Commission such that final incident reports were often not provided within 90 days of an incident. Accordingly, there has been a concern that final incident reports have not been provided 'as soon as reasonably practicable' after an event.

PWC advised that the methodology required by the SCTC was not practical to apply and led to over reporting. In 2023, PWC proposed amendments to the SCTC for the Commission's approval which, at a high level, removed the obligations associated with 'minor' reportable incidents and implemented a deadline of 90 days for PWC to provide final incident reports to the Commission. Following public

consultation, the Commission approved the updated SCTC in late-2023, and the approved SCTC came into effect on 14 March 2024.

The Commission considers that PWC's action in revising the SCTC, so the obligations are appropriate and fit-for-purpose, is sufficient remedial action and reflects a good outcome from a compliance perspective. Generally, where licensees consider regulatory obligations are inappropriate due to, for example, changes in industry best practice, or where regulatory obligations are unduly burdensome with minimal benefit, the Commission encourages licensees to engage with the Commission to discuss the issue and, if necessary, identify and implement an appropriate solution.

SCTC – Late submission of incident report

SCTC clause 7.4.1(e) requires a system participant to provide a final report to the Power System Controller within 20 business days after receipt of a notification of a reportable incident.

PWC has reported that PWC Power Services (a business unit within PWC) did not provide the required final report to the Power System Controller (PWC System Control) within the required timeframe. The report was delivered to PWC System Control 29 days late, however PWC System Control was able to meet its reporting obligations to the Commission under the SCTC.

As the incident did not impact any entities outside of PWC, the Commission does not consider any remedial action is required other than the submission of the report, which has occurred.

Trade Waste Code

Under section 83 of the WSSS Act, PWC is required to publish a code (the Trade Waste Code) setting out the conditions on which PWC will approve trade waste being discharged into the licensee's sewerage services infrastructure. PWC is required to comply with the Trade Waste Code, pursuant to clause 9.1(e) of its sewerage services licence.

PWC reported one breach of the Trade Waste Code, in regards to the performance of site inspections. The Commission understands this breach has occurred over a long period of time and considers PWC to be in a state of ongoing non-compliance with the Trade Waste Code. The Commission is aware some aspects of the current Trade Waste Code, which was approved in 2017, may no longer be fit-for-purpose and is concerned that there may be other Trade Waste Code breaches that are undetected.

In terms of remedial action, PWC has advised that the relevant team has secured additional resourcing and developed procedures to be followed, however this had not rectified the issue. In terms of rectification, PWC has reported that it is in the process of updating the Trade Waste Code. The Commission has written to PWC to advise that it expects an acceptable draft of an amended Trade Waste Code to be submitted to the Commission for approval during 2024-25. The Commission may also consider requiring an audit of compliance with the Trade Waste Code in future periods.

Water Metering Code

Attachment A of the Water Metering Code (version 1; in force at the time the breach occurred) required PWC to replace and batch test water meters in accordance with the code requirements. The purpose of the provisions was to reduce the risk of undetected errors and inaccuracy in employed meters, and promoted transparency in the approach to metering.

Following an audit, PWC reported a long-term, ongoing breach whereby the requirements of the code were not being complied with, with PWC taking an alternative approach. The Commission agreed to undertake no action subject to PWC conducting a review and submitting a revised Water Metering Code that addressed the feedback provided by the Commission.

In June 2024, following public consultation, PWC submitted a revised draft Water Metering Code for approval by the Commission. The Commission approved the revised Water Metering Code (version 1.6) in July 2024.

The Commission considers that PWC's actions in revising the Water Metering Code, so the obligations are appropriate and fit-for-purpose, is sufficient remedial action and reflects a good outcome from a compliance perspective. However, the Commission is concerned that PWC did not comply with the Water Metering Code over a long period of time, and consider PWC's actions reflects a poor approach to maintaining and complying with technical codes. The Commission has written to PWC about this matter and expects PWC to conduct another audit in the future.

6 | Non-compliance relating to performance reporting

The EIP Code applies to electricity entities operating in the access-regulated networks of Darwin-Katherine, Alice Springs and Tennant Creek (excluding independent power producers) and in some instances, to parties with a licence exemption operating elsewhere in the Territory. The EIP Code includes:

- guaranteed service level performance indicators and payment amounts
- generation service performance indicators
- network service performance indicators and network target standards
- retail service performance indicators for small customers.

The performance indicator data reported by electricity entities to the Commission forms the basis of the Commission's NTERR and NTPSPR, published annually. The Commission considers that regular and comprehensive reporting on the electricity supply industry increases transparency of issues, leading to improved planning, investment, and understanding of value for money and general performance. As such, providing complete and accurate historical data under the EIP Code is essential for comparability over time and to assist in the identification of genuine trends in the Northern Territory's electricity supply industry.

Clause 6.1.1(a) of the EIP Code requires electricity entities to periodically collect and maintain data in connection with applicable target standards, performance indicators and reporting requirements under the Code. Clause 6.2.1 of the EIP Code requires electricity entities to undertake an independent audit to ensure compliance with clause 6.1.1(a) at least once every three years for each performance indicator that the electricity entity is required to report against. During 2023-24 period, electricity entities were required to conduct independent audits for the 2020-21, 2021-22 and 2022-23 periods.

Accordingly, the Commission received independent audit reports from EDL, Jacana, PWC, Rimfire and TGen. Nine breaches were identified, along with numerous other data errors, underscoring the value of the independent audits. The audits identified two licensees had not been submitting responsibility statements, and also identified errors in terms of data collection and calculation.

Importantly, the Commission incorporated the revised data into its 2022-23 NTERR and NTPSPR. However, in all cases, the variances in historical data were not material in terms of the overall trend. Accordingly, the discussion and commentary in previous reports remains correct.

The findings are discussed in more detail below.

Non-material breaches

EDL

The audit conducted for EDL reported no breaches. However, the audit reported one minor data error in performance data reported to the Commission. The error was rectified in the Commission's 2022-23 NTPSPR and the Commission does not consider any further action is required.

Jacana

The audit conducted for Jacana reported one breach, in relation to clause 5.2.2(a) of the EIP, which requires Jacana to submit a responsibility statement with the audit. Jacana acknowledged the breach and advised that it updated its documented process to ensure the responsibility statement is submitted with the report.

The audit also identified some minor data errors, and made some recommendations for improvement. Jacana submitted a revised report to the Commission resolving these errors, and committed to a number of actions items. The Commission is comfortable with the management responses and actions proposed by Jacana and resolved the historical data issues for the 2022-23 NTERR.

PWC

PWC did not submit its audit report to the Commission by the due date, resulting in a breach of clause 2.1.3 and 3.2.1 of the EIP Code Independent Compliance Audit Guidelines. PWC advised the 25 day delay was due to competing priorities. PWC notified the Commission of the delay prior to the due date and provided additional information where possible. PWC advised that the area responsible will incorporate more time for this activity in future planning.

The audit conducted for PWC reported five breaches, summarised below:

- two breaches in relation to the guaranteed service level scheme, including two eligible customers not receiving payments, and other customers receiving amounts different to that specified in the EIP Code (see EIP Code clause 4.1.3)
- three breaches in relation to incorrectly calculated performance indicators being reported to the Commission (see EIP Code clause S3.2.4).

To address the breaches in relation to the guaranteed service level scheme, PWC advised it made the required payments to the eligible customers and improved the payment process to introduce an additional control prior to processing payments.

To address the breaches in relation to incorrectly calculated performance indicators, PWC advised it has updated its internal processes to reduce the potential for transcription errors, such that the process now includes an additional review step to verify that figures are correct.

In addition to those identified in the audit report, PWC reported an additional two breaches, summarised below:

- one breach in relation to errors in the list of feeders reported to the Commission (see EIP Code clause S3.4.1)
- one breach in relation to not maintaining sufficient historical data to meet some performance reporting requirements (see EIP Code clause 6.1.1).

To address the breach in relation to the incorrect reporting of feeders, PWC advised it has changed its processes to require manual review of feeder data prior to submission.

To address the breach in relation to not maintaining sufficient historical data, PWC advised it has changed its processes to ensure supporting documents are stored and maintained for future reference.

The Commission is comfortable with the management response and actions proposed by PWC to address and rectify the breaches. The historical data issues were resolved for the 2022-23 NTPSPR.

Rimfire

The audit conducted for Rimfire identified no breaches. However, some data collection issues were identified. Rimfire has advised it has taken remedial action which will resolve these issues in future periods. The Commission is comfortable with the approach taken by Rimfire and considers no further action is required.

TGen

The audit conducted for TGen reported one breach, in relation to clause 5.2.2(a) of the EIP Code, which requires TGen to submit a responsibility statement with its EIP Code reporting. TGen has advised that it has amended its reporting template to prevent a repeat of the breach. The Commission is comfortable with the management response from TGen.

7 | Wrongful disconnections

Clause 23 of Jacana’s retail licence (as in force during 2023-24) states that Jacana must not disconnect or discontinue electricity supply to a customer, except in accordance with the customer’s contract or disconnection procedures in the SCTC. Following the Commission’s Review of the Northern Territory Electricity Supply Licensing Regime (stage 2), this provision is now contained at clause 16 of the standard retail licence conditions, and is included in all retail licences in force at the time of writing.

The supply of electricity is essential for the comfort, health and productivity of households and businesses, and a wrongful disconnection has the potential to place a significant burden on a customer who may lose refrigerated food or medication, be unable to work from home, or be required to spend time contacting the electricity retailer. Accordingly, wrongful disconnection is a serious issue that has been criminalised in Victoria,² and can attract significant penalties in other jurisdictions.³

In its compliance reporting over the last few years, the Commission has monitored the number of wrongful disconnections to determine whether there are any concerning trends.

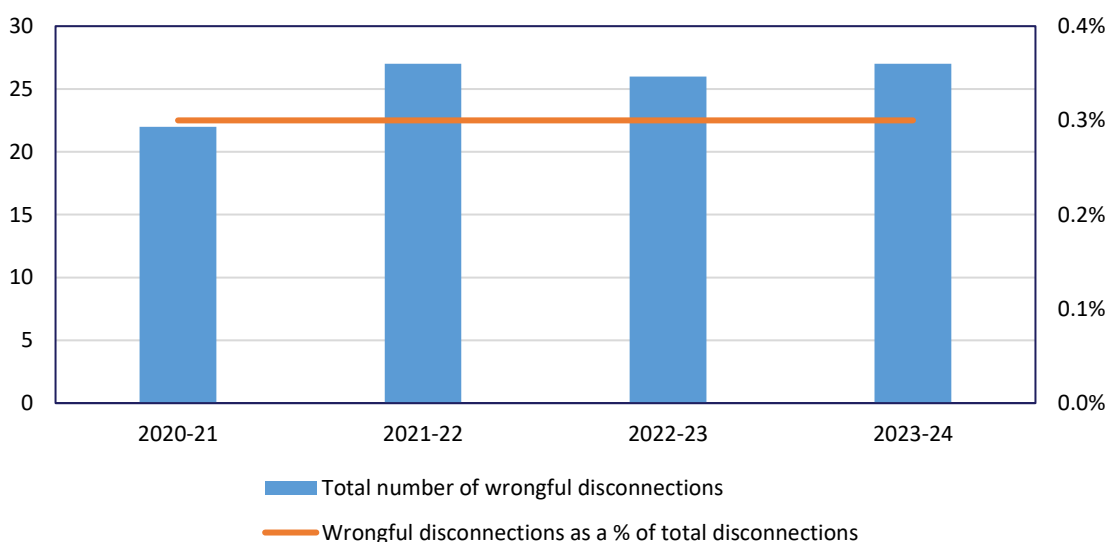
Non-material breaches

Jacana

Jacana has reported 27 incidents where a customer was wrongfully disconnected during 2023-24. Jacana has advised that the causes of 24 of these incidents were ‘people-related’, and the remaining three were system or process-related. No life support equipment customers were wrongfully disconnected.

Figure 1 (below) show the total number of wrongful disconnections reported by Jacana, including as a percentage of total disconnections,⁴ for the 2020-21 to 2023-24 periods. The graph demonstrates there has been no meaningful change in the number or rate of wrongful disconnections, with the issue neither worsening nor improving.

Figure 1: Number of wrongful disconnections reported by Jacana



² *Energy Legislation Amendments (Energy Fairness Act 2021 (Vic) s 40SD – 40SE*

³ For example, the Australian Energy Regulator issued six infringement notices on Origin in 2020:

<https://www.aer.gov.au/news/articles/news-releases/aer-takes-action-protect-against-wrongful-disconnections>

⁴ ‘Total disconnections’ refers to customer-requested disconnections and excludes disconnections for non-payment.

It is difficult to benchmark the number of wrongful disconnections reported by Jacana against other retailers. The following high-level figures have been reported in other jurisdictions:

- In 2021-22 and 2022-23, the Essential Services Commission reported that 518⁵ and 228⁶ customers in Victoria were impacted by wrongful disconnections, respectively. The 2021-22 figures were heavily influenced by one retailer, which impacted 403 customers in this period.
- In 2021-22 and 2022-23, the Economic Regulation Authority reported that 233 and 119⁷ customers in Western Australia received compensation payments for wrongful disconnections, respectively.
- In 2022-23, the Independent Competition and Regulatory Commission (Australian Capital Territory) reported that 5⁸ customers in the Australian Capital Territory received compensation payments from electricity retailers for wrongful disconnections.

The Commission reported in the 2022-23 NTERR that, in 2022-23, Jacana had close to 100 per cent market share for customers consuming less than 160 MWh per annum in the Darwin-Katherine, Alice Springs and Tennant Creek networks.⁹

Noting the significantly larger number of customers in Victoria, Western Australia and the Australian Capital Territory, when compared to the Northern Territory, the number of wrongful disconnections reported by Jacana appears relatively high. However, there are currently no available measures by which Jacana's performance could be accurately compared or benchmarked (for example, as a percentage of total disconnections or on a per customer basis). The underlying causes and drivers of wrongful disconnections can also not be meaningfully compared.

Jacana reported that it has taken remedial actions in relation to the breaches, including the following:

- During the 2023-24 period, Jacana implemented a new compensation program for wrongful disconnections. In addition to having any disconnection/reconnection fees waived, customers receive an automatic credit to their account for each day the customer is without power. In some cases, customers may also apply for additional compensation.
- If a customer has been disconnected, Jacana seeks to arrange for reconnection on the same day, including after hours if possible. In 2023-24, 25 of 27 customers wrongfully disconnected were reconnected on the same day. In another instance, the property was reconnected on the same day the customer advised Jacana of the wrongful disconnection. This is an improvement compared to the 2021-22 period, where only 20 of 27 customers were reconnected on the same day.
- Jacana conducts daily exception reporting to identify incorrect disconnection dates.

⁵ As reported in the Victorian Energy Market Report 2021-22:

<https://www.esc.vic.gov.au/sites/default/files/documents/Victorian-Energy-Market-Report-2021-22-20221130.pdf>

⁶ As reported in the Victorian Energy Market Report 2022-23:

https://www.esc.vic.gov.au/sites/default/files/documents/RPT%20-%20Victorian%20Energy%20Market%20Report%20-%20Annual_1.pdf

⁷ As reported in the ERA Annual data report 2022/23: <https://www.erawa.com.au/cproot/23827/2/Final-for-publication-Retailers-Annual-data-report-202223.pdf>

⁸ As reported in the Monitoring Report: Utility Licence Annual Report and National Energy Retail Law Retailer Compliance Report 2022-23: https://www.icrc.act.gov.au/__data/assets/pdf_file/0008/2429738/ULAR-2022-23-final.pdf

⁹ 2022-23 Northern Territory Electricity Retail Review:

https://utilicom.nt.gov.au/__data/assets/pdf_file/0005/1375268/NT-Electricity-Retail-Review-2022-23.pdf

While the best case scenario is that customers are not wrongfully disconnected, the Commission considers that Jacana has taken appropriate, proactive action by implementing a compensation schedule that is broadly aligned with the approach taken in other jurisdictions¹⁰ and does not further inconvenience the customer by requiring the customer to submit an application.

The Commission has acknowledged in previous compliance monitoring reports of various remedial actions Jacana advised it has taken, including improvements in training, targeted coaching, system enhancements and quality assurance monitoring. However, the trend in Figure 1 demonstrates these remedial actions have not yet resulted in any discernible improvement. While Jacana does not appear to be improving in relation to the number of wrongful disconnections, the Commission acknowledges Jacana does appear to have improved the way it mitigates the impact on customers, including through faster reconnection times and improved compensation processes.

Jacana has acknowledged that it is not acceptable for customers to experience wrongful disconnections and that a retailer should have training for customer care agents, reliable systems, and checks in place to avoid their occurrence. Jacana's view is that it has made reasonable endeavours to reduce the occurrence of wrongful disconnections and that it is not always possible to fully eliminate the risk of wrongful disconnection.

The Commission agrees that it is not possible to fully eliminate the risk of wrongful disconnection, however intends to continue to closely monitor and report on the matter to ensure customers are receiving an acceptable level of service. The Commission may also consider the introduction of retail supply standards as part of a future review of the EIP Code.

Other retailers

No other electricity retailers reported wrongful disconnections during the 2023-24 period, and the Commission is not aware of any wrongful disconnections attributed to other retailers.

¹⁰ For example, under the Consumer Protection Code 2020, which applies in the Australian Capital Territory, an electricity retailer is obligated to pay a customer a rebate of \$100 where a customer is wrongfully disconnected.

8 | Other breaches reported for 2023-24

This chapter provides information on breaches reported by licensees in 2023-24, excluding those previously mentioned, and includes the Commission's assessment of that reported. Where there has been a breach, the Commission looks to the licensee's reporting to ensure that they have provided sufficient information in accordance with all requirements set out in the Guidelines, including the circumstances and reason for the breach, explanation for any delays in reporting the breach, identification of the relevant regulatory obligation(s), the consequences of the non-compliance and the remedial measures undertaken.

A summary is also provided of licensees who have reported no breaches for 2023-24. The reporting of breaches does provide some assurance that the relevant licensees' compliance processes are operating. Accordingly, the Commission does not assume that the reporting of no breaches by a licensee will always reflect favourable compliance outcomes.

Material breaches

There were no other material breaches of regulatory obligations reported by licensees in their annual compliance reports for 2023-24.

Non-material breaches

Darwin International Airport Pty Ltd

Requirement to establish a compliance process

Under clause 11.1(a) of DIA's licence (in force at the time the breach occurred), DIA was required to establish a compliance process within three months of the issue of its licence. DIA reported that it did not establish and document a compliance process within three months of the issue of its licence, which occurred in March 2023.

During 2023-24, DIA advised that it hired a dedicated compliance officer responsible for overseeing regulatory compliance within the energy sector. In terms of remedial action, DIA reported that it has now established, documented and implemented a compliance framework, including training for relevant staff and a policy outlining responsibilities, processes and procedures.

The Commission considers a breach of the requirement to maintain a compliance process is serious, as an insufficient compliance process can mask serious, and potentially material breaches. At a minimum, it suggests a lack of understanding of the importance and benefits of compliance and the penalties that may be incurred for non-compliance. Notwithstanding, the remedial action taken by DIA appears proportionate and appropriate and the Commission does not propose to take any action at this time.

Requirement to report a change in officers

Under clause 12 of DIA's licence (in force at the time the breach occurred), DIA was required to notify the Commission of any change to any officer or major shareholder within 20 business days of the change. Advice of changes in officers and major shareholders is important because the Commission may only grant a licence if it is satisfied that the applicant is a suitable to hold the licence.¹¹

During 2023-24, DIA did not notify the Commission of change in its management structure as required. DIA has reported that, upon identification of the breach, it immediately reviewed and updated its internal protocols for management change notification, including by developing a procedure for notifying the Commission and establishing a change of management register.

¹¹ ER Act section 16(2)(a)

The Commission considers the remedial action taken by DIA appears appropriate and is satisfied that no further action is required. In 2023-24, the Commission reviewed the obligation under the Review of the Northern Territory Electricity Supply Licensing Regime (stage 2) (form and content of licences), and amended the licence clauses to make it more clear which persons fall within the definition of 'officer' and 'shareholder' for the purposes of the obligation.

Jacana

Price regulation

The Electricity Pricing Order (EPO) sets the retail prices that customers may be charged for electricity and related services. While retailers can charge below these limits, they must not be exceeded. Section 44(11) of the ER Act states that an electricity entity (such as Jacana) must comply with an EPO. Jacana is also required to comply with the EPO as a condition of licence.

Jacana reported that, during 2023-24, there were nine breaches identified where residential customers were billed at the incorrect, higher commercial tariff rate. This is a slight decrease from 2022-23, where Jacana reported eleven breaches of the same kind. Jacana has advised that six breaches were 'system-related' and three breaches were 'people-related'.

In terms of remedial action, Jacana states that obsolete plans have been removed from the sign-up system, and that enhancements have been made to training and process documents. Importantly, Jacana has advised that all identified misalignments have been rectified and any overcharged amounts credited. The Commission considers Jacana's measures to rectify these non-compliance are appropriate.

Next Business Energy

Consumer protections

Under section 44B of the ER Act, the Commission is permitted to make a code (the ERS Code) providing for a consumer protection framework, including measures to protect the interests of customers, including in relation to the continuity of supply, the needs of particular types of retail customers and disputes.

Accordingly, the ERS Code currently includes a number of consumer protections for customers in the electricity supply industry relating to:

- retailer of last resort arrangements
- life support equipment (discussed separately in chapter 4 |)
- dispute resolution
- hardship for standard meter and prepayment meter customers
- customers experiencing family violence.

In accordance with the ERS Code, retailers are required to publish complaints and dispute resolution procedures on their website (clause 11.4.1), and submit to the Commission for approval a hardship policy (clause 12.1.13) and family violence policy (clause 14.1.3).

Next Business Energy did not meet the deadlines for these obligations, and therefore reported three associated breaches during 2023-24. To rectify the issue, Next Business Energy worked with the Commission to update its documentation, which was completed in May 2024. The Commission considers the issue is now resolved.

The Commission considers the breaches were relatively low-risk, as Next Business Energy did not have customers in the Territory. However, the breaches would likely be considered more serious if a retailer active in the Territory were responsible.

Power and Water Corporation

Requirement to report material breaches

In accordance with clause 11.5 of PWC's network licence (in force at the time the breach occurred), PWC was required to report any material breach of its obligations as soon as reasonably possible after being aware that the breach had occurred.

As mentioned on page 7, in September 2023, PWC reported a material breach of its life support equipment obligations almost two weeks after the incident occurred. The Commission communicated to PWC that the slow response to reporting the incident was well below the Commission's expectations and did not meet the requirement to report the material breach 'as soon as reasonably possible'. PWC advised that the delay in reporting the breach was due to the incident assessor's and management's lack of awareness of the requirement to report the incident to PWC's compliance team immediately, in line with PWC's compliance procedures.

In terms of remedial action, PWC has advised the Commission that management and incident assessors have completed two rounds of training on PWC's process for reporting non-compliance. PWC also distributed an associated bulletin to all staff in relation to lessons learnt.

As mentioned earlier in this report, an insufficient compliance process is a serious issue that can mask potentially material breaches. The Commission required PWC to report against action items and has been receiving updates from PWC at set intervals. The action items have been completed and the Commission does not consider any further remedial action is required.

As part of the Commission's Review of the Northern Territory Electricity Supply Licensing Regime (stage 2) (form and content of licences), the Commission decided to include, at clause 12.1(a) of its standard electricity supply licence conditions, that a licensee must notify the Commission if it commits a material breach of an applicable regulatory instrument within 2 business days of becoming aware of that breach. The updated obligation removes any uncertainty surrounding the timeline for licensees to report material breaches.

Reporting deadline not met

Clause 11.1 of PWC's water supply and sewerages services licences state, in simplified terms, that PWC must undertake an annual independent audit of its obligations under these licences. Clause 11.2 states that PWC must report the results of its annual audit to the Commission by a date determined by the Commission. The purpose of the obligation is to ensure any non-compliances are identified, reported on and rectified in a timely manner. For the 2022-23 audit, the date determined by the Commission was 31 August 2023.

PWC did not meet the due date for submission of its 2022-23 audit report and management response. The final audit report was submitted to the Commission by 16 October 2023, noting the Commission received feedback from PWC that the due date of 31 August is difficult to meet. Accordingly, the Commission adjusted the due date for the 2023-24 period audit report to 31 October 2024. However, and while outside of the scope of this report, the Commission notes PWC also did not meet this revised due date. The Commission understands capacity challenges experienced by PWC's auditor has contributed to the delays, however PWC is able to control its own resources and processes. To assist in ensuring compliance in future periods, the Commission considers that PWC will need to direct appropriate resources and effort towards all phases of the audit, from planning and engagement to management review, feedback, endorsement and CEO approval.

Metering data management

Clause 3.5 of the Northern Territory Electricity Ring-fencing Code states that an electricity must ensure that confidential information is only used for the purpose for which it was provided, and only disclose if permitted under the relevant information procedures.

PWC reported a breach of this provision occurred during 2023-24 whereby a customer's consumption data was incorrectly disclosed to a retailer. PWC attributed the breach to a request from a retailer to take over the site that was not actioned by PWC in a timely manner, meaning that PWC's records were not up to date.

To address the issue, PWC advised the Market Operator has secured approval for additional personnel resources. PWC also noted that its 'meter-to-cash' project will address this risk by enabling automation of settlement tasks. The Commission considers the breach is relatively low risk and does not propose to take any further action at this time. However, when considered in tandem with the aforementioned breaches of SCTC obligations in relation to settlement statements (page 11), the breach appears to indicate the Market Operator is having some difficulty in meeting its compliance obligations. The Commission will monitor and report on the Market Operator's compliance performance in future compliance monitoring reports, as considered necessary.

Failure to produce identification

Section 55 of the ER Act requires an electricity officer, before exercising a power in relation to another person, to produce the officer's identity card for inspection.

PWC reported a breach occurred during 2023-24 whereby PWC contractors failed to produce their identity card for inspection when entering a property to replace an electricity meter. The matter was brought to PWC's attention following a complaint. PWC advised that the cause of a lack of awareness of the requirement among contractors.

PWC advised the following remedial action was taken in response to the breach:

- Contractors were reminded of the requirement to show identification
- The matter was discussed in regular meetings with relevant personnel
- An improvement was made to the employee induction process
- A compliance bulletin was issued to all field staff
- PWC apologised to the affected customer.

The Commission notes that a similar breach occurred during 2021-22 (in regards to a water meter). Further, and while outside the scope of this report, the Commission is also aware that a similar breach occurred in August 2024. The Commission is concerned that breaches of this nature not only lead to negative customer experiences, but that it is inefficient and a poor outcome for all parties where compliance matters have to be identified and dealt with through the complaints process.

In the 2021-22 Annual Compliance Monitoring Report, the Commission discussed that it expects PWC to schedule an audit within the next two years to ensure the remedial actions (in relation to that identity card breach) have been successfully embedded and are effective at reducing the risk of future non-compliance. The Commission will write to PWC advising that it still expects this audit to be completed. The Commission may also consider further compliance action in the future.

No breaches

Nine licensees reported no material or non-material breaches in 2023-24, compared to six licensees in 2022-23. These licensees are:

- Assure Energy
- BSF
- EDL Jabiru
- EDL NGD
- Eni ENEB
- Eni ENEK
- Eni ENEMD
- HCPS
- Rimfire

The Commission notes that whilst licensees may not have had any breaches of their regulatory obligations, they are not to become complacent and are to remain vigilant. Further, licensees must continuously endeavour to maintain an adequate compliance process to ensure breaches are detected.

Appendix A: Abbreviations and acronyms

Assure Energy	Assure Energy Asset Pty Ltd
BSF	BSF Co Pty Ltd as trustee for the BSF Unit Trust
CEO	Chief Executive Officer
Commission	Utilities Commission of the Northern Territory
Defence	Commonwealth Department of Defence
DIA	Darwin International Airport Pty Limited
Eni ENEB	Eni Australia Limited and Eni New Energy Batchelor Pty Ltd
Eni ENEK	Eni Australia Limited and Eni New Energy Katherine Pty Ltd
Eni ENEMD	Eni Australia Limited and Eni New Energy Manton Dam Pty Ltd
EDL Jabiru	EDL Jabiru Pty Ltd
EDL NGD	EDL NGD (NT) Pty Ltd
EIP Code	Electricity Industry Performance Code
EPO	Electricity Pricing Order
ER Act	<i>Electricity Reform Act 2000</i>
ERS Code	Electricity Retail Supply Code
Guidelines	Utilities Commission Compliance Framework and Reporting Guidelines
HCPS	HCPS Co Pty Ltd as trustee for the HCPS Unit Trust
IPP	independent power producer
Jacana	Power Retail Corporation trading as Jacana Energy
Merricks	Merricks Capital Pty Ltd
Next Business Energy	Next Business Energy Pty Ltd
NTERR	Northern Territory Electricity Retail Review
NTPSPR	Northern Territory Power System Performance Review
PWC	Power and Water Corporation
QEnergy	QEnergy Limited
Rimfire	Rimfire Energy Pty Ltd
SCTC	System Control Technical Code
TGen	Power Generation Corporation trading as Territory Generation
UC Act	<i>Utilities Commission Act 2000</i>
WSSS Act	<i>Water Supply and Sewerage Services Act 2000</i>



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