

EXCLUDED NETWORK ACCESS SERVICES (ALTERNATIVE CONTROL SERVICES)

The prices that consumers face for electricity are composed of a number of elements including generation, system operation and retail costs and the costs of transporting the energy through the transmission and distribution networks.

The Commission has a significant level of regulatory oversight for most of the price components paid by network users for the conveyance of electricity through prescribed electricity networks in the Northern Territory under the Electricity Networks (Third Party Access) Code. These price components include 'standard network access services' and 'excluded network access services'.

The Commission reviews electricity network pricing arrangements on a 5-yearly basis. The last such review specified network pricing arrangements for the period July 2009 – June 2014.

Under the Code, the Commission is required to set a price or revenue cap with respect to standard network access services, also known as standard control services. These are typically those services supplied by the network service provider that should be recovered through the electricity tariffs paid by all customers, consistent with the revenue or price cap determined by the Commission.

'Excluded network access services' are those services for which associated costs and revenue are excluded from the revenue or price cap determined by the Commission (ie charges for these services are not subject to a price cap or revenue cap). Excluded network access services are typically those services provided by the network service provider where a specific charge is paid by the individual customer requesting the service.

The Code establishes two types of excluded network access services:

1. non-contestable excluded network access services (also known as alternative control services or), the supply of which, in the opinion of the Commission, is not subject to effective competition but for which a more light handed form of regulation than a revenue or price cap is appropriate); and
2. contestable (or un-regulated) excluded network access services, the supply of which, in the opinion of the Commission, is subject to effective competition, so that no price regulation is required.

Clause 72(4) of the Code requires that the network service provider should provide any non-contestable excluded network access services (or alternative control services) to network users on fair and reasonable terms. Clause 72 (5) of the Code states that the Commission is to determine what may constitute fair and reasonable terms if the network service provider and affected network user are unable to reach agreement on the terms for the provision of such services.

In the Commission's 2009 Network Price Determination, the Commission 'approved' (in the sense of noting) a price control schedule for various alternative control services proposed by Power and Water Corporation (PWC) as network service provider. Updated pricing schedules for alternative control services were 'approved' in a similar sense by the Commission from 2010 to 2012 on the basis that they appeared consistent with the requirements of the 2009 Determination and the principles of the Code.

The Commission emphasises, however, that although the approach taken for alternative control services from 2009 to 2012 was not inconsistent with the intent of the Code, nevertheless the Code does not authorise the Commission to approve (in the sense of fixing) prices for alternative control services. Thus, the Commission has not previously reviewed the costs associated with the various alternative control services included in price schedules submitted to it by PWC from 2009 to 2012. The Commission's authority in this matter is limited to determining:

- what services are to be classified as 'excluded network access services'; and
- what may constitute fair and reasonable terms for the provision of alternative control services if the network service provider and affected network user are unable to reach agreement.

As previously noted, the network service provider is required to charge on a fair and reasonable basis for alternative control services. The Commission considers that these charges are best left to the network service provider and network users to determine through commercial negotiation. If the network service provider and a network user are unable to reach agreement, the Code allows either party to apply to the Commission for the Commission to make a determination on what may constitute fair and reasonable terms. Consistent with normal dispute resolution processes, the Commission expects parties to demonstrate that they have used best endeavours to resolve the dispute, prior to consideration by the Commission.

Any queries should be submitted in writing to the Commission (utilities.commission@nt.gov.au).