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# **GUARANTEED SERVICE LEVEL CODE**

## **DRAFT STATEMENT OF REASONS**

*16 December 2011*



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## CHAPTER 1

### Intention to make an Guaranteed Service Level Code

- 1.1 The Utilities Commission has decided to make a Guaranteed Service Level (GSL) Code to prescribe matters including:
- the criteria setting out the guaranteed service levels applicable to an electricity network provider;
  - the GSL payment arrangements from an electricity network provider to small electricity customers; and
  - arrangements for dispute resolution between a small electricity customer and an electricity network provider or retailer.

### Authority for Code

- 1.2 The Commission may make codes or rules relating to the conduct or operations of the electricity supply industry or licensed electricity entities if authorised to do so by the *Electricity Reform Act* or a Regulation under the *Utilities Commission Act*.<sup>1</sup>
- 1.3 Utilities Commission Regulation 2B authorises the Commission to make a code that may deal, among other things, with the following:<sup>2</sup>
- (a) *standards of service by licensed entities in the electricity industry;*
  - (b) *performance measures for standards of service by licensed entities in the electricity supply industry;*
  - (c) *payments to certain customers if specified standards of service are not met.*

### Code making considerations and objectives

- 1.4 In performing its code making function, the Commission must have regard to the need:<sup>3</sup>
- (a) *to promote competitive and fair market conduct;*
  - (b) *to prevent misuse of monopoly or market power;*
  - (c) *to facilitate entry into relevant markets;*
  - (d) *to promote economic efficiency;*
  - (e) *to ensure consumers benefit from competition and efficiency; and*

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<sup>1</sup> *Utilities Commission Act* ss24(1) and (2).

<sup>2</sup> Utilities Commission Regulations, regulation 2B.

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(f) to protect the interests of consumers with respect to reliability and quality of services and supply in regulated entities.

1.5 The Commission is also guided in performing its functions by the objectives of the *Electricity Reform Act*.<sup>4</sup>

(a) to promote efficiency and competition in the electricity supply industry;

(b) to promote the safe and efficient generation, transmission, distribution and selling of electricity;

(c) to establish and enforce proper standards of safety, reliability and quality in the electricity supply industry;

(d) to establish and enforce proper safety and technical standards for electrical installations;

(e) to facilitate the maintenance of a financially viable electricity supply industry; and

(f) to protect the interests of consumers of electricity.

## Code making process

1.6 The Commission must, before making, varying or revoking a code or rules, consult with the Minister and representative bodies and participants in the electricity supply industry.<sup>5</sup>

1.7 The Commission must give notice of the making, variation or revocation of a code or rules to the Minister and each licensed electricity entity to which the code or rules apply, and ensure that copies of the code or rules are available for inspection and purchase by members of the public.<sup>6</sup> Notice of the making of a code or rules, or the variation or revocation of a code or rules is to be published in the Gazette.<sup>7</sup>

1.8 A code or rule, or variation or revocation of a code or rule, takes effect on the date on which it is notified in the Gazette or a later date specified by the Commission in the code or rules.

### *Previous work by the Commission*

1.9 The Commission was requested by the Territory Government in August 2009 to undertake a series of reviews as part of a priority reform program to increase the efficiency of the electricity supply industry, improve customer standards of service and reliability and, where possible, align the Territory's regulatory arrangements with those of the national electricity market.

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<sup>3</sup> *Utilities Commission Act* s6(2)

<sup>4</sup> *Electricity Reform Act* s3

<sup>5</sup> *Utilities Commission Act* s24(4).

<sup>6</sup> *Utilities Commission Act* s24(6)

<sup>7</sup> *Utilities Commission Act* s24(7)

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- 1.10 As part of the work program reviews, the Commission has completed the Review of Options for Implementation of a Customer Service Incentive Scheme for Electricity Customers (the Review). The final report was provided to the Treasurer in July 2010 and released publicly in August 2010.
- 1.11 The Commission's Review recommended that a GSL scheme be established to provide financial rewards and penalties for reliability and customer service performance by the electricity network service. Customers using less than 160 megawatt hours a year (in the Darwin-Katherine, Alice Springs and Tennant Creek systems) would be eligible for payments if defined minimum performance targets are not achieved.
- 1.12 Papers for these reviews are available on the Commission website, [www.utilicom.nt.gov.au](http://www.utilicom.nt.gov.au).

## Consultation Process

### *First stage*

- 1.13 The Commission released the draft GSL Code on 28 November 2011, seeking submissions from interested parties on the proposed GSL Code. Submissions were due by 9 December 2011.
- 1.14 The scope of the consultation was limited to seeking comments on the terminology used in the Code and the process underpinning the GSL scheme. The Commission specified that it would not reconsider the recommendations made in the Final Report on the Review.<sup>8</sup>
- 1.15 The Commission received submissions from Northern Territory Treasury (Treasury), QEnergy Limited (QEnergy), and Power and Water Corporation (PWC).
- 1.16 All submitters expressed their supports for the introduction of GSL Code in the Territory.
- 1.17 Responses to the comments from submitters are provided in Chapter 3 of this draft Statement of Reasons.

### *Second stage*

- 1.18 This second consultation commences 16 December 2011 and submissions are due by 21 December 2011.
- 1.19 The scope of the second consultation is limited to asking interested parties whether they have further comments which were not already been made during the first

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<sup>8</sup> Utilities Commission, July 2010, Review of Options for Implementation of a Customer Service Incentive Scheme for Electricity Customers – Final Report.

consultation. The Commission will not consider comments on issues which were previously raised during the first consultation.

### **Request for submissions**

- 1.20 The Commission requests submissions by 21 December 2011. The Commission will not consider late submissions.

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## CHAPTER 2

### Electricity supply in the Northern Territory

#### Background

- 2.1 The electricity supply industry in the Northern Territory is regulated through the *Electricity Reform Act, Electricity Networks (Third Party Access) Act, Utilities Commission Act* and associated legislation. This regulatory framework was introduced on 1 April 2000.
- 2.2 The regulatory framework is primarily focused on regulating the activities of electricity industry participants and customers in the Darwin-Katherine, Alice Springs and Tennant Creek power systems – referred to as the market systems. Key elements of the framework are:
- third party access to the Darwin-Katherine, Alice Springs and Tennant Creek electricity networks (owned and operated by PWC);
  - all customers became contestable from 1 April 2010 (able to choose their electricity retailer); and
  - the Commission is the independent economic regulator, responsible for regulating monopoly electricity services, licensing market participants, and monitoring and enforcing compliance with regulatory standards for market conduct and service performance.
- 2.3 PWC is the main electricity business in the market systems, generating the majority of electricity used, operating the electricity networks and supplying retail services. PWC is a vertically integrated Territory Government owned corporation with generation, network and retail business units operating as separate businesses.<sup>9</sup> The commercial relationship and transactions between each unit are subject to oversight and regulation by the Commission.<sup>10</sup> PWC is also subject to oversight by a shareholding Minister (currently the Treasurer) and a portfolio Minister (currently the Minister for Essential Services).
- 2.4 PWC has been the only electricity retailer in recent years, supplying electricity to about 76 603 customers at 30 June 2011.<sup>11</sup> The Commission granted a retail electricity licence to QEnergy in February 2011.
- 2.5 PWC is also the main electricity generator, with about 89 per cent of generation capacity in the market systems. There are four other generators producing electricity in

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<sup>9</sup> This paper refers to the separate business units as PWC Retail, PWC Networks and PWC Generation.

<sup>10</sup> Regulatory instruments include the licensing framework and the Northern Territory Electricity Ring-Fencing Code.

<sup>11</sup> Power and Water Corporation Annual Report 2010-11.



the Darwin-Katherine and Alice Springs systems. However, these businesses generate electricity under contract for PWC rather than selling directly to an electricity retailer or to customers, and PWC provides the fuel used for electricity generation.<sup>12</sup>

- 2.6 PWC Networks owns and operates the Darwin-Katherine, Alice Springs and Tennant Creek electricity networks, which comprise 709 kilometres (km) of transmission lines and 7650 km of distribution lines.<sup>13</sup>
- 2.7 PWC is also a major electricity supplier in regional and remote parts of the Territory, and is the water and sewerage service provider throughout the Territory.
- 2.8 Electricity supply in regional and remote centres of the Territory is managed through a contract for service model, with supply arrangements agreed between the service purchaser (most often the Territory Government) and a service provider (in most cases, PWC or a PWC subsidiary). These systems include the 72 communities and 82 outstations where essential services are provided through the Territory Government Indigenous Essential Services program; three mining townships, where electricity is supplied by the associated mining company; and eight remote townships.<sup>14</sup>

## Northern Territory experience

- 2.9 In September and October 2008, a series of power outages occurred in the vicinity of the Casuarina zone substation (CZS) service area. These outages raised significant concerns about the reliability of the Northern Territory's electricity networks. As a result of these concerns, the Territory Government approved a reform program to strengthen regulatory oversight of the electricity supply industry and scrutiny of PWC. Part of this program of reform is the development of mechanisms to provide incentives to encourage PWC to improve service performance and to avoid very poor service performance.
- 2.10 Following the CZS outages in September and October 2008, the Minister for Essential Services indicated that the Commission would examine the possibility of PWC making payments to affected customers in recognition of poor service performance – commonly referred to as guaranteed service level or 'GSL' payments.
- 2.11 In December 2008, the Commission provided a report to the Territory Government with recommendations regarding GSL payments for those affected by the CZS. One-off, ex-gratia payments were made to affected customers, but no formal scheme was put in place.
- 2.12 The Commission further advised that, under current legislation, the Commission does not have the power to develop and implement an ongoing GSL scheme to apply generally throughout the Territory and that the responsibility for establishing a GSL scheme lies with the Territory Government.

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<sup>12</sup> Utilities Commission, 2009-10 Power System Review, March 2011, pages 14-15. These generators are located at Pine Creek (between Darwin and Katherine), Shoal Bay (at the Darwin City Council dump) and Brewer Estate (in Alice Springs).

<sup>13</sup> Power and Water Corporation Annual Report 2010-11.

<sup>14</sup> The three mining townships are Nhulunbuy, Alyangula and Jabiru. The eight remote townships are Timber Creek, Borroloola, Daly Waters, Elliot, Newcastle Waters, Kings Canyon, Yulara and Ti-Tree.

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- 2.13 The Commission outlined the actions needed to establish a GSL scheme in the Territory and advised that once the authority and rules for such a scheme were made, the Commission could be charged with administering the scheme.

## **GSL schemes in other jurisdictions**

- 2.14 Businesses operating in sectors with natural monopoly characteristics, such as electricity distribution networks, are subject to little or no competition, and have less incentive to provide good service as customers generally cannot move to an alternative provider. In the case of the electricity industry, governments or industry regulators typically monitor the performance of electricity network service providers to ensure they provide acceptable levels of service.
- 2.15 The two most common approaches to performance incentive schemes adopted in Australia to provide network service providers with financial incentives to achieve a certain performance are:
- financial incentive (also referred to as s-factor) schemes which establish financial incentives and penalties for network performance and are imposed through the network revenue or price regulation framework; and
  - GSL schemes which involve payments to customers when performance does not meet a defined standard of service.
- 2.16 Financial incentive schemes operate by allowing an increase in regulated network revenue if service improves and decreasing regulated network revenue if service performance falls or fails to meet specified targets, so that average network charges increase or decrease in line with service performance.
- 2.17 GSL schemes focus on the worst served customers, with payments made directly to those customers affected by a specific instance of poor service performance, such as a power outage.
- 2.18 All Australian jurisdictions except the Territory have established GSL schemes for electricity network service performance, although the services subject to penalty payments and the applicable payment levels vary widely.
- 2.19 The legal authority and implementation mechanisms for the establishment of performance incentive schemes differ from state to state. The Australian Energy Regulator (AER) has a single service target performance incentive scheme which incorporates a financial incentive component and a GSL component. Currently, GSL schemes are imposed through industry codes or licence conditions in each jurisdiction, rather than through the AER scheme.

## **Objectives of a GSL scheme**

- 2.20 GSL schemes set payments from an electricity network provider to an eligible customer for having experienced exceptionally poor service.
- 2.21 GSL payments are not intended to be compensation but rather some recognition for poor service. GSL schemes are also designed to provide an incentive for a network provider to improve service to its worst served customers.
- 2.22 GSL schemes are designed to set a floor to the level of service that a customer is entitled to receive by setting a threshold level for a particular aspect of service

performance. If the actual level of service falls short, the service provider is required to make a payment to the affected customers. The threshold levels and the related customer payments are set in advance, so that customers know the standard of service they should expect to receive, and the service provider knows the consequences if those service levels are not met. Primarily, GSL schemes are designed to provide an incentive to improve service to the worst served customers.

- 2.23 GSL schemes are generally funded through the operational costs of a network provider and approved by the regulator through the network revenue determination cycle. The cost of the scheme is therefore borne by the network provider's wider customer base. Should the total actual GSL payments made over the regulatory period be below or above the estimated provision approved by the regulator, the network provider will retain or absorb the difference.

## CHAPTER 3

### Explanation of proposed GSL Code

- 3.1 The purpose and reasons for the provisions of the proposed GSL Code are explained below. This section of this draft Statement of Reasons should be read together with the proposed second draft GSL Code (released together with this document).
- 3.2 The second draft GSL Code reflects the Commission's recommendations resulting from the Review<sup>15</sup> and comments from submissions.

### Purpose of the proposed GSL Code

#### *Proposed approach in the draft Code*

- 3.3 It was proposed that the purpose of the GSL Code is to provide payments to certain customers if specified standards are not met.<sup>16</sup> The draft GSL Code would specifically deal with issues relating to:
- the criteria setting out the GSL scheme;
  - GSL payment;
  - dispute resolution procedures; and
  - process to review, add to or amend the Code.
- 3.4 In making the proposed GSL Code, the Commission would:
- seek to promote and achieve the object of the *Utilities Commission Act*;
  - seek to promote and achieve the objects of the *Electricity Reform Act*; and
  - have regard to the matters listed in section 6(2) of the *Utilities Commission Act*.

#### *Views in submissions*

- 3.5 No comment was made in relation to the Commission's authority or purpose of this Code.

#### *Commission's preliminary determination*

- 3.6 The Commission does not intend to make further changes to the purpose of the Code.

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<sup>15</sup> Utilities Commission, Review of Options for Implementation of a Customer Service Incentive Scheme for Electricity Customers – Final Report, July 2010.

<sup>16</sup> Utilities Commission Regulations, regulation 2B.

## Eligibility

### *Proposed approach in the draft GSL Code*

- 3.7 The draft Code provided that the GSL scheme would only apply to customers using less than 160 megawatt hours (MWh) a year and located in the regulated networks: Darwin-Katherine, Alice Springs and Tennant Creek systems.
- 3.8 In the Consultation Paper, the Commission was of the view that the focus of a GSL scheme should be to reduce poor service performance for domestic and small customers, as larger businesses are able to manage risks through contractual or other arrangements e.g. insurance.
- 3.9 The Commission also considered that the proposed GSL scheme should not extend beyond the market systems and regulated networks as it would raise practical issues with PWC ability to collect useable data. Moreover, the majority of customers were located in the market systems.

### *Views in submissions*

- 3.10 QEnergy commented in their submission that the GSL scheme should not be restricted to small customers and should extend to customer tranches using up to 750 MWh per annum. QEnergy commented that customers in the 160 to 750 MWh segment have never been subject to competition and to assume that they can negotiate their service quality outcomes is inaccurate and inappropriate.

### *Response to views in submissions*

- 3.11 The Commission notes that QEnergy's comments to extend the application of the GSL scheme to customers with a consumption level between 160 MWh and 750 MWh a year fall outside the scope of this consultation. This matter has previously been discussed as part of the Review where it was noted that the annual consumption of up to 160Wh a year was the generally accepted threshold for eligibility in other Australian jurisdictions.

### *Commission's preliminary determination*

- 3.12 The Commission does not intend to make further changes to the eligibility criteria set out in the GSL Code.

## Criteria setting out the GSL scheme

### *Proposed approach in the draft GSL Code*

- 3.13 The draft GSL Code set out the criteria for GSL payments in accordance with the Commission's recommendations from the Review.
- 3.14 The draft GSL Code proposed a staged introduction of a GSL scheme to the Territory with the single outage measure taking effect from the 1 January 2012, and with the remaining measures commencing from 1 July 2012. This approach is intended to enable PWC to develop all the necessary systems to comply with the GSL arrangements.

3.15 The reliability measures, thresholds and payments were derived following extensive consultation with market participants and interest parties throughout the development of the Review.

3.16 When completing the Review, the Commission decided to add a criterion requiring a new connection in a rural area to be established within 10 business days.<sup>17</sup> Reflecting the views conveyed by interested parties following publication of the Final Report, the Commission proposed to change the wording of the definition for the criteria establishing a new connection to premises in a CBD/Urban area and to premises in a rural area as follows:<sup>18</sup>

*New connection of a premises in a CBD area or Urban area (excluding connections requiring network extension or augmentation) - Within 5 business days of receipt of a valid electrical certificate of compliance from the small customer, or as otherwise agreed by the customer.*

*New connection of a premises in a Rural area (excluding connections requiring network extension or augmentation) - Within 10 business days of receipt of a valid electrical certificate of compliance from the small customer, or as otherwise agreed by the customer.*

3.17 New connections should exclude those connections requiring network extensions and augmentations since they tend to require longer timeframes for the provision of services.

3.18 The Commission was of the view that PWC Networks and small customers should be entitled to negotiate a timeframe for connection, should they wish to.

3.19 Further, the draft GSL Code proposed to review the criteria for GSL payments (measures, levels, amounts) prior to the start of each network price determination for the following reasons:

- regular reviewing of the criteria will ensure that the GSL arrangements remain relevant; and
- aligning the review of the GSL payment criteria with the network price determination cycle will ensure that the GSL allowance approved by the regulator as part of the network price determination reflects the expected financial impact resulting from the changes to the GSL criteria.

#### *Views in submissions*

3.20 PWC advised the Commission that, for the measures relating to 'time for establishing a connection' in Table 1 of the draft GSL Code, clarification was needed as to when the time limits for reconnection should commence and proposed that it commence 'from receipt by the network provider'.

3.21 PWC also advised the Commission to remove the terms 'during each financial year' in clause 2.1.3 and 'in a financial year' in clause 2.1.4 as they were redundant.

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<sup>17</sup> Utilities Commission, July 2010, Review of Options for Implementation of a Customer Service Incentive Scheme for Electricity Customers – Final Report, Table 1.1, page 2.

<sup>18</sup> Cl.2.1.4, Table 1, Draft Guaranteed Service Level Code.

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- 3.22 PWC questioned the Commission's reasoning for the time threshold for keeping appointments within a 1 hour window. PWC further advised that it had recommended a 2 hour appointment window during the Review process, but the Commission's decision to adopt a 1 hour window had not been appropriately justified.
- 3.23 PWC recommended that the exclusion 'load shedding due to a generation shortfall' in clause 2.2.1(a) be replaced by 'load shedding due to a generation related cause'. PWC's view was that the exclusion should be broader than 'shortfall' (which relates to generation supply not meeting demand) and should include technical causes. The effect would be that any generation related outages are excluded from GSL payments.
- 3.24 PWC also requested that the exclusion of statistical outliers under the 2.5 beta method not be limited to natural events, but rather the wording of clause 2.2.1(d)(iii) be changed to: "Major event days that are identified as statistical outliers using the 2.5 beta method, such as those caused by natural events". PWC advised that the proposed amendment would align the GSL scheme with the standards of service framework and generally accepted practice for determining statistical outliers.
- 3.25 PWC suggested that clause 2.2.1(e)(ii) should be reworded to make reference to 'authorised officer', which should be defined in Schedule 1 by referring to the *Electricity Reform Act*.
- 3.26 Finally, PWC considered that clause 2.2.1(f) should apply to any third party (e.g. a customer, a PWC contractor, or the general public).

*Response to views in submissions*

- 3.27 The Commission agrees with the suggestion to amend the measures relating to 'time for establishing a connection' in Table 1 as it provides greater clarity to these measures. The Commission also accepts PWC's suggestion with regards to removing reference to 'financial year' in clauses 2.1.3 and 2.1.4.
- 3.28 The Commission accepts that the reasoning behind the decision to set the time threshold for keeping appointments to 1 hour had not been properly explained in the Review. However, the Commission considers that a 2 hour appointment window is unreasonable and places little incentive on PWC Networks to use its best endeavours to minimise the inconvenience on customers in rural areas of having to wait for a service person. The Commission's view is that travel time in the rural area should already be considered when making an appointment and a 1 hour appointment window should be sufficient for factors outside a network provider's control.
- 3.29 In relation to PWC's proposal to replace the term 'generation shortfall' to 'generation related cause' in clause 2.2.1(a), the Commission considers that it is wider than the original wording, meaning that there could potentially be more circumstances where an event could be excluded. The Commission notes that the existing wording is consistent with the position in other states such as Queensland and Victoria.
- 3.30 Regarding PWC's suggestion to amend the wording of clause 2.2.1(d)(iii), the Commission considers that only natural events identified using the 2.5 beta method should be considered as outside the firm's control. This issue has been extensively discussed in the Review. Further, the approach adopted by the Commission for the

GSL scheme aligns with Commission's recommendations in the Review of Electricity Standards of Service for the Northern Territory.<sup>19</sup>

- 3.31 Regarding PWC's suggestion to reword clause 2.2.1(e)(ii), the definition of 'authorised officer' under the *Electricity Reform Act* refers to a person appointed by the Minister to have certain powers. One of those powers is to direct PWC to disconnect electricity supply where PWC has acted contrary to the *Electricity Reform Act* (s.78). Should PWC's suggestion be accepted, customers would not be entitled to a GSL payment where PWC has contravened the *Electricity Reform Act* and an officer has directed the interruption. The Commission's view is that the original wording should remain. Further, the Commission has decided to clarify clause 2.2.1(e)(ii) as follows:

an interruption resulting from a direction by a police officer or other authorised person exercising powers in relation to public safety but only to the extent that the exercise of the function or power, or the giving of the direction, is not caused by a failure by the network provider to comply with any applicable laws or codes.

(Emphasis added)

- 3.32 With respect to making 2.2.1(f) applicable to any third party, the Commission considers that referring to any third party is too vague. For example, any action from a PWC contractor should not necessarily be considered as an excludable event. Rather, the Commission is of the view that clause 2.2.1(f) should incorporate reference to a 'person acting on the small customer's behalf' is more appropriate. This could include a registered electrician or PWC contractor.

#### *Commission's preliminary determination*

- 3.33 The Commission does not intend to make further changes to section 2 of the Code except for:
- amendment to clauses 2.1.3 and 2.1.4 where reference to 'financial year' is removed;
  - amendment to the measure relating to 'time for establishing a connection' in Table 1 of the GSL Code where the time limits for reconnection will commence when a valid request is received by the network provider;
  - amendment to clause 2.2.1(e)(ii) for further clarification; and
  - amendment to clause 2.2.1(f) to include a person acting on behalf of a small customer.

## **Information to be published**

### *Proposed approach in the draft GSL Code*

- 3.34 The Review recommended that a network provider publish on its website information to allow customers to identify what feeder type they are connected to, and/or which area their property is located (urban or rural).

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<sup>19</sup> Utilities Commission, November 2010, Review of Electricity Standards of Service for the Northern Territory – Final Report, page 45.



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- 3.35 In preparing the draft GSL Code, the Commission considered that maps or high level schematics would be the preferred option as information presented in this format would be easily understood by customers.
- 3.36 The terms CBD, urban, rural short and rural long feeders, and CBD, urban and rural areas would be defined in Schedule 1 of the draft GSL Code by reference to the map (or schematic) to be published by the network provider.
- 3.37 The Commission proposed that a map (or schematic) be published within 20 business days after the commencement of the Code.
- 3.38 The draft Code also proposed that the network provider keeps sufficient records to monitor its performance levels and to provide the information required to calculate GSL payments [cl.2.3.2]. This provision would ensure that the network provider has the capabilities to make automatic payments when the occasion arises. This would also enable customers to query the network provider in the case of a dispute.

#### *Views in submissions*

- 3.39 The Commission considered that the requirement to publish a map was not a practice currently adopted by comparable distribution service providers within Australia. PWC was of the view that the definition of feeders used by the Energy Supply Association of Australia would be preferable to a map which set out the network configuration at a point in time.

#### *Response to views in submissions*

- 3.40 The intention of this provision is to make it possible to small customers to determine whether there are eligible for a GSL payment. The Commission considers that a map providing a high level representation of feeder types by area would be much clearer to small customers than potentially confusing definitions.
- 3.41 The Commission notes that maps are used in other states, including South Australia. Schedule 3 of the SA Electricity Distribution Code provides an example of how the maps are used and how areas are defined in relation to the maps.
- 3.42 The Commission is also of the view that having a high level map would reduce the number of disputes and queries regarding the application of the GSL scheme. This approach is therefore in the interest of small customers, PWC and the Commission.
- 3.43 As previously communicated in the Consultation Paper on the first draft of the GSL Code, the Commission considers that a high level map of the CBD, Urban and Rural areas would be sufficient. The Commission has changed the wording of clauses 2.3.1 and 2.3.2, and the definitions of the feeder types to avoid any confusion.
- 3.44 The Commission has also added a provision to the GSL Code to require consultation between PWC Networks and the Commission so that any misunderstanding can be avoided. The Commission has also increased the timeframe to publish a map from 20 to 30 business days.

#### *Commission's preliminary determination*

- 3.45 The Commission does not intend to make further changes to the clause requiring the network provider to publish a map. However, amendments have been made to clarify the Commission's expectations. The Commission has also added a new provision requiring consultation between PWC and the Commission (clause 2.3.2).

## GSL payment

### *Proposed approach in the draft GSL Code*

- 3.46 The draft GSL Code required a network provider to use best endeavours to automatically give a GSL payment to eligible customers.
- 3.47 The process for making payments to small customers was proposed to be as follows:
- the network provider would calculate the GSL amount for each eligible small customer following an instance when a specified service standards has not been met;
  - the network provider was to inform the customer's retailer of the GSL payment to be passed through to the eligible customer, and to provide all necessary details on how the GSL amount was calculated to the retailer;
  - the retailer was to pass through the GSL payment and communicate the details showing how the GSL payment was derived on the customer's bill; and
  - the network provider was to reimburse the retailer immediately after having notified it.
- 3.48 The draft GSL Code allowed a customer to make a claim in the following cases:
- the customer was of the view that he or she was eligible for a GSL payment and the network provider had not made a GSL payment; or
  - the customer was of the view that the GSL payment amount was erroneous and he or she had been disadvantaged.
- 3.49 The proposed Code did not allow payment errors in favour of customers to be recovered by the network provider. The Commission was of the view that this approach would incentivise the network provider to ensure that GSL payments were calculated accurately.

### *Views in submissions*

- 3.50 QEnergy raised concerns with the use of the term 'best endeavours' in clause 3.1.1 of the draft GSL Code as it did not provide customers or retailers with any certainty that the network provider would make the necessary notifications and payments.
- 3.51 PWC expressed its concern about the provision requiring PWC to make a GSL payment to eligible persons who are no longer customers of the network provider. Given the transient nature of the Territory population, PWC considered that the resources required to pursue these previous customers would be commercially unsound.

### *Response to views in submissions*

- 3.52 The Commission agrees with QEnergy's concerns over the term "best endeavours" used in clause 3.1.1. The Commission is of the view that there needs certainty about the network provider making the necessary notifications or payments in accordance with the Code. The Commission is of the view that the obligation on the network provider to provide the necessary notifications or payments once customers are eligible should be absolute.
- 3.53 The Commission has decided, however, to retain the term "best endeavours" for meeting the guaranteed service level under clause 2.1.3 and clause 2.2.4 as it would be too onerous to require absolute compliance.

- 3.54 The Commission has decided that a retailer should be reimbursed for the costs associated with passing through GSL payments and having to modify the customer bills to include all relevant information relating to those GSL payments. The Commission has added a new provision in the GSL Code enabling a retailer to request a network provider to pay any reasonable charges which have been approved by the Commission (clause 3.1.6).
- 3.55 With respects to the obligation on the network provider to pay eligible previous customers, the Commission acknowledges that this matter needs to be discussed further with PWC and that there might be outstanding issues which need to be considered. In the meantime, the Commission's view is that it would be preferable to postpone the implementation of this provision and adopt a more pragmatic solution to this matter. Clause 3.1.4 has been amended accordingly.
- 3.56 Finally, clause 3.1.7 addresses potential issues with respects to GSL payments payable to customers on prepayment meters.

*Commission's preliminary determination*

- 3.57 The Commission does not intend to make further changes to the clause requiring the network provider to the provisions on GSL payment except for:
- clause 3.1.1 where the term 'best endeavours' was replaced by an absolute obligation; and
  - an additional clause allowing a retailer to recover reasonable charges for processing GSL payments (clause 3.1.6);
  - clause 3.1.4 which was amended to provide a pragmatic solution to the issue of GSL payments to eligible persons who are no longer customers of the network provider;
  - clause 3.1.7 which was introduced to deal with the issue of GSL payments to be credited to customers on prepayment meters.

## **Dispute resolution process**

*Proposed approach in the draft GSL Code*

- 3.58 The draft GSL Code set out a staged process to resolve disputes between a small customer and a network provider.
- 3.59 The Commission considered that its role as economic regulator does not generally fit well with issues involving small customers. The Commission's preference would be for disputes relating GSL payments to be directed to a body or agency specialised in dealing with small customer complaints.
- 3.60 Should the Commission be involved in a dispute between a small customer and a network provider, the Commission's determination would be final and binding. In making a determination, the Commission could elect to seek further clarification from the disputing parties or could seek advice from anyone it thinks fit.

*Views in submissions*

- 3.61 QEnergy suggested that the dispute resolution procedures be streamlined to allow retailers and customers, through their retailers, to have timely access to the Commission for the dispute procedures. QEnergy was also of the view that the dispute

procedures needed to be clear, simple, and costless for participants to be fully effective.

3.62 PWC requested clarification of the body or agency specialised in dealing with small customer complaints.

3.63 Finally PWC considered it appropriate to define the nature of the dispute.

*Response to views in submissions*

3.64 The Commission accepts QEnergy's suggestion about a retailer being able to represent a customer. The Commission has added a new clause to reflect this (clause 4.1.6).

3.65 The Commission is of the view that the process is clear and does not require amendments. The Commission's position is that the disputing parties need to use their best endeavours to resolve a dispute between themselves prior to approaching the Commission, which should be seen a last resort action.

3.66 In the absence of an appropriate body or agency, the Commission would be the nominated dispute resolution entity. However, as already mentioned in the Consultation Paper, the Commission's preference would be for disputes relating to GSL payments to be directed to a body or agency specialised in dealing with small customer complaints.

3.67 The Commission is of the view that the term 'dispute' need not be defined. The Commission considers that the term has a broad meaning and can be any dispute in relation to the GSL Code. This broad meaning is expected to incentivise the network provider to minimise the number of disputes by complying with the GSL Code, and to attempt to resolve all disputes with good faith negotiations.

*Commission's preliminary determination*

3.68 The Commission does not intend to make further changes to the clauses setting out a dispute resolution process, except for clause 4.1.6 which has been added.

## **Amending the GSL Code**

*Proposed approach in the draft GSL Code*

3.69 The draft GSL Code proposed to allow amendments and suitable variations of the proposed Code, which would be managed through the Commission's code change process in accordance with section 5 of the draft GSL Code and section 24 of the *Utilities Commission Act*. This process would allow stakeholders and participants to have suitable input and comments on the proposed code variations to be considered by the Commission.

3.70 The draft GSL Code stipulated that the Commission would provide a statement of reasons for decisions that vary the proposed GSL Code.

*Views in submissions*

3.71 No comment was made on this matter.

*Commission's preliminary determination*

3.72 The Commission does not intend to make further changes to the section relating to the reviewing, adding or amending of the Code.

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## Funding of the GSL scheme

### *Proposed approach in the draft GSL Code*

- 3.73 The Commission was of the view that the GSL scheme should be funded from the network provider's existing revenue until the current regulatory period ends on 30 June 2014.
- 3.74 The Commission would consider an ex ante allowance for future GSL payments as part of the network price determination for the 2014-2019 period.
- 3.75 The Commission considered that the proposed Code would not include any provision relating to the funding of the GSL scheme as the network revenue issue falls outside the ambit of the proposed GSL Code.

### *Views in submissions*

- 3.76 QEnergy did not consider that the funding for the GSL payments should be levied onto customers. QEnergy was of the view that a GSL payment was a penalty for inadequate service and should be funded through the network provider's profits. Customers should not have to pay twice.

### *Response to views in submissions*

- 3.77 This issue was addressed in the Review.

### *Commission's preliminary determination*

- 3.78 The Commission's position on the funding of the GSL scheme remains unchanged.