

# Annual Compliance Monitoring Report 2022-23

A summary and assessment  
of compliance reports  
received from licensees for  
the 2022-23 financial year

December 2023

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## Enquiries

Any questions regarding this document should be directed to the Utilities Commission at any of the following:

Email: [utilities.commission@nt.gov.au](mailto:utilities.commission@nt.gov.au)

Telephone: +61 8 8999 5480

GPO Box 915  
DARWIN NT 0801

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# 1 | Overview and key findings

The supply of electricity, water and sewerage services is essential for the comfort, health and productivity of Territory households and businesses. The Utilities Commission (Commission) is the economic regulator responsible for oversight of licensed providers of these services.

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.

The Commission monitors licensees' compliance with regulatory obligations primarily based on information reported by licensees, audits and complaints by stakeholders. As part of reporting requirements, licensees submit an annual compliance report to the Commission, which declares, among other matters, instances of non-compliance (also referred to as breaches) in the immediately preceding financial year.

This compliance monitoring report provides a summary of non-compliance in 2022-23 reported by electricity supply, water supply and sewerage services licensees. The report also provides the Commission's assessment of, and any enforcement action it has taken in relation to, those breaches.

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.

The following summarises the 2022-23 Annual Compliance Monitoring Report's key findings:

- 14 licensees submitted annual compliance reports for 2022-23, in relation to 21 licences
- no material breaches were reported by licensees for 2022-23
- a total of 23 non-material breaches were reported by eight licensees, and the Commission agreed with the licensees' assessments of these
- six licensees reported no instances of non-compliance (in other words, no material or non-material breaches) during 2022-23
- one material breach of life support customer protection obligations was reported by a licensee in the first quarter of 2023-24
- there are recurring themes of non-compliance including two that are of particular concern to the Commission, in relation to life support customer protections and wrongful disconnections
- the Commission notes the progress towards addressing some long-standing non-compliances, however, expects to see more urgency to rectifying non-compliances by some licensees
- new and intending licensees should not underestimate the time required to meet licence obligations to establish a comprehensive compliance process and where relevant, develop and submit for approval safety management and mitigation plans (SMMP).

The Commission continues to place additional requirements on, and implement increased oversight of, some licensees in order to be reassured of the robustness of their compliance process.

## 2 | Introduction

The Commission is an independent statutory body established by the *Utilities Commission Act 2000* (UC Act) with defined roles and functions for economic regulation in the electricity supply, water supply and sewerage services industries and declared ports in the Northern Territory.

As part of its functions, 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.

A private port operator is taken to be a licensed entity for the purpose of the application of the UC Act, and the Commission regulates prescribed services at the Port of Darwin through a pricing and access regime, but there is no associated licensing regime. Compliance reporting by private port operators is excluded from this report, but private port operators are 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>.

A key aspect of monitoring compliance is reporting by licensees.

### Licensing and compliance reporting

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.

The reporting interval for compliance reports is set by the Commission through its Compliance Framework and Reporting Guidelines (Guidelines), which are available on the Commission's website (<https://utilicom.nt.gov.au/>). The Guidelines require relevant licence holders to submit an annual compliance report by 31 August each year. The Guidelines also require 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.

Annual compliance reporting obligations do 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. Further, to avoid there being any doubt, the Commission requires relevant licensees to provide annual confirmation that there have been no material breaches of licence conditions or other applicable regulatory instruments.

## Non-compliance

Instances of non-compliance are classified as either material or non-material, as defined in the Guidelines. While a licensee's annual compliance report is to list all instances of non-compliance (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, the Commission considers a breach to be 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
- 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 non-compliance.

A licensee is required to notify the Commission of any material breach as soon as reasonably practicable after becoming aware that the breach has occurred. The Commission's requirements in relation to the reporting of material breaches are outlined in the Guidelines. These requirements include that the licensee's compliance framework must contain 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 and the process for remediation of the breach.

If a licensee is in doubt as to whether or not a non-compliance is material, it is advisable for the licensee to immediately notify the Commission of the compliance breach.

## The Commission's approach to compliance

The Commission aims to foster a culture of compliance by granting licences on the condition that regulated entities:

- establish a compliance process that is maintained, regularly updated and auditable
- report on identified material breaches as soon as reasonably possible
- undertake external compliance audits when required by the Commission
- submit an annual compliance report to the Commission.

The Commission requires licensees to establish, implement and maintain policies, procedures and systems to ensure compliance (a compliance framework) and that the compliance framework reflects industry best practice with this standard being *ISO 37301 Compliance Management Systems*.

The Commission considers the requirement for a licensee to develop and maintain an adequate compliance framework and compliance reporting processes assists licensees to manage risk in a systematic and proactive manner and when non-compliance occurs, it is detected and licensees take action to address actual and potential impacts, rectify the problems that gave rise to the breach and implement measures to avoid further occurrence of similar breaches. Failure to establish a compliance framework is considered a breach of the licensee's licence.

### Risk identification and risk assessment

The Commission expects licensees to systematically identify compliance obligations and the way in which they impact on activities, products and services, for example, through a register of compliance obligations (compliance register). The identification and rating of the risk of breaching obligations is the responsibility of each licensee and is an integral part of a licensee's compliance framework.

A licensee is also expected to have processes in place to identify new and changed laws, regulations, codes and other compliance obligations to ensure ongoing compliance and processes to evaluate the

impact of the identified changes and implement any changes in the management of the compliance obligations.

### Monitoring and enforcement

As discussed previously, the Commission primarily monitors licensees' compliance through breach and compliance reporting and audit requirements.

The Commission exercises judgement and discretion in determining what enforcement measure (or measures) to take in response to a breach. In determining its response, the Commission considers the nature and impact of the breach, the compliance attitude and history of the licensee, the licensee's remedial actions and other factors relevant to the breach.

When a licensee identifies non-compliance, 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 there is significant public benefit from applying statutory enforcements, for example, to deter others from engaging in similar conduct.

More generally, the Commission considers reputational damage provides a good incentive for licensees to comply with obligations and rectify breaches. To this end, the Commission publishes information on breaches in documents such as 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.

### 3 | Licensees

As discussed in Chapter 2, most licences issued by the Commission require the licence holder to submit a compliance report at intervals determined by the Commission, currently annually.

For 2022-23, 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 Licensees that submitted annual compliance reports for 2022-23**

Licensee	Licence held
Assure Energy Asset Pty Ltd (Assure Energy)	Generation
BSF Co Pty Ltd as trustee for the BSF Unit Trust (BSF)	Generation
Darwin International Airport Pty Limited (DIA)	Generation
EDL Jabiru Pty Ltd (EDL Jabiru)	Generation
EDL NGD (NT) Pty Ltd (EDL NGD)	Generation, Retail
Eni Australia Limited and Eni New Energy Batchelor Pty Ltd (EAL ENEB)	Generation
Eni Australia Limited and Eni New Energy Katherine Pty Ltd (EAL ENEK)	Generation
Eni Australia Limited and Eni New Energy Manton Dam Pty Ltd (EAL ENEMD)	Generation
HCPS Co Pty Ltd as trustee for the HCPS Unit Trust (HCPS)	Generation
Next Business Energy Pty Ltd (Next Business Energy)	Retail
Power and Water Corporation (PWC)	Generation, Network, Retail, Sewerage Services, System Control, Water Supply
Power Generation Corporation trading as Territory Generation (TGen)	Generation, Retail
Power Retail Corporation trading as Jacana Energy (Jacana)	Retail
Rimfire Energy Pty Ltd (Rimfire)	Retail

Due to specific circumstances, 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 for 2022-23.

QEnergy Limited's 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 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 2022-23.

The Groote Eylandt Mining Company Pty Ltd holds an isolated system licence and is only required to declare material non-compliance. Groote Eylandt Mining Company Pty Ltd also advised there had been no material breaches in 2022-23.

The Commission has not received any advice from other sources (such as complaints) to indicate that there were instances of material non-compliance by these licensees in 2022-23.



## 4 | Annual compliance reports submitted by licensees

### Reporting criteria

The Guidelines set out reporting requirements for a licensee's annual compliance report to the Commission. These include:

- the report due date (clause 3.42)
- the correct reporting period (clause 3.42)
- declaration statement wording (Appendix C)
- declaration statement certification (Appendix C)
- reporting obligations (Schedule A to declaration statement)
- reporting breaches (Schedule B).

A summary of findings grouped by each Guideline reporting requirement is below.

### Report due date

Fourteen licensees submitted annual compliance reports, and all reports were received by the due date of 31 August 2023.

### Correct reporting period

All licensees' reports referenced the 2022-23 financial year. This was not the case in the previous year. The Commission notes the improvement.

### Annual compliance report declaration - statement wording

As part of a licensee's annual compliance report, the Guidelines require a declaration that a licensee has maintained an appropriate compliance framework (sometimes referred to as a compliance system or compliance process) that complies with the requirements of its licence. The Guidelines include a template declaration at Appendix C.

All licensees' reports included a declaration statement. There were some variations to the declaration statement from the template. The Guideline declaration includes that the licensee maintained a robust and effective compliance program that ensures, in simple terms, it complies with the requirements of its licence. Of the reports and associated declarations submitted:

- six licensees were consistent with the template
- one licensee reported that they had developed and will continue to monitor and improve their compliance framework but had removed the word "robust"
- seven licensees self-reported that they did not have a complete compliance framework in place. Of these, four licensees reported they were developing their compliance framework. The other three licensees reported that they will develop their compliance framework prior to the commencement of operations. This is in breach of the licence condition that requires a compliance process to be in place within three months of the licence being issued and is being raised directly with the relevant licensees.

When comparing the annual compliance report declaration statements provided by the licensees against the template, it is noted that the majority were generally consistent with the template wording. Two licensees' declarations, however, were materially different to the template wording, including one whereby there is no declaration as to the accuracy of data and information provided in all reports and submissions to the Commission. The Commission intends to discuss with these licensees their

apparent concerns with the template wording as part of the Commission’s review of the Guidelines, which is currently underway.

## Annual compliance report declaration - certification

The Commission also requires a declaration of responsibility and sign-off of the annual compliance report by the CEO and Chairman of the Board (or other persons with powers at a similar level) of the licensee. In recognition of other corporate structures, a licensee can propose reasonable alternative arrangements for sign-off for the Commission to consider and approve.

In reviewing the signatories to the annual compliance reports, seven signatories were not in accordance with the Guidelines. The Commission is communicating with these licensees the need to seek approval from the Commission for alternative signing arrangements.

## Relevant obligations (“Schedule A” to declaration statement)

Schedule A to each licensee’s compliance report should list legal instruments and other documents containing relevant obligations. These include licences, legislation, regulation, codes, pricing orders and guidelines. Regardless of what licensees choose to list in Schedule A of their annual compliance report, it is their responsibility to identify and maintain a current and comprehensive list of relevant instruments. Failure to do so increases the risk of non-compliance with said instruments. Deficiencies in a licensee’s Schedule A, combined with other factors, for example findings from external and internal audits, may also indicate to the Commission that the licensee does not sufficiently understand its obligations or have an appropriate compliance framework in place.

All licensees should regularly review their Schedule A list to ensure that it captures all regulatory obligations and remains up-to-date with any changes in obligations.

The reporting format of Schedule A, and the information contained in it, varied amongst the annual compliance reports submitted by licensees.

One retail licensee did not supply any information about their regulatory obligations. The Commission is therefore unable to gain assurance that they understand their licensing and reporting obligations, noting there are some obligations that apply to a retailer regardless of whether they have any customers. This deficiency has been raised with the licensee as part of an ongoing education process with an expectation that next year’s reporting will be improved.

## Breaches (“Schedule B”)

All relevant licensees included discussion of breaches in their annual compliance reports. Eight licensees reported non-compliances during 2022-23. Six licensees included the reporting of their non-compliance in an attached “Schedule B” consistent with the Guidelines, while two licensees provided it within the body of the report. Notwithstanding the inconsistency with Schedule B of the Guideline, provided the non-compliance reporting includes all the information required, both approaches are considered acceptable.

One licensee did not specify the relevant regulatory obligation that was breached. This has been communicated to the licensee as part of an ongoing education process with an expectation that the matter will not be replicated in next year’s reporting.

Reported breaches and their treatment, along with the Commission’s assessment of the reported breaches are discussed later in the next chapter.

## 5 | Breaches reported for 2022-23

This chapter provides information on non-compliance reported by licensees in 2022-23, and includes the Commission's assessment of that reported. Where there has been non-compliance, the Commission looks to the licensee's reporting to ensure that they have provided all of the 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.

Table 2 below summarises licensees' reported breaches of regulatory obligations in 2022-23.

**Table 2 Summary of licensees' compliance reporting 2022-23**

Licensee	Licence held	Breaches reported		No breaches reported
		Material	Non-material	
Assure Energy	Generation			X
BSF	Generation		X	
DIA	Generation		X	
EDL Jabiru	Generation			X
EDL NGD	Generation, Retail		X	
Eni ENEB	Generation			X
Eni ENEK	Generation			X
Eni ENEMD	Generation			X
HCPS	Generation		X	
Next Business Energy	Retail			X
PWC	Generation, Network, Retail, Sewerage Services, System Control, Water Supply		X	
TGen	Generation, Retail		X	
Jacana	Retail		X	
Rimfire	Retail		X	

The Commission notes that the reporting of non-compliance does provide some assurance that the relevant licensees' compliance framework (compliance systems and processes) are operating, which is a positive.

### Material breaches

There were no material breaches of regulatory obligations reported by licensees in their annual compliance reports for 2022-23.

To the best of the Commission's knowledge, from its monitoring of the industry, there were no unreported material breaches for 2022-23.

Whilst preparing this 2022-23 Annual Compliance Monitoring Report, the Commission was notified by PWC of a material breach of life support equipment customer protection obligations in the first quarter of 2023-24. This material breach, whilst outside of the reporting period, is raised at a high level below as part of the Commission's discussion regarding PWC's reported 2022-23 non-material breach of life support equipment customer protection obligations.

## Non-material breaches

Eight licensees reported 23 non-material instances of non-compliance (or non-material breaches) with regulatory obligations in 2022-23. These are summarised in Table 3 below.

**Table 3 Summary of non-material breaches reported by licensee for the 2022-23 financial year**

Licensee	Licence held	Non-material breaches reported
BSF	Generation	2
DIA	Generation	1
EDL NGD	Generation, Retail	1
HCPS	Generation	2
PWC	Generation, Network, Retail, Sewerage Services, System Control, Water Supply	10
TGen	Generation, Retail	1
Jacana	Retail	3
Rimfire <sup>1</sup>	Retail	3
<b>Total breaches reported</b>		<b>23</b>

<sup>1</sup> Rimfire reported three non-material breaches, however two were not required to be reported to the Commission, and therefore have not been discussed in this report.

The Commission actively monitors the industry and identified a small number of non-material breaches that were not reported by the relevant licensees. These are in addition to the 23 non-material breaches that were self-reported. The identification of un-reported breaches by the Commission demonstrates a lack of robust and effective compliance frameworks and that further work needs to be done to embed this into the licensees' organisation.

Of the 23 breaches reported by licensees, 22 were reported as non-material. One reported breach lacked an assessment by the licensee, which was deemed to be non-material by the Commission based on the information provided. Five reported breaches relate to long-standing non-compliances.

The following discussion is focused on the non-material breaches reported in 2022-23 by licensees, grouped into themes.

### Life support customers

In 2022-23, three licensees (Jacana, PWC and Rimfire) reported breaches related to Electricity Retail Supply Code (ERSC) life support equipment customer protection obligations. These types of breaches have been a recurring theme over the last three years.

Clause 10 of the ERSC provides important protections for customers that require life support equipment at their premises, such as obligations to provide relevant customers advice on planned interruptions and information to assist them to prepare a plan of action in the case of an unplanned interruption.

The Commission considers any non-compliance with life support provisions is a serious matter as the failure to comply with these obligations could have a detrimental and even fatal consequences. Given this, and that non-compliance with life support equipment obligations is a reoccurring theme, licensees should expect continued strong oversight by the Commission and potential escalation in the Commission's response to such non-compliance, noting significant financial penalties would apply under regulatory frameworks in other jurisdictions.

*Jacana*

Jacana reported non-material breaches in relation to clauses 10.3A.1(b) and 10.3F.1(d) of the ERSC. These obligations require a retailer to provide a medical confirmation form and associated information in writing to a customer no later than five business days after receipt of advice that a person residing or intending to reside at the customer's premises requires life support equipment and to ensure the second confirmation reminder notice is provided no less than 15 business days from the date of issue of the first confirmation reminder notice, respectively.

Jacana identified two incidents where the life support materials were not sent within the required timeframe. Both were due to system errors. This compares to 16 incidents in the prior year, five due to customer care agent error and 11 due to system errors. The Commission notes the improvement, and Jacana's advice that the system errors were specifically linked to system upgrades in 2022-23 and that ongoing monitoring checks have been implemented to ensure letters are sent within the required timeframes.

*Power and Water Corporation*

PWC reported two non-material breaches of clause 10.5E.1 of the ERSC, which relate to the registering and deregistering of life support customers. PWC advised that in both instances the life support flag was not visible when changes were made to meters in the retail management system. Both instances were identified through PWC's detective control reporting. One customer's flag was not visible for less than 30 minutes, the other for less than 24 hours. PWC advised the Commission that it has subsequently adjusted its processes to address the limitations of its systems.

Separate to its 2022-23 report, on 4 October 2023, the Commission was notified by PWC of a material breach of life support equipment obligations. The notification was almost two weeks after the incident. Given the seriousness of the incident, the Commission consider it appropriate to raise the matter in this year's report, despite it occurring during 2023-24.

PWC's material breach occurred when PWC undertook a planned outage without notifying relevant customers, including four registered life support customers. PWC advised it restored power as soon as it became aware of the issue through customer queries, which was almost one and a half hours after the outage commenced. PWC has confirmed with the affected customers that there were no adverse impacts as a result of the outage.

The Commission has communicated to PWC that PWC's response to this incident was below the Commission's expectations and reiterated the importance of life support equipment obligations and the seriousness of the material non-compliance. The Commission has increased its oversight of PWC in relation to life support equipment obligations, including monitoring PWC's progress in implementing associated process and system improvements.

*Rimfire*

Rimfire reported a non-material breach of life support equipment obligations, for a two-day delay in sending a medical confirmation form reminder notice to a life support customer. The Commission notes this non-compliance was identified through an internal audit process and rectified. Rimfire has advised all relevant staff received guidance on responsible handling. The Commission considers Rimfire's response to the breach appropriate.

**Not meeting timeframes within licence terms and conditions***Licensee compliance process*

Two licensees, BSF and HCPS, reported a non-material breach of clause 11 of their respective licences, in relation to not establishing and maintaining a compliance framework within three months of their licences being issued.

Merricks Capital Pty Ltd (Merricks), an Australian based investment manager, is the manager for BSF and HCPS and prepares and submits the annual compliance report for both licensees. Both licensees should have established their compliance process within three months of the issue of the licences (that

is, by 27 January 2021).<sup>1</sup> The Commission was aware of those non-compliances and actively engaged with Merricks on the matter. Merricks advised its compliance frameworks were finalised during 2022-23.

Ensuring a licensee has a compliance process which includes having auditable internal policies, procedures and systems to ensure the licensee complies with all its regulatory obligations is critical. As discussed earlier in this report, seven licensees modified their annual compliance report declarations to state they are developing and or improving their compliance process, which flags the need for greater oversight of those licensees' compliance by the Commission.

New and intending licensees should not underestimate the time required to establish a comprehensive compliance process.

#### *Safety Management Mitigation Plan*

Three licensees reported breaches of clause 21 of their respective licenses, in relation to not preparing and submitting an SMMP to the Commission for approval within three months of their respective licences being issued. These were:

- BSF
- DIA
- HCPS.

Both BSF and HCPS should have provided their SMMP in relation to the Hudson Creek power station and Batchelor 2 Solar Farm by 27 January 2021.<sup>2</sup> The Commission was aware of the non-compliances and engaged with Merricks on the matter. The SMMP covering both power stations was submitted on 14 August 2022 and approved by the Commission on 1 September 2022.

DIA was required to have submitted its SMMP by 3 June 2023. DIA communicated with the Commission regarding the non-compliance and the SMMP was submitted on 31 July 2023.

New and intending licensees should not underestimate the time required to develop and submit for approval their SMMP, noting there are new, strengthened SMMP obligations in the *Electrical Safety Act 2022* that will commence during 2024.

#### Incorrect tariff applied

Jacana reported non-compliance with the Electricity Pricing Order in 2022-23, in relation to the application of commercial and residential tariffs.

Jacana advised that as a result of implementing a monthly tariff exceptions reporting process following an internal audit in 2021-22, it identified 11 instances in 2022-23 whereby residential customers were incorrectly billed at the commercial tariff. Jacana's root cause analysis found all the incidents were system related. Jacana advised that it rectified the tariff on customer accounts and the overcharged amounts were credited.

The Commission considers Jacana's preventative measures to identify and rectify these types of non-compliances, which include improving training, process documents, exception reporting and system solutions, appropriate.

#### Wrongful disconnections

Clause 23 of Jacana's retail licence states it must not disconnect or discontinue electricity supply to a customer except when it is in accordance with the customer's contract or disconnection procedures in the System Control Technical Code (SCTC). Jacana reported 26 customers were wrongfully disconnected (none of these were life support customers) in 2022-23, down from 27 in 2021-22

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<sup>1</sup> BSF and HCPS generation licences, clause 21(a)

<sup>2</sup> BSF and HCPS generation licences, clause 21(a)

(22 in 2020-21). Jacana advised that in proportionate terms, the level of disconnections remains stable and only comprises 0.3% of total disconnections, the same figure as the prior year.

Nineteen of the wrongful disconnections related to errors by customer care agents with system and process errors causing the remainder of wrongful disconnections. Jacana advised that improvements in training modules and targeted coaching on disconnection processes continues to remain a focus. Jacana has also identified and implemented system enhancements to reduce the risk of manual error, increased exception reporting to identify incorrect disconnection dates and continues to undertake regular quality assurance monitoring.

Jacana provided information on the duration of the wrongful disconnections and whether compensation was paid to customers. The data provided by Jacana shows 24 customers were reconnected on the same day and the longest duration was 3 days (in this instance the customer was not living at the property). Jacana advised that all customers were offered the opportunity to claim compensation, but none of the customers took this option.

The Commission notes Jacana's commitment to and ongoing focus on reducing wrongful disconnections and that where instances do occur and reconnection is not possible on the same day, customers can submit a claim for compensation. Notwithstanding, Jacana does not appear to be improving in relation to the number of wrongful disconnections.

The Commission will continue to closely monitor and report on Jacana's performance in relation to wrongful disconnections, including in the Commission's annual Northern Territory Electricity Retail Review. The Commission may also consider the introduction of retail supply standards as part of its staged review of the Electricity Industry Performance Code.

### Water Services non-compliance

PWC reported six non-material breaches related to water services in 2022-23, which were identified through an independent audit process.

One breach was the inability to provide supporting documents or samples as part of the audit process, which meant the auditors were unable to complete their testing. The Commission raises questions about the veracity of PWC's compliance processes when underlying data is not available to be provided to the auditor. The Commission notes PWC's subsequent commitment to ensure that teams impacted by an audit are aware during the scoping phase, to ensure audit requests can be met.

The remaining five breaches relate to the inconsistency in practice by PWC with the Water Metering Code and Services Development Procedures Manual in relation to water meter replacement, water meter testing and water meter installations by both PWC and through land development and gifted assets.

Details of non-material breaches included:

- water meters being replaced with water meter readings above the replacement thresholds
- water meter batch testing inconsistent with the Water Metering Code and several years delay in compliance testing, with periods of no testing
- no formal procedures or delegated team to identify non-compliant water meter installations.

Section 72 of the WSSS Act requires PWC to have in place a metering code approved by the Commission. The current Water Metering Code was approved by the Commission in 2006.

On 2 November 2023, the Commission advised PWC that it proposes at this time, to take no action in relation to non-compliance with clause 9.1(e) of PWC's water supply services licence which relates to the Water Metering Code, up to and including 30 April 2024. The no action advice is subject to PWC conducting its review and submitting a revised water metering code.

### System Control non-compliance – minor incident reporting

PWC reported one instance of non-compliance with clause 7.3.3 of the SCTC during 2022-23 in relation to minor incident reporting. The Commission notes that this is a matter that has been ongoing since 2018, however is close to resolution.

The methodology that PWC has been using for incident reporting does not align with the thresholds in the SCTC. The observation has been that PWC may have been over or under reporting. The Commission reported in its 2021-22 Annual Compliance Monitoring Report that PWC should have reported non-compliance in relation to the reporting of minor reportable incidents even though the Commission had agreed to take no enforcement action while System Control worked on redefining these incidents as part of proposing amendments to the SCTC for the Commission's approval.

On 5 July 2023, the Commission approved PWC's proposed amendments to the SCTC in relation to System Control's incident reporting, subject to conditions. PWC has been actively working to meet those conditions and expects the current non-compliance issue will be resolved during 2023-24.

### Exit point reporting

PWC reported current and historical non-compliance against clause 8.3.8 of the ERSC, which requires PWC to provide an annual exit point report to the Commission. The report is to provide information on exit points that are energised, but there is not a retailer responsible for the electricity being consumed at those exit points.

This is another long outstanding PWC non-compliance matter. As discussed in the 2021-22 Annual Compliance Monitoring Report, PWC had advised it was assessing available information to produce an interim report and would seek feedback and confirmation on its approach to meet its obligation. Subsequently, in April 2023, the Commission received a draft exit point report from PWC and was advised a final report would be sent in early 2023-24. As at 8 December 2023, no final exit report had been received by the Commission.

The Commission expects PWC to rectify this long-standing non-compliance.

### Coordination agreements

EDL NGD reported a non-material breach of clause 4.4.1 of the ERSC, which requires a retailer and network provider to enter into a coordination agreement. While this is a long-standing non-compliance, the Commission notes that EDL NGD has no retail customers, and therefore it has no need for a coordination agreement with PWC (other than to comply with the ERSC). Relevantly, the application of clause 4.1.1 in these situations was considered in the Commission's review of the ERSC and from 1 July 2023 retailers with no customers are exempt from the requirement for a coordination agreement (clause 4.1.1C of the ERSC).<sup>3</sup>

TGen reported a non-material breach with clause 18 of its retail licence for not entering into a coordination agreement with PWC as the network provider. TGen's retail licence was issued on 29 November 2019 and requires it to, within three months of obtaining the licence, enter into a coordination agreement. TGen advised the Commission that the network was connected in late 2022 and there is no supply to its one customer yet. TGen executed a coordination agreement with PWC during 2022-23, with a copy provided to the Commission. As such, this non-compliance is rectified.

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<sup>3</sup> Available at <https://utilicom.nt.gov.au/projects/projects/electricity-retail-supply-code-review2>.



## No breaches

Six licensees reported no instances of non-compliance (in other words, no instances of material or non-material breaches) in 2022-23, compared to two licensees in 2021-22. These licensees are:

- Assure Energy
- EDL Jabiru
- EAL ENEB
- EAL ENEK
- EAL ENEMD
- Next Business Energy

The Commission notes that whilst licensees may not have had any instances of breaches or non-compliance with their respective regulatory obligations, that they are not to become complacent and are to remain vigilant.

## 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
ER Act	<i>Electricity Reform Act 2000</i>
ERSC	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
PWC	Power and Water Corporation
QEnergy	QEnergy Limited
Rimfire	Rimfire Energy Pty Ltd
SCTC	System Control Technical Code
SMMP	safety management and mitigation plan
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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