
ANNUAL COMPLIANCE REPORT

A summary of Compliance Reports received by the Utilities
Commission from licensees for the 2016-17 year



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Overview

Each year licence holders are required to maintain and report on their compliance framework. This report documents licence holder's Annual Compliance reports to the Utilities Commission.

In the interests of transparency and to be consistent with the practices of other jurisdictions, the Commission publishes a summary of the Compliance Reports received, a description of breaches reported by each licensee and remedial action proposed or taken by the licensee in order to resolve the breach, and enforcement action taken by the Commission, if any.

Inquiries

Any questions regarding this report should be directed in the first instance to the Utilities Commission.

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CHAPTER 1

Introduction

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

1.2 The Commission's objectives and matters it must consider in undertaking its work is encapsulated in the Commission's Strategic Statement:

The Utilities Commission seeks to protect the long term interests of consumers of services provided by regulated industries with respect to price, reliability and quality.

The Commission will seek to ensure consumer requirements are met by enhancing the economic efficiency of regulated industries through promoting competition, fair and efficient market conduct and effective independent regulation. The Commission has functions under various Acts (and associated regulations) including the Utilities Commission Act, Electricity Reform Act, Water Supply and Sewerage Services Act and the Ports Management Act.

1.3 The Commission has functions under various Acts (and associated regulations) including the UC Act, *Electricity Reform Act* (ER Act), *Water Supply and Sewerage Services Act* and the *Ports Management Act*.

1.4 Section 14(3) of the ER Act and 14(1) of the *Water Supply and Sewerage Act* provides that a licence is required for relevant services. Note that while the Commission regulates the Port industry, the Darwin Port operations are not licensed and has a different compliance process and reporting requirements.

1.5 A condition of the licences issued by the Commission is for each licensee to submit a Compliance Report, at reasonable intervals determined by the Commission, describing the measures taken by the licensee to ensure compliance with its regulatory obligations under the licence or by applicable legislation.

1.6 In February 2016 the Commission issued Compliance Framework and Reporting Guidelines. The Guidelines provide additional details on the Commission's requirements.

1.7 In particular the Guidelines note that the annual compliance reporting and declaration requirements do not apply to Independent Power Producer (IPP) licence holders.

1.8 The Commission requires an annual Compliance Report from licence holder's by **31 August** each year with a declaration of responsibility from the Board of the licensee:

- a) that the licensee maintains an appropriate compliance framework that complies with the requirements of its licence as set out in the Compliance Framework and Reporting Guidelines

- b) the licensee has complied with all licence obligations during the immediately preceding financial year, with the exception of those non-compliances listed in the Compliance Report.¹

Commission's Approach to Compliance

1.9 The Commission's compliance monitoring program consists of three main elements:

- risk identification and risk assessment
- ensuring compliance
- enforcement.

1.10 Regulated entities must systematically identify compliance obligations and the way in which they impact on activities, products and services, which may include a register of compliance obligations (for example, a Compliance Register). The identification and ranking of risks is the responsibility of the licensee.

1.11 A licensee is to report any material compliance breaches to the Commission as soon as is reasonably possible after the breach is identified.

1.12 The Commission considers a breach to be 'material' when it has the following attributes:

- 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.²

1.13 Should a licensee be in doubt as to whether or not a breach is material, it would be advisable and prudent to notify the Commission. Licensees must also consider the impact of repeated individual non-material breaches and the possibility that, in totality, these lead to a material breach.³

1.14 Where a regulated entity has not been compliant, the Commission expects a breach notification provided to the Commission to contain the following:

- brief statement explaining the circumstances and reasons for the breach
- brief statement explaining any delay in reporting the breach
- relevant regulatory provision(s)
- consequences of non-compliance
- remedial measures.⁴

1.15 The licensee's compliance framework must contain a process for escalating and reporting breaches to executive/senior level management, the Board of the licensee and the Commission.⁵ The Chief Executive Officer (or equivalent) and the Board of the

¹ [Compliance Framework and Reporting Guidelines, Final, February 2016](#), page 15, para 3.42

² Ibid, page 12, para 3.23

³ Ibid, page 12, para 3.24

⁴ Ibid, page 13, para 3.25

⁵ Ibid, page 13, para 3.26

licensee must be made aware of any material breaches without delay and the process for remediation of a breach.⁶

- 1.16 The Commission expects regulated entities to establish, implement, and maintain a compliance process or compliance framework that reflects industry best practice (that is, ISO 19600:2015 Compliance management systems – Guidelines or equivalent).

Risk Identification and Risk Assessment

- 1.17 The Commission considers that the compliance obligations of regulated entities include both relevant compliance requirements, such as legislation, statutory obligations, codes and licences.
- 1.18 The register of regulatory compliance obligations of the licensee must be sufficiently robust and detailed in identifying the licensee's compliance obligations from all legislative and licence obligations.
- 1.19 A licensee should have processes in place to identify new and changed laws, regulations, codes and other compliance obligations to ensure ongoing compliance. Licensees should have in place processes to evaluate the impact of the identified changes and implement any changes in the management of the compliance obligations.⁷

Compliance Reports

- 1.20 For 2016-17, the Commission received Compliance Reports, with a declaration by its Board (or alternative) in respect to the following titles and licences.

Table 1.1

Licensee	Licence Held
EDL NGD (NT) Pty Ltd	Generation, Retail
ERM Power Retail Pty Ltd	Retail
Jacana Energy (Power Retail Corporation trading as Jacana Energy)	Retail
Power and Water Corporation	Network, System Control, Generation, Retail, Water Supply Services, Sewerage Supply Services
QEnergy Limited	Retail
Rimfire Energy Pty Ltd	Retail
Territory Generation (Power Generation Corporation trading as Territory Generation)	Generation

⁶ Ibid, page 13, para 3.27

⁷ Ibid, page 6, para.4.5.2

CHAPTER 2

Breaches Reported 2016-17

- 2.1 Where breaches have been reported, the Commission provides comment on whether or not it considers the breaches to be material, the Commission's overall assessment of the licensee's compliance and any mitigating factors.
- 2.2 In assessing whether breaches are material, the Commission also considers the licensee's remedial actions, factors behind each breach, level of cooperation and initiative in being forthcoming and open to reporting breaches, and the licensee's self-assessment of the materiality of the breach.

EDL NGD (NT) Pty Ltd

- 2.3 No breaches were reported by EDL NGD (NT) Pty Ltd for the 2016-17 financial year.

ERM Power Retail Pty Ltd

- 2.4 No breaches were reported by ERM Power Retail Pty Ltd for the 2016-17 financial year.

Jacana Energy

- 2.5 Jacana Energy reported that no breaches had occurred during 2016-17. Jacana Energy noted that three compliance issues were reported to the Commission during the reporting period.
- 2.6 In July 2016, Jacana Energy identified 37 customers who had not been switched to the Time of Use tariff in a timely manner. The issue related from delays in the processing of Service Requests. The Commission were informed of the incident by letter on 7 December 2016. Letters were sent to the affected customers outlining the steps taken to rectify the issue which included upgraded meters and the reissue of bills with rebates.
- 2.7 22 customers on the Time of Use tariff were charged the peak tariff on weekends when the off-peak tariff was applicable. The issue arose from residential customers being assigned to a commercial tariff, which do not distinguish weekends as off-peak. The Commission was informed of the incident by letter on 9 May 2017. Letters were sent to the affected customers outlining the steps taken to rectify the issue which included the reissue of bills with the correct rates applied.
- 2.8 The 5 per cent Electricity Pricing Order tariff reduction, effective from 1 January 2016, were not passed on to 138 prepaid meter customers resulting in the affected customers being overcharged by 5 per cent. The Commission was informed of the incident by letter on 7 December 2016. Letters were sent to the affected customers outlining the steps taken to rectify the issue which included Jacana Energy crediting the affected customers.
- 2.9 The Commission considers Jacana Energy's engagement with the Commission in relation to a potential breach to be good regulatory practice.

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- 2.10 The Commission notes that PricewaterhouseCoopers (PwC) were engaged in March 2017 to undertake an audit of Jacana Energy and Power and Water Corporation's compliance with the Electricity Pricing Order and the Water and Sewerage Pricing Order. The Commission will report on the findings and recommendations of the audit in the 2017-18 Annual Compliance Report.

Power and Water Corporation

- 2.11 PWC has reported a number of compliance issues for both the 2016-17 and previous reporting periods in its 2016-17 Annual Compliance report. None of the material breaches reported are for the current reporting period.
- 2.12 The compliance issues reported consist of the following:
- a) Power Networks and Customer Service Centre - four occurred in previous reporting periods and three in 2016-17. The Commission is satisfied that PWC has taken the appropriate actions for the issues related to the current reporting period
 - b) System Control – PWC incorrectly provided confidential customer meter data to a customer's previous retailer. PWC informed the Commission of the incident once it was detected
 - c) Water Quality – Four health compliance issues were reported for the 2016-17 period. In all four cases the Department of Health were notified
 - d) Waste Water – 48 health and environmental compliance issues were reported for the 2016-17 period. In three cases the issue was reported to both the Department of Health and the Northern Territory Environmental Protection Authority (NT EPA). In the remaining 45 cases the issue was reported solely to the NT EPA
 - e) Environmental - 12 compliance issues were reported for the 2016-17 period. In all 12 cases the Territory EPA were notified.
- 2.13 As noted above under the Jacana Energy section PwC were engaged in March 2017 to undertake an audit of Jacana Energy and Power and Water Corporation's compliance with the Electricity Pricing Order and the Water and Sewerage Pricing Order.
- 2.14 The Commission notes that PWC's compliance declaration detailed improvements to their Compliance Management System in order to meet the Commission's Compliance Framework and Reporting Guidelines.

QEnergy Limited

- 2.15 No breaches were reported by QEnergy Limited for the 2016-17 financial year.

Rimfire Energy Pty Ltd

- 2.16 No breaches were reported by Rimfire Energy for the 2016-17 financial year.

Territory Generation

- 2.17 No breaches were reported by Territory Generation for the 2016-17 financial year.