

ANNUAL COMPLIANCE REPORT 2020-21

A summary of compliance reports
received by the Utilities Commission
from licensees for the 2020-21 year

NOVEMBER 2021

Disclaimer

This Annual Compliance Report has been prepared by the Utilities Commission in accordance with the *Utilities Commission Act 2000*. To the maximum extent permitted by law, the Commission disclaims and excludes all liability for any loss, claim, demand, damages, costs and expenses of any nature (whether or not foreseeable and whether direct, indirect or consequential and whether arising from negligence or otherwise):

- suffered or incurred by any person relying or acting on any information provided in, referred to or omitted from, this document or
- arising as a result of, or in connection with, information in this document being inaccurate or incomplete in any way or by reason of any reliance on it by any person, including by reason of any negligence, default or lack of care.

Inquiries

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

Utilities Commission
GPO Box 915
DARWIN NT 0801

Telephone: +61 8 8999 5480

Email: utilities.commission@nt.gov.au

Table of Contents

Overview.....	iii
Introduction.....	1
Licensing and compliance.....	1
The Commission's approach to compliance	2
Compliance reports	4
Licensees.....	4
Compliance report declarations	5
Schedule A – Relevant obligations	5
EIP Code independent audit outcomes.....	6
Audited licensees.....	6
Non-compliance found during independent audits	7
Commission views	9
Non-compliance reported in 2020-21.....	10
Licensees reporting no breaches	10
EDL NGD (NT) Pty Ltd.....	10
Jacana Energy.....	11
Power and Water Corporation.....	13
Rimfire Energy	15
Territory Generation	15
Glossary	16

Overview

The provision of electricity, water and sewerage services is essential for the comfort, health and productivity of Territory households and businesses. As economic regulator of these services, the Utilities Commission (Commission) considers its primary objective is to protect the long-term interests of Territory consumers with respect to price, reliability and quality.

The Commission grants licences to entities to provide electricity, water and sewerage services on the basis that they comply with conditions of their licence and relevant laws, codes, rules and other regulatory instruments. These instruments provide important protections for consumers and compliance with obligations helps to ensure services are reliable, safe, efficient and cost-effective. The Commission's oversight of compliance also provides potential investors with the confidence that laws, regulations, rules and other instruments are being monitored and applied consistently to ensure a level playing field for all market participants.

This annual compliance report provides a summary of compliance by electricity, water and sewerage services licensees in 2020-21. Where instances of non-compliance have occurred, these are described along with remedial actions undertaken by licensees to rectify the breach and the Commission's assessment and actions in relation to the non-compliance.

Key points from the report are:

- Eleven licensees submitted compliance reports for 2020-21.
- No licensees reported instances of material non-compliance.
- Six licensees reported no instances of non-compliance.
- Remaining licensees reported instances of non-material non-compliance with more than half related to non-compliance with the Electricity Industry Performance (EIP) Code detected through independent audits required by the Commission.
- Five licensees conducted independent audits of compliance with the EIP Code, four of whom were found to have instances of non-compliance.
- The value of independent audits as a tool for improvement was demonstrated, detecting weaknesses in compliance processes and providing impartial and expert direction to licensees on how issues could be rectified. External and internal audits and subsequent remedial actions are important for strengthening licensees' compliance processes and performance.
- The Commission has placed additional requirements on some licensees in order to be further reassured of the robustness of their compliance process.

Introduction

- 1.1 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, water and sewerage supply 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 under the *Water Supply and Sewerage Services Act 2000* (WSSS Act).
- 1.2 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 market¹
 - water supply services
 - sewerage services.

Licensing and compliance

- 1.3 Each year, holders of these licences are required to report to the Commission on compliance with requirements of their licence, relevant legislation, codes and other instruments as well as their framework to support compliance.
- 1.4 Annual compliance reporting obligations may not extend to all licensees, for example, the Commission exempts Independent Power Producer (IPP) licence holders from annual reporting requirements. 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.
- 1.5 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. Accordingly, 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.
- 1.6 For compliance reports, the reporting interval is set by the Commission through its Compliance Framework and Reporting Guidelines (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

¹ Electricity Reform (Administration) Regulations 2000, Regulation 3E. Regulation 3F provides an exemption for the system controller to operate the wholesale market in the Darwin-Katherine power system.

require inclusion in the report of a declaration of responsibility from the Board of the licensee on the following:

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

- 1.7 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.
- 1.8 For the purpose of transparency, and to be consistent with the practices of other jurisdictions, this report provides a summary of the compliance reports received and instances of non-compliance reported by licensees, associated remedial action to resolve the breach and any enforcement action taken by the Commission.

The Commission's approach to compliance

- 1.9 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 which advises on both material and non-material breaches.
- 1.10 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 (that is, AS ISO 19600:2015 Compliance management systems – Guidelines or equivalent, noting that in April 2021 ISO 19600 Compliance management systems was superseded by the new ISO 37301 Compliance management systems).
- 1.11 The Commission considers the requirement for licensees to develop and maintain adequate compliance frameworks and compliance reporting processes protects the long-term interests of Territory consumers by helping to ensure services are reliable, safe, efficient and cost-effective. It also assists licensees to manage risk in a systematic and proactive manner and provides potential investors with the confidence that laws, regulations, rules and other instruments are being monitored effectively and applied consistently to ensure a level playing field for all market participants.

Compliance monitoring

- 1.12 The Commission's compliance monitoring program comprises of three main elements:
 - risk identification and risk assessment
 - ensuring compliance and
 - enforcement.

Risk identification and risk assessment

- 1.13 Licensees must 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 ranking of risks is the responsibility of each licensee.

- 1.14 A licensee is 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.

Ensuring compliance

- 1.15 The Commission monitors the compliance of licensees through compliance and breach reporting and audit requirements. In particular, licensees are required to report any 'material' compliance breaches as soon as reasonably possible after the breach is identified and the remedial measures being taken to rectify the breach. 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 or
 - public health and safety is threatened.
- 1.16 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. If a licensee is in doubt as to whether or not a non-compliance is material, it is advisable for the licensee to notify the Commission of the compliance breach.
- 1.17 Non-material breaches are reported through the annual compliance reporting process.

Enforcement

- 1.18 The Commission has discretion to undertake appropriate action in response to a breach. In most cases, the Commission expects to be able to resolve matters by requesting active steps be taken to remedy the breach, but should the licensee fail to respond to such requests, the matter may be escalated to disciplinary action.
- 1.19 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. An alternative is for the Commission to consider suspension or cancellation of the licence.
- 1.20 More generally, however, the Commission believes reputational damage provides a good incentive for licensees to comply with obligations and promptly rectify a breach. To this end, it publishes information on material breaches and documents such as this report, to inform the public of licensees' 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 and/or greater benefits for consumers.

Compliance reports

Licensees

- 2.1 Two new licences were issued in 2020-21: a retail licence was issued on 27 July 2020 for the Commonwealth Department of Defence to sell surplus electricity from behind-the-meter solar photovoltaic (PV) generation at Robertson Barracks in Holtze and RAAF Darwin in Winnellie to electricity retailers; and a generation licence issued on 29 January 2021 for Assure Energy Asset Pty Ltd to generate solar PV electricity at Robertson Barracks and RAAF Darwin and sell that electricity to the Department of Defence. The Department of Defence was also granted an exemption from the requirement to hold a licence to own or operate the electricity network infrastructure located within Robertson Barracks and RAAF Darwin, which connect to the Power and Water Corporation's (PWC's) Darwin-Katherine electricity network.
- 2.2 Two generation licences were transferred in 2020-21: the licence held by Batchelor Solar Farm Pty Ltd was transferred to BSF Co Pty Ltd as trustee for the BSF Unit Trust (BSF) and the licence held by Trutinor NT Pty Ltd for the Hudson Creek power station was transferred to HCPS Co Pty Ltd as trustee for the HCPS Unit Trust (HCPS) . The transfers took effect on 27 October 2020.
- 2.3 Eleven licensees provided compliance reports to the Commission for the 2020-21 reporting period (**Table 1**). All reports were received by the due date of 31 August 2021.

Table 1 Reporting Licensees

Licensee	Licence Held
Assure Energy Asset Pty Ltd	Generation
BSF	Generation
EDL NGD (NT) Pty Ltd	Generation, Retail
Eni Australia Limited	Generation
HCPS	Generation
Next Business Energy Pty Ltd	Retail
Power and Water Corporation	Network, System Control, Generation, Retail, Water Supply, Sewerage Services
Power Generation Corporation trading as Territory Generation	Generation, Retail
Power Retail Corporation trading as Jacana Energy	Retail
QEnergy Limited	Retail
Rimfire Energy Pty Ltd	Retail

- 2.4 The Department of Defence was not required to provide a compliance report for the 2020-21 reporting period as electricity had not been produced for it to sell, but the Department of Defence will need to provide a compliance report for the 2021-22 reporting period. The Department of Defence was, however, requested to advise of any internal audits conducted in 2020-21 of compliance with obligations under its licence, and provided a nil report.
- 2.5 Information on internal audits was also requested from other licensees in **Table 1**.

Compliance report declarations

- 2.6 As part of an annual compliance report, the Commission requires a declaration that the licensee has maintained an appropriate compliance framework that complies with the requirements of their licence as set out in the Compliance Framework and Reporting Guidelines. The Guidelines provide a template declaration, which most licensees adopted. This declaration is essential for new licensees as it helps to confirm that they have met their licence obligation to establish (and subsequently maintain) a compliance process within three (3) months of the issue of their licence.
- 2.7 The Commission also requires a declaration of responsibility from the licensee's Board. Licensees typically adopted the standard declaration provided as part of the reporting template in the Commission's Guidelines.

Schedule A – Relevant obligations

- 2.8 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. It is licensees' responsibility to identify and maintain a current and comprehensive list of relevant instruments. Failure to do so increases the risk of non-compliance.
- 2.9 In the 2019-20 compliance reports, a number of issues were identified regarding Schedule A including omission of instruments and documents, inclusion of superseded legislation and inclusion of non-applicable legislation. The Commission is pleased that in the 2020-21 reports, many licensees have reviewed and updated their Schedule A.
- 2.10 The Commission encourages all licensees to regularly review their Schedule A list to ensure that they are capturing all obligations in their compliance framework and to remain up-to-date with any changes in obligations.

EIP Code independent audit outcomes

- 3.1 In 2020-21, all licensees other than those that reported nil for all performance indicators during the period from 2017-18 to 2019-20 were required under clause 6.2 of the Electricity Industry Performance (EIP) Code to undertake an independent audit to verify the integrity and accuracy of data collected and reported against performance indicators set out under the EIP Code.² Clause 6.2 requires an independent audit to be undertaken at least once every three years; however, as part of transitional arrangements, only one of the three years in the audit period of 2017-18 to 2019-20 had to be independently audited with a report to the Commission. The Commission's recommended year for the audit was 2019-20.³
- 3.2 Licensees were required under the EIP Code Independent Compliance Audit Guidelines to gain Commission approval of the scope of their audit (clause 3.1.2) and to consult with the Commission on the suitability of their preferred auditor (clause 4.1.4). The Guidelines also required the audits to be completed by 31 January 2021 with the final report to be submitted to the Commission by 28 February 2021 (clauses 2.2.3 and 3.2.1, respectively).
- 3.3 Where areas of non-compliance are identified by the independent auditor, the Guidelines required the auditor to include recommendations in their report on how the licensee can achieve future compliance (clause 3.1.6). The final report submitted to the Commission was to include a signed statement from the Chief Executive Officer (CEO), or delegate, of the licensed entity acknowledging and responding to the findings and recommendations from the independent audit including how any findings of non-compliance would be addressed (clause 3.2.2).

Audited licensees

- 3.4 Five licensees undertook independent audits in relation to the 2019-20 financial year:
 - EDL NGD (NT) Pty Ltd
 - Jacana Energy
 - Power and Water Corporation
 - Territory Generation
 - Rimfire Energy Pty Ltd.
- 3.5 All licensees, with the exemption of Rimfire Energy Pty Ltd (Rimfire), submitted their independent audit report and CEO response to the audit findings by the due date of 28 February 2021. Rimfire lodged its audit report on 1 March 2021; however, the CEO response was not provided until 10 March 2021.
- 3.6 The independent audit for EDL NGD (NT) Pty Ltd (EDL) identified no instances of non-compliance. The independent audits for the remaining licensees identified multiple instances of non-compliance and areas for improvement, which are summarised in the following sections.

² Licensees with nil performance in the auditing period, for example, a retail entity with no small customers, were not required to undertake an independent audit.

³ EIP Code Independent Audit Guidelines, clause 2.2.2.

Non-compliance found during independent audits

Jacana Energy

- 3.7 Jacana Energy's (Jacana's) independent audit identified five breaches of the EIP Code in 2019-20. Further, the auditor identified inadequacies in processes, internal controls and oversight around the compilation of Jacana's 2019-20 EIP Code report, which meant that overall there was not adequate assurance over the accuracy of the information provided in the report.
- 3.8 Following the independent audit, Jacana submitted a revised 2019-20 EIP Code report to the Commission, correcting errors in the reported balances and calculation of relevant performance indicators for inclusion in the 2019-20 Northern Territory Electricity Retail Review.
- 3.9 Jacana's management accepted all of the independent auditor's recommendations and subsequently confirmed that Jacana's response to the recommendations had been implemented with final actions completed with finalisation of its 2020-21 EIP Code Performance Report. This included Jacana seeking exemptions, in accordance with clause 5.1.3 of the EIP Code, for four matters for the 2020-21 reporting period:
- The Commission approved an exemption to allow Jacana to continue to exclude customers with debt less than \$10 from its EIP Code reporting.
 - The Commission acknowledged the requirement to report against the 'case studies' performance indicator was unclear noting that in versions 2 and 3 of the Australian Energy Regulator (Retail Law) Performance Reporting Procedures and Guidelines (that EIP Code reporting is required to be consistent with), it is optional or no longer required. Given this, an exemption was not necessary.
 - The Commission approved Jacana's request for an exemption from reporting the number of customers by meter type (additional to the exemption granted for the 2018-19 and 2019-20 reporting periods), noting that Jacana will be working with PWC to improve processes and thereby access to necessary data to enable reporting in the future.
 - The Commission approved Jacana's request to continue to include customers with payment plans of less than three instalments in relevant payment difficulty performance indicators in the 2020-21 EIP Code reporting, noting this is expected to be rectified in the 2021-22 reporting period.
- 3.10 Jacana lodged an additional submission to the EIP Code review regarding its issues with performance indicators, which the Commission will consider in conjunction with other stakeholder feedback in preparing proposed amendments to the EIP Code.

Power and Water Corporation

- 3.11 PWC's independent audit identified nine breaches of the EIP Code in 2019-20 relating to indicators for the Guaranteed Service Level (GSL) scheme, distribution network reliability and network customer service. The auditor was also unable to validate the data underlying two performance measures and made a number of comments regarding PWC's manual processes.
- 3.12 PWC advised that its ICT systems and manual processes for reporting and calculation of some performance indicators continue to provide challenges to meeting the requirements of the EIP Code; however, the primary action to address these issues is not scheduled to be undertaken until 2025. While the Commission notes this advice, in

the interim, it is PWC's responsibility to ensure it complies with its various licence obligations and all applicable laws, codes, rules or standards. Where data is manually entered or manipulated due to the lack of automated systems, PWC (and other licensees) should have suitable manual systems and internal controls in place to ensure compliance.

- 3.13 Errors in the reported performance indicators meant that it was necessary for PWC to submit a revised 2019-20 EIP Code report to the Commission as these had implications for the 2019-20 Northern Territory Power System Performance Review.
- 3.14 PWC's management accepted all of the auditor's recommendations in full or in part where further clarification or exemption was to be sought from the Commission. Implementation of all recommendations was targeted for completion by mid-August 2021. While the majority have now been completed, PWC has advised that the timeframe for actioning remaining recommendations, which relate to establishing a new reporting template and provision of data, has been extended with these now due for completion at the time of submission of PWC's 2021-22 EIP Code reporting (31 October 2022).
- 3.15 As part of its response to the audit recommendations, PWC sought and was granted a one-year exemption by the Commission from reporting against the GSL performance indicator on keeping appointments and the requirement for four years of historical network data. PWC lodged an additional submission to the EIP Code review on these matters for consideration by the Commission.

Rimfire Energy

- 3.16 Rimfire's independent audit identified 25 breaches of the EIP Code in 2019-20. The majority of instances of non-compliance related, at least in part, to either incorrect aggregation of data or an inability to verify a reported value. The independent auditor recommended Rimfire improve systems and document its processes to ensure it has verifiable processes in place, regardless of the minimal number of applicable and reportable performance metrics.
- 3.17 Rimfire's management accepted all of the auditor's recommendations and provided a response as to how they might be implemented. The Commission was not, however, satisfied that some proposed actions evidenced appropriate internal controls to ensure Rimfire could adequately manage risks and ensure compliance with its regulatory obligations. The Commission also noted that Rimfire did not undertake any formal internal audits of its compliance systems during 2019-20. Regular internal audits are both good practice and a licence obligation.
- 3.18 Compliance with clause 11.1(a) of Rimfire's retail licence requires it to have in place appropriate auditable internal policies, procedures and systems (a compliance process) for ensuring that it complies with its obligations under the licence and all applicable laws, codes, rules or standards. Given outcomes from the EIP Code audit and other matters, the Commission is not sufficiently assured of the robustness of Rimfire's compliance process. Accordingly, the Commission has increased oversight and requirements for Rimfire to ensure that it meets the Commission's expectations in relation to regulatory compliance.

Territory Generation

- 3.19 Territory Generation's (TGen's) independent audit report identified two breaches of the EIP Code in 2019-20 relating to incorrect calculation of the availability factor and the forced outage factor for one power station. The auditor also highlighted risks and errors that may occur with reliance on manual data preparation or manipulation.
- 3.20 TGen's management accepted all of the auditor's recommendations relating to the non-compliance and other minor matters which will improve data for its 2020-21 EIP Code Report. The Commission recommends TGen also give due consideration to the auditor's additional observations and recommendations relating to governance and quality management frameworks that could further enhance its compliance process.

Commission views

- 3.21 Continuous improvement is an important principle in maintaining a robust and comprehensive compliance process. The value of independent audits as a tool for improvement has been clearly demonstrated with these uncovering non-compliance with EIP Code reporting requirements and weaknesses in licensees' compliance processes. Independent auditors also provide impartial and expert direction to licensees on how issues can be rectified and licensees' compliance processes and performance strengthened through subsequent actions in response to their auditor's recommendations.
- 3.22 Providing complete and accurate historical data under the EIP Code is essential for comparability over time and to assist in the identification of genuine trends in the Northern Territory's electricity industry. As such, where EIP Code reporting errors are found, it is important to not only provide correct data to the Commission going forward, but also to examine and retrospectively apply adjustments to historical data, and if this is not possible, to advise the Commission why this is the case

Non-compliance reported in 2020-21

- 4.1 In terms of monitoring compliance, the Commission partly relies on licensees' self-assessment of compliance. The following sections provide information on key instances of non-compliance reported by licensees in 2020-21 including factors behind the breach, remedial action and the Commission's assessment of the non-compliance.
- 4.2 As part of the annual returns process, the Commission also requested information on internal audits conducted during 2020-21. Evidence of internal audits of compliance is important, noting the Commission considers a regular audit program to be an integral part of an effective process to ensure compliance with obligations under the licence and all applicable laws, codes, rules, standards and guidelines.

Licensees reporting no breaches

- 4.3 Six licensees reported no instances of non-compliance in 2020-21:
- Assure Energy Asset Pty Ltd
 - BSF
 - Eni Australia Limited
 - HCPS
 - Next Business Energy Pty Ltd
 - QEnergy Limited
- 4.4 These licensees did not report undertaking any internal audits; however, Eni Australia Limited reported that it had reviewed its Safety Management and Mitigation Plan (SMMP) as required by clause 21(b) of its generation licence.
- 4.5 It is reasonable that these licensees have not reported any breaches with several of these licensees yet to become fully operational in the Northern Territory electricity supply industry and others having few or no customers. The Commission notes, however, that licensees need to be aware that there are non-operational obligations that they must meet. For example, timely payment of licence fees, timely submission of licence returns and compliance reports and information required in reports to the Commission (as discussed in Chapter 2). Any non-compliance with these obligations must be reported by licensees.

EDL NGD (NT) Pty Ltd

- 4.6 EDL reported three non-material breaches during 2020-21. Two of the breaches relate to EDL failing to provide four years historical data in its generation and retail performance reporting for 2019-20 as required by clause 5 of the EIP Code. The remaining breach continues from 2019-20 when EDL advised that it was non-compliant with clause 4.1.1 of the Electricity Retail Supply Code (ERSC). This obligation requires a retailer to enter into a coordination agreement with the network provider in the regulated power systems (Alice Springs, Darwin-Katherine and Tennant Creek) relating to the provision of services to customers.
- 4.7 The Commission agrees that the non-compliance is not material as EDL has no retail customers. The Commission notes that EDL has made a submission to the ERSC review on the application of clause 4.1.1, which the Commission will consider along with other stakeholder feedback in preparing proposed amendments to the ERSC.

- 4.8 EDL advised that it undertook two internal audits in 2020-21 – a non-technical review of compliance processes and an audit of compliance with the Pine Creek Power Station SMMP. The audits identified low risk issues to address and opportunities for improvement.
- 4.9 Generation and network licensees are required to annually review their SMMP, but this does not assess whether there has been compliance with the safety frameworks and processes that are in place. The Commission commends EDL in proactively undertaking an internal audit of compliance with its SMMP and strongly encourages other relevant licensees to undertake assessments of compliance with their SMMPs.

Jacana Energy

- 4.10 Jacana reported non-compliance against seven obligations in its 2020-21 annual compliance report, one of which was a non-compliance in 2019-20. Jacana also advised that it had conducted internal audits of compliance management and life support processes.

Public benevolent institution (PBI) tariff

- 4.11 In 2020, Jacana identified that there was a misalignment between the Electricity Pricing Order (EPO) definition of a PBI tariff customer and the customers intended by the government to be eligible for the PBI tariff. Information on Jacana's website regarding eligibility was also inconsistent with the EPO definition of a PBI tariff customer. The Northern Territory Government subsequently amended the EPO on 1 October 2020 to confirm a PBI customer as a prescribed customer that is registered as a public benevolent institution with the Australian Charities and Not-for-Profits Commission.
- 4.12 Jacana advised that it relies on customers to self-identify as eligible for the PBI tariff, but given the definitional issues, Jacana conducted a review identifying 297 customers eligible for the PBI tariff under the EPO issued 1 October 2020 that did not have the PBI tariff applied. Jacana has now applied the PBI tariff to these customers. To improve customer awareness of the PBI tariff and facilitate self-identification, Jacana advised that it has alerted relevant organisations through social media campaigns and improved visibility and access to PBI tariff information on its website.
- 4.13 The Commission notes Jacana's proactive identification of the issue and steps to resolve matters and this has been to the benefit of customers. The Commission does not require Jacana to take any further action on this matter beyond continuing to maintain visibility of the PBI tariff.

Non-compliance with the ERSC

- 4.14 Jacana reported three breaches related to obligations under the ERSC:
- Jacana's coordination agreement with PWC expired on 30 June 2020 and although the agreement was extended, the extension was not approved until 3 July 2020 (non-compliance with clause 4.1.1 of the ERSC and clause 20.1 of Jacana's retail licence for a period of three days). The Commission confirms this is a non-material breach with no implications for customers.
 - There were five instances where medical confirmation forms were not sent within the required timeframe (non-compliance with clause 10.3A.1 of the ERSC). Jacana advised that three instances related to errors by customer care agents and two were the result of automated system failures. Jacana advised it has implemented processes to manually issue the forms where needed until the system problem is

rectified and undertaken refresher training for staff and reviewed and updated business process instructions. The Commission notes Jacana's advice that it has also developed regular internal audit and quality checks for life support processes to provide an extra level of assurance of compliance with regulatory obligations.

- As advised in 2019-20, Jacana's marketing collateral does not inform customers of their right to choose another retailer when that customer is a greenfield exit point or the supply contract with the customer has terminated or expired. Jacana advised that it remained in breach of clause 8.3.5 of the ERSC during 2020-21 while it worked toward a solution. The Commission notes Jacana's advice that remedial action to address this issue is expected to occur the second half of 2021 and expects this will be discussed in Jacana's 2021-22 compliance report.

Non-compliance with clause 23 of Jacana's retail licence

- 4.15 Clause 23 of Jacana's retail licence states Jacana must not 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 a substantial increase with 22 customers wrongfully disconnected in 2020-21 (0.2% of all disconnections), up from seven in 2019-20 and 12 in 2018-19. Jacana advised that none of the customers wrongfully disconnected were life support customers.
- 4.16 The majority (17) of instances related to errors by customer care agents. Jacana advised that training on disconnection processes was a focus throughout 2020-21 and this resulted in process improvements that increased the frequency of reporting wrongful disconnections. Jacana advised that reducing instances of disconnection errors will continue to be a key focus in 2021-22. Jacana will also continue to investigate cost-effective system solutions to reduce the risk of manual error.
- 4.17 Jacana's advice casts doubt on the accuracy of the lower figures reported to the Commission in previous years. Regardless, the Commission is concerned by any wrongful disconnection and expects there to be an improvement in Jacana's performance in 2021-22. Should, however, there be instances of wrongful disconnections in 2021-22, the Commission has requested that Jacana provide further detail on the breaches, such as the duration of the disconnections and on any compensation paid to customers where there has been a significant delay in reconnecting. This will assist the Commission to better evaluate the materiality of the non-compliance.

Non-compliance with clause 5.1.1 of the EIP Code

- 4.18 The Commission notes that system limitations resulted in Jacana continuing to be unable to meet its obligation to provide four years of historical data in its EIP Code reporting. Jacana advised that this will become possible in 2022.
- 4.19 In May 2021, Jacana alerted the Commission that it had used an incorrect definition of debt in calculating the amount of debt at the time a customer entered into the hardship program. As a result, Jacana's EIP Code reports have overstated the average level of debt. Jacana advised that the correct definition would be applied in the 2020-21 reporting period.

Power and Water Corporation

- 4.20 PWC reported 22 non-material breaches across its Power Services (11), Core Operations including System Control (eight), Finance and Business Services (one) and Customer, Strategy and Regulation (two) business areas. Nine of the breaches were identified through the EIP Code independent audit, as discussed in the previous chapter. No breaches were reported in relation to water and sewerage services.
- 4.21 The Commission notes that PWC's 2020-21 annual compliance report included declaration of a non-compliance from 2019-20 regarding the late submission of initial incident reports. This was omitted from its 2019-20 compliance report, but identified by the Commission.

Life support verifiable consent and registration

- 4.22 Through an internal audit, PWC identified a breach of clause 10.4B.1(f) of the ERSC, which requires the record of a life support customer's consent to a power interruption to be held for at least two years. Where consent is given by phone, PWC advised that it will implement a consistent process for the capture and retention of the consent including use of existing call recording technology for notification calls.
- 4.23 PWC advised that five life support registration requests were not actioned within the required 24 hours timeframe (non-compliance with clause 10.3D.1 of the ERSC). PWC also reported an instance where a meter was reconfigured due to life support requirements, but the customer was not registered as a life support customer. These non-compliances meant the customers did not have the security of notification of planned outages or procedures for unplanned notifications. While PWC advised no outages occurred during the period when these life support customers should have been registered, this is a serious matter and the Commission is reassured that PWC has responded appropriately with the incidents raised with management, a formal investigation undertaken and corrective actions identified to prevent a reoccurrence.

Meter related non-compliance

- 4.24 PWC reported five instances of non-compliance arising from incorrect meter setup, delayed provision of meter data and customer meter data provided to the incorrect retailer following transfer to a new retailer. PWC advised that the issues have been addressed and rebilling has occurred as required.

System Control non-compliance

- 4.25 The Commission acknowledges that there has been a substantial improvement in the timeliness of incident reports over 2020-21 as a result of System Control's increased focus, effort and prioritisation on incident reporting. The reports are important with the investigation of major incidents and implementation of recommended remedial actions essential to ensuring power system security and the quality of electricity supply.
- 4.26 In relation to reporting of minor reportable incidents, the Commission is aware that System Control uses a different definition of such incidents to that prescribed by clause 7.3.3 of the SCTC (and is thus in breach of the clause), but did not identify this in its report. While the Commission has agreed to take no action in relation to this non-compliance up to and including 31 March 2022, on the basis that System Control's current approach has no negative impact on system security or reliability and PWC is seeking to amend the SCTC regarding incident reporting, PWC should still have reported this as non-compliance.

4.27 PWC's 2020-21 annual compliance report identified two instances of non-compliance with the SCTC during the reporting period:

- System Control did not issue a Schedule of Audit and Inspection of compliance of network and system participant equipment for 2020-21 by 1 July 2020 as required under clause 6.22.1(e) of the SCTC. The Commission notes that System Control did, however, publish a Schedule of Audit and Inspection for 2021-22 on PWC's website by the due date, which includes a proposed four year forward audit schedule to 2025-26.
- PWC advised that System Control did not issue an October quarterly report to system participants (non-compliance with clause 8.4.2 of the SCTC), instead including relevant content in its Biannual Report due on 31 January 2021. PWC advised that no complaints or concerns were received from system participants and it has drafted changes to the SCTC for consultation with system participants, which will be considered for approval by the Commission in due course.

Northern Territory Electricity Ring-fencing Code (Ring-fencing Code)

4.28 PWC reported two instances of non-compliance with clause 4.2 of the Ring-fencing Code, which required PWC to submit draft information, accounting and cost allocation procedures to the Commission for approval by 28 February 2021. The procedures were not submitted until 7 June 2021. The Commission is concerned by PWC's delay in submitting the required procedures, particularly given a six month transitional provision was provided to give PWC time to prepare the procedures. The Commission notes, however, that there were procedures in existence, albeit dated.

Other compliance matters

- 4.29 PWC commenced the first stage of its three year independent audit schedule of operations under its water supply and sewerage services licences. PWC reported the results of the audit to the Commission by the due date of 31 August 2021, ensuring compliance with clause 11 of the licences. This addressed a significant long-term non-compliance.
- 4.30 PWC's independent audit found no instances of non-compliance in 2019-20 (except the failure to undertake audits as reported by PWC), but provided recommendations for business improvement including suggested enhancements to performance indicators for service delivery. In the absence of formal service standards for water and sewerage services, the Commission supports proactive action by PWC to review and enhance its own internal service standards.
- 4.31 In its previous annual compliance reports, PWC acknowledged that the operation of its compliance management system requires improvement and advised it would conduct a full review of its compliance framework in 2020-21. PWC's current annual compliance report indicates that this is now due to occur in 2021-22. PWC advised, however, that it did implement improvements in 2020-21 including selection and configuration of a new compliance information management system, review of ring-fencing obligations, an independent audit of water supply and sewerage services compliance (as noted above) and internal audits including in relation to life support notifications processes.
- 4.32 The Commission will maintain its close focus on PWC's compliance performance and expects PWC to continue to evidence that is undertaking internal and other audits of compliance with obligations under its various licences and rectifying identified issues and breaches as a priority.

Rimfire Energy

- 4.33 Rimfire did not advise of any instances non-compliance, other than those found in its EIP Code independent audit and the late lodgement of the CEO's response to the findings of the audit, as discussed in the previous chapter.

Territory Generation

- 4.34 TGen reported two instances of non-compliance in its 2020-21 annual compliance report, both relating to its EIP Code reporting for 2019-20. In addition to the calculation error discussed in the previous chapter, TGen failed to provide four years of historical data as required by clause 5.2.2 of the EIP Code. TGen advised that this was rectified in its 2020-21 EIP Code reporting.
- 4.35 TGen evidenced its internal audit plan and confirmed that four internal audits were undertaken during 2020-21.

Glossary

BSF	BSF Co Pty Ltd as trustee for the BSF Unit Trust
CEO	Chief Executive Officer
Commission	Utilities Commission of the Northern Territory
EDL	EDL NGD (NT) Pty Ltd
EIP Code	Electricity Industry Performance Code
EPO	Electricity pricing order
ER Act	<i>Electricity Reform Act 2000</i>
ERSC	Electricity Retail Supply Code
GSL	Guaranteed service level
HCPS	HCPS Co Pty Ltd as trustee for the HCPS Unit Trust
IPP	Independent power producer
Jacana	Jacana Energy
PBI	Public benevolent institution
PV	Photovoltaic
PWC	Power and Water Corporation
Rimfire	Rimfire Energy Pty Ltd
SCTC	System Control Technical Code
SMMP	Safety Management and Mitigation Plan
TGen	Territory Generation
UC Act	<i>Utilities Commission Act 2000</i>
WSSS Act	<i>Water Supply and Sewerage Services Act 2000</i>



utilicom.nt.gov.au