
LETTER OF TRANSMITTAL

The Hon Syd Stirling, MLA
The Treasurer
Parliament House
DARWIN NT 0800

Dear Treasurer

UTILITIES COMMISSION ANNUAL REPORT 2006-07

In accordance with the provisions of section 35 of the *Utilities Commission Act 2000*, I am pleased to provide you with the Annual Report of the Utilities Commission of the Northern Territory for the financial year ended 30 June 2007.

This report incorporates information regarding the work carried out by the Commission during the 2006-07 financial year under:

- the *Network Access Code*, in accordance with section 13(2) of the *Electricity Networks (Third Party Access) Act 2000*; and
- other relevant industry regulation Acts, specifically the *Electricity Reform Act 2000* and the *Water Supply and Sewerage Services Act 2000*.

As such, this Report also serves as an annual report on the Commission's activities under each of these other Acts.

I also draw your attention to section 35(2) of the *Utilities Commission Act 2000*, which requires that a copy of this Report be tabled in the Legislative Assembly within six sitting days of receipt.

Yours sincerely



Alan Tregilgas
Utilities Commissioner
for the Utilities Commission
26 September 2007



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Glossary

“Contestable Customer”	means a customer classified by the <i>Electricity Reform (Administration) Regulations</i> as a contestable customer; contestable customers can choose their retail supplier; from 1 April 2002 customers whose annual consumption of electricity is greater than 750MWh are classified as contestable customers
“CSOs”	means community service obligations
“EPO”	means Electricity Pricing Order
“Network Access Code”	means the <i>Electricity Networks (Third Party Access) Code</i> , which is a schedule to the <i>Electricity Networks (Third Party Access) Act 2000</i>
“Non-Contestable Customer”	means any customer other than a contestable customer
“Power and Water”	means the Power and Water Corporation
“Regulatory Control Period”	means the period between major electricity network price reviews by the Commission, during which time the methodology used in regulating prices is held constant
“Regulatory Minister”	means the NT Government Minister with responsibility for the <i>Utilities Commission Act</i>
“Ring-fencing Code”	means the NT Electricity Ring-fencing Code made by the Commission
“Standards of Service Code”	means the NT Electricity Standards of Service Code made by the Commission
“WSPO”	means Water and Sewerage Pricing Order

COMMISSIONER'S OVERVIEW

Year in Review

The Commission's focus during the year was on:

- contributing to the Government's ongoing review of regulatory arrangements in the NT electricity supply industry, including with regard to the possibility of transferring regulatory functions to the jurisdiction of the Australian Energy Regulator and the Australian Energy Market Commission;
- introducing effective monitoring of Power and Water's service performance against the approved minimum standards applying to regulated electricity networks and to non-contestable customers at the retail level; and
- undertaking the Commission's 2006 annual review of trends in the adequacy and security of the Territory's power system.

These and other activities undertaken by the Commission during the year are canvassed in the body of this Annual Report.

Coming Year's Work Program

The main elements of the Commission's work program over the coming year will be:

- to determine the network price regulation arrangements to apply during the third regulatory control period commencing 1 July 2009;
- to examine the actions/initiatives that could be undertaken by the Commission to address current regulatory deficiencies in the NT electricity market, particularly through a possible comprehensive review of the Ring-fencing Code;
- to continue to contribute to the Government's ongoing review of regulatory arrangements in the NT electricity supply industry; and
- to further develop the NT electricity standards of service monitoring regime and to work with Power and Water to improve its reporting of actual service performance against the approved minimum standards.

*Alan Tregilgas
Utilities Commissioner
September 2007*

LICENSING

The Commission issues licences to persons wishing to carry on operations in the Territory's electricity supply, water supply and sewerage services industries, in accordance with the provisions of relevant industry regulation Acts.

Licences on issue

Electricity

On 1 July 2006, the Power and Water Corporation ("Power and Water") held four licences under part 3 of the *Electricity Reform Act*:

- system control (to 30 June 2008);
- retail (until superceded, surrendered or cancelled);
- generation (to 30 June 2010); and
- network (to 30 June 2020).

Independent power producer licences were also held by the following producers who do not wish to participate fully in the electricity supply industry and instead generate electricity under contract for another generator:

- NGD (NT) Pty Ltd;
- Cosmo Power Pty Ltd;
- Central Energy Power Pty Ltd;
- Energy Resources of Australia Ltd;
- Landfill Management Services Pty Ltd; and
- Solar Power Stations Australia Pty Ltd.

An isolated system licence was also held by:

- Groote Eylandt Mining Company Pty Ltd.

There were no variations applied for or made to the terms and conditions of these licences during the year.

No applications for licences were received during the year.

Water and Sewerage

On 1 July 2006, Power and Water held the following licences under Part 2 of the *Water Supply and Sewerage Services Act*:

- water supply (to 31 December 2027); and
- sewerage services (to 31 December 2027).

There were no variations applied for or made to the terms and conditions of these licences during the year.

No applications for licences were received during the year.

Exemptions and exclusions

Electricity

On 1 July 2006, an exemption was current under section 87 of the *Electricity Reform Act*, with respect to Alcan-Gove Pty Ltd's electricity operations in the township of Nhulunbuy.

There were no variations applied for or made to the terms and conditions of the exemption during the year.

No applications for exemptions were received during the year.

Water and Sewerage

On 1 July 2006, a general exemption from the need to hold a licence under the *Water Supply and Sewerage Services Act* for persons on-supplying water services within prescribed licence areas was in place.

There were no variations applied for or made to the terms and conditions of the exemption during the year.

No applications for exemptions were received during the year.

Monitoring of licence conditions

Both the *Electricity Reform Act* and *Water Supply and Sewerage Services Act* require licensees to lodge with the Commission an annual return containing the information required by the Commission by condition of the licence or by notice in writing.

While Regulation 4(1) of the *Electricity Reform (Administration) Regulations* and Regulation 2 of the *Water Supply and Sewerage Services Regulations* both prescribe 1 August as the date by which the electricity, water and sewerage licence returns must be lodged, the Commission does not require the associated financial information to be lodged until 1 December at the latest.

During the year, Power and Water lodged returns with respect to the 2005-06 financial year for each of its licensed areas of operation. These licence returns included an audit of operations authorised by each licence and compliance with licence obligations, undertaken by an independent auditor, Ernst and Young. Ernst and Young's audit found that Power and Water was broadly compliant for each of its licensed operations, although some potential areas of non-compliance were identified. Power and Water has undertaken to address these issues within an agreed timeframe.

For those entities for whom activities in the electricity supply industry are more limited, licence returns are not required to contain the same level of detail as those required from Power and Water.

During the year, the following licensees also lodged returns with respect to the 2005-06 financial year for their licensed areas of operation:

- NGD (NT) Pty Ltd;
- Cosmo Power Pty Ltd
- Central Energy Power Pty Ltd;
- Energy Resources of Australia Ltd;

- Solar Power Stations Australia Pty Ltd;
- Landfill Management Services Pty Ltd; and
- Groote Eylandt Mining Company Pty Ltd.

No substantive issues arose as a consequence of these licence returns.

Licence fees

Both the *Electricity Reform Act* and *Water Supply and Sewerage Services Act* provide that annual licence fees are to be fees fixed from time to time by the Minister as an amount the Minister considers to be a reasonable contribution towards administrative costs.

All licence fees that were due to be received in 2006-07 were paid.

Licensing Manual

In 2001, the Commission published a Licensing Manual to assist persons carrying on operations in the NT's electricity supply industry, or who might wish to carry on such operations, to consider whether they need to hold a licence. The information contained in the manual is provided for the purposes of guidance only, and not intended to be an exhaustive statement of the law, policies and procedures applicable to the licensing of operations in the electricity supply industry.

During the year the Commission updated the Licensing Manual to provide more detail on the various sub-classes of licence that might be issued (i.e., independent power producers and isolated system applications) and the appropriate licence in particular situations. The Commission also provided more information on the level and type of information required to allow appropriate consideration of a licence application.

PRICE REGULATION

The Commission regulates certain prices in the monopoly sectors of the Territory's electricity supply industry in accordance with the relevant industry regulation Acts. The Commission does not have an equivalent role in the Territory's water supply and sewerage services industries.

Electricity networks

The *Network Access Code* specifies the price regulation framework to be observed by the Commission and by the network service provider when setting the prices to be paid by network users for the conveyance of electricity through the electricity network.

In the second regulatory control period, which commenced on 1 July 2004, the Commission adopted a price cap methodology, in which a weighted average tariff basket is adjusted annually by an externally-determined price cap escalation factor.

Network Pricing Principles

The *Network Access Code* assigns responsibility for determining the pricing structure that best gives effect to the pricing objectives of the Code to the network service provider.

In February 2006, the Commission approved the Network Pricing Principles Statement submitted by Power and Water. The approved Statement forms the basis upon which the Commission assesses proposed network tariffs and charges submitted for approval annually by Power and Water for the remainder of the second regulatory control period.

Network Tariffs

On 18 May 2007, the Commission approved the reference tariffs and charges for standard network access services to apply during the 2007-08 financial year.

Power and Water chose not to change the tariff structures of the 2007-08 tariffs.

Distribution System Extension Charges

Section 86 of the *Electricity Reform Act* provides that the Minister may, from time to time, declare an area to be an electricity supply distribution extension area. The owner of each parcel of land within the distribution extension area is liable to pay to the electricity entity licensed to sell to non-contestable customers in the area, a financial contribution towards the cost of extension of electricity supply in the area.

This financial contribution is an amount that must be approved by the Commission as the owner's reasonable share of the capital contribution required by the network service provider, with the capital contribution determined in accordance with the capital contribution principles set out in Part 3 of the *Network Access Code*.

In May 2006, Power and Water submitted its Distribution System Extension Policy and the schedule of financial contributions

contained therein for approval as meeting the requirements of sections 86(7) and 86(8) of the *Electricity Reform Act*.

On 1 July 2006, the Commission approved use of the schedule of financial contributions set out in the Power and Water's Distribution System Extension Policy as complying with the provisions of section 86(7) of the *Electricity Reform Act*, subject to the scheduled contributions in a particular case falling within a permissible range of the contribution calculated in accordance with the approved capital contributions policy.

Retail prices paid by contestable electricity customers

Retail electricity prices paid by contestable customers are subject to negotiation between these customers and their chosen supplier.

Contestable Pricing Guidelines

In September 2001, the Commission published Contestable Pricing Guidelines to present the Commission's views on the types of pricing conduct that could give rise to a finding of 'anti-competitive' and/or 'discriminatory' conduct by the Commission under either the Ring-fencing Code or the complaints provisions of the *Electricity Reform Act*.

These Guidelines were developed initially to provide guidance during the tender process associated with contestable government sites when there were two competing suppliers and, as such, the Guidelines were not developed with a view to providing guidance in the absence of effective retail competition. With the Guidelines' focus on anti-competitive pricing and discriminatory pricing, the Guidelines effectively put a floor under Power and Water's contestable customer pricing without any attention being given to possible ceilings to that pricing.

In the circumstances that currently prevail in the NT electricity market, the Commission decided that the Guidelines were in need of review. To initiate this review, the Commission withdrew the Guidelines on 26 April 2007.

Retail prices paid by non-contestable electricity customers

Electricity Pricing Orders

Retail electricity prices paid by non-contestable customers, whether residential or commercial, are regulated directly by the Government. The Government exercises its control over prices via an Electricity Pricing Order ("EPO") made under section 44 of the *Electricity Reform Act*.

The Commission is required to enforce compliance with the EPO as if the EPO were a determination of the Commission under the *Utilities Commission Act*.

On 1 July 2006, an EPO was in effect that set the maximum retail prices for electricity and related services supplied to non-contestable customers by Power and Water. On 11 May 2007, this EPO was superseded by the making of a new EPO by the Minister effective

from 1 July 2007. The new EPO increases electricity prices in line with the CPI.

On 1 July 2006, an EPO was also in effect applying to the fourth tranche of contestable customers (who use between 750MWh and 2GWh of electricity per annum) whose prices remained below cost-reflective levels. On 11 May 2007, this EPO was superceded by the making of a new EPO by the Minister effective from 1 July 2007. The new EPO allows Power and Water to increase prices in line with the CPI for those fourth tranche contestable customers whose prices remained below cost-reflective levels.

**Community
Service
Obligations**

Under section 6(g) of the *Utilities Commission Act*, the Commission also has the function of advising the Regulatory Minister on any matter referred to the Commission by the Minister.

From time to time, at the Minister's request, the Commission has reviewed the amounts of, and methods for setting, the community service obligations ("CSOs") payable to Power and Water.

During 2006-07, no requests were received from the Minister to review the CSOs payable to Power and Water.

On-supply of electricity pricing guidelines

On-supply of electricity is currently governed by the *Electricity Reform (Administration) Regulations* under the *Electricity Reform Act*. The Regulations define an on-supplier as a person who:

- is the owner or occupier of premises or has the right to use premises; and
- supplies and sells electricity for use in the premises (e.g., caravan parks, shopping centres, serviced apartments).

Under the Regulations, an on-supplier is exempt from the requirement to hold a licence authorising the sale of electricity, provided they comply with certain pricing restrictions.

Prior to 21 March 2007, where an on-supplier charged a receiver for electricity on the basis of the receiver's consumption of electricity as measured by a meter, the on-supplier could not charge more than the receiver would be expected to pay if the receiver were supplied directly by the non-contestable electricity retailer for that area.

Over time, situations have arisen where the on-supplier is a contestable customer and the cost-reflective price charged by Power and Water to the on-supplier for consumption that can be attributed to the receiver is higher than the government-regulated, non-contestable price that the on-supplier was permitted to charge the receiver.

Accordingly, on 21 March 2007, the *Electricity Reform (Administration) Regulations* were amended allowing on-suppliers to pass through these higher charges. The amended regulations also empower the Commission to issue guidelines for the administration of the regulation.

During 2006-07, the Commission commenced the development of on-supply pricing guidelines, pursuant to regulation 15(7) of the amended *Electricity Reform (Administration) Regulations*.

Wholesale generation prices

Recognising the pricing implications that can arise from contestable markets being supplied by a sole supplier, the Government has previously approved the introduction of prices oversight by the Commission of Power and Water's electricity generation business. The objective of this prices oversight is to ensure that individual contestable customers pay no more than the reasonable costs of wholesale electricity.

However, in practice, pricing decisions by Power and Water's retail business can override any wholesale generation price that has been subject to price monitoring. In these circumstances, the Commission believes that limited insight is gained from monitoring an internal transfer price that only has a loose relationship with the price paid by customers.

For this reason, and because of higher priority demands being placed on Power and Water as a result of the PricewaterhouseCoopers' review of Power and Water's financial information systems, the Commission deferred this year's generation price monitoring exercise.

System imbalance charges

Under the *Network Access Code*, the Commission oversees prices paid (or received) by third-party generators when purchasing (or selling) any mismatches between the energy generated by such generators and the load attributable to end-use customers supplied by these generators.

Following revisions to the *Network Access Code* that took effect on 1 July 2001, in May 2002 the Commission accepted Power and Water's proposed economic dispatch arrangements pursuant to clause 85 of the Code. The Commission continues to defer further development of economic dispatch arrangements predominantly on the basis of the lack of generation competition in the Territory.

System control charges

The *Electricity Reform Act* requires the Commission to approve charges imposed by the power system controller.

The charges that applied during 2005-06 are those approved by the Commission with effect from 1 July 2004, which continue until superceded.

Pricing of ancillary services

Regulation 3 of the *Utilities Commission Regulations* grants the Commission authority to determine prices relating to the provision of ancillary services in the electricity supply industry.

The Commission has deferred further development of the pricing for ancillary services until the prospects of generation competition re-emerge in the Territory.

Pricing of water supply and sewerage services

Water and Sewerage

Water supply and sewerage services prices are regulated directly by the Government. Section 60 of the *Water Supply and Sewerage Services Act* provides for prices to be controlled by the Government via a Water and Sewerage Pricing Order (“WSPO”) similar to the arrangements applying with respect to non-contestable customers in the electricity supply industry.

The Commission is required to enforce compliance with the WSPO as if the WSPO were a determination of the Commission under the *Utilities Commission Act*.

On 1 July 2006, a WSPO was in effect that set the maximum retail prices for water supply and sewerage services and related services supplied to customers by Power and Water.

On 11 May 2007, this WSPO was superceded by the making of a new WSPO by the Minister effective from 1 July 2007. The new WSPO increased water supply and sewerage services prices in line with the CPI.

CONDUCT REGULATION

The Commission is assigned a variety of roles when it comes to setting, approving and enforcing codes and rules aimed at ensuring appropriate types of conduct by licensed or regulated entities in the Territory's electricity, water and sewerage services industries.

Network Access Code

Third-party access to the services provided by prescribed electricity networks in the Northern Territory is currently governed by the *Network Access Code* which is a schedule to the *Electricity Networks (Third Party Access) Act*.

Review of Network Access Code

In 2003, the Commission reviewed the *Network Access Code's* effectiveness in facilitating competition and the use of networks by electricity generators and retailers, and preventing the exercise of market power by the owners/operators of electricity networks, pursuant to section 8(3) of the Act.

While recommendations dealing with the price regulation provisions of the Code contained in the Commission's final report were previously accepted, the Government's response to the remaining (non-pricing) recommendations has now been overtaken by the review of regulatory arrangements in the NT electricity supply industry.

Ring-fencing Code

An NT Electricity Ring-fencing Code developed and published by the Commission took effect on 1 July 2001 (with subsequent amendments in January 2002). The Ring-fencing Code aims at ensuring that monopoly businesses in regulated industries affiliated to contestable businesses do not discriminate against a competitor of that affiliated business, or financially or competitively advantage that affiliated business to the detriment of a competitor of that affiliated business. The Commission may at any time vary or revoke the Code in accordance with section 24 of the *Utilities Commission Act*.

Review of cost allocation practices and procedures

In October 2005, the Commission engaged consultants to assist it in a review of Power and Water's allocation of costs – both operating and capital – between products and customer groupings. The findings of the review included that Power and Water's cost allocation policies broadly comply with its legal/regulatory obligations but that the documentation operationalising the approved cost allocation procedures is deficient in certain respects and may result in an unreliable allocation of costs across regions and customer classes.

At the time, Power and Water undertook to address these issues within an agreed timeframe, and the Commission agreed to work with Power and Water over 2006-07 to ensure that financial information provided to the Commission was of an appropriate quality.

In 2006-07, this endeavour was overtaken by the commencement of a broader review of Power and Water's financial and accounting methods, conducted by PricewaterhouseCoopers as consultants to the NT Government.

*Procedures
under the
Ring-fencing
Code*

Under the Ring-fencing Code, Power and Water is required to develop, in conjunction with the Commission, accounting, cost allocation and information procedures designed to ensure compliance with its obligations under the Code.

The Commission had previously approved such procedures for use until 30 June 2005. In March 2006, the Commission decided to extend the current approvals of these Procedures, thereby postponing reviews of the Procedures under the Ring-fencing Code to a date to be determined.

*Possible
Review of
Ring-fencing
Code*

During 2006-07, the Commission made an in-principle decision to review the NT Electricity Ring-fencing Code, against the background of the Government's review of regulatory arrangements in the NT electricity supply industry.

Over the last two years, the Government has been reviewing the effectiveness of the existing NT electricity market regulatory regime, and in doing so has identified a number of structural and regulatory barriers to private investment and competition in the electricity supply industry. Recognising that the existing framework will continue to impose substantial costs on market participants, the Government is considering the merits of joining the national energy regime established by the Australian Energy Market Agreement.

However, the Commission is of the view that there may be some significant NT-specific issues of regulatory administration that are unlikely to be dealt with by potential changes in the regulatory policy environment – at least for the foreseeable future.

In particular, the Commission sees the need to address certain market barriers to entry confronting potential retail and generation entrants because of Power and Water's vertical integration. Subject to stakeholder feedback, the Commission proposes to do this by undertaking a comprehensive review of the Ring-fencing Code during 2007-08.

National regulatory reporting

In March 2002, a core set of nationally-consistent performance reporting measures developed under the auspices of the Utility Regulators Forum (of which the Commissioner is a member) was published. Since 2003, Power and Water has annually reported against these measures to the Commission.

In 2006-07, the Commission decided to defer further development of the regulatory reporting, until the Government decides if and when the NT's electricity supply industry is to become subject to the jurisdiction of the Australian Energy Regulator and the Australian Energy Market Commission.

STANDARDS OF SERVICE REGULATION

The Commission is assigned a role by the *Electricity Reform Act* in both ensuring that the standards of service for non-contestable customers in the electricity supply industry do not fall below minimum levels and, in some circumstances, in reviewing and revising such minimum standards. The Commission does not have an equivalent role in the Territory's water supply and sewerage services industries.

Standards of service obligations

Under section 92 of the *Electricity Reform Act*, the standards of service applicable in the year prior to commencement of the Act are the minimum standards to be observed by suppliers to non-contestable customers. The Commission is also empowered to review these minimum standards taking into account, among other things, relevant national benchmarks of service for non-contestable customers.

Standards of Service Code

The Commission released the NT Electricity Standards of Service Code in December 2005, to take effect from 1 January 2006.

The Code applies only to the Power and Water Corporation for the foreseeable future.

The objectives of the Code are to:

- establish minimum standards of reliability, quality and customer service in the NT electricity supply industry;
- develop, monitor and enforce compliance with and promote improvement in standards and conditions of service and supply by Power and Water; and
- require that Power and Water has in place arrangements which regularly report actual service performance against the key service performance indicators in terms of reliability, quality and customer service.

The Code establishes a process by which Power and Water is to set certain minimum standards of service benchmarks to be approved by the Commission. The Code also requires the reporting of actual standards of service against each of the benchmarks, commencing after the end of each financial year from 2005-06.

Establishment of minimum standards of service

Minimum Standards

The Standards of Service Code establishes a process by which Power and Water is to set certain minimum standards of service benchmarks for both its regulated network services and its non-contestable electricity supply services.

On 19 July 2006, pursuant to clause 5 of the Code, the Commission approved the initial minimum standards for reliability, quality and

customer service submitted by Power and Water for use until 30 June 2009.

The Commission's approval of the Minimum Standards is subject to certain conditions, including that:

- reporting of actual performance against the approved standards is to include the available time series for each indicator back to 1999-00;
- reporting of actual performance against the approved standards is to be undertaken on a disaggregated basis as and when such disaggregated information becomes available to Power and Water; and
- Power and Water, in consultation with the Commission, is to review the effectiveness of the Minimum Standards prior to 30 June 2009.

Compliance with minimum standards of service

Whatever the basis of the minimum standards of service set, the Commission has the responsibility to monitor licensees' compliance with these standards.

Pursuant to clause 8.1 of the Standards of Service Code, Power and Water must as soon as is practicable after the end of each financial year (and no later than four months after that date) report to the Commission as to the actual standards achieved in that year with respect to each of the key service performance indicators nominated in Schedule 1 to the Code. Once Power and Water has reported to the Commission on actual standards of service attained during the financial year, the Commission publishes a performance report.

2005-06 Performance Report

In December 2006, the Commission released its first annual report of Power and Water's Standards of Service Performance for 2005-06, pursuant to the Code.

With this being the first report, the Commission opted to let Power and Water's service performance data largely speak for itself. In doing so, the Commission acknowledged that there is some scope for improvement in the quality of the data, as well as a need to review the appropriateness of some of the minimum standards set. It expects some progress to be made in both regards in time for the 2006-07 performance report.

TECHNICAL REGULATION

Power system monitoring

Under section 45 of the *Electricity Reform Act*, the Commission is required to undertake an annual review of prospective trends in the capacity and reliability of the Territory's power system, and to submit a report to the Regulatory Minister. The Commission undertakes the function in the absence of a separate technical regulator in the Territory or a government department with similar functions.

2006 Power System Review

In December 2006, the Commission released its 2006 Power System Review, reporting on the prospects for system capacity and system load, as well as on the domestic gas supply outlook in the Territory.

The medium term period is of most significance in this Review, as this is when decisions regarding the next increments to capacity will be required, and when gas supply arrangements continue to be stretched until the first supply of gas from the Blacktip field becomes available.

Generation Capacity

The assessment of generation capacity adequacy over the medium term depends critically on the reserve standard that is applied.

The review found that for the Alice Springs regulated system, additional capacity is required prior to the commencement of 2009-10 in order to satisfy the minimum reserve standards. For the Darwin-Katherine regulated system, based upon minimum reserve standards, capacity is adequate over the medium term on the proviso that the first unit of capacity at the new Weddell power station is available as scheduled by Power and Water. For the Tennant Creek regulated system, based upon minimum reserve standards, existing generation capacity remains adequate over the medium-term period.

Gas Supply Outlook

Gas availability in the medium term remains adequate but continues to be stretched until the first supply of gas from the Blacktip field becomes available.

On 30 June 2006, Power and Water executed an agreement with Eni Australia B.V. for the supply of gas from the Blacktip field. The first supply of gas is targeted to be available for electricity generation on 1 January 2009. Contract quantities available from Blacktip will be in excess of projected requirements under the Commission's high growth scenario through to 2015-16 and beyond. If supply matches contract quantities then it is clear that Blacktip has removed the previous uncertainty regarding gas availability beyond 2009.

Network Reliability

The Commission again noted that for all practical purposes, power system planning and reliability (including that for transmission and distribution networks) continues to be managed – as it had been prior to the market reforms of 2000 – as an internal matter by Power and Water.

System Control Technical Code

Section 38 of the *Electricity Reform Act* requires the power system controller to prepare a system control technical code and submit it for approval to the Commission. This code sets out the controller's competitively-neutral operating protocols, arrangements for system security and system dispatch, as well as arrangements for the interruption of supply.

The approved code was not amended during the year.

Network Technical Code

Clause 9(2) of the *Network Access Code* requires Power and Water to prepare and make publicly available a network technical code and network planning criteria. Such a code (and associated criteria) was finalised during 2000.

The approved code was not amended during the year.

Energy Loss Factors Code

The Energy Loss Factors Code, published in April 2006, sets out the high-level principles underlying the calculation of energy loss factors. Any number of methodologies and approaches could be consistent with these principles and the Code thus allows the network provider to choose from among them in a way that makes most sense in the circumstances.

Energy Loss Factors Methodology

Section 4.1 of the Code requires that, within three months after the commencement of the Code, the network provider must submit to the Commission for approval a draft calculation methodology for determining energy loss factors for the financial year commencing 1 July 2006 and each year thereafter.

On 19 July 2006, pursuant to clause 4(1) of the Code, the Commission approved the methodology submitted by Power and Water for use until 30 June 2009, on the basis that the Commission had no information before it to indicate that the Methodology does not comply with the principles set out in the Schedule 1 of the Code.

Water Metering Code

Section 72 of the *Water Supply and Sewerage Services Act* requires the licensee to develop and publish a code setting out the arrangements and conditions for installing, testing, verifying and replacing meters owned by the licensee and submit it for approval to the Commission. Such a code was approved on 13 May 2002.

During the year, Power and Water proposed certain revisions to the Code. On 19 July 2006, the Commission approved the revised Code on the basis that the proposed changes submitted by Power and Water do not alter the Code substantially enough to be considered inconsistent with the objects of the Act.

Trade Waste Code

Section 83 of the *Water Supply and Sewerage Services Act* requires the licensee to develop and publish a code setting out the conditions under which the licensee will approve trade waste being discharged into the licensee's sewerage services infrastructure. A trade waste code must be approved by the Commission. Such a code was approved in December 2001.

The approved code was not amended during the year.

COMPETITION OVERSIGHT

While there are natural limits on the capacity of the Commission to foster competition, it has some residual functions and powers that enable it to monitor competition and suggest market improvements. The principal role the Commission can play in this regard is to ensure that it exercises its functions and powers in regulated monopoly sectors in ways that facilitate competition in contestable sectors upstream and downstream of those monopoly sectors.

In addition, under section 6(b) of the *Electricity Reform Act*, section 10(a) of the *Electricity Networks (Third Party Access) Act* and section 6(b) of the *Water Supply and Sewerage Services Act*, the Commission has the function of advising the Regulatory Minister on the operations of the respective Acts.

Competition in the NT electricity market

From time to time, various parties (both contestable customers and potential market entrants) have raised concerns with the Commission in relation to perceived deficiencies in the present electricity market and regulatory environment in the Northern Territory. These include:

- generation and retail barriers to entry directly associated with Power and Water's vertical integration; and
- the lack of regulatory oversight in the 'contestable' market segments in the absence of any alternative supplier to Power and Water.

In the Commission's view, these two areas in particular involve some significant NT-specific issues that are unlikely to be dealt with by changes in the regulatory policy environment – at least for the foreseeable future. The Commission considers that it would be remiss if it continues to defer the exercise of its existing powers in these areas on the grounds that the Territory may soon be joining the national regulatory regime.

In retrospect, the Commission also accepts that some of the deficiencies in the present market and regulatory environment in the Territory identified by contestable customers and potential entrants may be put down to the Commission's preference to date to not exploit the full extent of its available powers.

For these reasons, in 2006-07 the Commission made an in-principle decision to – over the next year or so – review the NT Electricity Ring-fencing Code and develop contestable pricing guidelines. In August 2007, the Commission commenced consultations with stakeholders so that views received can be taken into account before deciding whether or how to proceed.

*Possible
Review of
Certain
Regulatory
Instruments*

Contestability status

The *Electricity Reform (Administration) Regulations* provide that a customer's status as a contestable customer may be revoked in some circumstances.

A customer must apply to Power and Water for revocation of contestability status in the first instance, but may apply to the Commission for a review of Power and Water's decision where such an application has been refused.

During 2006-07, the Commission received no such applications for review.

Provision of information

Market Information

In September 2006, the Commission published market information on the size and composition of the Territory's electricity supply industry, with respect to 2005-06.

Investigating complaints

Under section 48 of the *Electricity Reform Act*, the Commission is obliged to investigate complaints against any electricity entity made on the grounds that the entity is engaging in conduct that is contrary to the objects of that Act or the *Utilities Commission Act*. Such objects include promoting efficiency and competition in the electricity supply industry.

No formal complaints were lodged with the Commission in 2006-07.

Electricity supply contract negotiation

The Commission was again approached during the year by a number of individual contestable customers with concerns arising out of the process of negotiating, or renegotiating, electricity supply contracts with Power and Water.

These concerns included the structure of Power and Water's contestable retail pricing, particularly in regards to peak and off-peak differentials; the lack of flexibility in contract offers; and limits on the provision and extent of pricing information available to customers.

In response to specific issues, the Commission sought clarification from Power and Water, and it is understood that Power and Water has addressed some of these customer concerns.

The Commission has been active in using – and intends to continue to use – its 'good offices' with all parties to facilitate supply being arranged on reasonable terms.

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APPENDIX 1

BACKGROUND INFORMATION ON THE COMMISSION

Establishment of the Commission

The Utilities Commission was established at the commencement of the *Utilities Commission Act* on 21 March 2000, and charged with administering economic regulation in nominated industries in the Territory.

Independence and accountability of the Commission

While established as a separate administrative unit within the NT Treasury, the Commission has specific statutory powers and undertakes its considerations independently of Treasury.

The independence of the Commission from the Government, and from any government-owned business operating in industries regulated by the Commission, is achieved by provisions in the *Utilities Commission Act* requiring that:

- the Commission not be subject to Ministerial direction in the performance of its regulatory functions; and
- members of the Commission be appointed for a fixed term and only subject to dismissal before the end of that term on account of misconduct or incapacity.

This independence does not deem the Commission unaccountable. There are several mechanisms in place in the *Utilities Commission Act* that require consistent, effective and accountable regulation on the part of the Commission.

The *Utilities Commission Act* places certain requirements and obligations on the Commission with regard to the regulatory processes it adopts. These requirements aim to ensure regulatory accountability through transparency and public disclosure of regulatory processes as well as the basis of regulatory decisions and reasonable certainty and consistency over time of the outcomes of regulatory processes.

The *Utilities Commission Act* also provides that an affected party can request a review of a decision of the Commission. An affected person may subsequently appeal the outcome of such a review to the Supreme Court. Such appeals may only be made on the grounds that there has been bias, or that the facts on which the decision is based have been misinterpreted in a material respect.

When deciding on determinations or approvals, or when making codes or rules under the *Utilities Commission Act*, the Commission is required to consult with the Regulatory Minister and representative bodies and participants in the regulated industry that the Commission considers appropriate. All decisions by the Commission are required to include a summary of the information on which the determination is based and a statement of the reasons for making the decision.

Under the *Utilities Commission Act*, any information gained by the Commission that could affect the competitive position of a licensed entity or other person, or is commercially sensitive for some other reason, is to be treated as confidential information. Any person performing a function under the *Utilities Commission Act*, or any relevant industry regulation Act, would be guilty of an offence were such information disclosed otherwise than as authorised under a relevant Act.

Powers and functions of the Commission

The *Utilities Commission Act* sets out the Commission's main functions as well as the powers that the Commission may exercise in performing those functions. The key regulatory functions of the Commission in regulated industries (provided for in section 6 of the Act) include:

- to regulate prices charged by government monopoly businesses and regulated industries;
- to perform licensing functions;
- to develop, monitor and enforce compliance with, and promote improvement in, standards and conditions of service and supply;
- to make, and to monitor the operation of, codes and rules relating to the conduct or operations of a regulated industry or licensed entities; and
- to investigate and help resolve complaints relating to the conduct or operations of licensed entities.

In exercising its overall powers and carrying out its functions, the *Utilities Commission Act* obliges the Commission to have regard to the need:

- to promote competitive and fair market conduct;
- to prevent the misuse of monopoly or market power;
- to facilitate entry into relevant markets;
- to promote economic efficiency;
- to ensure consumers benefit from competition and efficiency;
- to protect the interests of consumers with respect to reliability, quality and safety of services and supply;
- to facilitate the maintenance of the financial viability of the industry; and
- to ensure an appropriate return on regulated assets.

The *Utilities Commission Act* only defines the Commission's overall functions and powers. Specific responsibilities of the Commission with respect to a particular industry are assigned to the Commission by provisions in relevant industry regulation Acts.

The relevant industry regulation Acts applying to the electricity supply industry are:

- the *Electricity Reform Act*; and
- the *Electricity Networks (Third Party Access) Act*.

In particular, the Territory's electricity network industry is declared to be a regulated industry (and the Commission assigned the role of regulator) by the *Electricity Networks (Third Party Access) Act*, and the Territory's electricity supply industry more generally is declared to be a regulated industry under the *Electricity Reform Act*.

The relevant industry regulation Act applying to the water supply and sewerage services industries is the *Water Supply and Sewerage Services Act*, which came into effect on 1 January 2001. That Act and its associated regulations require and allow the Commission to undertake certain regulatory functions in the Territory's water supply and sewerage services industries for the provision of those services within a sole provider model.

Related regulatory entities

The Commission undertakes its regulatory functions in the Territory's regulated industries in conjunction with other regulatory entities, notably:

- the 'Regulatory Minister', currently the Treasurer;
- the Safety Regulator – located in the Department of Primary Industry, Fisheries and Mines – who has responsibility under the *Electricity Reform Act* for monitoring and enforcing safety standards, and for establishing and enforcing safety-related standards for electrical equipment;
- the Chief Health Officer – located in Territory Health Services – who has responsibility under the *Water Supply and Sewerage Services Act* for monitoring and enforcing certain standards with respect to the water and sewerage industries; and
- the NT Ombudsman, who continues to have responsibility for investigating complaints from non-contestable electricity, water supply and sewerage services customers.

Membership of the Commission

Currently, the Commission is comprised of a single member, Mr Alan Tregilgas. The *Utilities Commission Act* makes provision for the appointment of Associate Commissioners when deemed appropriate by the Regulatory Minister, although none have been appointed to date.

Mr Tregilgas was initially appointed Utilities Commissioner for a four year term commencing on 1 April 2000. On 1 April 2004, he was re-appointed for a further term of five years. In this role, he was during the year a member of the Utility Regulators Forum.

Mr Tregilgas performs the role of Utilities Commissioner part time. He remains a senior associate with Access Economics, the Canberra-based economic consultancy group. During the year he also advised the South Australian regulator on rail access matters.

Mr Tregilgas is a former senior Commonwealth, South Australian and NT Treasury officer. He also spent four years in the early 1990s as a utilities analyst with the Standard & Poor's Ratings Group in Australia and the Asia/Pacific region. For two years in the mid-1980s while with the Commonwealth Treasury, he represented Australia at the International Monetary Fund in Washington DC. As an economic consultant since 1996, Mr Tregilgas has undertaken consultancy projects with government agencies in six Australian jurisdictions, including the Territory.

Mr Tregilgas holds a first class honours degree in economics from the University of Adelaide and a masters degree in economics from the Flinders University of South Australia.

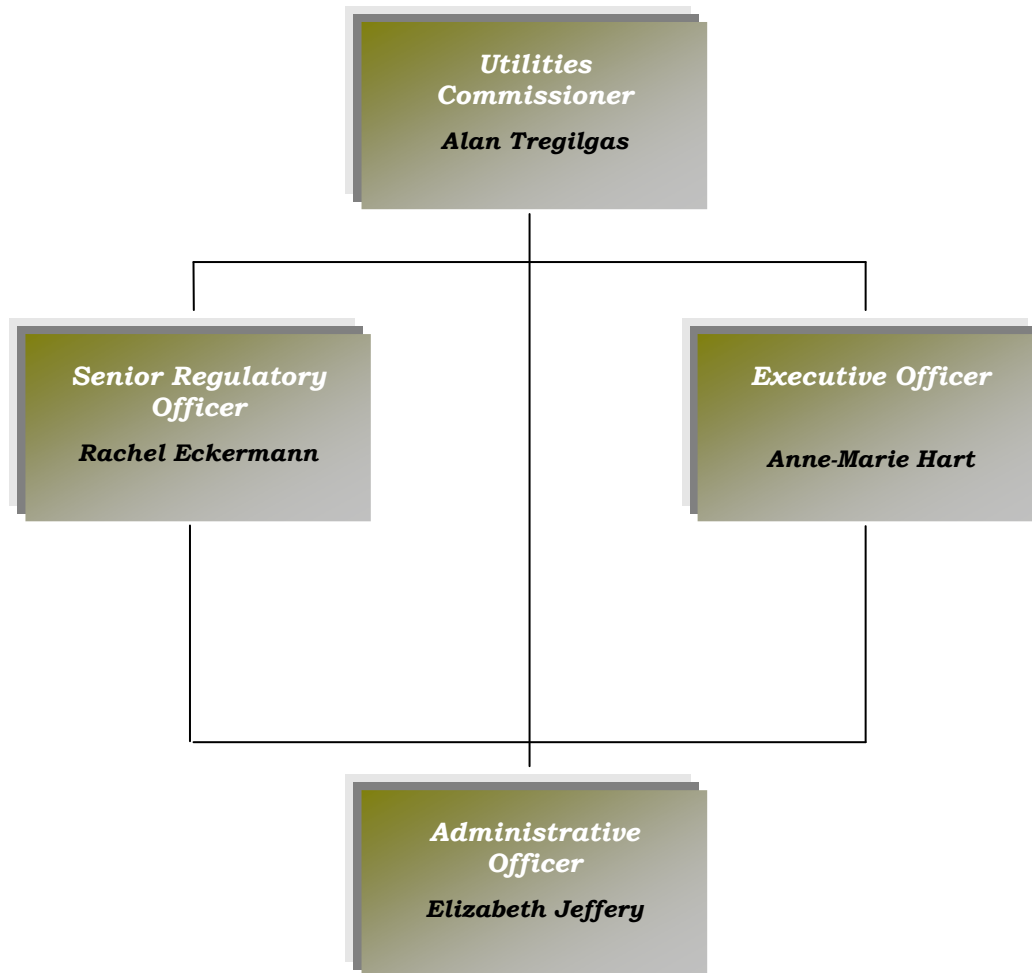
Commission staffing and resources

At 1 July 2006, three staff, employed within the meaning of the *Public Sector Employment and Management Act*, provided support to the Commissioner.

The Commission's organisation chart at the end of the year is shown on the following page.

Organisational Chart

Utilities Commission of the Northern Territory as at 30 June 2007



Advisers to the Commission

The Commission also has access to expert technical advice, through the engagement of consultants as detailed in Appendix 5. Section 14 of the *Utilities Commission Act* authorises the Commission to engage consultants when it considers necessary and appropriate.

APPENDIX 2

DETERMINATIONS, APPROVALS AND INSTRUMENTS

Nature of decision	Type of decision	Effective period	Date of decision
Distribution System Extension Area Charges	Approval	until superceded	1 July 2006
Minimum Standards of Service	Approval	to 30 June 2009	19 July 2006
Energy Loss Factors Methodology	Approval	to 30 June 2009	19 July 2006
Water Metering Code	Approval	for the length of Power and Water's water supply services licence	19 July 2006
Network Access Tariffs	Approval	1 July 2007 to 30 June 2008	18 May 2007

APPENDIX 3

PUBLICATIONS AND REPORTS

During 2006-07, the Commission published the following reports:

September 2006	<i>NT Electricity Market: 2005-06</i>
September 2006	<i>Annual Report 2005-06</i>
December 2006	<i>Standards of Service Performance Report 2005-06</i>
December 2006	<i>2006 Annual Power System Review</i>
March 2007	<i>Regulatory Accounts for the year ended 30 June 2006</i>
May 2007	<i>Network Tariffs 2007-08 – Commission Analysis</i>

These publications can be viewed on the Commission's website: www.utilicom.nt.gov.au

In response to referrals from the Regulatory Minister in accordance with section 6(1)(g) of the *Utilities Commission Act*, the Commission also undertakes reviews for, and provides advice, to the Minister. Where required by the terms of reference issued by the Minister, the reports setting out the Commission's findings and recommendations remain confidential to government.

During 2006-07, no referrals were received from the Minister.

Section 6(b) of the *Electricity Reform Act* provides that the Commission also has the function of providing advice to the Regulatory Minister on the operation of the Act.

During 2006-07, the Commission provided advice, in confidence, to the Minister in relation to the NT Government's ongoing review of regulatory arrangements in the NT electricity supply industry.

APPENDIX 4

EXPENDITURES AND RECEIPTS

This Appendix publishes the expenditures of the Commission that are funded directly from Consolidated Revenue, as well as the associated receipts.

NORTHERN TERRITORY UTILITIES COMMISSION EXPENDITURE BY CATEGORY OF COST

Category of Cost	2005-06 \$000	2006-07 \$000
PERSONNEL COSTS	198.9	268.7^a
Salaries and related costs	184.5	248.1
Superannuation	14.4	20.6
OPERATIONAL EXPENDITURE	181.6	98.6
Consultants Fees	153.8	57.2 ^a
Official Duty Fares	18.5	34.1 ^b
Travelling Allowance and Accommodation	3.8	3.9
Advertising	0.0	1.2
Document Production	1.3	0.9
Motor Vehicle Expenses	0.5	0.6
Memberships & Subscriptions; Freight; Library Services	0.3	0.3
Office Req & Stationery	0.1	0.3
Training & Study Expenses	0.2	0.1
Other Plant & Equipment	2.7	0.0
Recruitment & Relocation Expenses	0.3	0.0
Communications & IT Services	0.1	0.0
Entertainment	0.0	0.0
OVERHEADS ALLOCATIONS	176.7	179.0
TOTAL EXPENDITURE	557.2	546.3

^a Increase in personnel costs is due to increased staff numbers and is offset by the decrease in use (and cost) of consultants

^b Increase in official duty fares is due to timing of payments (with the equivalent 2004-05 figure being 28.8)

RECEIPTS BY ACCOUNT^b

Account	2005-06 \$000	2006-07 \$000
Fees and Charges	182.5	185.1
Licence Application Fees	0.0	0.0
Electricity Licence Fees	137.5	140.1
Water and Sewerage Licence Fees	45.0	45.0
TOTAL REVENUE	182.5	185.1

^b Section 19 of the *Utilities Commission Act 2000* provides that, unless otherwise directed by the Treasurer, fees and other monies received by the Commission are paid into the Consolidated Revenue Account.

APPENDIX 5

ADVISERS TO THE COMMISSION

In 2006-07, the Commission used the services of the following consultants. The costs for the year totalled \$57,225. This compared with \$153,774 in the previous year.

Greater than \$50,000

Nil

Greater than \$10,000 and less than \$50,000

East Cape Pty Ltd

During 2006-07, the Commission received advice from East Cape Pty Ltd in relation to the following matters:

- examining issues arising in relation to Power and Water's electricity pricing practices;
- preparation of the annual power system review; and
- advice in responding to the Government's review of regulatory arrangements in the NT electricity supply industry.

Minter Ellison

During 2006-07, the Commission received advice from Minter Ellison in relation to the Commission's response to the Government's review of regulatory arrangements in the NT electricity supply industry, in particular in relation to the benefits of legal separation of the various business units within the Power and Water Corporation.

Less than \$10,000

Frame Economics Pty Ltd

During 2006-07, the Commission received advice from Frame Economics Pty Ltd in relation to the barriers to entry facing potential third-party retailers in the NT electricity supply industry.