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# REVIEW OF POWER AND WATER CORPORATION'S COMPLIANCE WITH THE 2014-19 NETWORK PRICE DETERMINATION

**January 2017**

This report contains information considered commercial-in-confidence to Power and Water Corporation that has been redacted to comply with section 26 of the *Utilities Commission Act*



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## Purpose of this Report

In March 2016, the Commission advised the Power and Water Corporation (PWC) of its intention to appoint an external auditor in accordance with clause 11.4 of PWC's network licence to review PWC's compliance with its network licence. The Commission appointed PricewaterhouseCoopers (PwC) Australia to perform specified procedures to allow the Commission to assess and conclude on PWC's compliance with the 2014 Network Price Determination (NPD) and PWC's identification and reporting of any compliance breaches.

This report provides the Commission's conclusions in relation to PWC's compliance with the 2014 NPD and the identification and reporting of compliance breaches that occurred in the 2014-15 year. The Commission's report includes PwC Australia's Report of Specified Procedures to the Commission.

In preparing this report, the Commission has had regard to the legislative objectives listed in section 6(2) of the *Utilities Commission Act* (UC Act).

The Commission has made this report available to the Treasurer (as Regulatory Minister and Shareholding Minister for PWC), Department of Treasury and Finance, Australian Energy Regulator and PWC. Consistent with the Commission's Compliance Framework and Reporting Guidelines and in the interests of transparency, a redacted version of the PwC report is being made publicly available as an attachment to this report.

## Confidential Information

The Commission's Report has been prepared with reference to information provided by PWC and Jacana Energy. Information provided by Jacana Energy relates to correspondence between PWC and Jacana Energy. Some of the information provided by PWC relating to customers is considered confidential and commercially sensitive to PWC.

In accordance with section 26 of the UC Act, the Commission has redacted confidential and commercially sensitive information from the PwC report which is an attachment to this report.

## Inquiries

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

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## Glossary

| Term                              | Definition   |
|-----------------------------------|--|
| 2014-19 regulatory control period | The regulatory control period from 1 July 2014 to 30 June 2019   |
| 2014 NPD                          | The Network Price Determination relating to the supply of regulated network access services during the 2014-19 regulatory control period   |
| ACS                               | Alternative Control Service (a term used by PWC internally to describe Excluded Network Access Services)   |
| AER                               | The Australian Energy Regulator, which is established by section 44E of the <i>Competition and Consumer Act 2010</i> (Commonwealth)  |
| ARMC                              | PWC's Audit and Risk Management Committee  |
| ELT                               | PWC's Executive Leadership Team  |
| ERA                               | <i>Electricity Reform Act</i>  |
| Excluded Network Access Services  | The services specified in Schedule 3 of the 2014 NPD which are services supplied by PWC Networks for which the associated costs and revenue are excluded from the 2014 NPD   |
| Fee-based service                 | A type of service included under Excluded Network Access Services for which the cost of providing the service is known and for which a schedule of fees can be published   |
| GRACE                             | Power and Water Corporation's event management system (Governance, Risk, Audit, Compliance and Event Management)   |
| Jacana Energy                     | Power Retail Corporation, a government owned corporation established in accordance with the Government Owned Corporations Act and trading as Jacana Energy   |
| Network Access Code               | The Electricity Networks (Third Party Access) Code, which is a schedule to the <i>Electricity Networks (Third Party Access) Act</i>  |
| Network service provider          | Holder of a licence granted by the Commission to provide electricity network services in the Northern Territory  |
| Quoted service                    | A type of service included under excluded network access services where the scale and scope of each individual service is initially unknown and for which an assessment must be made of the work involved to determine the cost of delivery and a quote provided to the customer |

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| <b>Term</b>                       | <b>Definition</b>  |
|-----------------------------------|--|
| Regulated network access services | Has the meaning given in the Network Access Code   |
| Regulatory control period         | The period between major network access service price reviews during which time the methodology used in setting prices for regulated network access services is held constant        |
| Revenue cap                       | Has the meaning given in the Network Access Code   |
| Standard metering connection      | A type of service classified under regulated network access services, and for which revenue is recovered under the total revenue requirement and revenue cap made under the 2014 NPD |
| Total revenue requirement         | An amount representing the revenue calculated for the whole of the 2014-19 regulatory control period in accordance with the 2014 NPD   |
| UC Act                            | <i>Utilities Commission Act</i>  |

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## Chapter 1: Executive Summary

- 1.1 In February 2016, the Commission was made aware through discussions with Jacana Energy of a possible breach by Power and Water Corporation (PWC) of the 2014 Network Price Determination (NPD) in relation to standard network connections.
- 1.2 The 2014 NPD is the Commission's final determination made under clause 66 of the Network Access Code in relation to the maximum allowed revenue that PWC can recover from the provision of regulated network access services during the 2014-19 regulatory period. Following inquiries made by the Commission, PWC wrote to the Commission in March 2016 and advised that it had "breached the parameters of the 2014 NPD".
- 1.3 The NPD breach added to existing concerns of the Commission in relation to PWC's compliance framework highlighted in recent audits, including the Commission's independent investigation into the 12 March 2014 Darwin-Katherine system black<sup>1</sup>. The Commission's audit in 2014 of PWC's compliance with its respective technical obligations identified that PWC was not compliant with the obligation to establish and maintain a compliance process.
- 1.4 The Commission raised its concerns in 2014 and 2015 with the PWC Board and senior management and notified PWC that it would take a stronger approach to compliance including further audits of PWC, and that the PWC Board would be required to provide an annual declaration confirming it maintained robust and effective compliance programs.
- 1.5 In early 2015, new Compliance Framework and Reporting Guidelines were introduced which required, amongst other things, an annual declaration from the PWC Board and reporting of all regulatory breaches not just material breaches.
- 1.6 PWC's annual compliance report for 2014-15 identified nine breaches of regulatory obligations, seven of which related to the 2014-15 financial year and two related to 2015-16. Eight of the breaches reported by PWC were not initially voluntarily reported by PWC and, in relation to the three material breaches, PWC did not report the breaches to the Commission in a timeframe that would reasonably be considered appropriate in accordance with the Commission's Compliance Framework and Reporting Guidelines.
- 1.7 As a result of the Commission's concern with PWC's lack of appropriate compliance processes and systems, the Commission appointed an external auditor in accordance with clause 11.4 of PWC's network licence to review PWC's compliance with its network licence and the breach of the 2014 NPD.

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<sup>1</sup> Independent Investigation into the Darwin-Katherine System Black Incident 12 March 2014, <http://www.utilicom.nt.gov.au/Publications/ReportsAndPublications/Pages/2014.aspx>

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- 1.8 PricewaterhouseCoopers (PwC) Australia was engaged for the purposes of assessing, in combination with other information obtained by the Commission, the current compliance processes at PWC. This report provides the Commission's conclusions in relation to PWC's compliance with the 2014 NPD and PWC's identification and reporting of compliance breaches.
- 1.9 PwC Australia's final report identifies 120 recommended actions. Of these, 10 relate to issues around the compliance strategy, primarily around approval and finalisation of existing documents, policies and strategies. The remaining issues relate to implementation, monitoring of the effectiveness of the strategy and continual improvements. PwC Australia's report was provided to PWC for management comment and these comments have been included in the final report.
- 1.10 In March 2016, PWC advised that it had breached the parameters of the 2014 NPD in relation to new service establishment fees for the connection of customers. PWC advised that it would refund 594 domestic customers (\$223,619) and would charge a further 194 developer customers a 'quoted service charge' rather than an alternative control charge.
- 1.11 The Commission advised PWC in May 2016 that it was comfortable with the proposed approach to refund 594 domestic customers but was concerned with the approach in relation to developer customers and considered this non-compliant with the 2014 NPD.
- 1.12 In a meeting in November 2016 and a letter dated December 2016, PWC advised the Commission that it would refund 126 developer customers (\$524,117) and was in discussion with Jacana Energy for the refunds to be made. PWC also advised that its billing system had been amended to ensure the charge was no longer applied.
- 1.13 The Commission is concerned that PwC Australia was unable, despite significant effort, to reconcile the fee-based or quoted service lists provided to PWC's financial statements. The list of customer transactions provided by PWC varied from 6 834 to 10 385 entries. The Commission is not confident that PWC has appropriately verified all the customers inappropriately charged the new standard connection charge. The Commission supports PwC Australia's finding and that PWC perform validations to confirm the completeness and accuracy of fee and quoted service transactions. The Commission understands that PWC is working with Jacana Energy to verify the customer transactions and will refund the relevant customers accordingly.
- 1.14 A common theme in the findings from PwC Australia is a lack of documentation available in relation to PWC's compliance processes. PwC Australia noted that while PWC asserted that discussions had taken place on non-compliances reported, there was no clear evidence that the Audit and Risk Management Committee (ARMC) or Executive Leadership Team (ELT) were consulted. Of the nine instances of non-compliances identified in PWC's annual compliance report for 2014-15, none had been reported to the ARMC and none had been formally recorded in PWC's GRACE system.

- 1.15 A common management response provided by PWC to the PwC Australia findings and recommendations was:

*“PWC accepts the intent of this recommendation and is commencing a broad-based review of the corporation’s compliance strategy, through which these recommendations will be considered. A plan/roadmap for the review is to be presented to the Audit and Risk Management Committee (ARMC) for consideration at its October 2016 meeting.”*

- 1.16 The Commission notes that the findings and recommendations of the PwC Australia review were primarily focused on issues related to implementation and review/finalisation of existing compliance strategies, policies and procedures. PWC must ensure that any review results in actual implementation and that there is a focus on compliance with PWC’s own strategies, policies and procedures.
- 1.17 In December 2016, PWC advised the Commission that it had initiated a comprehensive review of the Corporation’s Compliance Framework to improve PWC’s compliance culture. The Commission is confident that there is sufficient information available for PWC from previous audits and reviews, including the review by PwC Australia, to identify what action is required. The Commission intends to review PWC’s progress towards implementing and maintaining an appropriate compliance framework again in late 2017.
- 1.18 PWC indicated in its management comments to the PwC Australia report that:
- “There are practical limitations to entering the 2014 NPD into the GRACE system as there are no specifically listed obligations contained in the determination. Consultation with other DNSPs has also suggested that inputting a regulatory determination into a compliance tracking system is not common practice for similar practicality reasons. Therefore, PWC will consider this recommendation further during its actioning of 2.3.4-1 but does not commit to actioning of this particular recommendation.”*
- 1.19 The Commission was concerned with PWC’s comment there are no obligations in the 2014 NPD as this suggested a lack of understanding of the regulatory nature of the 2014 NPD and the relevant legislative provisions governing the operations of PWC as the monopoly network service provider. Subsequent discussions with PWC in November 2016 indicated that PWC no longer considered this comment correct and were working to identify the compliance obligations related to the 2014 NPD.
- 1.20 It is imperative that PWC identify and risk assess the obligations in the *Electricity Networks (Third Party Access) Act* (sections 3A & 3B), the Network Access Code and the 2014 NPD. The Commission understands from discussions with PWC that work is being undertaken to identify the obligations in the 2014 NPD.



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- 1.21 Clause 11.1 of PWC's network licence requires it to establish and maintain a compliance process. The compliance process must include policies, procedures and systems under Clause 11.1.(b) for:
- training of employees about the obligations of the licensee under this licence;
  - regular internal audit by the licensee of its compliance with its obligations under this licence;
  - regular reporting to, and consideration by, the board of the licensee concerning compliance with the obligations of the licensee under this licence;
  - dealing with any complaints made by a customer or other third party to the licensee in connection with non-compliance by the licensee with its obligations under this licence; and
  - detecting and reporting to the Utilities Commission any material breach of the compliance procedures.
- 1.22 Based on the findings from the PwC Australia report and previous audits undertaken by the Commission, the Commission considers that PWC has breached clause 11.1 of its networks licence. The Commission considers that PWC has also breached the Compliance Framework and Reporting Guidelines.
- 1.23 Section 31 of the *Electricity Reform Act* (ERA) states that an electricity entity must not contravene a condition of its licence, and is subject to a civil penalty provision of a maximum of 2 500 penalty units, or a court order for payment to the Commission of any profit resulting from the contravention, and possible suspension or cancellation of its licence by the Commission in accordance with section 36(1)(b) of the ERA. The Commission considers the breach needs to be addressed by PWC as a priority.
- 1.24 The Commission will continue to monitor PWC's compliance through regular audit and review and will continue to work with PWC to ensure that it complies with its regulatory obligations. The Commission will consider exercising its enforcement powers if the actions and behaviour of PWC towards regulatory compliance are not addressed within a reasonable period.
- 1.25 In the interests of transparency and as a mechanism to encourage compliance, the Commission will make this report (subject to confidential information included in the PwC Australia report being redacted) publicly available.

## Chapter 2: Background

### Breach of the 2014-19 Network Price Determination

- 2.1 On 24 April 2014, the Commission's Final Network Price Determination (NPD) was released, regulating network charges levied by the Power and Water Corporation (PWC) as the network service provider in the Northern Territory with respect to regulated networks for the 1 July 2014 to 30 June 2019 regulatory control period.
- 2.2 The 2014 NPD regulates regulated network access services by setting a revenue cap on the provision of these services. Excluded network access services which the Commission has determined are not subject to effective competition and the costs of which cannot be satisfactorily included in the cost base for the purpose of calculating the revenue cap for regulated network access services, shall be provided on fair and reasonable terms.
- 2.3 The 2014 NPD lists the services determined by the Commission to be 'excluded network access services' in Schedule 3. All network services not listed as 'excluded network access services' are deemed to be 'regulated network access services' and incorporated in the standard control service charges.
- 2.4 In early February 2016, the Commission was made aware of a possible breach by PWC of the 2014 NPD in relation to standard network connections by Jacana Energy. On further enquiry, the Commission became aware that PWC had charged customers for standard metering connections as an excluded service (PWC refer to such charges as 'alternative control services') up until October 2015. On 10 March 2016, PWC wrote to the Commission and advised that it had "breached the parameters of the 2014 NPD".
- 2.5 Clause 11.1 of PWC's network licence requires it to establish and maintain a compliance process. In addition, clause 11.5 requires that PWC must report any material breach of its obligations under the licence to the Commission as soon as reasonably possible after becoming aware that the breach has occurred, and must advise of the remedial action that is being undertaken to rectify the breach.
- 2.6 The Commission's Compliance Framework and Reporting Guidelines<sup>2</sup> note that 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;
  - undertake external compliance audits; and

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<sup>2</sup> Compliance Framework and Reporting Guidelines, Final 1 February 2016, <http://www.utilicom.nt.gov.au/PMS/Publications/UC-COM-REP-GDL-0216.pdf>

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- submit an Annual Compliance Report to the Commission in accordance with clause 11.2 of the licence.
- 2.7 The Commission considers a breach to be material when an event has the following attributes:
- incident adversely affects (financially and/or service provision) customers;
  - a significant number of customers are affected;
  - regulated entity’s ability to provide services is compromised; or
  - public health and safety is threatened.
- 2.8 The Commission considered it necessary to undertake a detailed review of PWC’s compliance with the 2014 NPD and PWC’s approach to identification and reporting of the breach.
- 2.9 On 1 July 2015, regulation of network pricing and access, including administration and enforcement of the 2014 NPD, was transferred to the Australian Energy Regulator (AER). The Commission’s review related to excluded network service charges between 1 July 2014 to 30 June 2015 and PWC’s identification and reporting of associated compliance breaches to date. The Commission consulted with the AER in undertaking the review.
- 2.10 In December 2015, PWC submitted its first Annual Compliance Report to the Commission. The Annual Compliance Report did not identify the breach of the 2014 NPD.

### **Specified Procedures conducted by PricewaterhouseCoopers (PwC) Australia**

- 2.11 Clause 11.4 of PWC’s network licence allows the Commission, upon reasonable notice to a licensee, to appoint an independent auditor to undertake an audit of the licensee’s compliance with any of its obligations under the licence. The Commission nominates the standards and requirements and the auditor will report in accordance with those standards and requirements. The licensee must cooperate with any reasonable request made by the auditor in undertaking the audit.
- 2.12 In May 2016 the Commission provided notice that PwC Australia had been appointed to undertake a specified procedures review related to the 2014 NPD and PWC’s electricity network licence. The scope of review is provided at Attachment A.
- 2.13 PwC Australia conducted a review, in parts one and two respectively, of PWC’s compliance with the following:

#### **Part 1**

- PwC Australia reviewed PWC’s level of compliance with the 2014 NPD, specifically related to charges for excluded network access services that were levied from 1 July 2014 to 30 June 2015.

- PwC Australia undertook sample testing of network charges levied by PwC during the period of 1 July 2014 to 30 June 2015 to determine PwC's level of compliance with the 2014 NPD.

## Part 2

- PwC Australia undertook a rigorous examination of whether PwC had appropriate procedures in place to ensure compliance with the 2014 NPD (including internal audits and regular reporting to the PwC Board) and whether PwC reporting the material breach of its obligations by way of letter to the Commission dated 10 March 2016 was 'as soon as reasonably possible' after PwC became aware of the breach.
- 2.14 The review had regard to the compliance obligations in PwC's network licence and the Commission's Compliance Framework and Reporting Guidelines. The review was also based on observations and evidence presented, including interviews with the licensee's management and personnel and perusal of correspondence and relevant documentation.

## Chapter 3: Key Findings – PwC Australia Report of Specified Procedures to the Utilities Commission

### Part 1 – Compliance with Network Price Determination

#### Treatment of Service Establishment – New Infrastructure for developers is yet to be finalised

- 3.1 PwC Australia found that as of September 2016, PwC has not reached a position on the treatment of new service establishment fees for ‘developer’ customers charged for standard metering connections as an excluded service.
- 3.2 PwC had previously advised that approximately \$461,000 in new service establishment fees had been charged to a total of 81 developers. PwC had claimed that it would re-invoice developers a ‘quoted service fee’. The Commission has previously advised PwC that developers cannot be charged a fee for new connections (either fee-based or quoted service fee) unless the service provided is above or below standard.
- 3.3 PwC Australia noted that there appeared to be no timeframe and accountability assigned for resolving the breach. In December 2016, PwC advised the Commission that it would refund 126 developer customers (\$524,117) and is in discussion with Jacana Energy for the refunds to be made. PwC also advised that its billing system had been amended to ensure the charge was no longer applied.
- 3.4 Sampling undertaken by PwC Australia indicated there were material amounts of up to \$500,000 charged to a customer for the provision, construction and maintenance of ‘standard’ street lights with no evidence that formal approval to apply a quoted service rather than a fee-based service was sought. This issue needs to be reviewed by PwC to ensure the charges applied did not exceed what would have been applied as a fee-based service and processes put in place to document the approval and classification of services.

#### Lack of documentation to clearly articulate PwC’s assessment of ‘standard’ and ‘above’ or ‘non-standard’ services

- 3.5 PwC Australia found that there is no documentation on what constitutes a ‘standard’ and ‘non-standard’ metering connection (which ultimately determines whether PwC can charge an additional fee for a non-standard service).
- 3.6 PwC asserts that it is familiar with the definitions as part of daily operations. However PwC Australia noted that the business rules are not formally documented. Sampling indicates multiple instances where the process for quoting and approving charging customers for a non-standard quoted service has not been documented or defined.
- 3.7 The Commission notes that there is a lack of an effective control, and an inability to place any reliance on PwC’s ability to comply with the 2014 NPD in respect of service classifications. The lack of evidence or documentation of a systematic process on the

service classification (that is, determining whether a charge is 'standard' or 'non-standard') has a pervasive effect on PwC's compliance with the 2014 NPD, and this might indicate the need to investigate if there have been any further breaches in addition to the samples tested by PwC Australia.

## Part 2 – PwC's Compliance Procedures

### Compliance roadmap has not been finalised

- 3.8 PwC Australia found that PwC maintains two obligation registers and that neither registers was complete. PwC Australia noted that there was no clearly defined process for the management of compliance obligations and no formal process to periodically review the completeness of obligations, identification of control owners or monitoring mechanisms.
- 3.9 PwC Australia noted that PwC needs to consider its proposed compliance management strategy in light of the review and prior audit findings, update policies and procedures, and clearly demonstrate how it manages compliance with obligations.

### Breach reporting procedure has not been formally documented

- 3.10 PwC Australia found that PwC did not have a documented or defined approach to classifying material events or a formal policy or procedure outlining the process for reporting and escalating breaches externally to the Commission and that roles and responsibilities had not been formally assigned.
- 3.11 PwC Australia noted that PwC asserted that it treats all breaches as material for reporting but this approach had not been formally documented and agreed. PwC Australia noted that PwC should clarify with the Commission its process for determination of whether a breach is material and timeframes for reporting non-compliance events.

### Process to prepare and approve Annual Compliance Reports needs to be developed

- 3.12 Following a number of audits in 2014 and 2015 which highlighted concern regarding licensees' compliance processes, the Commission introduced new Compliance Framework and Reporting Guidelines in 2015 which, among other things, imposed an annual compliance reporting requirement on all licensees and an annual declaration from the Board of Directors as a mechanism for elevating the importance of compliance. The new Guidelines are consistent with requirements imposed on licensees in other jurisdictions and relevant national standards<sup>3</sup>, and no more than the Commission would reasonably expect be required by senior management and the Board of a licensee as part of good governance arrangements.

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<sup>3</sup> International Standard, 2015, Compliance management systems – Guidelines, ISO 19600:2015

- 3.13 The new Guidelines strengthened compliance reporting requirements. This was a result of what the Commission considered to be material breaches not reported by PwC over the past several years, including system security obligations identified as part of the 12 March 2014 System Black incident investigation.
- 3.14 PwC Australia noted that PwC's breach reporting process had not been formally documented and compliance status reports submitted to the ELT and ARMC did not include listings of compliance breaches identified, those under investigation, those reported to the Commission or statement that no issues have been identified.
- 3.15 PwC's first Annual Compliance Report in 2015 identified nine breaches of which none were formally reported to the ARMC or formally recorded in GRACE for action. The breach of the 2014 NPD originally identified in October 2015 was not included as a breach in the Annual Compliance Report. PwC Australia noted that PwC management asserted discussions took place in 2015, however there was no documentation to evidence that the ARMC or ELT were consulted.

#### **Breach has not complied with PwC's reporting procedures**

- 3.16 PwC Australia noted that the PwC user guides require non-compliance regulatory events (breaches) to be entered in PwC's GRACE system, risk assessment to be completed as soon as reasonably possible (within three business days) and an interim investigation report to be submitted within a maximum of 30 days (or reasons provided if this timeframe is extended).
- 3.17 PwC Australia noted that the breach of the 2014 NPD had not been entered into GRACE and therefore the timeframes were not automatically tracked by the system. PwC noted that a formal register of actual or possible non-compliance issues was not systematically maintained within or outside of GRACE.

### **Other issues noted in the report of concern to the Commission**

#### **Transaction and customer data provided by PwC was not reliable**

- 3.18 PwC Australia was not able to reconcile fee-based or quoted service lists to PwC's financial statements, nor confirm the completeness of the data. Data provided by PwC relating to charges within the 2014-15 period ranged from 6,834 transactions (provided in June 2016) to 10,385 transactions (provided in August 2016).
- 3.19 The Commission is concerned that PwC was unable to provide a verifiable list of charges applied during 2014-15 that reconciled to its financial statements or, at best, be verified internally. The multiple lists provided by PwC varied so significantly as to provide limited confidence in the completeness and accuracy of PwC's data or that the overcharging of customers was isolated to the customers identified by PwC as having been overcharged.

- 3.20 PwC Australia recommended that PwC implement processes to ensure that system reports of excluded network access services are defined and documented in work instructions and that PwC perform report validations to confirm completeness and accuracy of the data for excluded network access services and to implement process to reconcile listings with PwC's financial statements.

### **Policies and procedures are not updated regularly**

- 3.21 It was noted that formal policies and procedures for compliance management and risk management had not been reviewed and updated on an annual basis and some procedures had not been developed and or finalised. Training materials/guides are not documented for the processes of obligation identification, review and compliance management.

### **PwC's register of compliance obligations is incomplete**

- 3.22 In March 2016, the Commission undertook a high level gap analysis of PwC's register of compliance obligations and identified a number of regulatory instruments that had not been included and areas where the adequacy of management controls for identified obligations was questionable.
- 3.23 PwC Australia noted that analysis provided by Commission had not been formally reviewed by PwC and there is not yet a clear plan to incorporate the analysis into its review of obligations. Examples of significant obligations being omitted from GRACE include the Network Access Code, and the 2014 NPD.
- 3.24 The Commission is concerned that there continues to be significant obligations omitted from PwC's register of compliance obligations and a general lack of visibility, controls, and roles and responsibilities for control owners for these obligations.
- 3.25 The Commission noted that while GRACE was PwC's key framework for identification and assessment of compliance obligations, many employees had not completed mandatory GRACE training. PwC Australia noted the following number of PwC employees requiring training:
- 310 employees nominated for mandatory GRACE training have not yet completed the training (it is likely more employees and contractors are not yet nominated for the training).
  - of the 19 employees nominated as control owners, 11 had not been recorded as completing the training.
  - of the 64 employees nominated as assessors in GRACE, 49 had not completed assessor training, 25 had not completed basic GRACE training and 14 were not nominated as being required to complete GRACE training.
- 3.26 Audits are listed as a control for a number of significant obligations, however, action plans in response to audit findings do not address root causes. Observations raised in previous audit reports were not logged in GRACE. This indicates that controls are ineffective as they are not implemented.



## Chapter 4: PwC's response to the PwC Australia Report

4.1 As part of the review undertaken by PwC Australia, PwC was provided with an opportunity to respond to the findings of the report and recommendations made by PwC Australia.

4.2 A common management response provided by PwC to the PwC Australia findings and recommendations was:

*“PwC accepts the intent of this recommendation and is commencing a broad-based review of the corporation’s compliance strategy, through which these recommendations will be considered. A plan/roadmap for the review is to be presented to the Audit and Risk Management Committee (ARMC) for consideration at its October 2016 meeting.”*

4.3 The Commission notes that the findings and recommendations of the PwC Australia review were primarily focused on issues related to implementation and review/finalisation of existing compliance strategies, policies and procedures. PwC must ensure that any further review results in implementation and that there is a focus on compliance with PwC’s own strategies, policies and procedures.

4.4 The Commission is confident that there is sufficient information available for PwC from previous audits and reviews, including the review by PwC Australia to direct what action is required. The Commission intends to review PwC’s progress towards implementing and maintaining an appropriate compliance framework in 2016-17.

4.5 PwC also indicated in its management comments that:

*“There are practical limitations to entering the 2014 NPD into the GRACE system as there are no specifically listed obligations contained in the determination. Consultation with other DNSPs has also suggested that inputting a regulatory determination into a compliance tracking system is not common practice for similar practicality reasons. Therefore, PwC will consider this recommendation further during its actioning of 2.3.4-1 but does not commit to actioning of this particular recommendation.”*

4.6 The Commission was concerned with PwC’s comment there are no obligations in the 2014 NPD and this suggests a lack of understanding of the regulatory nature of the 2014 NPD and the relevant legislative provisions governing the operations of PwC as the monopoly network service provider. The Commission acknowledges that at a meeting in November 2016, PwC confirmed that this was no longer its view and PwC was working towards identifying the regulatory obligations contained in the 2014 NPD.

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- 4.7 The Commission considers that it is imperative that PWC identify and risk assess the obligations in the *Electricity Networks (Third Party Access) Act* (sections 3A & 3B), the Network Access Code and the 2014 NPD. Examples of obligations in the 2014 NPD include:
- clause 2.12.2 – PWC Networks must maintain an unders and overs account in accordance with Schedule 5 of the 2014 NPD; and provide such information in relation to the balance of this account to the Commission as part of its annual pricing schedule proposal as the Commission considers is required in order to demonstrate and verify compliance by PWC Networks with the requirements of this NPD;
  - clause 2.12.3– PWC Networks must provide to the Commission a statement setting out its proposed reference tariffs for standard network access services that will apply during a regulatory year at least 60 days prior to the start of that regulatory year;
  - there are various obligations PWC Networks must comply if seeking pass through events, including providing information to the Commission within various timeframes if sought; and
  - clause 6.1.3 (Schedule 6) – obligations relating to assignment of new retail customers to a tariff class during the 2014-19 regulatory control period.
- 4.8 The Commission understands from discussions with PWC that work is being undertaken to identify the obligations in the NPD. The Commission intends to review PWC's progress towards identifying its regulatory obligations as part of its overall approach to compliance again in 2016-17.

**Appendix A: PwC Australia Report of Specified Procedures to the Utilities Commission**

This appendix is contained as a separate document.