

# Review of the Northern Territory's Electricity Supply Licensing Regime

## Consultation paper – standard licence conditions

A paper presenting proposed  
standard conditions for retail,  
generation and network licences

July 2023

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## Abbreviations and acronyms

Commission	Utilities Commission of the Northern Territory
EIP Code	Electricity Industry Performance Code
EPO	Electricity Pricing Order
ER Act	<i>Electricity Reform Act 2000</i>
ER Regulations	Electricity Reform (Administration) Regulations 2000
ERS Code	Electricity Retail Supply Code
ES Act	<i>Electrical Safety Act 2022</i>
Licensing regime	electricity supply licensing regime
NTC	Network Technical Code and Planning Criteria
PWC	Power and Water Corporation
SCTC	System Control Technical Code
SMMP	Safety Management and Mitigation Plan
Territory	Northern Territory
UC Act	<i>Utilities Commission Act 2000</i>

## Executive summary

In 2022, the Utilities Commission (Commission) commenced a review of the Northern Territory's (Territory's) electricity supply licensing regime (licensing regime). The review is being conducted in consecutive stages with the first stage, which assesses the coverage, relevance and flexibility (scope and design) of the licensing regime due for completion in mid-2023. This consultation paper commences the second stage of the licensing review during which the Commission will assess the consistency, efficiency and effectiveness of the form and content of electricity supply licences.

In the Territory, businesses operating in the electricity supply industry are required to hold (or be exempted from holding) a licence granted by the Commission. A licence sets out the terms and conditions (conditions) that the business must meet in order to operate in the electricity supply industry including the requirement to comply with electricity laws, regulations, codes and rules that jointly form the standard for electricity supply.

While conditions are similar across existing licences, there are some inconsistencies and outdated references in those conditions. There is also duplication with requirements in regulatory instruments and other issues that mean a revised set of standard licence conditions is needed. Going forward, these conditions are to be applied to existing licences (through variations) and new licences, except where an applicant can demonstrate (or existing licensee has demonstrated) that the standard conditions are not appropriate for its electricity operations. This will ensure consistency in obligations placed on licensees and provide transparency on requirements for prospective industry participants so they can make informed decisions prior to entering the Territory's electricity supply industry. Notwithstanding this, there may be instances where the Commission may impose additional 'non-standard' conditions on a licensee specific to that licensee's circumstances or operations.

This Consultation Paper presents a preliminary set of proposed standard conditions for electricity supply licences. There are three types of standard conditions:

- Administrative conditions – these include a description of the licensed operations, changes that can be made to licences and licence fees and charges.
- General conditions – these cover contracting of operations to third parties, information requirements, compliance matters, community service obligations and requirements when an operator is appointed to take over a licensee's operations.
- Operational conditions – these differ and are specific to the type of licence to be granted (retail, generation or network operations).

The Consultation Paper also discusses proposed changes to the structure and style (form) of the template for electricity supply licences, which are largely cosmetic in nature.

The Commission seeks feedback from existing and potential licensees and other stakeholders on the proposed standard conditions and changes to the licence template. To help guide submissions, the Consultation Paper poses 15 questions for consideration by respondents.

Submissions should be submitted by **5pm Friday, 1 September 2023** and provided electronically by email to [utilities.commission@nt.gov.au](mailto:utilities.commission@nt.gov.au) in Adobe Acrobat or Microsoft Word format. Submissions will be made publicly available on the Commission's website.

Responses to the Consultation Paper will inform the Commission's decision on the final standard conditions and form of the licence template ahead of engaging directly with existing licensees on varying their licence based on the new standard conditions and template.

# 1 | Introduction

This paper commences the second stage of the Commission's review of the Territory's electricity supply licensing regime (licensing regime), presenting a proposed standard set of conditions that a licensee must comply with in order to operate in the Territory's electricity supply industry. This stage follows earlier work by the Commission, which reviewed the scope and design of the licensing regime and signalled the Commission's intent to revisit the conditions currently placed on licensees. The purpose of this paper is to seek feedback from licensees and other stakeholders on a preliminary set of proposed standard conditions that would apply to retail, generation and network licences. Going forward, these conditions are to be applied to existing (through variation) and new licences except where an applicant can demonstrate (or an existing licensee has demonstrated) that the standard conditions are not appropriate for its electricity operations.

## Context to the Consultation Paper

The Commission commenced its review of the licensing regime in 2022, which consists of three consecutive stages. In the first stage, the Commission assessed the coverage, relevance and flexibility (scope and design) of the licensing regime. In this second stage, the Commission is assessing the consistency, efficiency and effectiveness of the form and content of electricity supply licences. In the final stage of the review, the Commission will consider the efficiency and effectiveness of its licensing and related reporting and compliance processes.

Further information about the review, the Commission's role and responsibilities in the electricity supply industry and a description of the licensing regime is provided in issues and decision papers for the first stage of the licensing review and can be accessed on the Commission's website<sup>1</sup>.

## Structure of the Consultation Paper

The Consultation Paper is arranged as follows:

- Chapter 2 presents the proposed set of standard administrative conditions to be included in all electricity supply licences
- Chapter 3 presents the proposed set of standard general conditions to be included in all electricity supply licences
- Chapter 4 presents the proposed set of standard conditions specific to retail licences
- Chapter 5 presents the proposed set of standard conditions specific to generation licences
- Chapter 6 presents the proposed set of standard conditions specific to network licences
- Chapter 7 discusses the form of electricity supply licences
- Chapter 8 discusses the next steps to complete stage 2 of the licensing review.

The chapters discuss how the standard conditions differ from existing conditions and the issues changes seek to address. Where relevant, the Consultation Paper poses questions, which appear like this:

Question X	Example question
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<sup>1</sup> At <https://utilicom.nt.gov.au/projects/projects/review-of-the-northern-territory-electricity-licensing-regime-scope-and-design>

## How to make a submission on the Consultation Paper

All interested parties (stakeholders) are invited to make submissions on matters raised in the Consultation Paper by **Friday 1 September 2023**.

To facilitate publication, submissions should be provided electronically by email to [utilities.commission@nt.gov.au](mailto:utilities.commission@nt.gov.au) in Adobe Acrobat or Microsoft Word format.

Stakeholders need only respond to matters relevant to their areas of expertise or interest. The Commission encourages stakeholders to include sufficient explanatory detail in their responses to any matters discussed in the Consultation Paper.

Any questions regarding the Consultation Paper or the review should be directed to the Commission at any of the following:

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

Telephone: +61 8 8999 5480

GPO Box 915  
DARWIN NT 0801

## Confidentiality

In the interests of transparency, the Commission will make all submissions publicly available on its website, with the exclusion of confidential information. Confidential information may include:

- information that could affect the competitive position of an entity or other person
- or information that is commercially sensitive for some other reason.

Submissions must clearly specify any information that a respondent considers confidential and advise the Commission why they would like the information to be treated as confidential. A version of the submission suitable for publication (that is, with any confidential information removed) should also be submitted to the Commission.

The Commission may also exercise its discretion not to publish any submission based on its content such as submissions containing material that is offensive or defamatory.

## Disclaimer

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

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

## 2 | Standard administrative conditions – all licences

The Commission proposes the standard administrative conditions set out in **Box 1** be included in electricity supply licences.

### Box 1 Proposed standard administrative licence conditions

#### Definitions and Interpretation

In this licence a word or phrase in italics:

- (a) has the meaning given to it in [insert relevant reference in licence]; or
- (b) if the word or phrase is not defined in [insert reference to Definitions], then it has the meaning given to it in the *Electricity Reform Act 2000*.

This licence must be interpreted in accordance with the rules set out in [insert reference to Interpretations].

#### Grant of licence

Under Part 3 of the *Electricity Reform Act 2000*, the *Utilities Commission* grants the licensee a licence to:

- (a) [insert description of electricity supply operations]; and
- (b) [insert description of electricity supply operations],

in accordance with the terms and conditions of this licence.

#### Term

This licence commences on the date it is issued and continues until the earlier of:

- (a) when it is surrendered by the licensee under section 35 of the *Electricity Reform Act 2000*; or
- (b) when it is cancelled by the *Utilities Commission* under section 36 of the *Electricity Reform Act 2000*.

#### Suspension or cancellation of licence

This licence may be suspended or cancelled under section 36 of the *Electricity Reform Act 2000*.

#### Variation of licence

This licence may only be varied in accordance with section 32 of the *Electricity Reform Act 2000*.

#### Transfer of licence

This licence may only be transferred in accordance with section 33 of the *Electricity Reform Act 2000*.

#### Licence fee and other charges

1. The licensee must pay an annual licence fee or instalment of the annual licence fee, as the case may be, to the *Utilities Commission* as determined by the *Minister* under section 19 of the *Electricity Reform Act 2000*.
2. The licensee must pay the *System Controller* and *Market Operator* any applicable charges relating to the operations of system control and market operations as approved by the *Utilities Commission*.

There may be minor typographical differences and corrections between the proposed administrative conditions and administrative conditions in existing electricity supply licences.

Otherwise, the only substantive change is the addition of reference to the Market Operator and market operations in relation to the condition on licence fees and other charges. With the exception of the licence for EDL Jabiru Pty Ltd<sup>2</sup>, retail and generation licences contain a clause requiring the licensee to pay the System Controller any applicable charges relating to the operations of system control. The purpose of the inclusion of the reference to Market Operator functions is to improve transparency and reinforce the requirement to pay those charges, where they apply. Market operator charges are already imposed on relevant licensees as part of charges for functions undertaken by Power and Water Corporation's (PWC's) System Control and the licence condition does not impose any new charges on licensees.

A Market Operator is a person licensed under regulation 3E or 3F of the *Electricity Reform (Administration) Regulations 2000* (ER Regulations) to operate a wholesale market in relation to a power system. A definition

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<sup>2</sup> There is not a system control function in the Jabiru power system.

for the Market Operator is included in the definitions section of a licence. Updated definitions and interpretations for the standard conditions are set out in Appendix A.

Presently, PWC's System Control operates a wholesale market in the Darwin-Katherine power system (in accordance with regulation 3F) and recovers the cost of this and its system control operations through the imposition of charges approved by the Commission. Further information on system control and market operator charges and the licensees that these apply to can be found on the Commission's website at <https://utilicom.nt.gov.au/electricity/price-regulation/system-control-charges>.

<b>Question 1</b>	Do stakeholders have feedback and comments on the proposed standard administrative conditions?
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## 3 | Standard general conditions – all licences

The Commission proposes the standard general conditions set out in **Box 2** be included in electricity supply licences.

### Box 2 Proposed standard general licence conditions

#### Responsibility for operating contractors

1. If the licensee engages a contractor or other party to perform any operations covered by this licence (operating contractor), the licensee remains responsible for ensuring that all operations covered by this licence comply with the conditions of this licence regardless of who carries out those operations.
2. The licensee must use best endeavours to ensure each operating contractor engaged by the licensee complies with the conditions of this licence to the extent that such conditions are relevant to that operating contractor.

#### Information to the Utilities Commission

1. Annual return  
The licensee must lodge an annual return by 1 August each year. The annual return must contain such information as specified by the *Utilities Commission* by written notice. At a minimum, the licensee will be required to provide information on:
  - (a) key contact person/s regarding the licensed operations and
  - (b) details of electricity supply operations for use in the calculation of licence fees.
2. Change in circumstances  
The licensee must give a notice in writing to the *Utilities Commission* if:
  - (a) there is a change in the identity of any operating contractor engaged by the licensee to perform operations covered by this licence within 10 *business days* of that change;
  - (b) the licensee or an operating contractor is put under external administration as defined by the *Corporations Act 2001 (Cth)*, within 2 *business days* of that external administration occurring;
  - (c) an application is made to, or an order is made by, a court for the winding up or dissolution or a resolution is passed or any steps are taken to pass a resolution for the winding up or dissolution of the licensee or an operating contractor in accordance with relevant legislation including the *Bankruptcy Act 1996 (Cth)* or *Corporations Act 2001 (Cth)*, within 2 *business days* of that event occurring;
  - (d) there is a change to the financial or technical capacity of the licensee or an operating contractor, such that the licensee's capacity to carry on operations or comply with obligations under this licence may be materially affected, within 10 *business days* of that change.
3. Change in officers  
The licensee must give a notice in writing to the *Utilities Commission* of any change of directors or Board members, Chief Executive Officer, Chief Financial Officer and Company Secretary (or equivalent positions) as well as the key contact person/s of the licensee within 20 *business days* of that change.
4. Change in shareholders (if applicable)  
The licensee must give a notice in writing to the *Utilities Commission* of any change in the shareholding of the licensee resulting in the transfer of more than 50% of the shares in the licensee to a third party or a change in the entity that exercises control over the licensee within the meaning of section 50AA of the *Corporations Act 2001 (Cth)*, within 20 *business days* of that change.
5. Other information  
The licensee must, from time to time, provide the *Utilities Commission*, in a manner and form to be determined by the *Utilities Commission*, such information as the *Utilities Commission* may request.

#### Information to the System Controller

The licensee must, from time to time, provide the *System Controller* such information as the *System Controller* may request in accordance with the *System Control Technical Code*.

### Compliance with regulatory instruments

The licensee must, as amended from time to time, comply with:

- (a) all *applicable laws*
- (b) all applicable provisions of a *code* or *rule* made under the *Utilities Commission Act 2000* or the *Electricity Reform Act 2000*;
- (c) any applicable protocol, standard or *code* applying to the licensee under the *Regulations* or the *Utilities Commission Regulations 2001*; and
- (d) any guideline made under a *code*, the *Regulations* or the *Utilities Commission Act 2000*.

### Compliance process

1. Establishment and maintenance of a compliance process
  - (a) Within 3 months of issue of this licence, the licensee must establish, document, maintain and comply with appropriate auditable internal policies, procedures and systems (“compliance process”) for ensuring that it complies with its obligations under this licence, and all *applicable laws*, codes, rules, standards or guidelines.
  - (b) The compliance process must include policies, procedures and systems for:
    - (i) training of employees about the obligations of the licensee under this licence;
    - (ii) regular internal audit by the licensee of its compliance with its obligations under this licence;
    - (iii) regular reporting to, and consideration by, the Board of the licensee concerning compliance with the obligations of the licensee under this licence;
    - (iv) 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;
    - (v) detecting and reporting to the *Utilities Commission* any breach of the compliance procedures.
  - (c) The *Utilities Commission* may (after giving reasonable notice to the licensee) require the licensee to demonstrate to the *Utilities Commission’s* satisfaction that:
    - (i) the licensee’s compliance procedures are adequate; and/or
    - (ii) the licensee is complying with its compliance procedures.
  - (d) Any notification made by the *Utilities Commission* to the licensee concerning the *Utilities Commission’s* opinion of the adequacy of the compliance process of the licensee will not affect the licensee’s obligations under this licence.
2. Independent audit
  - (a) Upon reasonable notice to a licensee, the *Utilities Commission* may appoint, or require the licensee to appoint, an independent auditor to undertake an audit of the licensee’s compliance with any of its obligations under this licence (independent audit).
  - (b) The licensee must consult with, and gain the approval of, the *Utilities Commission* for its preferred independent auditor and proposed scope for the audit.
  - (c) The scope of the audit and the standards or requirements to apply to an independent audit must comply with any guidelines published by the *Utilities Commission* from time to time. In the absence of guidelines, the scope and standards or requirements will be determined by the *Utilities Commission* in consultation with the licensee. Where the *Utilities Commission* appoints the auditor, the *Utilities Commission* will nominate the standards or requirements.
  - (d) The licensee must cooperate with any reasonable requests made by the independent auditor in undertaking the audit.
  - (e) The licensee will be responsible to pay the costs of undertaking the audit.

### Compliance reporting

1. Notification of material non-compliance (material breach)
  - (a) The licensee must notify the *Utilities Commission* if it commits a material breach of an applicable regulatory obligation within 2 *business days* of becoming aware of that breach.
  - (b) Following the initial notification, the licensee must advise the *Utilities Commission*, within 20 *business days* or other such time as agreed by the *Utilities Commission*, of the circumstances of, and reasons for, the material breach, consequences of the breach and remedial action that is being undertaken to rectify the breach.
  - (c) The notification of material breaches, including the assessment of which breaches are a material breach, must be undertaken in accordance with any reporting guidelines published by the *Utilities Commission* from time to time.

### Compliance reporting (continued)

#### 2. Annual compliance report

- (a) A licensee must provide an annual report to the *Utilities Commission* describing the measures taken by the licensee to ensure compliance with its obligations and identifying all instances (material and non-material) of non-compliance (annual compliance report).
- (b) The annual compliance report must be in accordance with any reporting guidelines published by the *Utilities Commission* from time to time.
- (c) The annual compliance report, and the *Utilities Commission's* assessment of compliance, may be made publicly available by the *Utilities Commission*.

### Community service obligations

The licensee must comply with the requirements of any scheme approved and funded by the *Minister* for the performance of community service obligations by *electricity entities*.

### Operator

If an operator is appointed to the licensee's business under section 42 of the *Electricity Reform Act 2000*, the operator must exercise its functions and powers in such a manner as may be specified by the *Utilities Commission* in the instrument of appointment.

For certain existing licensees, some general conditions may be modified or omitted due to their specific circumstances or the nature of their operations. The Commission may also impose additional obligations on licensees where relevant to a licensee's circumstances or operations.

## Participation in development of regulatory instruments

Most electricity supply licences contain a condition requiring the licensee to participate in the development of regulatory instruments. The Commission proposes to discontinue this condition. The Commission's development of regulatory instruments is conducted transparently and openly including public consultation on draft instruments. This provides licensees and any other interested parties with the opportunity to provide input into the development process. It is in the interests of licensees to participate in the development process as they are required to comply with relevant regulatory instruments, but the Commission considers the level of participation is a matter for licensees to determine for themselves.

## Responsibility for operating contractors

There are instances where licensees have contracted out the construction, maintenance and operation of generation assets or the administration of electricity sales to third parties. Contracting out enables licensees to draw on skills and expertise in order to expand or update their operations, for example, adopting new technology and business models. It also facilitates entry by new investors who have the financial resources, but not the technical capability, to participate in the electricity supply industry.

The Commission proposes to follow the approach in the Australian Capital Territory, Tasmania and Victoria and include licence conditions that acknowledge the existence of arrangements where a licensee contracts with a third party to perform the operations covered by their licence. Importantly, the conditions make clear that regardless of whether a licensee has engaged a third party to perform the operations covered under the licence, the licensee remains responsible for compliance with the obligations under its licence. Accordingly, the licensee should ensure that any agreement, with a contractor, subcontractor, agent or other third party for the performance of licensed operations (operating contractor), contains such provisions as are necessary to ensure that operating contractor provides its services in a way that enables the licensee to comply with the conditions of its licence.

Separately, under the proposed standard conditions requiring the provision of information to the Commission, there is a requirement for the licensee to notify the Commission where there is a change in the identity of any operating contractor undertaking operations on behalf of the licensee. This requirement is intended to ensure the Commission is made aware of when a major contract ends and a new operating

contractor is appointed. It is expected most contractual arrangements will be relatively long term in nature and this should not impose an undue burden on licensees. Other elements under the information provision conditions relating to changes in circumstances have been extended to include operating contractors (see next section). The requirement to notify the Commission of changes in circumstances relating to operating contractors is important as the Commission needs to remain satisfied that the licensee continues to have the necessary capability to continue operations under the licence.

#### Question 2

Do the proposed conditions appropriately reflect and address the risks and accommodate the benefits of contracting out operations covered by a licence?

## Information to the Commission

The proposed conditions requiring licensees to provide information to the Commission are a consolidation of existing conditions with the addition of specific timeframes for the provision of that information and inclusion of further detail to clarify requirements. Notification of the information and changes specified under these conditions are important for enabling the Commission to be satisfied that, in accordance with section 16 of the *Electricity Reform Act 2000* (ER Act), the licensee continues to be a suitable person to hold a licence and to assess the implications for consumers of any major changes in a licensee's circumstances.

### Annual return

Section 19(2)(a) of the ER Act requires the holder of a licence granted for two years or more to lodge an annual return with the Commission. The annual return is to contain information specified by the Commission in the licence condition or by written notice. The requirement for an annual return is a condition of current licences, and provides for the Commission to specify the information required and timeframe for provision of the information through written notice. The revised condition includes the Commission's standard due date for annual returns (1 August each year) and indicates the standard (minimum) information that is sought. This is intended to increase transparency on the annual information requirement, particularly for prospective licensees (existing licensees will be familiar with the Commission's annual return specifications).

### Change in circumstances

In accordance with section 24(1)(c) of the ER Act, a licence must include a condition relating to the licensee's financial or other capacity to continue operations under the licence. This standard condition fulfils this requirement and reflects the existing obligation to inform the Commission of changes in financial and technical capability. This requirement has, however, been revised so that it is no longer a passive obligation (that is, information is required only when requested by the Commission) and is instead an active obligation with the licensee required to provide a written notification within 10 business days of the change occurring (rather than 20 business days after receipt of a request from the Commission).

Additionally, there is now a stronger obligation if a licensee is placed under external administration, an application is made to, or an order is made by, a court for the winding up or dissolution of the licensee, or actions are taken to wind up or dissolve a licensee in accordance with relevant legislation. In this circumstance, notification is required within 2 business days of the change occurring. These matters have implications for the financial capability of a licensee and whether the licensee continues to meet the suitable person test under section 16 of the ER Act.

As noted previously, the requirement to notify of changes in financial or other capacity to continue operations or placement in external administration or winding up of an entity have been extended to include changes relating to operating contractors. Additionally, it is proposed to require a licensee to notify of any change in the identity of an operating contractor within 10 business days of the change occurring.

## Changes in officers and shareholders

In accordance with section 24(1)(e) of the ER Act, existing licences include a requirement to provide advice of changes in officers and shareholders. In the proposed standard condition, the existing requirement has been separated and information previously in the definitions section of the licence has been incorporated to improve clarity on requirements. The standard condition provides further detail identifying, at a minimum, the positions (or equivalents) for which changes in the person occupying that position must be reported to the Commission. This is to address uncertainty indicated by licensees about the officers requiring notification. The timeframe for notifications is unchanged.

## Other information

The existing licence condition relating to the provision of other information to the Commission has been consolidated with other information obligations. This condition enables the Commission to request other information, as might be needed. It is also consistent with the Commission's power to require information, provided for under section 25 of the UC Act.

## Information to the System Controller

In some licences, the obligation to provide information to the System Controller is combined with the obligation to provide other information to the Commission, but these are now established as a separate conditions. The obligation to provide information to the System Controller will only have implications for licensees operating in a power system where there has been a licence granted to an electricity entity to perform system control functions. Currently, PWC holds the only system control licence covering the Darwin-Katherine, Alice Springs and Tennant Creek power systems. In other power systems, control will typically reside with the network provider.

### Question 3

Do the proposed changes improve transparency on requirements and apply reasonable timeframes for the provision of information? Is there other information the Commission should consider including in the conditions?

## Compliance with regulatory instruments

This standard condition meets requirements under sections 24(1)(a) and 24(1)(b) of the ER Act and is based on the current condition in licences, updated through reordering the list of regulatory instruments to place the key requirement first, that is, that a licensee must comply with all applicable laws. "Applicable laws" has been added to the Definitions list (refer Appendix A) providing further information on relevant laws, noting that the examples are not exhaustive. Other updates include removing reference to specific code names (to avoid the need for variations when there are new, discontinued or renamed codes) and reference to safety obligations with these now established under the *Electrical Safety Act 2022* (ES Act).

The Commission also proposes that a licensee be required to comply with any guideline made under a code or the UC Act. Guidelines are omitted from the current list of regulatory instruments. While the Commission acknowledges the name implies there should be discretion in whether or not to adhere to a guideline, in reality the Commission's guidelines tend to contain information on requirements that must be met and recommendations for best practice or a minimum standard of performance. For example, the Commission's Compliance Framework and Reporting Guidelines specify the due date for compliance reports and provide a template for compliance reports and other matters. The Commission notes electricity supply licences in the Australian Capital Territory, Victoria and Tasmania have obligations to comply with guidelines (among other regulatory instruments).

**Question 4**

Do the proposed conditions clearly and sufficiently set out the types of regulatory instruments that licensees must comply with?

## Compliance process and reporting

### Compliance process

Currently, conditions relating to compliance processes and reporting are grouped together. The Commission proposes to separate these into separate conditions. The compliance process condition includes obligations relating to establishing and maintaining a compliance process and the conduct of independent audits.

Some licences require the compliance process to detect and report to the Commission “any breach”, while others restrict this to “any material breach”. Given most licensees must, in accordance with clause 3.43 of the Compliance Framework and Reporting Guidelines, report any instance of non-compliance (material or non-material), this is proposed to be standardised to “any breach”. This also reflects the Commission’s expectation that regardless of reporting requirements, as a matter of good business practice, a licensee should have compliance processes in place that detect any breach (with classification as material or non-material to follow identification of the breach) and suitable remedial action taken to avoid a reoccurrence regardless of the materiality of the breach.

Previous headings and reference to “external audits” has been replaced by the term independent audit. Conditions relating to independent audits have been consolidated to remove duplication. A single set of conditions is proposed to apply to independent audits where the licensee appoints an independent auditor and those where the Commission appoints the auditor. Compared to the current conditions, the standard condition is proposed to be broadened to state that the scope of an independent audit must also comply with any guidelines published by the Commission (as do the standards or requirements that apply to the audit) and in the absence of guidelines, the Commission will determine both the scope and standards or requirements. The Commission’s Compliance Framework and Reporting Guidelines, published on the Commission’s website, include matters relating to audits (refer clauses 3.55 to 3.71). The Commission will be reviewing the efficiency and effectiveness of the Guidelines, including audit provisions, during the next stage of the licensing review.

For independent audits, the Commission would typically require that the licensee consult with and gain the approval of the Commission for its proposed independent auditor and audit scope, for example, as occurs for independent audits under the Electricity Industry Performance (EIP) Code. The Commission proposes to include a specific requirement for these approvals in relation to independent audits of compliance with obligations under licence. This is intended to improve transparency on the process and obligations, should an independent audit of compliance be required, rather than an indication of a change in requirements.

Conditions relating to reporting by an auditor are proposed to be removed as a licence condition cannot bind an auditor. Instead, the timeframe for an auditor to provide its report and the recipients of the auditor’s report should be specified in the standards and requirements to apply to an independent audit. The Commission’s Compliance Framework and Reporting Guidelines include further information and requirements in relation to independent audits.

### Compliance reporting

Under the compliance reporting condition, the Commission proposes amending the content to clarify a licensee must report any material breach within 2 business days of becoming aware of the breach (rather than as soon as reasonably practicable). The Commission’s definition of a material breach is set out in its Compliance Framework and Reporting Guidelines. Specifying a notification time reflects the serious nature of a material breach and the need for the Commission to understand the potential impact on customers.

The reporting conditions also clarify information requirements in relation to reporting a material breach. At present, licences only require reporting of the breach and advice on remedial action. The revised condition clarifies a licensee must advise of the circumstances of, and reasons for, the material breach and

consequences of the breach as well as the remedial action that is being undertaken to rectify the breach. It is likely a licensee would report this information as good practice; however, inclusion in the licence condition makes the requirement transparent and compulsory.

The Commission notes provision of fulsome information on a material breach may take some time and as such, there are likely to be several instances where a licensee will engage with the Commission on a material breach before all of the required information is provided. Notwithstanding this, the Commission has placed a timeframe of 20 business days (following the initial notification) for the provision of a full report on the material breach. The Commission acknowledges more time may be needed depending on the nature and circumstances of the breach, for example, the licensee may need to commission an independent investigation of the breach. Where it is not possible to fully report within the designated timeframe, the Commission expects the licensee to engage with the Commission to determine an alternative timeframe and any interim reporting requirements, as may be appropriate.

The proposed reporting conditions also make it clear a licensee must report, in its annual compliance report, all instances of non-compliance regardless of their materiality. This is set out in the Compliance Framework and Reporting Guidelines (refer clause 3.43) so it imposes no additional burden on licensees, but is intended to make the requirement transparent.

<b>Question 5a</b>	Do the proposed changes improve transparency on requirements and apply reasonable timeframes for the provision of information on instances of non-compliance?
<b>Question 5b</b>	Is there other information the Commission should require in relation to a material breach?

## Other general standard conditions

Proposed standard conditions relating to community service obligations and the appointment of an operator are unchanged from conditions in existing licences.

Section 24(1)(f) of the ER Act requires the Commission to include a licence condition requiring the licensee to comply with the requirements of any scheme approved and funded by the Minister (in this case the Treasurer) for the performance of community service obligations. The Territory Government's electricity pricing order (EPO) and the associated regulated retail electricity tariff community service obligation is an example of such a scheme.

While there is no requirement to include a condition relating to appointment of an operator, it informs of the Commission's power (under section 41 of the ER Act) and that the appointed operator (under section 42 of the ER Act) must comply with terms and conditions agreed with the Commission.

## 4 | Standard conditions – retail licences

The Commission proposes the standard retail conditions set out in **Box 3** be included in electricity supply licences for retail operations.

### Box 3 Proposed standard retail licence conditions

#### Adequate supply arrangements

The licensee must take reasonable steps to ensure that it has in place at all times arrangements to provide a supply of electricity that is safe, reliable and of a satisfactory quality to its customers.

#### Disconnection

The licensee must not disconnect or discontinue the supply of electricity, or take any action that may lead to the disconnection or discontinuance of the supply of electricity to a *customer*, except in accordance with the disconnection procedures prescribed in the *System Control Technical Code*, where it applies, or otherwise in accordance with the *customer's* contract.

#### Customer related standards and procedures

Prior to the commencement of operations, the licensee must develop, publish and comply with:

- (a) standards and procedures set out in any relevant *code* or rule made under the *Utilities Commission Act 2000* or the *Electricity Reform Act 2000* and
- (b) fixed standard terms and conditions for customers of a prescribed class as may be required under the *Electricity Reform Act 2000* and *Regulations*.

#### Customer notification of changes

1. The licensee must notify *customers* of any changes in charges, rights or obligations applicable to the sale of electricity to that *customer* before the change occurs.
2. Where the licensee changes charges applicable to the sale of electricity to a *customer*, the licensee must also include an explanatory notice in the next statement of charges sent to that *customer*.

For certain existing licensees, some retail conditions may be modified or omitted due to their specific circumstances or the nature of their operations. The Commission may also impose additional obligations on licensees where relevant to a licensee's circumstances or operations.

### Existing licence conditions not included in standard conditions

A number of conditions in existing licences are excluded from the proposed standard retail conditions.

#### Standards of service and other matters relating to contestability

From 1 April 2020, all customers became contestable customers; there are now no longer any non-contestable customers. Some retail licences still include references to non-contestable customers and to arrangements relating to the transition of non-contestable customers to contestable customers. These are no longer relevant given the passage of time and the existence of standards and requirements under the Commission's Electricity Retail Supply Code (ERS Code) and EIP Code. Accordingly, conditions relating to standards of service existing at the date of issue of a licence and the continuation of terms and conditions for transitioning (to contestable) customers for a grace period are excluded from standard conditions.

#### Coordination agreement

The Commission's ERS Code requires that for electricity networks where the *National Electricity (Northern Territory) (National Uniform Legislation) Act 2015* applies (presently, the Darwin-Katherine, Alice Springs and Tennant Creek power systems), the network provider and the retailer must enter into a coordination agreement for the provision of network access services and the coordination of various matters (refer clause 4.1). Currently, retail and network licences contain conditions duplicating this requirement, which



aligns with section 28(1)(j) of the ER Act; however, the ER Act does not require that a retail licence includes this condition, giving the Commission discretion about how it chooses to impose such a requirement.

To remove duplication, ensure consistency in requirements and minimise administration, the Commission proposes requirements relating to coordination agreements will only be contained in the ERS Code. While there will be no direct reference to the requirement for a coordination agreement in either retail or network licences, licensees must comply with the ERS Code (in accordance with the general conditions of a licence – refer standard general conditions in the previous chapter). The Commission notes that under the ERS Code, holders of retail licences are not required to enter into a coordination agreement if they have no customers. This reflects the fact that some licence holders are not currently active in the Territory's retail market and in that case a coordination agreement has no purpose.

### Statement of charges

Retail licences currently require a retailer to, if requested by a customer, display separately in the customer's statement of charges (bill) the amount charged for electricity consumed and the total amount charged for network services. The condition only provides for the customer to request the separation of charges at the time of entering into a contract with a retailer.

The Commission notes the regulated (EPO) tariff is a bundled tariff so it would not be possible to separate out these components for small customers. Accordingly, application of the condition is limited to large customers who are not covered by the EPO. These customers negotiate a supply agreement with their retailer and can include any requirements in relation to billing during that process. As such, the Commission considers the condition unnecessary and proposes not to include it in the standard retail conditions.

### Unchanged conditions

The following two standard retail conditions are already in existing retail licences and are proposed to be included as standard retail licence conditions without change:

- Adequate supply arrangements (consistent with section 28(1)(e) of the ER Act)
- Disconnection

#### Question 6

Do stakeholders have any comments or feedback on existing licence conditions that are proposed to be excluded from the standard retail conditions or the existing licence conditions to be included in the standard retail conditions without change?

### Customer related standards and procedures

Section 24(3)(b) of the ER Act requires the Commission to make a licence subject to requiring an electricity entity to develop and comply with customer related standards and procedures. Retail licences include this condition (or a similar requirement) with the licensee required to publish the standards and procedures, and for the development and publication of the standards and procedures to occur within three months of the issue of the licence. The Commission has included the existing condition in the proposed standard retail licence conditions, but proposes to replace the three month timeframe with the requirement that the standards and procedures are in place and published prior to the commencement of operations.

For the purpose of clarity on the coverage of “standards and procedures”, the Commission has included further detail in the proposed condition. Sub-clauses of the condition point to the need for new licensees to consider requirements in codes and the ER Regulations and ER Act when developing their standards and procedures. For example, licensees would need to consider the retail performance indicators under the EIP Code and requirements relating to life support customers, complaints and dispute resolution procedures, and hardship and family violence policies under the ERS Code. Licensees, depending on their intended customers and the nature of their operations, may also need to consider the relevance of section 91 of the

ER Act to their operations or business model. Section 91 requires the fixing of standard terms and conditions for customers of a prescribed class, which are defined in regulation 22 of the ER Regulations as customers to whom an electricity entity sells electricity and who have not negotiated a written agreement with the entity.

The change in the timeframe to establish standards and procedures will have no practical impact on existing licensees who will already have standards and procedures in place (in accordance with their licence). While there are new requirements under the ERS Code (as noted above and in effect as of 1 July 2023), there is a six month transition timeframe for existing retailers to develop and implement the new requirements. For future retail licence applicants, requirements in the standard condition are intended to ensure a new licensee has its standards and procedures in place and available to prospective customers prior to the licensee commencing sales. This will enable customers to make comparisons between retailers, promote fair market conduct and improve the quality of retail services.

<b>Question 7a</b>	Would the proposed change to the timeframe for standards and procedures to be in place create any barriers to entry for new retailers?
<b>Question 7b</b>	Is the additional guidance on standards and procedures useful and is there other information that should also be included?

## Customer notification of changes

Existing retail licences typically contain a condition requiring the licensee to notify its customers of any changes in rights, obligations and charges by including an explanatory notice with the next statement sent to that customer. There is also a condition requiring licensees, at times and in a manner and form determined by the Commission, to notify customers of changes in market circumstances that might affect those customers.

The Commission notes the current condition relating to changes in market circumstances likely reflected major changes to the retail market in the past, in particular, the transition to a contestable market. That transition directly changed how sales of electricity could be made to customers with contestability allowing retailers to compete for customers and for customers to have choice in their retailer. The Commission considers the condition is no longer needed, noting the Territory Government would publicly consult on any market reforms and there are a range of means by which government and retailers communicate with customers.

The Commission notes the current condition requiring notification of changes in rights, obligations and charges requires advice of the change to occur in the next statement. This allows for a customer to be informed of a change after it has taken effect. For customers on a quarterly billing cycle, the likelihood of retrospective advice may be even greater. For example, these customers may not receive a bill including new electricity tariffs and an accompanying explanation until after the price change has occurred because a new EPO was issued and came into effect during the billing cycle.

The Commission considers it is important retailers provide advance notice of changes. While the requirement to include an explanatory notice in the next statement of charges sent to a customer is retained, the condition has been modified to require advance notice of changes. As noted above, there will be a range of means by which retailers communicate with customers, but at a minimum, the Commission would expect a licensee to publish a notice informing of the change prior to its occurrence. Such a notice could be published on a retailer's website and provided through other avenues (such as social media or direct email). A notice will provide a low cost avenue for giving advance notice, noting that the majority of customers in the Territory are covered by the EPO and the Territory Government typically advises of

forthcoming changes in utilities tariffs in its budget.<sup>3</sup> This means for most customers, a retailer's notice would supplement information already in the public arena.

For large customers, retailers are likely to engage on a more frequent basis and through means other than the billing cycle. Consequently, the requirement to provide advance notice of changes is expected to impose little additional burden.

**Question 8**

Does the proposed approach appropriately balance the benefits and costs of providing customers with advance notice of changes?

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<sup>3</sup> See [https://budget.nt.gov.au/\\_\\_data/assets/pdf\\_file/0005/1224077/cost-of-living.pdf](https://budget.nt.gov.au/__data/assets/pdf_file/0005/1224077/cost-of-living.pdf)

## 5 | Standard conditions – generation licences

The Commission proposes the standard generation conditions set out in **Box 4** be included in electricity supply licences for generation operations.

### Box 4 Proposed standard generation licence conditions

#### Directions of the System Controller

The licensee must comply with the directions of the *System Controller*.

#### Quality of electricity

The licensee must provide electricity of a quality suitable for any *electricity network* which is interconnected or interfaces with the licensee's *electricity generating plants*.

#### Compatibility

The licensee must not do anything to its *electricity generating plants* affecting the compatibility of its *electricity generating plants* with any *electricity network* so as to prejudice public safety or the security of *supply*.

#### Right of use

The licensee must:

- (a) grant each *electricity entity* holding a *network licence* rights to use or have access to the licensee's *electricity generating plants* that are interconnected or interface with the *electricity entity's assets* for the purposes of ensuring the proper integrated operation of the *power system* and the proper conduct of the operations authorised by the *electricity entity's licence*; and
- (b) in the absence of agreement as to the terms on which such rights are granted, comply with any determination by the *Utilities Commission* as to those terms.

There may be minor typographical differences and corrections between the proposed general conditions and equivalent conditions in existing electricity supply licences. The Commission may also impose additional or lesser obligations on licensees where relevant to a licensee's circumstances or operations.

### Existing licence conditions not included in standard conditions

Three conditions in existing licences are excluded from the proposed standard generation conditions.

#### Coordination agreement

The previous chapter discussed the Commission's intent not to include a standard condition requiring a retailer to have a coordination agreement with an electricity entity holding a network licence. This requirement is now captured under the Commission's ERS Code.

Currently, generation licences also include a condition requiring a coordination agreement with an electricity entity holding a retail or network licence which provides services to the licensee's customers. The relevance of this condition to generation licensees is unclear as they do not typically sell to end use customers (and a retail licence is required for that purpose). Further, the condition does not refer to a connection agreement with a network provider, with those requirements set out in the National Electricity (NT) Rules and applicable to the Territory's three main power systems. For other power systems, connection requirements are specified by the network provider for each power system.

The Commission considers the condition relating to the coordination agreement is not relevant to generation licences and does not propose to include it as a standard generation licence condition. The Commission also does not consider it necessary to include a condition relating to connection agreements. The requirement for connection agreements would be captured by the general condition requiring a licensee to comply with all applicable laws, which would include the National Electricity (NT) Rules.

## Safety management and mitigation plan

Holders of generation and network licences are required to, within three months of issuance of their licence, prepare and submit for approval a safety management and mitigation plan (SMMP). The SMMP licence condition also requires licensees to comply with the approved SMMP, annually review the SMMP and, where amendments are needed, the revised SMMP must be provided to the Commission for approval.

The SMMP licence condition will be superseded by obligations under the ES Act<sup>4</sup> when it commences. Under the ES Act, approval of SMMPs will reside with the Electrical Safety Regulator, NT WorkSafe, and the Commission will no longer have a role relating to SMMPs. There are provisions to allow for SMMPs approved by the Commission to be taken as approved under the ES Act.<sup>5</sup> There is, however, at most a three year grace period before new requirements relating to assessment and expiration of an approval apply to a SMMP currently in place. The Commission strongly recommends licensees make themselves aware of the obligations under the ES Act (if they have not done so already) and, if necessary, discuss the new obligations with NT WorkSafe as a matter of priority.

The Commission notes it is a requirement (under general conditions) for licensees to comply with all applicable laws. This would include the ES Act.

## Provision of ancillary services

In stage 1 of the licensing review, the Commission received feedback from PWC advising the omission of the condition to provide ancillary services (also known as essential system services) from the licences of independent power producers operating in the Territory's three regulated (major) power systems (Darwin-Katherine, Alice Springs and Tennant Creek) was misleading. PWC advised the requirement applies to all generators in those power systems as they must (in accordance with the general licence condition) comply with all relevant requirements in the Network Technical Code and Planning Criteria (NTC), System Control Technical Code (SCTC) and ER Regulations. In particular, PWC advised System Control is authorised to operate generation plant in the major power systems within the full range of technical capabilities and in accordance with the dispatch principles outlined in section 4.3 of the SCTC. Section 4.3 includes a dispatch principle for ancillary problems.

While PWC advised it would be preferable for generation licences, including relevant independent power producer licences, to contain the same wording related to ancillary service provision, the Commission considers that, consistent with its approach to not duplicate requirements in codes in licence conditions, that the ancillary service provision be removed from generation licences. As noted by PWC, the provision and procurement of ancillary services is governed by obligations within PWC's NTC, SCTC and System Secure Guidelines. The requirement to comply with these codes is already captured under the general licence condition requiring compliance with regulatory instruments. Furthermore, the standard generation conditions require licensees to comply with the directions of the System Controller.

### Question 9

Do stakeholders have any comments or feedback on the exclusion of conditions relating to coordination agreements, SMMP and ancillary services?

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<sup>4</sup> Refer Part 4, Division 2.

<sup>5</sup> Refer section 263.

## Unchanged conditions

The following four standard generation conditions are already in existing generation licences and are proposed to be included as standard generation licence conditions without change:

- Directions of the System Controller (consistent with section 25(1)(a) of the ER Act)
- Quality of electricity (consistent with section 25(1)(b) of the ER Act)
- Compatibility (consistent with section 25(1)(c) of the ER Act)
- Right of use (consistent with section 25(1)(d) of the ER Act)

### Question 10

Do stakeholders have any feedback or comments on the relevance or need to change the four proposed standard generation conditions relating to directions of the System Controller, quality of electricity, compatibility and right of use?

## 6 | Standard conditions – network licences

The Commission proposes the standard network conditions set out in **Box 5** be included in electricity supply licences for network operations.

### Box 5 Proposed standard network licence conditions

#### Network control

1. Subject to section 38 of the *Electricity Reform Act 2000*, the licensee must be responsible for network control of its *electricity network*.
2. Where, under section 38 of the *Electricity Reform Act 2000*, a *System Controller* has the function of monitoring and controlling the operation of the power system of which the licensee's *electricity network* forms part or is connected to, the licensee must comply with the directions of the *System Controller*.

#### Compatibility

The licensee must not do anything to its *electricity network* affecting the compatibility of its *electricity network* with any other *electricity network* or *electricity generating plant* so as to prejudice public safety or the security of supply.

#### Coordination

The licensee must operate its *electricity network* in coordination with other *electricity networks* to which it is connected directly or indirectly.

#### Operation and maintenance

The licensee must operate, maintain (including repair and replace if necessary) and protect its *electricity network* so as not to prejudice public safety, reliability and security of supply, and in accordance with any technical code made under the *Electricity Reform Act 2000* and the *National Electricity (NT) Rules*, where they apply.

#### Restrictions on trading

The licensee must not buy or sell electricity directly or indirectly in connection with conducting operations authorised by this licence, except if it is necessary:

- (a) to operate the *electricity network*;
- (b) for a purpose associated with planning, designing, constructing, maintaining or operating the *electricity network*;
- (c) for the licensee's administrative purposes; or
- (d) the licensee holds a retail licence.

#### Disconnection

The licensee must not disconnect or discontinue supply of electricity, or take any action which may lead to the disconnection or discontinuance of the supply of electricity to a *customer*, except in accordance with section 27(2) of the *Electricity Reform Act 2000* and the disconnection procedures prescribed in the *System Control Technical Code*, where it applies, or otherwise in accordance with the *customer's* contract.

To date, the Commission has only issued one network licence, to PWC, which covers electricity networks in the Territory's three major power systems, most minor urban centres and the remote communities in the Indigenous Essential Services Program. The Commission notes the Isolated System Licence issued to Groote Eylandt Mining Company Pty Ltd covers the electricity network at Alyangula and the electricity network at Nhulunbuy owned by Alcan Gove Pty Limited operates under an exemption granted under section 87 of the ER Act.

Requirements under the ER Act and conditions in PWC's network licence have informed the development of proposed standard network licence conditions.

## Existing licence conditions not included in standard conditions

Five existing conditions in PWC's network licence are not proposed to be included in the standard network conditions.

### Coordination agreement

As noted in Chapter 4, the requirement for a network provider to have a coordination agreement with retailers is now captured under the Commission's ERS Code (clause 4.1). While there will be no direct reference to the requirement for a coordination agreement, a network licensee must comply with the ERS Code in accordance with the general conditions of the licence requiring compliance with relevant codes (among other regulatory instruments).

### Safety management and mitigation plan

As discussed in the previous chapter, oversight of SMMP will transition to NT WorkSafe in accordance with the ES Act. There will no longer be a condition relating to SMMPs, but a network licensee must comply with the ES Act, noting this requirement is captured in the general conditions of the licence, which require compliance with all applicable laws.

### Dispute resolution procedures

PWC's network licence requires PWC to, within three months of issue of the licence, establish and comply with procedures to do with customer consultation, enquiries or disputes on terms approved by the Commission. This condition is largely redundant having been replaced by requirements under clause 11.4 of the ERS Code, which requires retailers and network providers to develop, make and publish on their websites procedures for handling customer complaints and disputes. For a new network provider (or retailer), these procedures would need to be in place before commencement of operations. The Commission does not propose duplicating requirements under the ERS Code in licences and the requirement to comply with the ERS Code is captured under general conditions. The Commission does not consider it necessary to specify that a licensee has procedures to do with customer consultation and enquiries as this should be standard practice for any business.

### Provision of customer data

PWC's network licence requires PWC to, in relation to its three major electricity networks, provide a customer, or any person nominated by the customer (in writing), with data relating to the customer's historical energy consumption within three business days of the request. The condition provides for PWC to charge a fee (which must be published) for the provision of the data. This condition is redundant having been replaced by requirements under clause 6.2 of the ERS Code, relating to customer access to data. The Commission does not propose duplicating requirements under the ERS Code in licences and the requirement to comply with the ERS Code is captured under general conditions.

### Right to use

Section 26(1)(j) of the ER Act provides for the Commission, if it so chooses, to require the licensee, in relation to an electricity network regulated in accordance with the Network Access Code (now superseded by the National Electricity (NT) Rules), to grant a generation licensee the right to use or have physical access to the licensee's electricity network as necessary for the purpose of ensuring the proper integrated operation of the power system and the proper carrying on of the operations authorised by the licence. In the absence of agreement as to the terms on which such rights are to be granted, the licensee must comply with any determination by the Utilities Commission as to those terms.

PWC's licence includes such a condition because the National Electricity (NT) Rules applies explicitly to PWC's networks in the Darwin-Katherine, Alice Springs and Tennant Creek power systems as local electricity systems under the *National Electricity (Northern Territory) (National Uniform Legislation) Act 2015*.



The National Electricity (NT) Rules does not apply to networks in other urban centres or to networks operated by other entities including embedded networks in the three major power systems. Given the narrow application of the National Electricity (NT) Rules, the Commission considers this condition is not relevant for inclusion as a standard network licence condition.

<b>Question 11</b>	Do stakeholders have any comments or feedback on the exclusion of conditions relating to coordination agreements, SMMP, dispute resolution procedures, provision of customer data and right to use?
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## Unchanged conditions

The following three standard network conditions are in PWC's network licence and are proposed to be included as standard network licence conditions without change:

- Compatibility (consistent with section 26(1)(b) of the ER Act)
- Coordination (consistent with section 26(1)(f) of the ER Act)
- Disconnection

## Restrictions on trading

Consistent with section 26(1)(d) of the ER Act, PWC's network licence includes a clause restricting PWC from buying or selling electricity unless it is necessary to operate the electricity network, for a purpose associated with planning, designing, constructing, maintaining or operating the electricity network or for the licensee's administrative purposes. The current clause is included in the standard conditions, but has been expanded to allow for the situation where a network operator holds a retail licence.

<b>Question 12</b>	Do stakeholders have any feedback or comments on the relevance or need to change the four proposed standard network conditions relating to compatibility, coordination, restrictions on trading and disconnections?
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## Network control

In accordance with section 26(1)(m) of the ER Act, PWC's network licence includes a condition requiring it to be responsible for network control of its electricity network. The condition acknowledges the licensee's control of its network may be influenced by directions from the System Controller where such a function is in place for a power system (that is, in the three major power systems).

For the purposes of clarity, and in accordance with section 26(1)(a) of the ER Act, a subclause is proposed to be added to the existing condition requiring a licensee to comply with the directions of the System Controller. This will only apply where a system controller is monitoring and controlling the operation of the power system of which the licensee's electricity network forms part or is connected to that power system. In the case of PWC, inclusion of the condition in its licence acknowledges PWC's network and system control and market operation functions operate as separate businesses.

<b>Question 13</b>	Do stakeholders have any feedback or comments on the inclusion of the proposed sub-condition requiring compliance with the directions of the System Controller?
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## Operation and maintenance

Section 26(1)(e) of the ER Act provides for the Commission, if it so chooses, to make a network licence subject to a condition requiring the licensee, in accordance with the Network Access Code, to operate, maintain (including repair and replace if necessary) and protect its network. Such a condition is included in PWC's network licence, but the condition refers to the National Electricity (NT) Rules (which replaced the Network Access Code) and the NTC with these relevant to operation and maintenance of its network in the three major power systems. For its other networks, the licence condition requires PWC to operate, maintain and protect its networks so as not to prejudice public safety or security of supply. The condition acknowledges operation and maintenance in other networks may also depend on arrangements that PWC has under any funding agreements entered into with the Territory Government.

The proposed standard condition relating to operation and maintenance is similar to the condition in PWC's licence except for removal of components relating to funding agreements, which are contractual arrangements specific to PWC and not relevant to a standard condition (but if funding agreements or like arrangements apply to a new licensee, the standard condition would be modified for their inclusion). The condition has also been expanded to include reliability as well as public safety and security of supply as a risk factor of concern. The condition continues to encapsulate potential instruments that may govern operation and maintenance of an electricity network such as technical codes (system control technical codes and network technical codes) and the National Electricity (NT) Rules (were their application to be changed or extended).

### Question 14

Do stakeholders have any feedback or comments on the modification and inclusion of the proposed standard network licence condition on operation and maintenance?

## 7 | Form of electricity supply licences

The Commission proposes to make a number of cosmetic changes to the form of licences. This will include:

- a refreshed 'look' for the licence template with new formatting and styles
- the Commission's common seal and information on variations to the licence will be in the early part of the licence rather than toward its end
- definitions and interpretations moved to the early part of the licence rather than toward its end
- updated definitions (refer Appendix A, as relevant to particular licence types) with changes including
  - the definition of business day to be consistent with the definition in the ERS Code
  - redundant legislative and related references removed
- addition of the licensee's ACN number
- reordering of licence conditions as follows: administrative, general and operational (retail, generation or network) conditions. Any conditions unique to a licensee will be included in a final section (licensee specific conditions).

### Question 15

What improvements could be made to better present and structure information in electricity supply licences compared to that proposed?

## 8 | Next steps

Following consultation, the Commission will consider what changes are needed to the proposed preliminary set of standard conditions and prepare a set of draft standard conditions. The Commission will also prepare a summary of its decisions and associated reasoning (decision summary) in relation to those conditions.

In accordance with section 32 of the ER Act, the Commission will then write to existing licensees proposing a variation of their licence based on the draft standard conditions and in the new licence template. In considering variations to licences, the Commission will review the relevance, efficiency and effectiveness of any differential arrangements and conditions unique to some licensees. The Commission will also consider whether licences for independent power producers require update to reflect revisions made to standard conditions included in those licences.

The letter and proposed varied licence will be accompanied by the Commission's decision summary and other information as may be relevant to a particular licensee.

Licensees will be invited to make representations on the proposed variation to their licence. Following consideration of any representations, the Commission will issue licensees with a finalised copy of the varied licence.

The final varied licences will be published on the Commission's licence register. The Commission will also publish a final decision paper and set of standard conditions once the variation process has been completed.

For any new applicants, the draft standard conditions will be applied unless an applicant can demonstrate that some of those standard conditions are not relevant or appropriate to their electricity supply operations. The Commission may impose additional 'non-standard' conditions on a licensee specific to that licensee's circumstances or operations.

## Appendix A – Definitions and interpretations

### Definitions

In this licence:

**applicable laws** includes the *Electricity Reform Act 2000*, the *Regulations* and any technical requirements or standards contained in the *Regulations*, the *Pricing Order*, the *National Electricity (Northern Territory) (National Uniform Legislation) Act 2015* and the *Electrical Safety Act 2022*;

**business day** means a day that is not a Saturday, a Sunday or a public holiday in the Northern Territory of Australia as declared under the *Public Holidays Act 1981*;

**code** means any code made by the *Utilities Commission* under section 24 of the *Utilities Commission Act 2000* or a code made under the *Electricity Reform Act 2000*;

**customer** has the meaning given to that term under the *Electricity Reform Act 2000*;

**electricity entity** means a person licensed under Part 3 of the *Electricity Reform Act 2000* to carry on operations in the electricity supply industry;

**electricity generating plants** means the electricity generating plants described in the schedules to this licence

**electricity network** has the meaning given to that term under the *Electricity Reform Act 2000* and in relation to the licensee's *electricity network*, it is the *electricity network* within the geographic area specified in the schedules to this licence;

**financial year** means a period of 12 months ending at the end on 30 June;

**generation licence** means a licence to generate electricity granted under Part 3 of the *Electricity Reform Act 2000*;

**Market Operator** means a person licensed under regulation 3E or 3F of the *Electricity Reform (Administration) Regulations 2000* to operate a wholesale market in relation to a power system;

**Minister** means the Minister of the Crown who is responsible for the administration of the relevant provision under the *Electricity Reform Act 2000*;

**National Electricity (NT) Rules** see section 3(1) of the *National Electricity (Northern Territory) (National Uniform Legislation) Act 2015*;

**network licence** means a licence to operate or own an *electricity network*;

**Network Technical Code** means the technical code prepared under *Electricity Reform Act 2000* and *Electricity Reform (Administration) Regulations 2000*;

**operation** has the meaning given to that term under the *Electricity Reform Act 2000*;

**power system** means the system for generating, transmitting, distributing and supplying electricity and includes a part of the system;

**Pricing Order** means the pricing order issued by the *Minister* and any pricing determination made by the *Utilities Commission* under the *Electricity Reform Act 2000*;

**Regulations** means the regulations made under the *Electricity Reform Act 2000*;

**retail area** means the geographical area or areas specified in the schedules to this licence;

**retailer** means a holder of a retail licence under Part 3 of the *Electricity Reform Act 2000*;

**retail licence** means a licence to sell electricity granted under Part 3 of the *Electricity Reform Act 2000*;

**rule** means any rule made by the *Utilities Commission* under section 24 of the *Utilities Commission Act 2000*;

**supply** has the meaning given to that term under the *Electricity Reform Act 2000*;

**System Controller** means a person licensed under Part 3 of the *Electricity Reform Act 2000* to exercise system control over the *power system*;

**System Control Technical Code** means the code of that name made under *Electricity Reform Act 2000*;

**Utilities Commission** means the Utilities Commission established under the *Utilities Commission Act 2000*.

## Interpretation

In this licence, unless the contrary intention appears:

- i. headings are inserted for convenience and do not affect the interpretation of this licence;
- ii. the singular includes the plural and vice versa;
- iii. words importing a gender include any gender;
- iv. the word “person” includes a firm, a body corporate, a partnership, joint venture, an unincorporated body or association, trust or any governmental agency;
- v. a reference to a condition, clause or schedule is to a condition, clause or schedule of this licence;
- vi. a reference to terms of an offer or agreement is to all terms, conditions and provisions of the offer or agreement;
- vii. a reference to this licence or another document includes any variation or replacement of any of them;
- viii. a reference to a statute, regulation, proclamation, order in council, ordinance, by-laws, code, law or similar instrument includes all statutes, regulations, proclamations, orders in council, ordinances, by-laws, codes, laws and similar instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- ix. a reference to a person includes that person’s executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns;
- x. the verb “include” (in all its parts, tenses and variants) is not used as, nor is it to be interpreted as, a word of limitation; and
- xi. if an event must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next Business Day.

## Appendix B – Summary of consultation questions

- Q1 Do stakeholders have any feedback or comments on the proposed standard administrative conditions?
- Q2 Do the proposed conditions appropriately reflect and address the risks and accommodate the benefits of contracting out operations covered by a licence?
- Q3 Do the proposed changes improve transparency on requirements and apply reasonable timeframes for the provision of information? Is there other information that the Commission should consider including in the conditions?
- Q4 Do the proposed conditions clearly and sufficiently set out the types of regulatory instruments that licensees must comply with?
- Q5a Do the proposed changes improve transparency on requirements and apply reasonable timeframes for the provision of information on instances of non-compliance?
- Q5b Is there other information that the Commission should require in relation to a material breach?
- Q6 Do stakeholders have any comments or feedback on existing licence conditions that are proposed to be excluded from the standard retail conditions or the existing licence conditions to be included in the standard retail conditions without change?
- Q7a Would the proposed change to the timeframe for standards and procedures to be in place create any barriers to entry for new retailers?
- Q7b Is the additional guidance on standards and procedures useful and is there other information that should also be included?
- Q8 Does the proposed approach appropriately balance the benefits and costs of providing customers with advance notice of changes?
- Q9 Do stakeholders have any comments or feedback on the exclusion of conditions relating to coordination agreements and SMMP?
- Q10 Do stakeholders have any feedback or comments on the relevance or need to change the four proposed standard generation conditions relating to directions of the System Controller, quality of electricity, compatibility and right of use?
- Q11 Do stakeholders have any comments or feedback on the exclusion of conditions relating to coordination agreements, SMMP, dispute resolution procedures, provision of customer data and right to use?
- Q12 Do stakeholders have any feedback or comments on the relevance or need to change the four proposed standard network conditions relating to compatibility, coordination, restrictions on trading and disconnections?
- Q13 Do stakeholders have any feedback or comments on the inclusion of the proposed sub-condition requiring compliance with the directions of the System Controller?
- Q14 Do stakeholders have any feedback or comments on the modification and inclusion of the proposed standard network licence condition on operation and maintenance?
- Q15 What improvements could be made to better present and structure information in electricity supply licences compared to that proposed?



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