

2023 Review of RTA Gove Pty Limited Licence Exemption Document

Final Decision

Final decisions and reasoning
for changes to the licence
exemption of RTA Gove Pty
Limited under section 87 of
the *Electricity Reform Act*
2000

02 May 2024

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Abbreviations and acronyms

Access-regulated networks	Darwin-Katherine, Alice Springs and Tennant Creek electricity networks
Commission	Utilities Commission of the Northern Territory
DCMC	Department of the Chief Minister and Cabinet
EIP Code	Electricity Industry Performance Code
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>
GSL	guaranteed service level
PWC	Power and Water Corporation
RTA Gove	RTA Gove Pty Limited, formerly Nabalco Pty Limited, formerly Alcan Gove Pty Limited
SAIDI	system average incident duration index
SAIFI	system average incident frequency index
SMMP	safety management and mitigation plan
UC Act	<i>Utilities Commission Act 2000</i>

Final decision

The Commission has completed its review of the RTA Gove Pty Limited (RTA Gove) Section 87 *Electricity Reform Act 2000* (the Act) exemption from the requirement to be licensed to operate in the electricity supply industry in Nhulunbuy and surrounding areas (the Exemption).

In accordance with the *Utilities Commission Act 2000* and the *Electricity Reform Act 2000*, the Commission has decided to amend the licence exemption document issued to RTA Gove Pty (which has previously been named Nabalco Pty Limited and Alcan Gove Pty Limited) as detailed in this Final Decision document. The Final Decision outlines the Commission's reasoning for the amendments to the Exemption.

Exemption clause 4 of RTA Gove's current section 87 exemption states that under section 87(3) of the Act, the Exemption, with the approval of the Minister, may be varied or revoked by the Commission in writing. The Commission sought approval from the Minister for Renewables and Energy to amend the Exemption in accordance with the final decisions documented in this Final Decision paper.

A short summary of the Commission's final decisions, set out by chapter, is presented below. Stakeholders are encouraged to read the full "Commission's decision" section of each chapter for additional context.

Administrative and typographical (Chapter 3)

The Commission has decided to make the following administrative and typographical amendments to the Exemption:

- amend the name in Recital clause 3 from Alcan Gove Pty Limited to RTA Gove Pty Limited
- remove the reference to Gove Alumina Limited as a party to the lease in Recital clause 1
- update the clause references in the Exemption to be more consistent with other issued exemptions and licences and current numbering conventions.

Scope of the Exemption (Chapter 4)

The Commission has decided to make a minor wording amendment to the scope of the Exemption in Schedule 1 to address a typographical error. Specifically, to specify that the operation and sale bullet points include "those surrounding areas within the limits of the network", rather than the current description of "those surrounding areas with the limits of the network".

Provisions of information to the Utilities Commission (Chapter 5)

The Commission has decided to retain the current wording of clause 2(i) of the Exemption that, in effect, requires the exempt party to provide the Commission information necessary to perform its functions on request.

Life support equipment (Chapter 6)

The Commission has decided to amend clause 2(ii) of the Exemption to improve clarity and accord for recent amendments to the Electricity Retail Supply Code (ERS Code) in relation to life support equipment obligations.

Guaranteed Service Level Scheme (Chapter 7)

The Commission has decided to vary the Exemption to incorporate RTA Gove's current approved Guaranteed Service Level (GSL) performance indicators, with minor wording changes to make it explicit that planned network interruptions are excluded from the duration and frequency based GSLs (consistent with the original intent and that in the current Electricity Industry Performance Code (EIP Code)) and provide for escalation of the approved GSL payment amounts using the same method

applied to the GSLs in Schedule 1 of the EIP Code. The existing GSL related to notice of unplanned network interruptions will remain.

The Commission has decided to vary the Exemption to make it explicit that RTA Gove must comply with the GSL related reporting requirements in Schedule 3 to the EIP Code.

The Commission has decided to retain the GSL for the cumulative duration of unplanned network interruptions that requires a GSL payment at more than 40 hours in a financial year, consistent with the Commission's approval of this Nhulunbuy-specific GSL in 2020.

The Commission has decided to remove the GSL for "keeping appointments within 30 minutes of the time agreed with the small customer", consistent with its removal from the GSLs in the EIP Code.

[Utilities Commission to investigate complaints \(Chapter 8\)](#)

The Commission has decided to retain clause 3 of the Exemption with no amendment.

[Approval of the Minister for variation or revocation of the Exemption \(Chapter 9\)](#)

The Commission has decided to retain clause 4 of the Exemption with no amendment.

[Review period of the Exemption document \(Chapter 10\)](#)

The Commission has decided to amend the Exemption review period at clause 5 to a maximum of five yearly intervals, noting the Commission can review the Exemption sooner if it is considered necessary.

[Internal dispute resolution obligations \(Chapter 11\)](#)

The Commission has decided to amend the Exemption to require RTA Gove to comply with clauses 11.4 and 11.5 of the ERS Code, in relation to standard complaints and dispute resolution procedures and customer complaints. The Commission has also decided to provide for an associated three-month transitional provision for RTA Gove to develop, make and publish its required standard complaints and dispute resolution procedures and make any necessary updates to its website.

[Hardship policy obligations \(Chapter 12\)](#)

The Commission has decided to amend the Exemption to require RTA Gove to comply with clause 12 of the ERS Code, in relation to a customer hardship policy for residential customers. The Commission has also decided to provide for an associated transitional provision whereby RTA Gove must submit its proposed customer hardship policy to the Commission for approval within three months of commencement of the revised Exemption.

[Family violence policy obligations \(Chapter 13\)](#)

The Commission has decided to amend the Exemption to require RTA Gove to comply with clause 14 of the ERS Code, in relation to a family violence policy for residential customers affected by family violence. The Commission has also decided to provide for an associated transitional provision whereby RTA Gove must submit its proposed family violence policy to the Commission for approval within three months of commencement of the revised Exemption.

[Network performance reporting \(Chapter 14\)](#)

The Commission has decided to amend the Exemption to require RTA Gove to report the adjusted and unadjusted system average interruption duration index (SAIDI) and system average interruption frequency index (SAIFI) for the Nhulunbuy electricity network, but no other network performance reporting (other than GSL related, discussed in Chapter 7) in accordance with clause 5 (Reporting) and schedule 3 of the EIP Code and, as they relate to adjusted and unadjusted SAIDI and SAIFI performance indicators, clauses 6.1.1 (Data Quality, excluding audit requirements at 6.2 and 6.3) and 7 (Data Segmentation) of the EIP Code.

Retail performance reporting (Chapter 15)

The Commission has decided not to make any changes to the Exemption to incorporate retail performance reporting obligations in the Exemption.

Safety Management and Mitigation Plan (Chapter 16)

The Commission has decided to include new Exemption conditions requiring RTA Gove to have an approved safety management and mitigation plan, similar to those which currently exist in generator and network operator licences.

1 | Introduction

Background

Context of the RTA Gove Pty Limited licence exemption

RTA Gove is the holder of an exemption document (the Exemption) granted under section 87 of the *Electricity Reform Act 2000* (ER Act), which exempts RTA Gove from the need to hold a licence under section 14(1) of the ER Act with respect to its operations in the electricity supply industry in the township of Nhulunbuy (including those surrounding areas within the limits of the network as existing on the date of issuance of the exemption). The Exemption was originally granted on 28 April 2005 with the approval of the then Treasurer (as regulatory Minister).

This Exemption was issued following the commencement of the ER Act and associated discussions at the time with non-Power and Water Corporation (PWC) generators and electricity providers in mining townships concerning ways to bring these entities within the ER Act's licencing regime in such a way as to not disrupt existing arrangements which had worked successfully for all parties prior to the commencement of the ER Act.

It is understood that at the time the Exemption was originally granted, it was intended to be a transitional arrangement while consideration was being given to potentially expanding operations at Gove and normalising the township of Nhulunbuy.

The electricity operations authorised by the Exemption include:

- generation of electricity at Nhulunbuy
- operation of electricity network infrastructure owned and operated by RTA Gove within the geographic area associated with the township of Nhulunbuy (including those surrounding areas within the limits of the network as existing on the date of issuance of the exemption)
- sale of electricity to customers located within the geographic area associated with the township of Nhulunbuy (including those surrounding areas within the limits of the network as existing on the date of issuance of the exemption).

Clause 5 of the Exemption document contains a requirement for the Exemption to be reviewed at three year intervals from the date of issuance and continues until the date on which Special Purpose Lease No 214 expires. The last review of the Exemption was completed in August 2020.

RTA Gove is ceasing operations in Nhulunbuy, with their departure expected by 2030. The Commission's review is intended to ensure the Exemption terms and conditions remain appropriate, noting any future owners and operators of electricity supply operations in Nhulunbuy may be required to be licenced.

The current review of the Exemption was conducted publicly and focused on the appropriateness of the terms and conditions of the Exemption. More specifically, this review:

- reassessed the Exemption's terms and conditions to ensure they are fit-for-purpose and appropriate for the circumstances
- considered options for alternative or additional terms and conditions.

The Final Decision presents the Commission's variations to the terms and conditions of the Exemption, which were informed by stakeholder feedback to the Consultation and Draft Decision Papers.

Township of Nhulunbuy

Nhulunbuy is a town on the Gove Peninsula in north-east Arnhem Land, about 600km from Darwin. Nhulunbuy was established in the late 1960s to service a bauxite mine and alumina refinery operated by RTA Gove. Nhulunbuy is the fourth largest town in the Territory by population, with a population of 3,267¹ and is a services-hub for the north-east Arnhem region. Historically, Nhulunbuy's economy has centred on the bauxite mining activities. In 2007, Alcan Gove Pty Limited was acquired by Rio Tinto, becoming RTA Gove Pty Limited (RTA Gove).

On 29 November 2013, Rio Tinto announced the closure of the alumina refinery by July 2014 (the refinery ceased production in May 2014). In 2017, Rio Tinto further announced it expects Gove bauxite mining operations to cease by 2030 and it is currently implementing progressive closure activities, including the decommissioning and demolition of the refinery and progressive capping of the bauxite residue disposal areas.²

In 2020, the Gove Peninsula Futures Reference Group³ released the Statement on the Future of the Gove Peninsula⁴, where parties including the Rirratjingu Aboriginal Corporation, Gumatj Corporation, the Northern Land Council, the Northern Territory Government, the Australian Government and Rio Tinto committed to working together to achieve a positive future for Nhulunbuy and the Gove Peninsula after the Gove bauxite mine closes. One of the key streams of work identified by the Gove Peninsula Futures Reference Group to begin implementing its vision is the transition of essential services to new authorities, including power generation and distribution, water and sewerage.⁵

Consultation paper

On 26 September 2023, the Commission published the 2023 Review of Alcan Gove Pty Limited Exemption Document – Consultation Paper.⁶ The Consultation Paper raised issues with current terms and conditions and sought views on possible additional terms and conditions. The purpose of the Consultation Paper was to seek stakeholder views with 18 questions posed to help guide feedback. Stakeholders were also invited to provide feedback on any other matters relating to the Exemption.

The Consultation Paper was open for submissions for a six week period ending on 6 November 2023. A total of four submissions were received and are available on the Commission's website.⁷

Submissions were received from:

- Department of the Chief Minister and Cabinet (DCMC)
- NT WorkSafe
- Power and Water Corporation (PWC)
- Rio Tinto Gove Operations (RTA Gove)

The Commission also met with stakeholders in Darwin and Nhulunbuy to obtain feedback on aspects of the Exemption and related matters and discuss submissions. Stakeholders who met with the Commission included:

- Business representatives, organised through the NT Chamber of Commerce – East Arnhem Region

¹ Refer Australian Bureau of Statistics, 2021 Census available at <https://www.abs.gov.au/census/find-census-data/quickstats/2021/702041064>, accessed 1 February 2024

² For further information regarding the closure see <https://www.riotinto.com/en/sustainability/closure>

³ For further information regarding Gove Futures see <https://govefutures.nt.gov.au/>

⁴ Refer https://cmc.nt.gov.au/_data/assets/pdf_file/0006/701547/future-gove-statement.pdf

⁵ For further information see https://govefutures.nt.gov.au/_data/assets/pdf_file/0017/1145033/traditional-owner-vision-new-journey-together.pdf

⁶ Available at <https://utilicom.nt.gov.au/publications/reports-and-reviews/2023-review-of-alcan-gove-pty-ltd-exemption-document-consultation-paper>

⁷ Available at <https://utilicom.nt.gov.au/projects/projects/2023-review-of-alcan-gove-pty-ltd-exemption-document>

- Department of the Chief Minister and Cabinet (DCMC)
- Department of Territory Families, Housing and Communities
- Nhulunbuy Corporation
- NT WorkSafe
- RTA Gove

The Commission considered stakeholders' submissions and feedback received in stakeholder meetings in making its draft decisions and the associated Draft Decision paper and draft amended Exemption.

Draft decision paper

On 5 March 2024, the Commission published the 2023 Review of Alcan Gove Pty Limited Exemption Document – Draft Decision Paper.⁸ The Draft Decision Paper presented the Commission's preliminary decisions regarding the current terms and conditions and sought views on possible additional terms and conditions. The purpose of the Draft Decision Paper was to seek stakeholder views on the preliminary decisions. Stakeholders were also invited to provide feedback on any other matters relating to the Exemption.

The Draft Decision Paper was open for submissions for a six week period ending on 17 April 2024. A total of one submission was received and is available on the Commission's website.⁹ The submission was received from NT WorkSafe.

The Commission has considered stakeholders' submissions to all stages of the consultation process in making its final decisions and this associated Final Decision paper and amended Exemption.

Structure of this paper

The Final Decision sets out the issues, stakeholders' views, and the Commission's reasoning and final decisions on matters raised in the Consultation and Draft Decision Papers. It follows the structure of the Draft Decision Paper and is arranged as follows:

- Chapter 2 describes RTA Gove's current licence exemption terms and conditions
- Chapters 3 to 10 consider whether the current terms and conditions are appropriate, and provide the Commission's draft decisions and associated reasons
- Chapters 11 to 16 consider the need for additional terms and conditions, and provide the Commission's draft decisions and associated reasons.

Any questions regarding the Final Decision or the review should be directed to the Commission by email to utilities.commission@nt.gov.au.

Confidentiality

In the interests of transparency, the Commission has made submissions publicly available on its website, with the exclusion of confidential information.

Confidential information is defined in section 26 of the *Utilities Commission Act 2000* (UC Act) as information that could affect the competitive position of a licensed entity or other person or 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 treated as confidential. A version of the

⁸ Available at <https://utilicom.nt.gov.au/publications/reports-and-reviews/2023-review-of-alcan-gove-pty-ltd-exemption-document-consultation-paper>

⁹ Available at <https://utilicom.nt.gov.au/projects/projects/2023-review-of-alcan-gove-pty-ltd-exemption-document>

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 statements which may be offensive or defamatory.

2 | Current terms and conditions of the Exemption

RTA Gove's current Exemption includes five clauses detailing the scope of the exempted operations and the conditions applying to it, which are:

1. Pursuant to section 14(2) of the *Electricity Reform Act 2000* ("the Act"), Alcan Gove Pty Limited is exempt from the need to hold a licence under section 14(1) of the Act by virtue of section 87 of the Act and this exemption document, with respect to those operations in the electricity supply industry set out in schedule 1.
2. In accordance with section 87(1) of the Act, this exemption is subject to the following conditions:
 - i. that the exempt party from time to time provide the Commission, in a manner and form to be determined by the Commission, such information necessary to the performance of its functions under any applicable laws that the Commission may request
 - ii. that the exempt party comply with Clause 10 (Life support equipment) of the Electricity Retail Supply Code as if it were licensed by the Utilities Commission under Part 3 of the Act to operate as a network provider and retailer and comply with the life support procedures for Nhulunbuy and surrounding areas approved by the Utilities Commission under clause 10.7 and as if version 3 of the Electricity Retail Supply Code commenced on the date of commencement of this amended exemption
 - iii. that within 1 month of the commencement of this amended exemption the exempt party submit to the Utilities Commission for approval proposed guaranteed service levels for the performance indicators listed in Schedule 1 Table 1 of the Electricity Industry Performance Code
 - iv. that the exempt party comply with Clause 4 (Guaranteed Service Level Scheme) and, as they relate to the Guaranteed Service Level Scheme, Clauses 5 (Reporting), 6 (Data Quality) and 7 (Data Segmentation) of the Electricity Industry Performance Code excluding the guaranteed service levels in Schedule 1 Table 1 and replaced by those guaranteed service levels approved by the Commission in accordance with clause 2(iii) of this exemption, as if the party were licensed by the Utilities Commission under Part 3 of the Act to operate as a network provider and retailer, and as if the party provides network services and retail services to its electricity customers in the regulated network.
3. Pursuant to section 87(2) of the Act, the exempt party is to be treated as an electricity entity for the purposes of sections 48 to 51 of the Act.
4. Under section 87(3) of the Act, this exemption document, with the approval of the Minister, may be varied or revoked by the Commission by notice in writing.
5. This exemption document will be reviewed at 3 year intervals from the date of issuance and continues until the date on which Special Purpose Lease No 214 expires.

The operations in the electricity supply industry covered by the Exemption are contained in Schedule 1 to the Exemption.¹⁰

¹⁰ Available at https://utilicom.nt.gov.au/_data/assets/pdf_file/0006/917871/Licence-Exemption-Alcan-Gove-Pty-Ltd.pdf

3 | Administrative and typographical

Background

The structure and form of the Exemption had not been reviewed since it was originally issued in 2005. The Consultation Paper advised the Commission does not believe that significant changes to the form or structure of the Exemption are required, but there may be administrative and typographical changes that should be considered.

The Commission's Draft Decision proposed to make the following administrative and typographical amendments to the Exemption:

- amend the name in Recital clause 3 from Alcan Gove Pty Limited to RTA Gove Pty Limited. The Commission has confirmed the change is appropriate through checks of the Australian Government's Australian Business Register and the Australian Securities and Investments Commission
- remove the reference to Gove Alumina Limited as a party to the lease in Recital clause 1. The Commission has confirmed the change is appropriate through sighting the *Record of Administrative Interests and Information* from the Territory Government's Titles System dated 17 January 2024
- update the clause references in the Exemption to be more consistent with other issued exemptions and licences and current numbering conventions.

Submissions

No submissions were received.

Commission's decision and reasons

The Commission's draft decision is unchanged.

Final decision

The Commission has decided to make the following administrative and typographical amendments to the Exemption:

- amend the name in Recital clause 3 from Alcan Gove Pty Limited to RTA Gove Pty Limited
- remove the reference to Gove Alumina Limited as a party to the lease in Recital clause 1
- update the clause references in the Exemption to be more consistent with other issued exemptions and licences and current numbering conventions.

4 | Scope of the Exemption

Background

Clause 1 of the Exemption exempts RTA Gove from the requirement to hold a licence to operate in the electricity supply industry pursuant to section 14(2) of the ER Act and in accordance with section 87 of the ER Act. The scope of the current Exemption covers the electricity operations specified in Schedule 1 to the Exemption, namely:

- generation of electricity at Nhulunbuy
- operation of electricity network infrastructure owned and operated by the exempt party within the geographic area associated with the township of Nhulunbuy (including those surrounding areas with the limits of the network as existing on the date of issuance of the exemption)
- sale of electricity to customers located within the geographic area associated with the township of Nhulunbuy (including those surrounding areas with the limits of the network as existing on the date of issuance of the exemption).

The Commission notes the Exemption is atypical in that the generation operations authorised by the Exemption do not refer to an explicit list or description of generation plant, as is the case in most generation licences issued by the Commission.¹¹ While this is inconsistent with the Commission's current approach, the Commission does not consider there is a need to amend the Exemption to list RTA Gove's generation plant given the current arrangements are not permanent. However, it is the Commission's expectation that any non-RTA Gove electricity supply operations in Nhulunbuy will be required to be licenced and include a level of detail consistent with current licences.

The Consultation Paper advised the Commission was not aware of a need to vary the scope of the Exemption or the authorised operations specified in Schedule 1 to the Exemption and asked stakeholders if they had a differing view.

The Commission's Draft Decision proposed a minor wording amendment to the scope of the Exemption in Schedule 1 to address a typographical error. Specifically, to specify that the operation and sale bullet points include "those surrounding areas within the limits of the network", rather than the current description of "those surrounding areas with the limits of the network".

Submissions

No submissions were received.

Commission's decision and reasons

The Commission's draft decision is unchanged.

Final decision

The Commission has decided to make a minor wording amendment to the scope of the Exemption in Schedule 1 to address a typographical error. Specifically, to specify that the operation and sale bullet points include "those surrounding areas within the limits of the network", rather than the current description of "those surrounding areas with the limits of the network".

¹¹ For example, see Schedule 2 to EDL Jabiru Pty Limited's generation license at <https://utilicom.nt.gov.au/publications/licences-on-issue/licence-generation-edl-jabiru-pty-ltd>

5 | Provision of information to the Utilities Commission

Background

Clause 2(i) of the Exemption requires that RTA Gove must from time to time provide the Commission, in a manner and form to be determined by the Commission, such information necessary to the performance of its functions under any applicable laws that the Commission may request.

This is a standard condition that the Commission includes in all electricity supply industry licences in accordance with section 24(4) of the ER Act. The Commission considers that a condition for the licensee, or exempted entity, to provide information to the Commission is necessary for the performance of its regulatory functions under the UC and ER Acts.

The Consultation Paper asked stakeholders whether any variation to clause 2(i) of the Exemption (relating to provision of information to the Commission) is required.

The Commission's Draft Decision proposed to retain the current wording of clause 2(i) of the Exemption, noting it is sufficient to allow the Commission to obtain information as might be necessary for it to perform its regulatory functions.

Submissions

No submissions were received.

Commission's decision and reasons

The Commission's draft decision is unchanged.

Final decision

The Commission has decided to retain the current wording of clause 2(i) of the Exemption that, in effect, requires the exempt party to provide the Commission information necessary to perform its functions on request.

6 | Life support equipment

Background

Clause 2(ii) of the Exemption in effect requires RTA Gove to comply with clause 10 (Life support equipment) of the ERS Code as if it were licensed by the Commission to operate as a network provider and retailer, and to comply with life support equipment procedures for Nhulunbuy and surrounding areas that are approved by the Commission under clause 10.7 of the ERS Code. The condition was included in the Exemption in August 2020, following the previous review of the Exemption.

Clause 10.7 of the ERS Code sets out provisions to protect customers requiring life support equipment at their premises outside the major centres of Darwin-Katherine, Alice Springs and Tennant Creek (where Network Access Legislation does not apply).

Clause 10.7.2 of the ERS Code requires a retailer and a network provider to develop and submit to the Commission for approval, within three months of the commencement of version 3 of the ERS Code, life support equipment procedures for each geographical area in which it sells electricity to customers for domestic use, or operates an electricity network that provides services to customers for domestic use, that seek to achieve similar outcomes to the life support equipment provisions in place for customers connected to the Darwin-Katherine, Alice Springs and Tennant Creek power systems. Key elements the Commission expects to be contained in a life support procedure include:

- registration of life support customers
- not arranging for the de-energisation (also called “disconnection”) of the premises, except in the case of an interruption
- in the case of planned interruptions, giving the customer at least four business days written notice, by any appropriate means, of the interruption to supply at the premises, including the date, time and duration of the interruption, along with a 24 hour telephone number for enquiries (the charge of which is to be no more than the cost of a local call).

The Commission approved RTA Gove’s life support equipment procedures submitted under clause 10.7.2 of the ERS Code, for Nhulunbuy and surrounding areas, on 9 December 2020. RTA Gove’s life support customer procedure is published on Nhulunbuy Corporation’s website¹².

The Commission has recently amended clause 10.7 of the ERS Code to make it explicit that retailers and network providers must comply with their approved life support equipment procedures (clause 10.7.10) and to include a new obligation for retailers and network providers to review their life support equipment procedures at least once every three years and following a breach of approved life support equipment procedures.

The Consultation Paper asked stakeholders to consider whether amendment to condition 2(ii) of the Exemption is appropriate to improve clarity and to accord for recent amendments to the ERS Code. While the Commission considers it is appropriate to retain the condition for RTA Gove to comply with life support equipment provisions in the ERS Code in the Exemption, given the clause 10.7 amendments in the ERS Code the Commission considers it may be appropriate to vary the condition to improve clarity and ensure it is contemporary and fit-for-purpose.

A potential option the Commission considered is a variation to condition 2.ii to read as follows:

2(b) that the exempt party comply with Clause 10 (Life support equipment) of the Electricity Retail Supply Code (as amended from time to time) as if it were licensed by the Utilities Commission under Part 3 of the Act to operate as a network provider and retailer

The Commission’s Draft Decision proposed to amend clause 2(ii) to improve clarity and accord for recent amendments to the ERS Code in relation to life support equipment obligations, as outlined in the Consultation Paper. Stakeholders were supportive of this amendment, which continues to provide protections for Nhulunbuy life support equipment customers.

¹² Available at <https://ncl.net.au/our-services/utilities/life-support-equipment-customer-procedure>

Submissions

No submissions were received.

Commission's decision and reasons

The Commission's draft decision is unchanged.

Final decision

The Commission has decided to amend clause 2(ii) of the Exemption to improve clarity and accord for recent amendments to the ERS Code in relation to life support equipment obligations.

7 | Guaranteed Service Level Scheme

Background

Clauses 2(iii) and 2(iv) of the Exemption provide for the application of the EIP Code's Guaranteed Service Level (GSL) Scheme in Nhulunbuy. These clauses were included in the Exemption in 2020, following from the Commission's previous review of the Exemption.

The EIP Code provides for a GSL Scheme whereby payments are made to eligible customers by a network provider where performance does not meet the defined standard of service. GSL payments are not intended to be compensation, but rather a recognition of poor service. GSL payments provide an incentive for a network provider to improve service to its worst served customers. The GSL Scheme in the EIP Code applies only to licensed network entities operating in a regulated network (defined in the EIP Code as an electricity network that is subject to network access legislation - these are the Darwin-Katherine, Alice Springs and Tennant Creek electricity networks). Under clause 5 of the EIP Code, network entities are required to annually report their actual performance against the GSLs, including payments made to eligible customers.

Although RTA Gove does not hold a licence to participate in the electricity supply industry, and does not operate in a regulated network, it is required to comply with the GSL Scheme in the EIP Code as a condition of its Exemption.

Clause 2(iii) of the Exemption sees the GSLs listed in Schedule 1 Table 1 of the EIP Code replaced with Commission-approved GSLs specific to RTA Gove in Nhulunbuy. The purpose of this condition is to provide for flexibility in establishing appropriate GSLs for the circumstances of the Nhulunbuy electricity network, noting it is not appropriate for a network entity to determine its own GSLs.

Clause 2(iv) of the Exemption requires RTA Gove to comply with clause 4 (GSL Scheme) and, as they relate to the GSL Scheme, clauses 5 (Reporting), 6 (Data Quality) and 7 (Data Segmentation) of the EIP Code excluding the GSLs in Schedule 1 Table 1 and replaced by those GSLs approved by the Commission in accordance with clause 2(iii) of the Exemption, as if the party were licensed by the Commission under Part 3 of the ER Act to operate as a network provider and retailer, and as if RTA Gove provides network services and retail services to its electricity customers in the regulated network. The effect of this condition is that RTA Gove must comply with the GSL Scheme in the EIP Code, including annual GSL performance reporting, in relation to its approved GSLs.¹³

In varying the Exemption to provide for application of the GSL Scheme in 2020, the Commission reasoned that requirements to report against GSL performance and make payments to relevant customers would provide an incentive for RTA Gove to maintain and improve its level of service, as well as improve transparency for stakeholders.

RTA Gove's current GSLs¹⁴ were approved by the Commission on 25 September 2020 and the payment amounts are set up to and including 30 June 2024. The GSL performance indicators are:

- where at least two business days' notice prior to the commencement of the day upon which the planned interruption will occur isn't provided, a penalty per event
- where the duration of a single interruption is more than 12 hours and less than 20 hours, a penalty per event
- where the duration of a single interruption is more than 20 hours, a penalty per event
- when more than 12 interruptions take place in a financial year, a penalty amount per financial year
- when more than 40 hours of interruptions occur in a financial year, a penalty amount per financial year

¹³ Available at <https://utilicom.nt.gov.au/publications/approvals-decisions-and-determinations/final-decision-electricity-industry-performance-code-review>

¹⁴ Available at <https://utilicom.nt.gov.au/publications/approvals-decisions-and-determinations/approved-guaranteed-service-levels-alcan-gove-pty-ltd>

- when connection and reconnection of a customer’s premises are not undertaken within the performance indicators, a per day late penalty amount, capped at a maximum amount
- when not keeping appointments with a small customer within 30 minutes of the time agreed, a penalty per event.

The approved GSL performance indicators in relation to Nhulunbuy are consistent with that in Schedule 1 Table 1 of the EIP Code that apply for the regulated networks, except for some minor wording as a result of recent amendments to the EIP Code that were made to make it explicit that planned network interruptions are excluded from duration and frequency based GSLs and the performance indicator in relation to the cumulative duration of interruptions. In the regulated networks, the cumulative duration of unplanned network interruptions that requires a GSL payment is more than 20 hours in a financial year. For Nhulunbuy, the cumulative duration is 40 hours.

In accordance with clause 5.5 of the EIP Code, the Commission has published annual Township of Nhulunbuy GSL Reports¹⁵ which make an assessment of RTA Gove’s reported GSL performance for the relevant financial year, including frequency and the amount paid to customers.

On 8 June 2023 the Commission published its EIP Code Review Final Decision¹⁶, including its method to adjust GSL payment amounts in Schedule 1 Table 1 for forward years from 1 July 2024. The method accounts for actual Darwin consumer price index, then forecasts inflation using the Australian Energy Regulator method to calculate future GSL payment amounts for five years, and then applies an inflation adjustment of 2.5% for any remaining years until the end of the next regulatory control period (30 June 2029). The Commission is considering variation to clause 2(iii) of the Exemption, or the inclusion of an additional condition, to provide for the setting of GSLs and payment amounts for future years.

The EIP Code Review Final Decision¹⁷ also saw the removal of the GSL for “keeping appointments within 30 minutes of the time agreed with the small customer”.

With the current drafting of clause 2(iv) of the Exemption, RTA Gove’s reporting obligations are restricted to reporting against the GSL Scheme, rather than the full suite of performance indicators for network providers contained in Schedules 1 and 3 of the EIP Code, and for generators and retailers in Schedules 2 and 4, respectively. This has resulted in a potential gap or lack of clarity in the GSL reporting requirements imposed on RTA Gove, as there are GSL reporting requirements provided in Schedule 3 (Network Services Performance Indicators) at S.3.7 (Guaranteed Service Performance indicators) and S.3.8 (Exclusions) of the EIP Code. Accordingly, the Commission considered varying the Exemption to make it explicit that RTA Gove must comply with the GSL related reporting requirements in Schedule 3 to the EIP Code.

The Consultation Paper asked stakeholders to consider whether:

- the application of the GSL Scheme in Nhulunbuy is appropriate for the circumstances
- the GSL Scheme effectively holds RTA Gove to account for its network performance in Nhulunbuy, and incentivises maintenance and improvements in network performance for consumers in Nhulunbuy
- there is an alternative method the Commission should consider to provide a mechanism enabling amendment to RTA Gove’s current approved GSL performance indicators and payment amounts
- it is appropriate to vary RTA Gove’s licence exemption document to provide for escalation of the approved GSL payment amounts for RTA Gove using the same method applied to the GSLs in

¹⁵ Available at <https://utilicom.nt.gov.au/electricity/reporting/township-of-nhulunbuy-guaranteed-service-level-performance-report>

¹⁶ Available at <https://utilicom.nt.gov.au/publications/approvals-decisions-and-determinations/final-decision-electricity-industry-performance-code-review>

¹⁷ Available at <https://utilicom.nt.gov.au/publications/approvals-decisions-and-determinations/final-decision-electricity-industry-performance-code-review>

Schedule 1 Table 1 of the EIP Code, or would it be more appropriate for RTA Gove to propose new bespoke GSL payment amounts for the Commission's approval every five years

- RTA Gove's exemption should be varied to require RTA Gove to comply with GSL related reporting requirements contained in Schedule 3 (Network Services Performance Indicators) to the EIP Code.

The Commission's Draft Decision proposed to:

- vary the Exemption to incorporate RTA Gove's current approved GSL performance indicators, with minor wording changes to make it explicit that planned network interruptions are excluded from the duration and frequency based GSLs (consistent with the original intent and that in the current EIP Code) and provide for escalation of the approved GSL payment amounts using the same method applied to the GSLs in Schedule 1 of the EIP Code, noting the preference for simplicity and consistency across network providers where reasonable
- vary the Exemption to make it explicit that RTA Gove must comply with the GSL related reporting requirements in Schedule 3 to the EIP Code, which is also consistent with the original intent and actual practice
- retain the GSL for the cumulative duration of unplanned network interruptions that requires a GSL payment at more than 40 hours in a financial year consistent with the Commission's approval of this Nhulunbuy-specific GSL in 2020
- remove the GSL for "keeping appointments within 30 minutes of the time agreed with the small customer", consistent with its removal from the EIP Code GSLs.

Submissions

No submissions were received.

Commission's decision and reasons

The Commission's draft decision is unchanged.

As discussed in the Draft Decision, the Commission is of the view that the:

- application of the GSL Scheme in Nhulunbuy is appropriate for the circumstances and the continued inclusion of the GSL Scheme as part of the Exemption is an important part of recognising service to customers. The inclusion of GSLs in Schedule 2 of the Exemption should improve accessibility and transparency for Nhulunbuy residents, industry and other stakeholders of the GSL arrangements for Nhulunbuy. Stakeholders are encouraged to contact the Commission if they have concerns with the accuracy of RTA Gove's reported performance with their GSLs.
- GSL obligations and reporting requirements, together with the ERS Code life support equipment obligations related to the notification of planned outages for life support customers, and the reporting obligations discussed in Chapter 14 below, address the concerns raised by stakeholders and provide similar protections to those in the regulated networks. These variations formalise reporting of information which RTA Gove has already been providing.

Final decision

The Commission has decided to vary the Exemption to incorporate RTA Gove's current approved GSL performance indicators, with minor wording changes to make it explicit that planned network interruptions are excluded from the duration and frequency based GSLs (consistent with the original intent and that in the current EIP Code) and provide for escalation of the approved GSL payment amounts using the same method applied to the GSLs in Schedule 1 of the EIP Code. The existing GSL related to notice of unplanned network interruptions will remain.

The Commission has decided to vary the Exemption to make it explicit that RTA Gove must comply with the GSL related reporting requirements in Schedule 3 to the EIP Code.

The Commission has decided to retain the GSL for the cumulative duration of unplanned network interruptions that requires a GSL payment at more than 40 hours in a financial year consistent with the Commission's approval of this Nhulunbuy-specific GSL in 2020.

The Commission has decided to remove the GSL for "keeping appointments within 30 minutes of the time agreed with the small customer", consistent with its removal from the GSLs in the EIP Code.

8 | Utilities Commission to investigate complaints

Background

Clause 3 of the Exemption provides that RTA Gove is to be treated as an electricity entity for the purposes of sections 48 to 51 of the ER Act, in relation to the Commission investigating complaints. This condition was included in the Exemption following the previous review (completed in August 2020).

The inclusion of this condition in the Exemption addresses a gap whereby the Commission previously did not have jurisdiction to investigate relevant complaints relating to RTA Gove's conduct as it does not hold a licence to participate in the electricity supply industry (by virtue of its exemption document) and therefore is not an electricity entity as defined in the ER Act.

The Commission considers this condition is an appropriate regulatory mechanism to provide for the interests of Nhulunbuy electricity consumers, noting it does not impose additional obligations on RTA Gove but provides an avenue for consumers to pursue legitimate complaints where RTA Gove's conduct is contrary to the conditions of the Exemption or the objects of the ER Act or the UC Act.

The Consultation Paper sought feedback from stakeholders on whether they had any views concerning clause 3 of the Exemption and the Commission's role in investigating complaints about RTA Gove.

The Commission's Draft Decision proposed to retain the condition as it is currently drafted, noting stakeholders were supportive of its retention.

Submissions

No submissions were received.

Commission's decision and reasons

The Commission's draft decision is unchanged.

As discussed in the Draft Decision, there is no external dispute resolution body in the Territory that can deal with complaints about a privately-owned electricity supplier, retailer or network provider, such as RTA Gove, and the Commission continues to raise this ombudsman gap. The Commission's powers to investigate complaints are narrow whereby it can only consider complaints related to a breach of a licence or conduct that is contrary to the objects of the ER Act or UC Act.

Final decision

The Commission has decided to retain clause 3 of the Exemption with no amendment.

9 | Approval of the Minister for variation or revocation of the Exemption

Background

Section 87(3) of the ER Act provides that except as otherwise provided in the Exemption, an exemption under subsection (1) may be varied or revoked by the Utilities Commission by notice in writing.

Relevantly, clause 4 of the Exemption provides that, under section 87(3) of the ER Act, the Exemption may be varied or revoked by the Commission by notice in writing, with the approval of the Minister. This condition was included in the original Exemption issued by the Commission in 2005 with the approval of the then Treasurer (as regulatory Minister).

The Consultation Paper asked stakeholders whether there is any need to amend clause 4 of the Exemption, which provides for Ministerial oversight of any variation to the Exemption.

The Commission's Draft Decision proposed to retain the condition as it is currently drafted.

Submissions

No submissions were received.

Commission's decision and reasons

The Commission's draft decision is unchanged.

Final decision

The Commission has decided to retain clause 4 of the Exemption with no amendment.

10 | Review period of the Exemption

Background

Clause 5 of the Exemption provides that the Exemption will be reviewed at three year intervals from the date of issuance and continues until the date on which Special Purpose Lease No 214 expires. Special Purpose Lease No 214 is the lease for the township of Nhulunbuy granted under the *Special Purposes Leases Act 1953*.

The Commission considers that a condition requiring regular review of the Exemption is appropriate, noting that this provides an opportunity to ensure the regulatory regime applicable to Nhulunbuy electricity supply remains fit-for-purpose. However, the three year timeframe may be burdensome for the Commission and stakeholders and a longer timeframe with flexibility to undertake it sooner if necessary might reduce this burden.

The Consultation Paper asked stakeholders to consider whether the current condition requiring review of the Exemption at three year intervals is appropriate.

The Commission's Draft Decision proposed to amend the Exemption review period to a maximum of five yearly intervals, noting the Commission can review the Exemption sooner if it is considered necessary.

Submissions

No submissions were received.

Commission's decision and reasons

The Commission's draft decision is unchanged.

As discussed in the Draft Decision, the Commission considers the regular review of the Exemption is appropriate to ensure the regulatory regime applicable to Nhulunbuy electricity supply remains fit-for-purpose.

The Commission believes that five years is appropriate given the costs and benefits of regular reviews.

As discussed in other chapters additional clauses are to be included in the Exemption which will formalise compliance with multiple aspects of the ERS Code and EIP Code. These changes introduce additional customer protections and any subsequent changes to the Codes will need to be met by RTA Gove, regardless of the length of time between formal Exemption review processes.

Final decision

The Commission has decided to amend the Exemption review period at clause 5 to a maximum of five yearly intervals, noting the Commission can review the Exemption sooner if it is considered necessary.

11 | Internal dispute resolution obligations

Background

Under the ERS Code, retailers and network providers have obligations to develop, make and publish procedures for handling customer complaints and disputes, and to comply with these procedures as published. These procedures must be substantially consistent with the Australian Standard AS ISO 10002 2022 (*Customer satisfaction – Guidelines for complaints handling in organisations*) as amended and updated from time to time.

The inclusion of these obligations was a result of the Commission's recent review of the ERS Code, with the Commission's Final Decision¹⁸ and an amended ERS Code¹⁹ published in June 2023. The new internal dispute resolution obligations, at clauses 11.4 (Standard complaints and dispute resolution procedures) and 11.5 (Complaints made to retailer or network provider for internal resolution) of the ERS Code, are generally consistent with that in sections 81 and 82 of the National Electricity Retail Law, with modification for the Territory's circumstances.

The Commission noted in its Final Decision that it had received feedback from stakeholders questioning whether these obligations are intended to apply to exempt retailers and recommending the Commission do all things necessary to achieve consistency across the Territory and to prevent the undesirable outcome of disparities in the available protections and dispute resolution pathways available to customers based on their service provider and place of residence.

The Commission noted stakeholders were correct that amendments to exemption documents would be required for the new dispute resolution obligations in the ERS Code to apply, and the Commission would consider this issue as part of its next review of RTA Gove's Exemption.

The Commission considers the interests of Territory electricity consumers are served by ensuring consistent (to the extent that is reasonable) consumer protections are available to all electricity supply customers, regardless of the location at which they reside. However, the Commission acknowledges there may be costs to RTA Gove associated with providing these protections and to the Commission for regulating compliance.

The Consultation Paper asked stakeholders to consider whether the benefits of amending the Exemption to require RTA Gove to comply with clauses 11.4 and 11.5 of the ERS Code, in relation to internal dispute resolution obligations, outweigh any associated costs.

The Commission's Draft Decision proposed to:

- amend the Exemption to require RTA Gove to comply with clauses 11.4 and 11.5 of the ERS Code, in relation to customer complaints, noting the ERS Code is not overly prescriptive and RTA Gove's existing processes may meet the requirements of the ERS Code, or may do so with minimal changes
- provide an associated three-month transitional provision for RTA Gove to develop, make and publish its required standard complaints and dispute resolution procedures and make any necessary updates to its website.

Submissions

No submissions were received.

Commission's decision and reasons

The Commission's draft decision is unchanged.

¹⁸ Available at <https://utilicom.nt.gov.au/publications/approvals-decisions-and-determinations/final-decision-electricity-retail-supply-code-review>

¹⁹ Available at <https://utilicom.nt.gov.au/publications/codes-and-guidelines/electricity-retail-supply-code3>

As discussed in the Draft Decision, this variation to incorporate clauses 11.4 (Standard complaints and dispute resolution procedures) and 11.5 (Complaints made to retailer or network provider for internal resolution) into the Exemption increase customer protection mechanisms in Nhulunbuy, and the visibility of those protection mechanisms by requiring information to be published on websites.

Final decision

The Commission has decided to amend the Exemption to require RTA Gove to comply with clauses 11.4 and 11.5 of the ERS Code, in relation to standard complaints and dispute resolution procedures and customer complaints. The Commission has also decided to provide for an associated three-month transitional provision for RTA Gove to develop, make and publish its required standard complaints and dispute resolution procedures and make any necessary updates to its website.

12 | Hardship policy obligations

Background

The ERS Code provides obligations for electricity retailers to develop a hardship policy (in respect of the retailer's residential customers), submit the hardship policy to the Commission for approval, publish the policy as approved by the Commission on the retailer's website, and maintain, implement and comply with the policy. The ERS Code also includes minimum requirements that a retailer's hardship policy must contain.

The inclusion of these obligations in the ERS Code was a result of the Commission's recent review of the ERS Code. Relevantly, the Commission's ERS Code Issues Paper²⁰ noted that (prior to the introduction of these obligations in the ERS Code) all jurisdictions except the Territory have retailer obligations in relation to customer hardship, and stakeholder submissions to the review were consistent at a high level that the ERS Code should be amended to require retailers to have an approved hardship policy for small customers.

The Commission noted in its Final Decision it had received feedback from stakeholders suggesting it was unclear whether the hardship policy obligations in the ERS Code were intended to apply to RTA Gove in Nhulunbuy and advised it would consider this issue as part of its next review of the Exemption.

The Commission considers the interests of Territory electricity consumers are served by ensuring consistent (to the extent that is reasonable) consumer protections are available to all electricity customers, regardless of the location at which they reside. However, the Commission acknowledges there may be costs to RTA Gove associated with providing these protections and to the Commission for regulating compliance.

The Consultation Paper asked stakeholders to consider whether the benefits of amending the Exemption to require RTA Gove to comply with clause 12 of the ERS Code, in relation to customer hardship policy obligations, outweigh any associated costs.

The Commission's Draft Decision proposed to:

- amend the Exemption to require RTA Gove to comply with clause 12 of the ERS Code, in relation to customer hardship
- provide an associated transitional provision whereby RTA Gove must submit its proposed customer hardship policy to the Commission for approval within three months of commencement of the revised Exemption
- not require RTA Gove to comply with clause 13 of the ERS Code, which requires a hardship policy for a retailer's prepayment meter customers, as it has no prepayment meter customers.

Submissions

No submissions were received.

Commission's decision and reasons

The Commission's draft decision is unchanged.

As discussed in the Draft Decision, the intent and purpose of the introduction of the hardship provisions into the ERS Code was to provide clarity and visibility for customers that hardship support and assistance is available, and by including them in the Exemption, to customers in Nhulunbuy.

As RTA Gove (and Nhulunbuy Corporation) do not have any prepayment meter customers the Exemption has not been varied to comply with clause 13 of the ERS Code, which requires a hardship

²⁰ Available at <https://utilicom.nt.gov.au/publications/approvals-decisions-and-determinations/issues-paper-electricity-retail-supply-code-review>

policy for a retailer's prepayment meter customers. Should prepayment meters be offered in the future, the Commission would seek to amend the Exemption to require RTA Gove's compliance with clause 13 of the ERS Code.

Final decision

The Commission has decided to amend the Exemption to require RTA Gove to comply with clause 12 of the ERS Code, in relation to a customer hardship policy for residential customers. The Commission has also decided to provide for an associated transitional provision whereby RTA Gove must submit its proposed customer hardship policy to the Commission for approval within three months of commencement of the revised Exemption.

13 | Family violence policy obligations

Background

The ERS Code provides obligations for electricity retailers to develop a family violence policy in respect of its residential customers, submit the family violence policy to the Commission for approval, publish the approved policy on the retailer's website, and maintain, implement and comply with the policy. The ERS Code also includes minimum requirements that a retailer's family violence policy must contain. The inclusion of these obligations in the ERS Code was a result of the Commission's recent review of the ERS Code.

In considering whether there is a need for a family violence policy in the Territory, the Commission undertook research and analysis to assist it in determining its decision to amend the ERS Code, including of Australian Bureau of Statistics data on the annual victimisation rate for recorded family and domestic violence related assault for all jurisdictions (excluding Queensland and Victoria). Relevantly, in 2022, the Territory had the highest victimisation rate (2,711 per 100 000 people), and was well above Western Australia, which had the second highest victimisation rate (893 per 100 000 people)²¹, noting this rate refers to family and domestic violence related assault only and does not take into account sexual assault and homicide.

The Commission noted in its Final Decision that stakeholders sought clarification on whether the family violence obligations in the ERS Code will apply to RTA Gove in relation to Nhulunbuy and advised it would consider this issue as part of its next review of the Exemption.

The Commission considers that consistent protections (to the extent that is reasonable) should be available to all Territory electricity customers, regardless of the location at which they reside. However, the Commission acknowledges there may be costs to RTA Gove associated with providing these protections and to the Commission for regulating compliance.

The Consultation Paper asked stakeholders to consider whether the benefits of amending the Exemption to require RTA Gove to comply with clause 14 of the ERS Code, in relation to family violence policy obligations, outweigh any associated costs.

The Commission's Draft Decision proposed to:

- amend the Exemption to require RTA Gove to comply with clause 14 of the ERS Code, in relation to a family violence policy
- provide for an associated transitional provision whereby RTA Gove must submit its proposed family violence policy to the Commission for approval within three months of commencement of the revised Exemption.

Submissions

No submissions were received.

Commission's decision and reasons

The Commission's draft decision is unchanged.

As discussed in the Draft Decision, the purpose of the introduction of these provisions into the ERS Code is another customer support and protection mechanism, this time to specifically identify, engage with and assist residential electricity customers affected by family violence, and its inclusion ensures customers in Nhulunbuy are offered them.

²¹ Refer <https://www.abs.gov.au/statistics/people/crime-and-justice/recorded-crime-victims/latest-release>, accessed 1 February 2024

Final decision

The Commission has decided to amend the Exemption to require RTA Gove to comply with clause 14 of the ERS Code, in relation to a family violence policy for residential customers affected by family violence. The Commission has also decided to provide for an associated transitional provision whereby RTA Gove must submit its proposed family violence policy to the Commission for approval within three months of commencement of the revised Exemption.

14 | Network performance reporting

Background

Clause 5.1.2 of the EIP Code requires that network entities must, by no later than 31 October, submit to the Commission a report on their actual performance against the performance indicators provided in Schedules 1 (Guaranteed Service Level Scheme) and 3 (Network Services Performance Indicators) of the EIP Code, for the previous financial year. This includes the GSLs in Schedule 1 Table 1, unadjusted and adjusted System Average Incident Duration Index (SAIDI) and System Average Incident Frequency Index (SAIFI), poorly performing feeders, phone answering and network complaints.

As discussed earlier in this paper, the current terms and conditions of the Exemption includes (at clause 2(iv) of the exemption document) a requirement to comply with the GSL Scheme, including performance reporting against the GSL Scheme, with the GSLs in Schedule 1 Table 1 replaced by those GSLs approved by the Commission in accordance with clause 2(iii) of the exemption document. The Commission has subsequently published two Township of Nhulunbuy Guaranteed Service Level Performance Reports²² to date.

The Commission is of the view that publishing annual reports based on RTA Gove's performance reporting provides valuable insight to consumers and is an effective means of holding RTA Gove accountable for the network performance in Nhulunbuy. However, the Commission notes the performance reporting requirements imposed on RTA Gove are limited compared to the obligations of electricity entities licenced under the ER Act and operating on an access-regulated network.

While RTA Gove is not required to comply with network performance reporting requirements under the EIP Code, it has voluntarily reported unadjusted and adjusted SAIDI and SAIFI for the Nhulunbuy electricity network to the Commission. The Commission finds this information useful for comparison with similar small systems, such as the Tennant Creek power system, but does not publish the information. However, if the Exemption were varied to include a requirement to report against the network service performance indicators, the Commission would be required to publish an associated assessment in accordance with clause 5.5.1 of the EIP Code. Relevantly, the Commission publishes an assessment of network performance in the access-regulated networks in its annual Northern Territory Power System Performance Review.²³

The Commission considers public reporting of performance is an effective means of holding regulated entities accountable for their performance and incentivises maintaining and improving performance. This may be particularly relevant for the network performance in Nhulunbuy, noting the Commission has been made aware of anecdotal concerns about the reliability and quality of supply in Nhulunbuy. However, the Commission acknowledges the imposition of additional network reporting requirements may entail additional costs to RTA Gove.

The Consultation Paper asked stakeholders to consider whether the benefits of amending the Exemption to require RTA Gove to comply with network performance reporting obligations in the EIP Code outweigh any associated costs.

The Commission's Draft Decision proposed to amend the Exemption to require RTA Gove to report adjusted and unadjusted SAIDI and SAIFI, but no other network performance reporting (other than GSL related, discussed in Chapter 7) in accordance with clause 5 (Reporting) and Schedule 3 of the EIP Code and, as they relate to adjusted and unadjusted SAIDI and SAIFI performance indicators, clauses 6.1.1 (Data Quality, excluding audit requirements at 6.2 and 6.3) and 7 (Data Segmentation) of the EIP Code.

²² Available at <https://utilicom.nt.gov.au/electricity/reporting/township-of-nhulunbuy-guaranteed-service-level-performance-report>

²³ Available at <https://utilicom.nt.gov.au/electricity/reporting/power-system-performance-review>

Submissions

No submissions were received.

Commission's decision and reasons

The Commission's draft decision is unchanged.

As discussed in the Draft Decision, RTA Gove has been voluntarily reporting adjusted and unadjusted SAIDI and SAIFI for the Nhulunbuy electricity network to the Commission annually and this decision formalises this, with no additional work being required of RTA Gove. This amendment will also allow the Commission to publish an assessment of the reported performance in accordance with clause 5.5.1 of the EIP Code.

Final decision

The Commission has decided to amend the Exemption to require RTA Gove to report the adjusted and unadjusted system average interruption duration index (SAIDI) and system average interruption frequency index (SAIFI) for the Nhulunbuy electricity network, but no other network performance reporting (other than GSL related, discussed in Chapter 7) in accordance with clause 5 (Reporting) and schedule 3 of the EIP Code and, as they relate to adjusted and unadjusted SAIDI and SAIFI performance indicators, clauses 6.1.1 (Data Quality, excluding audit requirements at 6.2 and 6.3) and 7 (Data Segmentation) of the EIP Code.

15 | Retail performance reporting

Background

Clause 5.1.1 of the EIP Code requires that retail entities must, by no later than 31 August, submit to the Commission a report on their actual performance against the performance indicators, provided at Schedule 4 (Retail Services Performance Indicators) to the EIP Code, for the previous financial year. This includes performance indicators relating to customer service and complaints, handling customers experiencing payment difficulties, prepayment meters, disconnection and reconnection, and customer hardship.

While RTA Gove undertakes retail operations in Nhulunbuy, this reporting requirement does not apply to RTA Gove as it is not licensed as an electricity retailer and because the EIP Code applies explicitly to the access-regulated electricity networks in Darwin-Katherine, Alice Springs and Tennant Creek. As part of the 2023 review, the Commission considered whether there is benefit to imposing reporting obligations on RTA Gove in relation to its electricity retail operations in Nhulunbuy.

The Commission publishes an assessment of retail performance in the access-regulated networks in its annual Northern Territory Electricity Retail Review.²⁴ The Commission considers that public reporting of retail performance is an effective means of holding retailers accountable for their performance and incentivises maintaining and improving performance. If the Exemption were varied to include an obligation to comply with retail performance requirements in the EIP Code, the Commission would be required to publish an assessment of the report in accordance with clause 5.5.1 of the EIP Code.

The Consultation Paper asked stakeholders to consider whether the benefits of amending the Exemption to require RTA Gove to comply with retail performance reporting obligations in the EIP Code outweigh any associated costs.

The Commission's Draft Decision did not propose any changes to incorporate retail performance reporting obligations in the Exemption.

Submissions

No submissions were received.

Commission's decision and reasons

The Commission's draft decision is unchanged.

As discussed in the Draft Decision, while there may be benefits to imposing retail performance reporting obligations on RTA Gove, the Commission notes the benefits would likely be outweighed by the costs to RTA Gove.

Final decision

The Commission has decided not to make any changes to the Exemption to incorporate retail performance reporting obligations in the Exemption.

²⁴ Available at <https://utilicom.nt.gov.au/electricity/reporting/electricity-retail-review>

16 | Safety Management and Mitigation Plan

Background

The *Electrical Safety Act 2022* (ES Act) provides that an electricity entity²⁵ must not generate electricity or operate an electricity network unless it prepares a Safety Management and Mitigation Plan (SMMP) for the entity and the SMMP is approved by the Electrical Safety Regulator (NT Worksafe). While the SMMP provisions in the ES Act have yet to commence, these provisions are expected to commence by 1 July 2024 and the Commission is aware that NT Worksafe is taking steps to ensure that electricity entities are informed of SMMP requirements under the ES Act.

A SMMP is defined in the ES Act as a written document that sets out:

- the hazards and risks associated with:
 - the design and construction of the electricity infrastructure of the electricity entity before its operation; and
 - the operation and maintenance of the electricity infrastructure
- how the electricity entity will manage the hazards and risks to ensure that its electrical safety obligations are properly discharged
- what the electricity entity will do to ensure that contractors performing electrical and other work for the entity comply with the requirements of the SMMP
- any other matters prescribed by regulation.

Although the SMMP provisions in the ES Act have yet to commence, relevant electricity entities have SMMP obligations, which are imposed by licence condition.

Generation and network licensees are required by licence condition²⁶ to:

- within 3 months of the date of issue of the licence:
 - prepare a SMMP, which must be consistent with and reflect good electricity industry practice in relation to the safety management of the electricity infrastructure owned or operated by the licensee under this licence; and
 - submit the initial plan to the Utilities Commission for approval;
- annually review and, if necessary, update the plan to ensure that it is consistent with and reflects good electricity industry practice
- comply with the plan as approved in accordance with this clause
- not amend the plan without the approval of the Commission or the regulator specified on the *Electricity Reform Act 2000* and the Electricity Reform (Safety and Technical) Regulations as having the authority to approve the licensee's SMMP from time to time.

As the SMMP licence conditions will be superseded by obligations under the ES Act, the Commission intends to remove SMMP conditions from network and generation licences at the relevant time.

As discussed earlier in this consultation paper, RTA Gove does not hold a licence to participate in the electricity supply industry under Part 3 of the ER Act and is therefore not an electricity entity for the purposes of the ER Act or the ES Act. This means it is not required to prepare a SMMP under the ES Act (when the relevant provisions commence). Similarly, the Exemption does not include a

²⁵ Section 4(1) of the *Electricity Reform Act 2000* defines an electricity entity as a person licensed under Part 3 to carry on operations in the electricity supply industry and includes (where the context requires) a person who has been licensed to carry on operations in the electricity supply industry under that Part whose licence has been suspended or cancelled or expired.

²⁶ For example, see clause 21 of Assure Energy Asset Pty Limited's generation licence available at <https://utilicom.nt.gov.au/publications/licences-on-issue/licence-generation-assure-energy-asset-pty-ltd>

condition for RTA Gove to prepare a SMMP consistent with that currently required of generation and network licensees.

The Commission considered whether there is a need to vary the Exemption to include a requirement for RTA Gove to prepare and comply with a SMMP, given the importance of ensuring the safety of the public, employees and contractors around electrical infrastructure. The Commission notes while this would bring RTA Gove in line with obligations currently imposed on electricity entities operating in the Territory, it would likely entail additional costs to RTA Gove.

The Commission notes RTA Gove's advice that it operates according to the Rio Tinto Group Standard for Electrical Safety.²⁷

The Consultation Paper asked stakeholders to consider whether the benefits of amending the Exemption to require RTA Gove to comply with SMMP obligations is appropriate for the circumstances of RTA Gove's electricity network and generation in Nhulunbuy and if it would outweigh any associated costs.

The Commission's Draft Decision proposed to include conditions within the Exemption similar to those which currently exist in licenced entities' licences. This would see a requirement for RTA Gove to prepare a SMMP in consultation with NT WorkSafe and other relevant stakeholders, submit it for approval by the Commission, regularly review the plan, comply with the plan, and not amend it without approval.

Submissions

NT WorkSafe provided a submission that acknowledged the inclusion of the SMMP requirements, and requested consideration be given to the inclusion of an additional provision requiring that RTA Gove's SMMP be prepared in consultation with representatives of industrial organisations of employees whose members are employees, and principal or primary contractors who perform electrical work and other work. NT WorkSafe's submission sought to mirror the obligations of a licensee that has to comply with the *Electricity Safety Act 2022* (ES Act).

Commission's decision and reasons

The Commission carefully considered NT WorkSafe's submission.

As discussed in the Draft Decision, the Commission, considering the need to balance regulatory oversight, existing legislated work health and safety obligations, RTA Gove's own procedures and NT WorkSafe's views, decided to include conditions within the Exemption similar to those which currently exist in licenced entities' licences, and require RTA Gove to prepare an SMMP.

While this variation to the Exemption does not bring into effect the full changes of the ES Act that will apply to licenced generator and network providers, the Commission believes this is a good forward step given its limited powers in relation to safety matters.

The variation includes at Exemption clause 2(h)(a)(ii) the requirement to consult with NT WorkSafe and other relevant stakeholders on a draft of the plan, being the SMMP.

The Commission's draft decision is unchanged.

Final decision

The Commission has decided to include new Exemption conditions requiring RTA Gove to have an approved SMMP, similar to those which currently exist in generator and network operator licences.

²⁷ Available at <https://www.riotinto.com/-/media/Content/Documents/Sustainability/Corporate-policies/RT-Electrical-safety-standard.pdf>



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