
UTILITIES COMMISSION ANNUAL REPORT

2009-10

September 2010



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The Hon Delia Lawrie, MLA
The Treasurer
Parliament House
DARWIN NT 0800

Dear Treasurer

I am pleased to provide you with the Annual Report of the Utilities Commission of the Northern Territory for the financial year ended 30 June 2010.

The Report covers:

- the administration of the *Utilities Commission Act* during the year;
- activities of the Commission under the Electricity Networks (Third Party Access) Code during the year;
- activities of the Commission under the *Electricity Reform Act* and *Water Supply and Sewerage Services Act* during the year.

The Commission notes that the *Utilities Commission Act* provides that a copy of this report is to be tabled in the Legislative Assembly within six sittings days of receipt.

Yours sincerely

A handwritten signature in black ink, appearing to read "A J Reeves".

Andrew Reeves
Utilities Commissioner

30 September 2010

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CHAPTER 1

Commission's Overview

Introduction

- 1.1 This is the eleventh annual report of the Utilities Commission of the Northern Territory and gives details of the Commission's activities over the financial year 2009-10.
- 1.2 The Commission was given an expanded role by the Territory Government from April 2009 as part of a reform program to strengthen oversight of the electricity supply, water supply and sewerage sectors.
- 1.3 In August 2009, the Territory Government requested the Commission undertake a priority work program to increase the efficiency of the monopoly service provider, the Power and Water Corporation (PWC), improve customer standards of service and reliability, and where possible, align the Territory electricity industry with national electricity market practice.
- 1.4 The current three members of the Commission were appointed between April and July 2009, providing expertise in economic regulation, power system operation and the Territory energy market. Additional staff were seconded to support the expanded role of the Commission, increasing the staff numbers from one at 1 July 2009 to four at 30 June 2010.
- 1.5 In addition to the priority work program, as part of the Commission's day to day regulatory role, the Commission put an increased focus in 2009-10 on oversight of the technical performance of Territory power systems and regulatory compliance.
- 1.6 The increased attention to technical performance of the Territory's power systems and regulatory compliance was a response to concerns about power system reliability and operation, and was intended to encourage the adoption of good electricity industry practice in the Territory.

Year in review

Priority work program

- 1.7 In addition to the ongoing performance of its economic regulatory role, the most significant task undertaken by the Commission in 2009-10 was to respond to the Territory Government's priority work program.
- 1.8 The work program involves eight reviews with terms of reference approved by the Treasurer. At the time of writing, two reviews are complete, four are underway, and two are yet to start:
 - A Review of Full Retail Contestability for Northern Territory Electricity Customers that was started in August 2009. The final report for this Review was provided to the Treasurer in December 2009.

- A Review of Options for Implementation of a Customer Service Incentive Scheme for Electricity Customers was started in March 2010. The final report was provided to the Treasurer in July 2010.
- A Review of the Power and Water Corporation's Asset Management Capability was started in February 2010. The final report is scheduled to be provided to the Treasurer in late 2010.
- A Review of the Power and Water Corporation's Capital and Maintenance Programs was started in March 2010. The final report is scheduled to be provided to the Treasurer in late 2010.
- A Review of Options for the Development of a Retail Price Monitoring Regime for Contestable Electricity Customers started in March 2010. The final report is scheduled to be provided to the Treasurer in October 2010.
- A Review of Electricity Standards of Service was started in May 2010. The final report is scheduled to be provided to the Treasurer by November 2010.
- A Review of System Planning, Monitoring and Reporting is to start in October 2010. A final report scheduled to be provided to the Treasurer in mid 2011.
- A Review of Electricity System Planning and Market Operation Roles and Structures is to start in December 2010. A final report is scheduled to be provided to the Treasurer in mid 2011.

1.9 Each review has involved extensive analysis and consultation with electricity industry participants, consumers and key stakeholders.

Technical performance

1.10 The Commission increased its focus on the technical performance of the Territory's power systems in 2009-10.

Darwin-Katherine system black on 30 January 2010

1.11 The most significant incident was the Darwin-Katherine system black on 30 January 2010 when all 50 000 electricity customers in the Darwin-Katherine system were without power, some for up to 10 hours.

1.12 The Commission received a comprehensive Investigation Report into the system black from PWC System Control in July 2010. Based on the Investigation Report, the Commission understands the system black event was caused by a lightning strike on the dual transmission lines leading away from the Channel Island power station, but its duration was exacerbated by power system equipment and design issues and operator error.

1.13 PWC's System Control report and an accompanying Participants Report include recommendations for improvement of PWC practices in response to the system black event and the system restoration process. The Commission considers the system black to be a very significant event and intends to include detailed commentary on the implications and response in the 2009-10 Power System Review, and to prepare a separate report to the Treasurer on the incident, the investigation and the response.

Power system incident reporting

1.14 The Commission started receiving half yearly reports from System Control in 2009-10 on the performance of the Territory's power systems. These reports summarise the operational performance of the Darwin-Katherine, Alice Springs and Tennant Creek

systems, including major power system incidents where an equipment failure or event causes the system to operate outside the technical parameters, potentially causing power outages.

- 1.15 System Control is also required to provide a quarterly report to system participants setting out the performance and major incidents of the participant and other major incidents related to the participant. There is currently no requirement for a specific report to be produced in the event of a fault or major incident.
- 1.16 The Commission has started development of more comprehensive incident reporting arrangements, to establish a clear framework and requirements for investigating and reporting on power system incidents. The incident reporting arrangements are intended to formalise investigation and reporting on major power system incidents, to inform the implementation of preventative measures and the response to adverse events.
- 1.17 The Commission has consulted with PWC System Control on the proposed incident reporting arrangements, which are intended to be introduced through a revised System Control Technical Code in 2010-11.

System Control Technical Code – generator technical compliance

- 1.18 During 2009-10, the Commission approved a variation to the System Control Technical Code to establish a new obligation on generators to adopt more comprehensive technical compliance practices.
- 1.19 Generators are now required to define their reactive power capability, test those limits at least once a year to confirm compliance, and confer with Hudson Creek System Control Centre regarding any changes to generating control systems and their potential impact on reactive power range. The Commission considers that this is consistent with good industry practice.

2008-09 Power System Review

- 1.20 The Commission identified the annual Power System Review as a key document for reporting power system performance and measuring the health of the Territory's power systems. The Commission expanded the scope of the 2008-09 Review to provide a more comprehensive report on power system performance, including adequacy of generation capacity and fuel supplies, system planning arrangements and network reliability.
- 1.21 The 2008-09 Review also reported key statistics for the electricity supply industry and annual performance against specified standards of service indicators (previously reported separately as the Northern Territory Electricity Market Information statement and the Standards of Service Performance report respectively).
- 1.22 However, the Commission found that a proper assessment of the health of the Territory's power systems for the 2008-09 Review was not possible due to uncertainty about the condition of generation and network assets, the operating capacity of generation plant, and the short and longer term capital and maintenance plans.
- 1.23 The Power System Review is an evolving project, and the Commission anticipates further changes to the approach and content of future Reviews to provide electricity industry participants, customers and policy makers with useful and relevant information and analysis of power system performance, reliability and security. The overall objective is to align the content of future Reviews with good industry practice, as

represented by the suite of system planning and performance reports (e.g. the Electricity Statement of Opportunities) available in the national electricity market.

- 1.24 In particular, the Commission will use expert consultants to assist with the preparation of future Reviews. The Commission is also finalising arrangements for a formal relationship with the Australian Energy Market Operator (AEMO) for provision of a peer review function on power system planning and operation.

Compliance reporting

- 1.25 The Commission has been working closely with PWC during 2009-10 to improve compliance with regulatory obligations and power system technical performance and operating parameters.
- 1.26 The Commission intends using Australian Standard 3806 Compliance Programs as the basis for testing PWC's compliance processes and practices. The Commission considers AS 3806 represents good industry practice for developing and managing compliance processes, providing the principles and guidance for designing, developing, implementing, maintaining and improving a flexible, responsive, effective and measurable compliance program within an organisation.
- 1.27 The Commission intends testing the adequacy of PWC's (and other holders of standard licences) compliance processes against the requirements of AS 3806 and has liaised with PWC to include an increased focus on compliance management in their internal audit processes.

Breach of Ring-Fencing Code

- 1.28 PWC has been in breach of the Ring-fencing Code since 30 September 2009 by failing to submit to the Commission a copy of terms and conditions on which certain nominated goods and services are provided by a monopoly business unit of PWC to a related contestable business unit of PWC – in this case, between PWC Generation and PWC Retail.
- 1.29 The Commission has been in regular correspondence with PWC about this breach. Despite the longstanding nature of the breach, the Commission has not yet taken stronger action due to a recognition that the risk arising from non-compliance with this particular obligation is low while there is no competition in the Territory electricity market.
- 1.30 However, the failure of PWC to comply with this obligation after so long is of particular concern to the Commission as the obligation is a key tool for providing confidence that PWC Generation and PWC Retail operate at arm's length. This is important to provide assurance to potential competitors that they would be treated fairly.

PWC Generation Licence

- 1.31 In May 2010, PWC lodged an application for a generation licence to replace the licence due to expire on 30 June 2010. As the Commission considered that there was insufficient time before the licence expired on 30 June to properly assess the application, the existing licence was varied to extend the term by two months to 31 August 2010.
- 1.32 The Commission subsequently granted a new generation licence to PWC to apply from 1 September 2010, on the same terms and conditions as the existing licence, with the

exception that the licence now has an indefinite period and a requirement to establish a compliance program has been included.

Service performance data

- 1.33 To ensure that data reported by PWC is appropriate for measuring service performance, in August 2010 the Commission requested that PWC initiate an audit of its processes for reporting such data. In particular, the Commission requested that the audit provide an assurance about the service performance data reported for 2009-10.

2010-11 work program

- 1.34 The coming year will see the Commission continue to progress the reviews that form part of the Government's priority work program.
- 1.35 The Commission's continuing focus on technical compliance and the development and implementation by both PWC and the Commission of robust and effective compliance systems should lead to better knowledge of the factors underlying best practice performance and provide a basis for continual improvement.
- 1.36 The Commission will also continue to develop its annual Power System Review to provide more detailed analysis of power system performance, reliability and security. Over time, the Commission intends to expand the scope of the review to gradually align system planning and reporting arrangements in the Territory with relevant industry practices, such as those from the national electricity market.

CHAPTER 2

Introduction

Background

- 2.1 The Utilities Commission of the Northern Territory is an independent statutory body with defined roles and functions for economic regulation in the electricity, water and sewerage industries in the Territory.
- 2.2 The Commission was established on 21 March 2000 by the *Utilities Commission Act* as part of an economic framework for regulated industries that promotes and safeguards competition and fair and efficient market conduct or, in the absence of a competitive market, that promotes the simulation of competitive market conduct and the prevention of the misuse of monopoly power.

Role and functions of the Commission

- 2.3 The Commission's functions and powers are defined in the *Utilities Commission Act*, with specific responsibilities with respect to a particular industry assigned to the Commission by provisions in relevant industry regulation Acts.
- 2.4 The key regulatory functions of the Commission are:
- to regulate prices charged by government and other businesses for providing certain monopoly services and for providing certain services in regulated industries;
 - to perform licensing functions;
 - to develop, monitor and enforce compliance with, and promote improvement in, standards and conditions of service and supply;
 - to make, and to monitor the operation of, codes and rules relating to the conduct or operations of a regulated industry or licensed entities;
 - to investigate and help resolve complaints relating to the conduct or operations of licensed entities;
 - to assist consumers and others with information; and
 - to advise the Minister on any matter referred by the Minister.
- 2.5 The relevant industry regulation Acts applying to the electricity supply industry are:
- the *Electricity Reform Act*; and
 - the *Electricity Networks (Third Party Access) Act*.
- 2.6 The relevant industry regulation Act applying to the water supply and sewerage services industries is the *Water Supply and Sewerage Services Act*.

Events and activities in 2009-10

- 2.7 The Commission put an increasing focus on the reliability of the Territory's electricity supply and performance of the electricity industry in 2009-10.
- 2.8 Decisions made by the Commission during 2009-10 are set out in Appendix A, and Appendix B provides a list of reports published by the Commission during the year.

Priority work program

- 2.9 The Commission was given an expanded role by the Territory Government from April 2009 as part of a reform program to strengthen oversight of the electricity supply, water supply and sewerage sectors.
- 2.10 The Treasurer tasked the Commission with a priority work program in August 2009 to increase the efficiency of PWC, improve customer standards of service and reliability, and where possible, align the Territory electricity market with the national electricity market. The priority work program required the Commission to undertake a number of reviews, under terms of reference from the Treasurer.
- 2.11 The Commission's progress with the priority work program during 2009-10 is as follows:
- A Review of Full Retail Contestability for Northern Territory Electricity Customers that was started in August 2009. The final report for this Review was provided to the Treasurer in December 2009.
 - A Review of Options for Implementation of a Customer Service Incentive Scheme for Electricity Customers was started in March 2010. The final report was provided to the Treasurer in July 2010.
 - A Review of the Power and Water Corporation's Asset Management Capability was started in February 2010. The final report is scheduled to be provided to the Treasurer in late 2010.
 - A Review of the Power and Water Corporation's Capital and Maintenance Programs was started in March 2010. The final report is scheduled to be provided to the Treasurer in late 2010.
 - A Review of Options for the Development of a Retail Price Monitoring Regime for Contestable Electricity Customers started in March 2010. The final report is scheduled to be provided to the Treasurer in October 2010.
 - A Review of Electricity Standards of Service was started in May 2010. The final report is scheduled to be provided to the Treasurer by November 2010.
 - A Review of System Planning, Monitoring and Reporting is to start in October 2010. A final report scheduled to be provided to the Treasurer in mid 2011.
 - A Review of Electricity System Planning and Market Operation Roles and Structures is to start in December 2010. A final report is scheduled to be provided to the Treasurer in mid 2011.
- 2.12 Each review has involved extensive analysis, taking into account local circumstances and practice in other jurisdictions. Consultation is being conducted by inviting submissions from key interest groups and affected parties on an initial issues paper and then on a draft report that sets out the Commission's proposed response to the terms of reference for the review.

2.13 Increased resources were allocated to the Commission in 2009-10 to recognise the increased workload of the priority work program given to the Commission by the Treasurer, and the increased focus on providing advice to the Treasurer.

Economic regulation

2.14 During 2009-10, the Commission continued to undertake its regulatory functions, including:

- approving the regulated network tariffs and charges to take effect from 1 July 2010;
- performing licensing functions including approval of a variation of PWC's Electricity Retail Licence to take account of changes arising from the commencement of full retail contestability, and monitoring of licence compliance;
- publishing the 2008-09 Power System Review which reports on the trends in adequacy and security of the Territory's power system;
- approving a variation of the System Control Technical Code to strengthen the requirements for technical management and reporting by generators; and
- providing information to customers and market participants on the Territory electricity market and regulatory arrangements.

2.15 The Commission has also increased its focus on compliance monitoring.

Initiatives and projects for 2010-11

2.16 The Commission's work program for 2010-11 includes:

- continuing the Government's priority reform program by completing those reviews started in 2009-10 and commencing two further reviews
 - the Review of System Planning, Monitoring and Reporting to commence in October 2010; and
 - the Review of Electricity System Planning and Market Operation Roles and Structures to commence in December 2010;
- continuing to focus on compliance including undertaking an audit of PWC's data for standards of service;
- expanding the scope of the Power System Review to provide relevant information on power system performance;
- continuing to focus on regulatory and technical compliance of electricity industry participants.

Commission members and staff

2.17 Mr Andrew Reeves was appointed as the Utilities Commissioner for a five year term on 30 July 2009, and is joined on the Commission by two Associate Utilities Commissioners, Mr Peter Caldwell and Mr Mike Robson. Mr Caldwell was Acting Utilities Commissioner from 8 April 2009 to 29 July 2009.

2.18 All perform their roles on a part-time basis.

Mr Andrew Reeves

2.19 Mr Reeves, the Utilities Commissioner, also serves on the Board of the Australian Energy Regulator (AER), and was appointed Chair of the AER for three years from 19 July 2010, after being the part-time state/territory member of the AER since

July 2008. He was previously the economic regulator for Tasmania and has had 14 years experience in utilities regulation.

Mr Mike Robson

2.20 Mr Robson was appointed as an Associate Utilities Commissioner with the Utilities Commission for a five year term on 23 June 2009. He has more than 40 years experience as an electricity industry engineer, including 11 years with the National Electricity Market Management Company (NEMMCO).

Mr Peter Caldwell

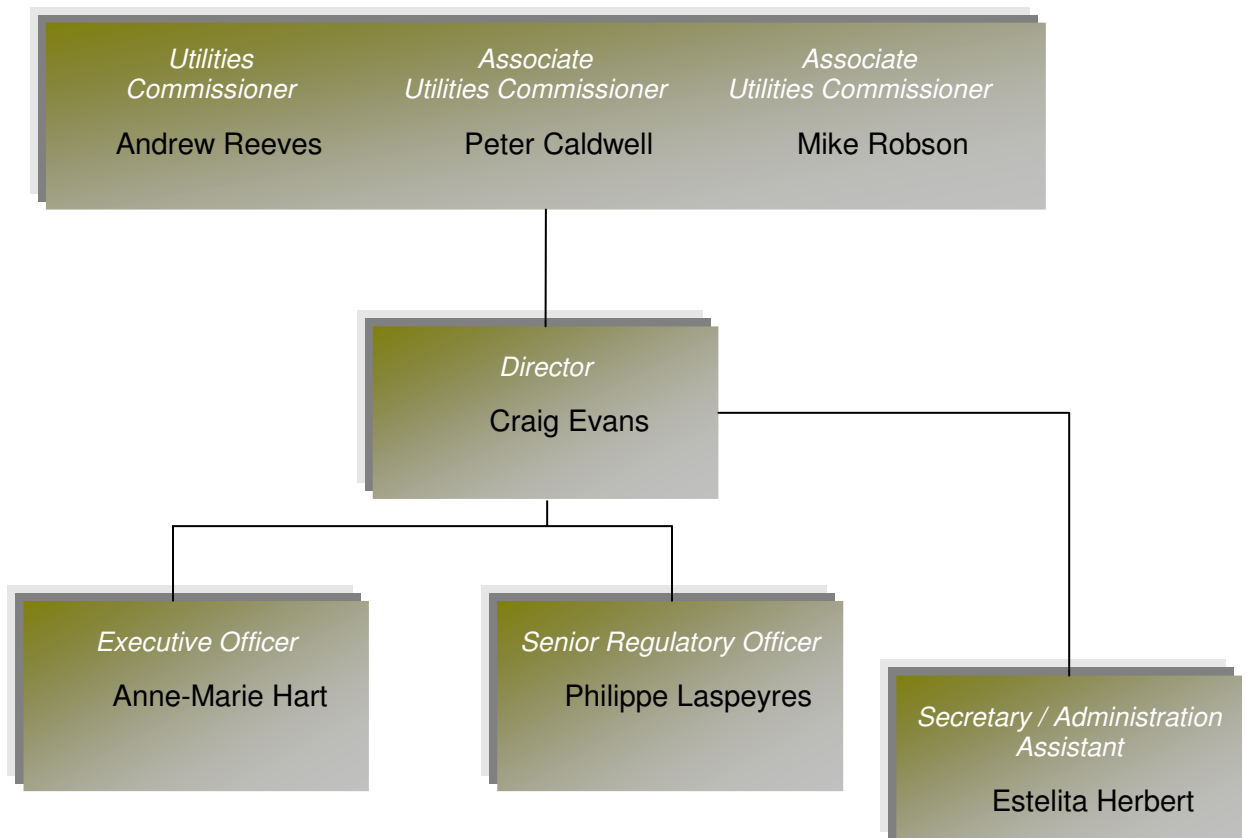
2.21 Mr Caldwell was appointed as an Associate Utilities Commissioner with the Utilities Commission for a five year term on 30 July 2009. He has more than 40 years experience in a range of Territory and Commonwealth government departments in economic, resources, trade and capital policy areas at senior management levels.

Commission staff and resources

2.22 The Commission is supported by the staff seconded from Northern Territory Treasury.

2.23 The Commission staff increased from one to four during 2009-10 to provide additional support to the Commission in line with the strengthened and expanded role of the Commission announced by the Treasurer in April 2009.

Organisational chart as at 30 June 2010



2.24 The Commission's expenditures are funded directly from Consolidated Revenue. Appendix C provides a summary of the Commission's expenditures in 2009-10, as well as the associated receipts.

2.25 The Commission also accesses expert technical advice through consultants as detailed in Appendix D.

CHAPTER 3

Electricity Supply Industry

Introduction

- 3.1 The electricity supply industry in the Northern Territory is regulated by the *Electricity Reform Act*, *Electricity Networks (Third Party Access) Act*, *Utilities Commission Act* and associated legislation. This statutory framework was introduced on 1 April 2000.
- 3.2 The statutory framework is primarily focused on regulating the activities of electricity industry participants and customers in the Darwin-Katherine, Alice Springs and Tennant Creek power systems – referred to as the market systems. Key elements of the statutory framework are:
- third party access to the Darwin-Katherine, Alice Springs and Tennant Creek electricity networks;
 - staged introduction of retail contestability, with all customers to become contestable from 1 April 2010; and
 - an independent economic regulator, the Utilities Commission, to regulate monopoly electricity services, licence market participants and enforce regulatory standards for market conduct and service performance.
- 3.3 In the three market systems, PWC is currently the sole electricity retailer and main electricity generator, with almost 91 per cent of generation capacity. Although there are privately owned generators operating in the Darwin-Katherine and Alice Springs systems and exporting electricity into those systems, these suppliers generate electricity under contract for PWC rather than selling directly to an electricity retailer. PWC provides the fuel used for electricity generation and takes all electricity generated.
- 3.4 PWC is also the network service provider and is responsible for system control. The Darwin-Katherine, Alice Springs and Tennant Creek networks are not interconnected, and are separated by long distances.
- 3.5 Electricity supply in regional and remote centres of the Territory is mainly managed by the Territory Government and the service provider through a contract for service model. The Commission has limited regulatory functions in regional and remote centres, with the main task being licensing.

Roles and functions of the Commission

- 3.6 The Commission has the following functions in the electricity supply industry:
- to perform licensing functions, granting licences to firms to undertake electricity generation, electricity networks, system control and retail operations in the Territory;

- to develop standards of service and supply and to make codes and rules relating to the conduct or operations of the electricity supply industry or individual licensed entities;
- to monitor, and promote improvement in, standards and conditions of service and supply and the operations of the electricity supply industry and licensed entities;
- to regulate prices charged by PWC Networks for provision of electricity network services (transport of electricity across the network);
- to monitor and enforce compliance with standards and conditions of service and supply and to monitor the operation of and enforce compliance with codes and rules relating to the conduct or operations of the electricity industry or licensed entities;
- to advise the Treasurer on any matter referred by the Treasurer; and
- to assist consumers and others with information on the market and regulatory framework.

3.7 This chapter details the work carried out by the Commission during the 2009-10 financial year in performing these functions.

Licensing

Licensing framework

3.8 The Commission issues licences to persons seeking to operate in the Territory's electricity supply industries, in accordance with the provisions of the *Electricity Reform Act*.

3.9 The Commission has the power to customise licences and has developed sub-categories of licences and combined licences to suit particular circumstances.

Table 3.1: Types of licences currently issued

Licence type	Scope
Standard Generation licence	<ul style="list-style-type: none"> • to generate electricity for sale; and • to sell electricity to electricity entities holding generation or retail licences (or as otherwise stated in the licence).
Special Generation licence - Independent Power Producer (IPP) ^(a)	<ul style="list-style-type: none"> • to generate electricity for sale; and • to sell electricity only to electricity entities holding a standard generation licence (or as otherwise stated in the licence).
Network licence	<ul style="list-style-type: none"> • to operate the electricity network in the geographical area stated in the licence; and • if stated in the licence – to connect the electricity network to another electricity network.
Retail licence	<ul style="list-style-type: none"> • to trade in electricity (where 'trade' means the buying and selling of electricity other than to final consumers); and • to retail electricity to customers who own or occupy premises anywhere in the Territory (where 'retail' means the selling of electricity to specified groups of final consumers).

Licence type	Scope
Special licence – Isolated system operations ^(b)	<ul style="list-style-type: none"> • to generate electricity at specified electricity generating plants; • to sell electricity to electricity entities holding a generation licence or a retail licence; • to sell electricity to customers, but only in respect of electrical installations or premises which are situated within specified locations; and • to own and operate an electricity network within specified geographic areas and connect that network to another specified electricity network.
System Control licence ^(c)	<ul style="list-style-type: none"> • to monitor and control the operation of the power system with a view to ensuring that the system operates safely and securely, including by issuing directions to electricity entities that are engaged in the operation of the power system, or contribute electricity to, or take electricity from, the power system

- (a) An Independent Power Producer licence is a 'cut down' version of a generation licence for those parties who do not wish to participate fully in the electricity supply market and instead generate electricity under contract for another generator.
- (b) An isolated system operations licence is a combination generation, network and retail licence for entities operating in remote locations, for example where a mining company supplies electricity to a nearby town that predominantly houses workers associated with the mine.
- (c) A system control licence is only be issued where the power system is of sufficient size and complexity to warrant monitoring and control by an arm's length system controller. In isolated communities with a single generator of electricity, management of system loads and frequency control is undertaken by the generator. Co-ordination of generation with third-party inter-connected networks would be a matter for normal commercial contractual arrangements.

3.10 The Commission may, with the approval of the Minister, grant an exemption from the requirement to be licensed. Licences are not currently required for:

- small scale and own-use generation and low volume sales of electricity; and
- on-supply of electricity, as long as the on-supplier complies with certain conditions.

Licensing activities in 2009-10

Licences and exemptions current at 30 June 2010

3.11 On 30 June 2010, PWC held four licences:

- system control (until superseded, surrendered or cancelled);
- retail (until superseded, surrendered or cancelled);
- generation (to 31 August 2010); and
- network (to 30 June 2020).

3.12 Independent Power Producer (IPP) licences were held by the following producers who do not participate fully in the electricity supply industry and instead generate electricity under contract for another generator:

- NGD (NT) Pty Ltd (Pine Creek power station, Pine Creek);
- Cosmo Power Pty Ltd (Pine Creek power station, Pine Creek);
- Central Energy Power Pty Ltd (Brewer Estate power station, Alice Springs);
- Energy Resources of Australia Ltd (Ranger power station, Jabiru); and
- Landfill Management Services Pty Ltd (Shoal Bay power station, Darwin).

3.13 An isolated system licence was held by:

- Groote Eylandt Mining Company Pty Ltd.

3.14 On 30 June 2010, the following exemptions were current:

- an exemption from the requirement for Alcan Gove Pty Ltd to hold a licence with respect to its electricity operations in the township of Nhulunbuy; and
- an exemption from the requirement for installations defined as small scale renewable energy operations from the need to hold a licence.

PWC Retail licence

3.15 In February 2010, the Commission advised PWC that it proposed to vary PWC's Retail Electricity Licence (Contestable Customers and Non-Contestable Customers) in light of the commencement of full retail contestability from 1 April 2010.

3.16 On 2 March 2010, the Commission varied the Retail Electricity Licence (Contestable Customers and Non-Contestable Customers) issued to PWC to:

- defer until market circumstances make advice relevant, the obligation for PWC to notify existing customers using 750 megawatt hours (MWh) or less of electricity per year (those previously defined as non-contestable customers) that they are to be contestable from 1 April 2010;
- establish a mechanism for PWC to notify these customers of changes to market circumstances; and
- ensure new customers likely to use 750 MWh or less of electricity a year after 1 April 2010 have access to grace period arrangements equivalent to existing customers of an equivalent class, including tariffs, terms and conditions.

PWC Generation licence

3.17 On 20 May 2010, PWC lodged an application for a generation licence to replace its licence due to expire on 30 June 2010.

3.18 The Commission considered that there was insufficient time before the licence expired on 30 June to properly assess the licence application, and consult with PWC and stakeholders on the proposal. Accordingly, with PWC's agreement on 15 June 2010 the Commission extended the term of the existing licence for two months to 31 August 2010.

3.19 The Commission subsequently granted a new generation licence to PWC from 1 September 2010, on the same terms and conditions as the previous licence, with the exception that:

- the term of the licence is now for an indefinite period;
- a new requirement to establish a compliance program has been included; and

- the obligation to provide a coordination agreement by 30 June 2002 was removed, as it was considered to be redundant.

3.20 The schedule of generation plant operated by PWC was also updated.

Solar Systems IPP licence

- 3.21 Solar Power Stations Australia Pty Ltd is part of the Solar Systems Group which was placed under voluntary administration on 7 September 2009. PWC acquired the generation units previously operated by Solar Systems at Hermannsburg, Yuendumu and Lajamanu, as the company had ceased operating. These units are now covered by PWC's generation licence.
- 3.22 The term of an IPP licence is for so long as the licensee has arrangements in place to sell to an electricity entity holding a (standard) generation licence. As Solar Systems no longer has arrangements in place to sell to an electricity entity holding a (standard) generation licence (i.e. PWC), its licence lapsed.
- 3.23 There were no other applications for electricity licences, exemptions or variations during the year.

Service performance

- 3.24 The Commission monitors standards and conditions of service and supply and the operations of the electricity supply industry and licensed entities. The Commission may also develop standards of service and supply, and may make codes and rules relating to the conduct or operations of the electricity supply industry or licensed entities, where authorised by legislation.
- 3.25 The Commission publishes an annual Power System Review, reporting on power system performance during the year, and providing an assessment of the adequacy of the power systems to meet forecast demand in the medium term. The 2008-09 Power System Review was published on 31 March 2010.
- 3.26 For 2008-09, the Power System Review incorporated the annual reports by PWC on generation and network reliability and customer service required by the Electricity Standards of Service Code and key statistics of the Territory electricity market such as electricity usage, generation capacity and network length.
- 3.27 The Commission also has a number of reviews underway as part of the priority reform program referred by the Treasurer. They focus on enhancing the information currently provided in relation to service performance and developing incentives for service performance improvement. These reviews are discussed in more detail later in this chapter in reporting on advice provided to the Minister during the year.

Highlights of service performance for 2009-10

Generation adequacy

- 3.28 In assessing generation adequacy over the medium term, the Commission assessed generation capacity against N-1 and N-2 standards¹, consistent with previous Reviews. However in a break with previous Reviews, in the 2008-09 Review the Commission did not independently test the accuracy of the demand forecasts, opting instead to test the sensitivity of forecasts by electricity industry participants.
- 3.29 The Commission found that additional generation capacity to maintain adequate reserves would be needed in the Darwin-Katherine system before 2013-14 under a high peak growth scenario, or before 2015-16 under a baseline peak demand growth scenario. This assessment assumed that plant was in a satisfactory condition and generally available for service.
- 3.30 New generation capacity is planned by PWC for the Alice Springs system, with 32 MW at the Owen Springs power station in 2010-11. With this addition to generation capacity, the Commission found that further investment would not be required before 2017-18, even under a high peak demand growth scenario.
- 3.31 The Commission found that under both the baseline and high growth scenarios, generation adequacy in Tennant Creek was adequate at both N-1 and N-2 standards to 2018-19.
- 3.32 The Commission noted, however, that an informed assessment of the adequacy of generation capacity should also take account of the maintenance history and condition of generating plant, the potential for major equipment failure with extended replacement times, the duration and timing of planned overhauls and maintenance, the frequency of unplanned outages and the level of redundancy in supporting systems.
- 3.33 Since the release of the 2008-09 Review, the Commission has been advised that the condition of PWC's generation plant at Channel Island power station has deteriorated, and that urgent, major maintenance is required to avoid potential catastrophic equipment failure.
- 3.34 In March 2010, PWC announced the purchase of two Rolls Royce 45 megawatt gas fired generation sets, for urgent installation at Channel Island power station. The new sets are to provide additional generation capacity to meet rising electricity demands, and to allow existing generation sets to be taken off-line for major maintenance. Based on the information available to the Commission, the first of the turbines is expected to be installed and commissioned by March 2011.

Fuel adequacy

- 3.35 Natural gas is the primary fuel for electricity generation in the Darwin-Katherine, Tennant Creek and Alice Springs systems.
- 3.36 The primary gas supply source for electricity generation was in transition during 2008-09, from the Amadeus basin fields in Central Australia to the Eni Blacktip field in the Bonaparte Gulf.

¹ N-1 and N-2 are indicators of the available capacity following the loss of the largest and largest two units of capacity in a system, respectively

- 3.37 Although the declining volumes of gas supplied from the Amadeus fields and rising energy demand required PWC to use distillate as an alternate fuel source for electricity generation from 2006-07 until early 2010, the Commission found that PWC was able to mitigate the risk of a potential fuel shortfall during 2008-09 due to delayed availability of Blacktip gas by using liquid fuels and purchasing gas from the Darwin Liquefied Natural Gas (LNG) plant operated by ConocoPhillips.
- 3.38 Blacktip gas was used for electricity generation from October 2009, although this gas was initially not processed to the required specification. In November 2009, the supply of gas was stopped to the Weddell Power Station by NT Gas, causing power outages. NT Gas closed the gas supply because high level alarms were activated due to liquid buildup in on-line filter coalescers. Gas supply was restored in approximately an hour and a half.
- 3.39 Another widespread outage occurred in December 2009 following the finding of severe damage to one of the turbines at the Weddell Power Station. This required shutting down the set and led to PWC obtaining urgently a replacement turbine. The exact cause of the damage has not been advised to the Commission and is apparently still being investigated.
- 3.40 In the Power System Review, the Commission reported that it considered that security of fuel supply improved in late 2009 and that the gas supply-demand balance in the medium term is adequate. In the longer term, projected gas requirements are expected to be met under existing gas contracts and the Commission noted that gas reserves in the Blacktip field mean gas in excess of contract quantities is likely to be available. Additionally, the Commission noted that the gas supply-demand balance could change as more modern and efficient generation equipment is installed in the Darwin-Katherine and Alice Springs systems.

Network adequacy

- 3.41 The Commission began examining planning and reliability of electricity networks in the 2004-05 Power System Review. Previous Reviews had mainly focused on capacity and reliability of the electricity generation sector. The power outages caused by problems with the Casuarina zone substation in late 2008 highlighted the risks associated with inadequate condition monitoring and maintenance of the entire power system, including electricity networks.
- 3.42 In January 2009, PWC commenced the Remedial Asset Maintenance Program (RAMP) which is a program of works to manage and fast track remedial maintenance works associated with networks infrastructure (particularly substations). The Commission is monitoring PWC's progress with this program.
- 3.43 PWC advised the Commission that about \$287 million is to be spent between 2009-10 and 2013-14 augmenting and maintaining existing network assets, and constructing new network assets. This compares with \$164 million for the previous five years.
- 3.44 The Commission did not independently test the network peak demand forecasts provided by PWC, nor assess the capacity of network assets relative to forecast network peak demand. The Commission considered that it does not have sufficient data on the condition of network assets, and the associated capability of these assets to meet demand and maintain security of supply to provide a full assessment. The

Commission noted however, that it was aware that PWC is putting significant effort into improving network planning and asset management practices.

- 3.45 In January 2010, a lightning strike on the two high voltage transmission lines that connect PWC's Channel Island and Weddell power stations to the Darwin electricity grid led to a system black event, with all customers (about 50 000) on the Darwin-Katherine grid without power for up to 10 hours. Power was restored progressively, with customers in Katherine reconnected within one hour and the last customers in Darwin reconnected 10 hours later. The average interruption time for customers was 5 hours.
- 3.46 As required by the System Control Technical Code, System Control produced an independent investigation report, which was provided to the Commission in June 2010.
- 3.47 The Commission's analysis of the System Control investigation report into the incident indicates that the system black involved:
- the initiating lightning event, with a single lightning strike to both Channel Island power station to Hudson Creek 132 kVA transmission lines activating system protection measures;
 - a failure of one of the circuit breakers at Hudson Creek;
 - a lack of "islanding" arrangements in the design of power system, to prevent the loss of generators that are not immediately affected by the initial event (e.g. Weddell Power Station) by configuring them together with local load into a stand-alone power system "island";
 - an operator error in the system restoration process, with System Control reenergising the Darwin-Katherine system without ensuring generating capacity matched system demand – leading to under-frequency load shedding; and
 - a system restoration process that progressed adequately, but which required generation to be started in Katherine, due in part to the absence of an "islanding" strategy.
- 3.48 The System Control report and an accompanying Participants Report (documenting other internal investigations by PWC) include a number of recommendations in response to the causes of the system black event and the system restoration experience. The Commission considers the system black to be a very significant event and intends to include detailed commentary on the implications and response in the 2009-10 Power System Review, and to prepare a separate report to the Treasurer on the incident, the investigation and the response. The Commission notes that system black events are very rare in other systems interstate.

System performance

- 3.49 The Electricity Standards of Service Code requires PWC to report annually on indicators of generation and network reliability.
- 3.50 The Commission found that both the average duration of generation and network related power outages and the average frequency of generation and network outages in the Katherine, Tennant Creek and Alice Springs regions in 2008-09 was better than the combined standard for each. However, the average duration of power outages in the Darwin region, where the majority of electricity customers reside, was worse than the combined standard for generation and network outages.

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- 3.51 The poor performance in the Darwin region was attributed by PWC to the problems with the Casuarina zone substation in late 2008, and outages associated with the subsequent repairs and maintenance. Of course, the system black also contributed to the poor performance.
- 3.52 PWC is also required to report on customer service indicators for electricity network and retail service performance. Customer service indicators include the time taken to connect a property to the network, the time taken for telephone calls to be answered by an operator, and the number of customer complaints (about network and retail services).
- 3.53 In 2008-09, the Commission found that PWC Networks connected 99.2 per cent of existing properties to the network within 24 hours, and 91.3 per cent of properties in new subdivisions within 5 working days. This is better than the agreed standards of 98 per cent and 90 per cent, respectively. However, the standard for connecting properties in new subdivisions where minor extensions or augmentation is required was not met, with 66.5 per cent of connections taking more than 10 weeks, compared to the agreed standard of 35 per cent of connections. PWC attributes this result to the diversion of resources to the RAMP program.
- 3.54 PWC recorded 2 235 complaints from customers in 2008-09 about electricity retail and network performance. The most common matters for complaint were billing, level of service and pension concession. The number of complaints as a percentage of customers in 2008-09 was 3.2 per cent. It was noted, however, that during major outages, PWC's telephone complaint system can be overwhelmed, resulting in an unknown number of callers abandoning their attempts to complain.

Development of performance reporting

- 3.55 The Commission has increased its focus on reporting of technical performance and outcomes.
- 3.56 Regular and comprehensive public reporting on power system performance is a feature of the electricity supply industry elsewhere in Australia. The AER publishes an annual State of the Energy Market report to provide a high level overview of energy market activity in Australia, and supplement the AER's extensive technical reporting on the energy sector. The AEMO publishes detailed reports on the operation of energy markets, notably the National Transmission Statement and Electricity Statement of Opportunities.
- 3.57 In developing performance reporting in the Territory, the Commission anticipates further changes to the approach and content of the annual Power System Review in response to the findings of the series of reviews being undertaken by the Commission during 2010 for the Treasurer. In particular, the Commission anticipates future Power System Reviews will provide more detailed data and analysis of power system performance, reliability and security.
- 3.58 The scope of the Power System Review is an evolving project. The Commission considers that collating and analysing all data relevant to system capacity and performance in a single document will assist participants in the electricity supply industry, and the community, to make an informed view about performance and trends in the Territory's power systems. However, the Commission is concerned about the capacity of PWC's current processes and systems to provide the necessary

information. Nonetheless, over time, the Commission intends to expand the scope of the Review to gradually align system planning and reporting arrangements in the Territory with relevant practice from the national electricity market.

- 3.59 The Commission decided to expand the scope of the 2008-09 Review to consolidate the system performance data available to the Commission in a single document. While previous Reviews have reported on forecasts of electricity demand, the adequacy of generation capacity and gas supplies, system planning arrangements and network reliability, in the 2008-09 Review the Commission also separately collected and reported information on system capacity and performance in the:
- Northern Territory Electricity Market Information statement, an annual report on electricity usage, generation capacity and network length. This information is provided as part of annual licence returns by licensed participant retailers, and is published by the Commission to provide key statistics for the electricity supply industry; and
 - Standards of Service Performance report, an annual report on the standard of electricity generation, network and retail service performance. The Electricity Standards of Service Code requires PWC to report annual performance against specified standards of service indicators.
- 3.60 The Commission also flagged its intention to include reporting of the system performance data provided biannually by the System Controller since 1 January 2009 for the Darwin-Katherine interconnected systems and since 1 July 2009 for the Alice Springs and Tennant Creek systems in future Reviews. The System Control Technical Code requires the System Controller to report to the Commission on the performance and major incidents of the power system on or before 31 January and 31 July each year.

NT Electricity Standards of Service Code

- 3.61 The Standards of Service Code establishes a process by which PWC is to set certain minimum standards of service benchmarks for both its regulated network services and its non-contestable electricity supply services.
- 3.62 The Code requires PWC to develop minimum standards for reliability, quality and customer service and submit these for approval to the Commission. The Code establishes 47 indicators, and defines a standard of performance for 46 of these indicators. The current standards specified in the Code apply until 30 June 2011, at which time they may be revised by the Commission.
- 3.63 During 2009-10, two of the reviews being undertaken by the Commission as part of the Government's priority work program related to the Electricity Standards of Service Code:
- the Review of Options for Implementation of a Customer Service Incentive Scheme for Electricity Customers (commenced March 2010, final report provided to the Treasurer in July 2010); and
 - the Review of Electricity Standards of Service (commenced May 2010, final report to be provided to the Treasurer in October 2010).
- 3.64 These reviews are discussed in more detail later in this chapter in reporting on advice provided to the Minister during the year.

System Control Technical Code

- 3.65 The System Control Technical Code sets out the Power System Controller's competitively neutral operating protocols, arrangements for system security and system dispatch, as well as arrangements for the interruption of supply.
- 3.66 On 1 April 2009, the Darwin-Katherine power system experienced a partial voltage collapse. The investigation of this event by System Control identified deficiencies in the System Control Technical Code requirements for technical management and reporting by generators, System Control operating practices, generation and network equipment condition and recommended amendments to the Code to:
- require operators of all generating plant to define their reactive power capability and accept responsibility for complying with those limits;
 - require generator reactive power limits to be tested at least once a year to confirm compliance and ensure that there has been no reduction or erosions of their reactive power capability; and
 - require all operators of generating plant to confer with Hudson Creek System Control Centre regarding any changes to generating control systems and their potential impact on reactive power range.
- 3.67 PWC System Control advised the Commission on 24 June 2009 that an amendment of the Code was proposed, and undertook further consultation with the Commission and system participants in September and October 2009.
- 3.68 Although some system participants raised minor concerns regarding the effect that the changes to the Code would have on their current operating practices, no fundamental objections to the proposals were made.
- 3.69 On 10 May 2010, the Commission approved the proposed amendments and the System Control Technical Code version 3.0 took effect from that date.

Power system incident reporting

- 3.70 The Commission has started development of more comprehensive incident reporting arrangements, to establish a clear framework and requirements for investigating and reporting on power system incidents. The Commission has consulted with PWC System Control on the proposed incident reporting arrangements, which are intended to be introduced through a revised System Control Technical Code in 2010-11.
- 3.71 The incident reporting arrangements are intended to formalise investigation and reporting on major power system incidents, to inform the implementation of preventative measures and the response to adverse events.
- 3.72 The Commission initiated the development of incident reporting arrangements due to the lack of a clear investigation and reporting framework in the System Control Technical Code. Currently, it is not clear when System Control should investigate a power system incident, and there is limited independent oversight of how System Control investigates and responds to incidents. Introducing incident reporting arrangements is consistent with good industry practice interstate.

Price regulation

- 3.73 The Commission regulates certain prices in the monopoly sectors of the Territory's electricity supply industry in accordance with relevant industry regulation Acts.

Network access charges

- 3.74 In the third regulatory control period, which commenced on 1 July 2009, the Commission continued the price cap methodology that had been used in the previous regulatory period, in which a weighted average tariff basket is adjusted annually by an externally-determined price cap escalation factor.
- 3.75 Prior to the start of each financial year, PWC must submit its proposed tariffs and charges for the coming financial year, with a statement detailing how the tariffs and charges have been calculated consistent with the Commission's determination for the regulatory period and other requirements of the Code, to the Commission for approval.
- 3.76 On 25 May 2009, the Commission approved the reference tariffs and charges for standard network access services to apply during the 2010-11 financial year. The Commission also approved the schedule of Alternative Control Services - Fee-based Services and the pricing methodology for Alternative Control Services - Quoted Services relating to the use of PWC's prescribed electricity networks for the financial year commencing 1 July 2010.
- 3.77 The Commission considers the approved tariffs and charges to comply with the above requirements and with the relevant principles laid down in the Code. PWC has continued to work towards converging the three regional tariff schedules into a single NT-wide tariff schedule.

System Control charges and pricing of ancillary services

- 3.78 The Commission approves charges imposed by the power system controller and also has authority to determine prices for ancillary services in the electricity supply industry.
- 3.79 The system control charges that applied during 2009-10 are those approved by the Commission with effect from 1 July 2004, which continue until superseded.
- 3.80 The Commission has deferred further development of pricing for ancillary services until prospects of generation competition re-emerge.
- 3.81 The Commission expects that the structure of system control charges and pricing of ancillary services will be affected by the Review of Electricity System Planning and Market Operation Roles and Structures being undertaken by the Commission during 2010 for the Treasurer.

System imbalance charges

- 3.82 The Commission is responsible for overseeing prices paid (or received) by third-party generators when purchasing (or selling) any mismatches between energy generated by such generators and the load attributable to end-use customers supplied by these generators. The power system controller, in consultation with licensed generators, is required to develop arrangements for settlement of any out-of-balance payments between generators, with the arrangements subject to the approval of the Commission.

3.83 Following revisions to the Network Access Code from 1 July 2001, in May 2002 the Commission accepted PWC's proposed economic dispatch arrangements pursuant to clause 85 of the Code. Since then the Commission has deferred further development of such arrangements predominantly on the basis of lack of generation competition.

Electricity Pricing Orders (EPO)

3.84 Retail electricity prices paid by non-contestable customers, whether residential or commercial, are regulated directly by the Government through an EPO. The Commission is required to enforce compliance with the EPO as if the EPO were a determination of the Commission under the *Utilities Commission Act*.

3.85 The following EPOs are currently in effect:

- for customers using up to 750 MWh a year, setting a price path for increases in electricity prices charged by PWC from 1 July 2009 to 30 June 2013, with prices increasing by 18 percent in the first year, a further 5 percent in the second year and then in line with the CPI in the two subsequent years.
- for the fourth tranche of contestable customers (who use between 750 MWh and 2 GWh of electricity per annum) whose prices remained below cost reflective levels, regulating the maximum price that can be charged to relevant customers until 30 June 2013. PWC is allowed to increase prices by 18 percent in the first year, a further 5 percent in the second year and then in line with the CPI in the two subsequent years, until cost-reflective levels are reached.

Full retail contestability

3.86 All electricity customers in the Territory became contestable from 1 April 2010.

3.87 Customers may now choose their retail supplier. However, PWC is currently the only retailer operating in the market. PWC Retail is obliged to continue to maintain newly contestable customers on their current tariff arrangements for a grace period of two years. This means that the tariffs set under the EPO applying to previously non-contestable electricity customers effectively continue to apply until the end of the grace period on 31 March 2012. This includes the price path outlined above.

Compliance monitoring

3.88 The Commission is required under the *Utilities Commission Act* to monitor and enforce compliance by licensed electricity entities with regulatory instruments – legislation, licences, codes and guidelines.

3.89 The key compliance issues that arose in 2009-10 were:

- deficiencies in current compliance monitoring processes;
- the limited scope of the compliance audits completed for PWC to date; and
- PWC's breach of its obligations under the Ring-fencing Code in not providing a copy of its related party terms and conditions for nominated goods and services to the Commission by the required date.

3.90 Electricity entities are obliged to comply with applicable codes, rules, protocols and standards, and to notify the Commission of becoming aware of a material breach of any applicable regulatory instrument.

3.91 The following Codes made by the Commission are in effect:

- Electricity Ring-fencing Code version 3, which aims at ensuring that monopoly businesses in regulated industries affiliated to contestable businesses do not discriminate against a competitor of that affiliated business, or financially or competitively advantage that affiliated business to the detriment of a competitor of that affiliated business;
- Electricity Standards of Service Code, which establishes a process by which PWC is to set certain minimum standards of service benchmarks for both its regulated network services and its non-contestable electricity supply services; and
- Energy Loss Factors Code, which sets out the high-level principles underlying the calculation of the energy loss factors to be used by the Power System Controller in determining out of balance energy supplied or demanded by generators operating in the Territory's electricity supply market.

3.92 The following Codes developed by PWC and approved by the Commission are in effect:

- System Control Technical Code, which sets out the Power System Controller's competitively neutral operating protocols, arrangements for system security and system dispatch, as well as arrangements for the interruption of supply; and
- Network Technical Code, which specifies the technical performance requirements of the network, and the requirements for co-ordination between network users and the network operator to achieve these.

Development of a compliance process

3.93 Good compliance practice means that an organisation is able to demonstrate its commitment to compliance with relevant laws, including legislative requirements, industry codes and organisational standards as well as standards of good corporate governance, ethics and community expectations. It enables an organisation to identify deficiencies and take action before problems eventuate.

3.94 Good compliance practice requires that:

- compliance obligations are identified and assessed, with appropriate resources allocated to develop, implement, maintain and improve the compliance program;
- staff competence and training needs are identified and staff are trained appropriately;
- behaviours that create and support compliance are encouraged and behaviours that compromise compliance are not tolerated;
- responsibility for compliant outcomes is clearly articulated and assigned; and
- the compliance program is documented, monitored, measured and reported, regularly reviewed and continually improved.

3.95 The Commission's approach to compliance monitoring to date has been to rely on an annual compliance report by PWC's internal auditors (Ernst & Young), and advice from PWC on how deficiencies identified in the report are being addressed.

3.96 However, the Commission has become concerned that this may not provide adequate certainty about the extent of PWC's regulatory compliance and that compliance systems are possibly inadequate.

3.97 The Commission, in consultation with PWC, has begun to explore options for ensuring that compliance systems and practices provide effective assurance of the licensed entity's compliance with regulatory instruments.

3.98 During 2009-10, the Commission:

- commenced discussions with PWC regarding the systems and practices that PWC has in place to ensure compliance and identify and report non-compliance in other areas, for example occupational health and safety and environmental compliance, the adequacy and testing of those systems and the potential to apply those systems to regulatory compliance;
- engaged more closely in the development of the scope of the 2009-10 compliance audit, with a view to the focus of compliance being on the development of effective compliance systems, consistent with the Australian Standard on Compliance Programmes AS 3806; and
- commenced developing the Commission's own internal capacity for monitoring and identifying potential or actual instances of non-compliance.

3.99 The Commission considers that a staged approach to an increase focus on compliance is appropriate.

3.100 PWC has also been requested to undertake an audit of service performance data for 2009-10, with the audit report available to accompany the annual service performance data report required by the Electricity Standards of Service Code by 30 October 2010.

Compliance reporting in 2009-10

Annual licence returns

3.101 During the year, PWC lodged returns with respect to the 2008-09 financial year for each of its licensed areas of operation.

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

3.103 During the year, the following licensees also lodged returns with respect to the 2008-09 financial year for their licensed areas of operation:

- NGD (NT) Pty Ltd;
- Cosmo Power Pty Ltd;
- Central Energy Power Pty Ltd;
- Energy Resources of Australia Ltd;
- Solar Power Stations Australia Pty Ltd (now under administration);
- Landfill Management Services Pty Ltd; and
- Groote Eylandt Mining Company Pty Ltd.

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

Compliance report of operations

3.105 As part of its annual licence returns, PWC is also required to include an audit of operations authorised by each licence and compliance with licence obligations. The audit of operations is available by 1 December. As in previous years, the 2008-09 compliance audit was undertaken by an independent auditor, Ernst & Young.

3.106 Ernst & Young's report found that PWC was broadly compliant for each of its licensed operations, although some potential areas of non-compliance were identified, mainly in relation to inadequate documentation. PWC has advised that these are being addressed.

3.107 However, the Commission noted that, while the requirement of the licence conditions is for an audit of operations and compliance, Ernst & Young's report includes a specific disclaimer that the procedures carried out in undertaking the report do not constitute either an audit in accordance with Australian Auditing Standards or a review in accordance with Australian Auditing Standards. Rather, Ernst & Young's report is based on agreed upon procedures which will be performed to examine compliance.

3.108 They noted that had an audit or review in accordance with the Auditing Standards been conducted, other matters might have come to their attention.

Ring-fencing Code – related party terms and conditions

3.109 The third version of the NT Electricity Ring-fencing Code took effect from 1 January 2009.

3.110 The main additional obligation imposed by version 3 of the Code is that:

- the terms and conditions on which certain nominated goods and services are provided by a monopoly business unit of PWC to a related contestable business unit of PWC must be reduced to writing; and
- a copy of those terms and conditions must be provided to the Commission by 30 June 2009.

3.111 Following a request from PWC, the Commission agreed to extend the due date for this obligation from 30 June 2009 to 30 September 2009.

3.112 On 30 September 2009, PWC provided, in draft form, proposed service level agreements (SLAs) between PWC Generation and PWC Retail (Contestable) and PWC Power Networks and PWC Retail (Contestable).

3.113 Although Commission considered that the proposed SLA between PWC Networks and PWC Retail, incorporating details of related party terms, satisfied the requirements of the Ring-Fencing Code, PWC was requested to revise the proposed PWC Generation and PWC Retail SLA (incorporating related party terms) to include 'reasonable particulars', involving 'the prices applying, including any within period indexation or escalation arrangements'.

3.114 The Commission has yet to receive documentation of the PWC Generation and PWC Retail related party terms.

3.115 The Commission has been in regular correspondence with PWC about this breach. Despite the longstanding nature of the breach, the Commission has not yet taken stronger action due to a recognition that the risk arising from non-compliance is low while there is no competition in the Territory electricity market.

3.116 However, the failure of PWC to comply with this obligation after so long is of concern to the Commission as the obligation is a key tool for providing confidence that PWC Generation and PWC Retail operate at arm's length.

Advice to the Minister

3.117 The Commission provides independent advice to Government on matters such as utility pricing, access to infrastructure, service quality and security of supply.

3.118 Advice to the Minister can be provided:

- when the Minister refers a matter to the Commission for inquiry under s.31 of the *Utilities Commission Act*. Inquiries conducted under s.31 of the Act are public inquiries and the Commission's final report must be tabled in the Legislative Assembly;
- when the Minister requests advice from the Commission in accordance with section 6(1)(g) of the *Utilities Commission Act*. The Minister may include a requirement in the terms of reference that the reports setting out the Commission's findings and recommendations remain confidential to government; or
- the Commission is also empowered to provide advice to the Minister at its own initiative on the operation of the *Electricity Reform Act*.

3.119 The main focus of the Commission's work in 2009-10 was the Government's priority work program, composed of a number of reviews aimed at improving PWC's efficiency as well as standards and reliability of supply for customers. This priority work program involves eight reviews, conducted according to terms of reference from the Treasurer.

Inquiries referred under section 31 of the Electricity Reform Act

Review of Full Retail Contestability for Northern Territory Electricity Customers

3.120 The purpose of the review was to generate options for the implementation of Full Retail Contestability (FRC) in the Territory on 1 April 2010 and assess the merits of each.

3.121 The Commission released an Issues Paper in August 2009. The Issues Paper was directed at testing the assumed outcomes of a number of specified options and also identifying any further options. A Draft Report released in October 2009 detailed the Commission's consideration of the views expressed in the submissions received, and provided recommendations in respect of the options.

3.122 Six public submissions and one confidential submission were received in response to the Issues Paper and a further three submissions were received in response to the Draft Report.

3.123 The Commission delivered its Final Report to the Treasurer in December 2009.

3.124 In the Final Report, the Commission noted that there is a distinction to be made between full retail contestability and full retail competition. Full retail competition implies active participation by at least one other retailer in the retail electricity market.

3.125 Full retail contestability on the other hand, requires only the removal of legislative barriers such that PWC would lose its exclusive right and obligation to provide electricity supply. Although certain other obligations would need to attach to PWC to ensure that other retailers may obtain non-discriminatory access to the electricity network and non-discriminatory access to generation, if the prospect of significant competition is low, existing systems for customer transfer and market settlements may be appropriate to use until there is further market development. A program of additional reforms to support the development of competition could be developed and initiated after FRC is in place.

3.126 In considering the efficiency of the options, the Commission had regard not only to the costs and benefits, but also to the objectives of FRC in the Territory context. These included implementation of FRC as a foundation for further reform to align the Territory market with national energy markets.

3.127 The Commission recommended that if FRC is introduced in the Territory, a minimalist approach would appear to be the most efficient, with removal of the legislative barrier to competition from April 2010.

3.128 The Commission also noted a number of actions Government might consider to encourage the development of competition including:

- while PWC remains the sole source of wholesale electricity supply, requiring its generation business to determine and publish 'standing offer' wholesale contract prices subject to Commission oversight;
- retail tariff reform to reflect the prices necessary to support an efficient new entrant retailer. This would require approval of a regulated retail price path that will result in tariffs that are reflective of wholesale electricity costs (generation costs), network costs, government approved subsidies (irrespective of supplier) and a commercial retail margin;
- strengthening the ring-fencing of PWC's component businesses; and
- reform of wholesale market arrangements which may include, for example, adopting or reflecting the National Energy Market (NEM) wholesale market arrangements. This would also contribute to a common national approach to energy markets.

Review of Options for the Development of a Retail Price Monitoring Regime for Contestable Electricity Customers

3.129 The purpose of the review is to review and report on options for the development of effective electricity retail price monitoring, and to recommend options for a framework to increase transparency in retail electricity pricing, and ensure that retail prices reflect the cost of supply.

3.130 The Commission released an Issues Paper in February 2010 to initiate the review and to obtain comment from interested parties on the options and considerations for developing a retail price monitoring regime. The Commission also held a stakeholder forum in March 2010 to facilitate discussion of the issues associated with developing a retail price monitoring framework for the Territory.

3.131 A Draft Report released in June 2010 set out the Commission's proposal for a retail price monitoring regime.

3.132 The Commission proposed that arrangements be introduced to monitor PWC's market behaviour and pricing outcomes, until there is effective competition in the Territory electricity market, involving:

- periodic detailed investigation of PWC's costs, prices and revenues disaggregated by customer class (at each point of the electricity supply chain) to ensure that customer charges are cost reflective, and that the costs involved represent no more than the reasonable long run cost of supplying electricity; and
- regular reporting of PWC's pricing outcomes, based on the previous generation price oversight methodology and, possibly, the use of price indices and benchmarks.

3.133 The Commission suggested the Government consider developing a regime to require the disclosure of a wholesale electricity reference price, involving publication of the wholesale reference price (and associated energy sent out), at the generation facility gate, for defined intervals after a reasonable period. The Commission considered that this amendment to the market design could support the effective operation of the retail price monitoring framework by providing consistent information on the wholesale price of electricity, a significant component of the retail price.

3.134 Three submissions were received in response to the Issues Paper and a further two submissions were received in response to the Draft Report.

3.135 The Final Report is scheduled to be provided to the Treasurer in October 2010.

Review of Options for Implementation of a Customer Service Incentive Scheme for Electricity Customers

3.136 The purpose of the review is to recommend options for the design of a scheme to give electricity service providers the incentive to improve service performance.

3.137 The Commission released an Issues Paper in March 2010. The Issues Paper examined the current arrangements and recent history of service performance in the Territory, and considered the practice and experience with customer service incentive schemes in other Australian jurisdictions.

3.138 A Draft Report was released in May 2010 with proposed draft recommendations for the implementation of a customer service incentive scheme for electricity customers in the Territory.

3.139 Four submissions were received in response to the Issues Paper and a further two submissions were received in response to the Draft Report.

3.140 The Commission delivered its Final Report to the Treasurer in July 2010.

3.141 The review investigated options for implementation of:

- a financial incentive scheme, by which PWC is rewarded or penalised through higher or lower electricity prices for service performance; and
- a guaranteed service level (GSL) scheme, by which individual customers receive payments if PWC does not meet minimum acceptable standards of service to those individual customers.

3.142 The Commission recommended that a financial incentive scheme providing for adjustments to network tariffs linked to average service performance for all customers not be implemented at this time, as the Commission is not satisfied about the reliability of data to set a base level of performance or the financial volatility associated with such a scheme in the Territory.

3.143 However, consistent with the 2009 network price determination, a paper trial of a financial incentive scheme will be run for the 2009-10 to 2013-14 regulatory period to provide further analysis of the costs and benefits of implementing such a scheme in future periods.

3.144 The Commission recommended that a GSL scheme providing for payments to be made to customers who receive very poor levels of service could be implemented in the Territory.

3.145 The proposed GSL scheme would apply to electricity network services, and include network reliability performance measures and network related customer service measures. However, generation reliability measures and retail customer service measures were not recommended to be included in a GSL scheme at this time.

3.146 The Commission provided recommendations for the components of a GSL scheme including:

- performance measures, thresholds and payment amounts;
- the customers to whom the scheme should apply;
- the events and supply interruptions would not give rise to a GSL payment;
- how the scheme should be funded; and
- the manner in which GSL payments should be made to eligible customers.

3.147 The Commission also noted that the proposed GSL scheme could be voluntarily adopted by PWC (or other service providers) in a customer charter in anticipation of any legislative amendments

3.148 On 25 August 2010, the Treasurer announced that the Commission's recommendations had been accepted by the Government, including establishing a permanent GSL scheme for PWC customers

Review of Electricity Standards of Service

3.149 The purpose of the review is to report on the adequacy and effectiveness of the Electricity Standards of Service Code, to advise on the indicators and reasonable benchmarks for standards of service in the Territory, and to develop options for setting, monitoring and enforcing standards of service.

3.150 The Commission released an Issues Paper in May 2010 which examined the current electricity standards of service arrangements and considered options in light of the experience adopted in the national electricity market and other Australian jurisdictions. Two submissions were received.

3.151 A Draft Report was released for comment in August 2010, setting out the Commission's proposals for measures of service performance for electricity generation, networks and retail in the Territory, the methodology for determining service performance targets, reporting arrangements and implementation considerations.

3.152 The Commission's draft recommendation was that it considered a standards of service framework is necessary in the Territory to:

- establish minimum and average standards of reliability, quality and customer service in the electricity supply industry;
- promote improvement in the level of services supplied by electricity generators, network service providers, and retailers operating in the Territory; and
- establish effective arrangements for monitoring and reporting on performance

3.153 The Commission is to submit a Final Report to the Treasurer by November 2010.

Inquiries referred under section 6(1)(g) of the Utilities Commission Act

Review of the Power and Water Corporation's (PWC) Capital and Maintenance Programs.

- 3.154 The purpose of the review is to provide an independent and expert assessment of PWC's capital and maintenance programs to ascertain whether the programs represent an efficient and prudent response to forecast demand and applicable service performance outcomes.
- 3.155 The Commission commenced this review in January 2010 with the engagement of consultants Sinclair Knight Mertz (SKM) to undertake a review and report to the Commission on the forecast costs and assumptions underpinning PWC's capital and maintenance programs, and on the efficiency of the program, given forecast demand and service standards.
- 3.156 SKM is also examining PWC's decision making systems and their consistency with efficient and prudent asset management practice to identify if these systems, assuming they are applied as stated, will achieve outcomes that reflect efficient and prudent asset management practice.
- 3.157 The Commission intends to review the information provided by SKM and submit a Final Report, based in large part on the SKM report, with final recommendations to the Treasurer in late 2010.

Review of the PWC Asset Management Capability.

- 3.158 The purpose of the review is to provide an independent and expert assessment of PWC's Asset Management Capability (AMC) Project to confirm the anticipated benefits and identify the risks associated with implementation of the PWC proposal to bring its asset management capability to a level of good industry practice.
- 3.159 PWC's AMC project was initiated following an internal review of PWC's core business processes, systems and data, which identified serious problems with PWC's asset management and the supporting asset management information technology systems and business processes. The AMC project is expected to improve PWC's capability and performance in asset management, and to contribute to the delivery of investment and maintenance, and improved occupational health and safety and risk management.
- 3.160 The Commission commenced this review in January 2010 with the engagement of consultants SKM to provide an independent and expert assessment of PWC's asset management systems. The scope of SKM's assessment is broader than simply IT system implementation projects progress within the organisation. It includes a more holistic review of the asset management practices currently in PWC and also organisational changes.
- 3.161 SKM provided its report to the Commission in June 2010. The Commission plans to deliver a Final Report with final recommendations to the Treasurer in late 2010.

Inquiries to commence in 2010-11

- 3.162 Two reviews in the Government's priority work program are yet to start.
- 3.163 The Review of System Planning, Monitoring and Reporting is to commence in October 2010. It will cover the adequacy of current system performance monitoring and reporting arrangements under the *Electricity Reform Act*, and appropriate network and generation reliability standards for performance monitoring. The objective is to ensure

that electricity system planning, monitoring and reporting promote acceptable performance outcomes.

3.164 The Review of Electricity System Planning and Market Operation Roles and Structures is to commence in December 2010. It will cover the efficiency of system planning and market operation arrangements, including the role and structure of the system control unit of PWC. The objective is to ensure that the allocation of functions to do with system planning and market operation promote efficient and reliable electricity system performance.

CHAPTER 4

Water Supply and Sewerage Services

Introduction

- 4.1 The Commission is responsible for certain regulatory functions in the water supply and sewerage services industries.
- 4.2 The *Water Supply and Sewerage Services Act* regulates the water supply and sewerage services industries:
- to promote the safe and efficient provision of water supply and sewerage services;
 - to establish and enforce standards of service in water supply and sewerage services;
 - to facilitate the provision of financially viable water supply and sewerage services; and
 - to protect the interests of customers.
- 4.3 The Commission shares responsibility for administration of the *Water Supply and Sewerage Services Act* with other areas of government. The Commission, reporting to the Treasurer, is responsible for those sections of the Act that relate to economic regulation. The Minister for Essential Services is responsible for those sections of the Act that relate to supply and service provision under licence and the Department of Health and Families is responsible for those sections of the Act that relate to water quality standards.

Roles and functions of the Commission

- 4.4 The Commission's regulatory role in the water and sewerage industry is more limited than its role in the electricity supply industry.
- 4.5 The Commission's activities in the water and sewerage industries relate mainly to licensing and some compliance monitoring, although the Treasurer may assign some price monitoring functions and the Essential Services Minister may assign some service standard monitoring functions to the Commission under their respective regulation powers.
- 4.6 In addition, the *Water Supply and Sewerage Services Act* requires PWC to develop a Water Metering Code and a Trade Waste Code, with those Codes being subject to approval by the Commission
- 4.7 The Commission has the following functions in the water and sewerage industry:
- to perform licensing functions;
 - to monitor and enforce licensees' compliance with the Act, the terms and conditions of their licence and the minimum standards; and
 - to advise the Minister on any matter referred by the Minister.

Licensing

Licensing framework

- 4.8 The Commission issues licences to persons wishing to carry on operations in the Territory's water and sewerage industries under a sole supplier model.
- 4.9 Specific geographical areas may be declared by the Minister, by way of a notice in the Gazette, to be a water or sewerage supply licence area pursuant to sections 8 and 9 of the *Water Supply and Sewerage Services Act*.
- 4.10 A licence is required for the provision of water supply services and sewerage supply services within an area gazetted under the Act as a water or sewerage supply licence area.
- 4.11 For each water or sewerage supply service within a gazetted water or sewerage supply licence area, the Commission may only grant a single licence for each of the relevant services provided. The Commission is not empowered to issue licences for service provision that takes place outside a water or sewerage licence area.
- 4.12 The Commission must make a water supply or sewerage services licence subject to conditions approved by the Minister.

Licensing activities in 2009-10

- 4.13 On 30 June 2010, PWC held two licences under part 2 of the *Water Supply and Sewerage Services Act*:
- water supply (to 31 December 2027); and
 - sewerage services (to 31 December 2027).
- 4.14 A general exemption from the need to hold a licence is also in effect for persons on-supplying water services within prescribed licence areas, on the condition that they have been granted the approval of the licensee of the water supply licence area to carry on on-supply operations in the water supply licence area.
- 4.15 There were no applications for water or sewerage licences or exemptions and no variations applied for or made to the terms and conditions of existing licences during the year.

Service performance

- 4.16 The Commission has no role in developing service standards in the water and sewerage industry.
- 4.17 Minimum standards that a licensee must meet in providing water supply and sewerage services to customers are set by the Minister for Essential Services.

Price regulation

- 4.18 Water and sewerage prices paid by customers, whether residential or commercial, are regulated directly by the Territory Government via a Water and Sewerage Pricing Order (WSPO) made under section 60 of the *Water Supply and Sewerage Services Act*.

- 4.19 The Commission is required to enforce compliance with the WSPO as if the WSPO were a determination of the Commission under the *Utilities Commission Act*.
- 4.20 On 1 July 2009, a WSPO was in effect that set a price path for increases in water and sewerage prices through to 30 June 2013, with prices increasing by 20 percent in each of the first three years and then in line with the CPI in the final year.

Compliance monitoring

- 4.21 The Utilities Commission is required under the *Utilities Commission Act* to monitor and enforce compliance by licensed entities with regulatory instruments – legislation, licences, codes and guidelines.
- 4.22 Licensed water and sewerage entities are obliged to comply with applicable codes, rules, protocols and standards, and to notify the Commission of becoming aware of a material breach of any applicable regulatory instrument.
- 4.23 The following Codes developed by PWC and approved by the Commission are in effect:
- Water Metering Code, which sets out the arrangements and conditions for installing, testing, verifying and replacing meters owned by the licensee and must be in accordance with guidelines published by the National Standards Commission.
 - Trade Waste Code, which sets out the conditions on which the licensee will approve trade waste being discharged into the licensee's sewerage services infrastructure.

Development of a compliance policy

- 4.24 The Commission's approach to compliance monitoring for water and sewerage has been the same as that for electricity as discussed in the previous chapter. To date the Commission has relied on an annual compliance report by PWC's internal auditors (Ernst & Young), and advice from PWC on how deficiencies identified in the report are being addressed.
- 4.25 As discussed in relation to compliance in the electricity industry, the Commission will be undertaking a staged approach to an increased focus on compliance and has begun to explore options for ensuring that compliance systems and practices provide effective assurance of licensed entity's compliance with regulatory instruments.

Compliance reporting in 2009-10

Annual licence returns

- 4.26 During the year, PWC lodged returns with respect to the 2008-09 financial year for each of its licensed areas of operation.
- 4.27 No substantive issues arose as a consequence of these licence returns.

Compliance report of operations

- 4.28 As part of its annual licence returns, PWC is also required to include an audit of operations authorised by each licence and compliance with licence obligations. As in previous years, the 2008-09 audit was undertaken by an independent auditor, Ernst & Young.

4.29 Ernst & Young's audit found that PWC was broadly compliant for each of its licensed water and sewerage operations.

Advice to the Minister

4.30 As discussed in the previous chapter, the main focus of the Commission's work in 2009-10 was the Government's priority works program, comprised of a number of reviews of aimed at improving PWC's efficiency.

4.31 The two reviews relating to PWC's financial management referred to the Commission under section 6(1)(g) of the *Utilities Commission Act*, related to PWC's water and sewerage operations as well as its operations in the electricity supply industry:

- Review of the Power and Water Corporation Asset Management, and
- Review of the Power and Water Corporation's (PWC) Capital and Maintenance Programs.

4.32 These reviews have been discussed in the previous chapter.

4.33 The *Water Supply and Sewerage Services Act* also empowers the Commission to provide advice to the Minister at its own initiative on the operation of the Act.

APPENDIX A

Decisions in 2009-10

During 2009-10, the Commission made the following decisions:

Decision	Type	Date of decision	Expires
Power and Water Corporation – Retail Electricity Licence	Variation	2 March 2010	until superseded
Power and Water Corporation – Electricity Generation Licence	Extension	15 June 2010	to 31 August 2010
System Control Technical Code	Approval	10 May 2010	until superseded
Network Access Tariffs	Approval	27 May 2010	1 July 2010 to 30 June 2011

APPENDIX B

Publications and reports

During 2009-10, the Commission published the following reports:

Date released	Publication
28 August 2009	Issues Paper – Review of Full Retail Contestability for NT Electricity Customers
30 September 2009	Annual Report 2008-09
27 October 2010	Draft Report – Review of Full Retail Contestability for NT Electricity Customers
5 February 2010	Final Report – Review of Full Retail Contestability for NT Electricity Customers
20 February 2010	Issues Paper – Review of Options for the Development of a retail Price Monitoring Regime for NT Contestable Electricity Customers
24 March 2010	Issues Paper – Review of Options for Implementation of a Customer Service Incentive Scheme for NT Electricity Customers
31 March 2010	2008-09 Power System Review
27 May 2010	Network Tariffs 2010-11: Commission Analysis
28 May 2010	Draft Report – Review of Options for Implementation of a Customer Service Incentive Scheme for NT Electricity Customers
28 May 2010	Issues Paper – Review of Electricity Standards of Service for the Northern Territory
18 June 2010	Draft Report – Review of Options for the Development of a retail Price Monitoring Regime for NT Contestable Electricity Customers

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

APPENDIX C

Expenditure and receipts

The Utilities Commission is established as a separate administrative unit within the Northern Territory Treasury. The Commission does not separately compile its own financial statements, but is included in the consolidated financial statements provided in Treasury's Annual Report.

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

Expenditure by category of cost

Category of cost	2008-09 \$000	2009-10 \$000
PERSONNEL COSTS	226.1	533.4
OPERATIONAL EXPENDITURE	161.0	234.9
Expert advice	138.9	165.3
Official travel, accommodation and related expenses	19.7	43.8
Recruitment and staff training	0.0	14.8
Office expenses and administration	2.4	11.0
OVERHEADS ALLOCATION	192.0	202.1
TOTAL EXPENDITURE	580.0	970.4

Receipts by account

Account	2008-09 \$000	2009-10 \$000
FEES AND CHARGES	188.6	191.9
Licence application fees	0.0	0.0
Electricity licence fees	143.6	146.9
Water and sewerage licence fees	45.0	45.0
TOTAL REVENUE	188.6	191.9

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

APPENDIX D

Advisers to the Commission

In 2009-10, the Commission used the services of the following consultants. The costs for the year totalled \$165,262 compared with \$138,915 in the previous year.

Greater than \$50 000

Sinclair Knight Merz

During 2009-10, the Commission received economic and technical advice from SKM in relation to:

- the Commission's review of the Power and Water Corporation Asset Management Capability; and
- the Commission's review of the Power and Water Corporation's Capital and Maintenance Programs.

Less than \$50 000

Intelligent Energy Systems Pty Ltd

During 2009-10, the Commission received economic advice from Intelligent Energy Systems in relation to the Commission's review of full retail contestability for NT electricity customers.

East Cape Pty Ltd

During 2009-10, the Commission received economic advice from East Cape in relation to the Commission's review of its work program.