



**Address all correspondence to:**

*The Utilities Commissioner,  
GPO Box 915, Darwin NT 0801*

**Location:** 9<sup>th</sup> Floor, 38 Cavenagh Street, Darwin

**E-mail:** [utilities.commission@nt.gov.au](mailto:utilities.commission@nt.gov.au)

**Telephone:** (08) 8999 5480

**Facsimile:** (08) 8999 6262

**Website:** [www.utilicom.nt.gov.au](http://www.utilicom.nt.gov.au)

## **FINDINGS OF AN INVESTIGATION INTO A COMPLAINT AGAINST POWER AND WATER UNDER SECTION 48 OF THE ELECTRICITY REFORM ACT 2000**

In July 2004, a Tranche 1 contestable customer made a complaint to the Commission pursuant to section 48(1)(b) of the *Electricity Reform Act 2000*. The complaint alleged that the Power and Water Corporation was engaging in electricity pricing conduct contrary to the objects of the *Electricity Reform Act* and the *Utilities Commission Act*. The pricing conduct involved related to the average price increases for the supply of electricity proposed by Power and Water in the negotiation and finalisation of the complainant's 2004 contract with Power and Water.

After satisfying itself that the complaint met the requirements of section 50 of the Act, the Commission proceeded to conduct an investigation into the complaint.

The processes followed by the Commission in this investigation can be summarised as follows:

- On 13 August 2004, the Commission wrote to the complainant seeking a range of documentation relating to the alleged pricing conduct.
- Following provision of the requested information by the complainant on 23 August 2004, and with the assistance of a pricing adviser, the Commission provided Power and Water with its interpretation of Power and Water's pricing on 9 September 2004.
- While the Commission had initially planned to conduct a private hearing with both parties present in mid-September, given the pricing pattern that emerged from its initial investigations, the Commission decided that matters were best pursued instead by meeting with Power and Water in the first instance.
- The Commission met with Power and Water on 21 September 2004, and subsequently (on 24 September) issued a request for information.
- The Commission met separately with the complainant on 24 September to provide an update regarding the progress of its investigation.
- On 28 October 2004, the Commission provided draft findings to both the complainant and Power and Water (with commercial-in-confidence information excluded from the complainant's version) for comment.
- Both the complainant and Power and Water submitted their comments on the draft findings by mid-November 2004.

Section 51 of the *Electricity Reform Act* requires the Commission to report the results of its investigations to the Regulatory Minister (the Treasurer) once they are completed, and to include recommendations for further action if the complaint is substantiated. The Commission finalised the report of its investigations and provided a

copy of that report, which contained confidential and commercially sensitive information, to the Regulatory Minister on 2 December 2004.

At that time, the Commission also advised all parties that it expected to publish both the fact that it has investigated a complaint and a summary of its findings on its website at the end of February 2005.

The Commission has found that the complaint cannot be substantiated.

Having examined the data provided by both the complainant and Power and Water, it was the Commission's assessment that:

- the price level payable by the complainant under the 2004 contract with Power and Water was not excessive in terms of its various cost components (networks, system control, generation and retail margin); and
- the complainant was therefore not being unfairly disadvantaged by Power and Water's 2004 contract pricing;

Both parties have advised the Commission that they accept the Commission's finding, and the reasoning underlying this finding. Both parties were provided with a copy of the Commission's report of its investigations.

The Commission notes that the circumstances in this case were unique, and the finding made only reflects on Power and Water's pricing in this instance. Nevertheless, in light of the pricing outcomes underpinning this complaint, the Commission has suggested to Power and Water that it might wish to consider some refinements to its contestable pricing policies and practices to avoid a repeat of those pricing outcomes.

Utilities Commission  
March 2005