



Utilities Commission of the Northern Territory

Review of Electricity Retail Licences

July 2015

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Call for Submissions

Submissions are invited from interested parties in relation to the conditions for electricity retail licences that are being proposed in this Consultation Paper.

Submissions should be directed in the first instance to the Utilities Commission at any of the following:

Utilities Commission
GPO Box 915
DARWIN NT 0801

Telephone: 08 8999 5480

Email: utilities.commission@nt.gov.au

The closing date for submissions is **24 August 2015**.

Confidentiality

In the interests of transparency and to promote informed discussion, the Commission will make submissions publicly available.

Persons wishing to submit confidential information should:

- clearly identify the relevant sections of the submission that are confidential, so that the remainder of the document can be made publicly available; and
- provide a copy of the submission suitable for publication with any confidential material removed.

Confidential information is defined in section 26 of the *Utilities Commission Act* as information that could affect the competitive position of a licensed entity or other person or is commercially sensitive for some other reason.

Public Access to Submissions

Subject to the above, submissions will be made available for public inspection at the office of the Commission and on its website (www.utilicom.nt.gov.au).

To facilitate publication on the Commission's website, submissions should be made electronically by disk or email. However, if this is not possible, submissions can be made in writing.

Glossary of Terms

Term	Definition
Commission	Utilities Commission of the Northern Territory established in April 2000 under the Utilities Commission Act
ERA	Electricity Reform Act
ERAR	Electricity Reform (Administration) Regulations
GWh	Gigawatt hour
PWC	Power and Water Corporation
GOCR	Government Owned Corporations (Power and Water Corporation Electricity Businesses Restructure) Regulations
Jacana Energy	Power Retail Corporation
IES program	Indigenous Essential Services program

Chapter 1: Background

1.1 Generally, a person who sells electricity in the Northern Territory must hold a licence that is issued to it by the Commission.¹ Electricity retail licences are subject to the following conditions:

- certain conditions specified by (or under) the ERA and which the Commission is required to include in the licence;² and
- such further conditions as the Commission considers to be appropriate³ - these may include the conditions specified in section 28(1) of the ERA.

1.2 As at 30 June 2015, electricity retail licences were issued to Power and Water Corporation (PWC), Power Retail Corporation (trading as Jacana Energy), QEnergy Limited, ERM Power Retail Pty Ltd, Rimfire Energy Pty Ltd. An application for a retail licence from EDL NGD (NT) Pty Ltd had also been received and was being considered by the Commission.

1.3 As of 1 July 2014, the electricity retail business of PWC was transferred to Jacana Energy.⁴ From that date:

- Jacana Energy has the right to sell and retail electricity in Darwin, Katherine, Tennant Creek and Alice Springs; and
- PWC has the right to sell and retail electricity in remote Northern Territory communities (such as Jabiru and Nhulunbuy), as well as to indigenous communities under the IES program.

1.4 Each electricity retail licence authorises the sale of electricity in a specified geographical area. This area is required to be specified in Schedule 2 of the licence and differs as between Jacana Energy (Darwin, Katherine, Alice Springs, Tennant Creek and various other townships such as Daly Waters, Kings Canyon and Yulara), PWC (Jabiru, Nhulunbuy, Alyangula, McArthur River Mine and Indigenous communities under the IES program) and other retailers (Darwin, Katherine, Tennant Creek and Alice Springs).

1.5 All electricity customers in the Northern Territory have been contestable customers since 1 April 2010.⁵ Additionally, for price regulation purposes, most customers who consume less than 2 GWh per annum are 'customers of a prescribed class'.⁶ As such, the prices that PWC and Jacana Energy may charge for the sale of electricity to these customers are regulated under electricity pricing orders issued by the Treasurer.

1.6 The ERA also has provision to prescribe customers for the purpose of requiring licensed electricity retailers to fix standard terms and conditions governing the sale of electricity to

¹ ERA, ss.14(1), (3)(c), 20(1), 23(1)

² ERA, s.24(1), (2), (3)

³ ERA, s.24(4)

⁴ GOCR, reg.49

⁵ ERA, s.4(1) [definition of "contestable customer"]; ERAR, reg.6(4)

⁶ ERA, s.44(1)(a); ERAR, reg.13A

them.⁷ The prescribed class of customers for this purpose are those to whom an electricity entity sells electricity and who have not negotiated a written agreement with the electricity entity relating to the sale of electricity.⁸ If an electricity entity wishes to apply standard terms and conditions to the prescribed class of customers (that is, customers who have not negotiated a separate written agreement), the electricity entity must have a summary of the terms and conditions approved by the Commission and publish the standard terms and conditions in the Gazette.⁹

- 1.7 Standard terms and conditions constituted the terms and conditions under which Jacana Energy sells electricity to its customers. On 30 June 2015, the terms and conditions were split between Jacana Energy (retail provisions) and PWC (network connection and supply provisions)¹⁰ to better reflect a triangular contracting structure similar to that in other jurisdictions including the National Electricity Market.
- 1.8 It is against this background that the Commission is undertaking a review of, and considering appropriate amendments to, all of the electricity retail licences that have been issued by the Commission, including those issued to PWC and Jacana Energy. The purpose of this review is to ensure that the licences contain conditions that are appropriate to meet the requirements of the ERA and are consistent with good regulatory practice, taking into account that all customers are now contestable.
- 1.9 The Commission notes that the Northern Territory Government's reform program for the electricity industry and the Commission's implementation of such reforms may result in further amendments being made to the licence template.
- 1.10 The Commission has created a template electricity retail licence (the *licence template*) that incorporates the amendments which the Commission considers appropriate to achieve this purpose (see Annexure A of this Consultation Paper). This template licence has been compiled having regard to the conditions of the existing electricity retail licences, the requirements of the ERA, the introduction of full retail contestability in the Northern Territory, and electricity retail licence conditions that are imposed in other Australian jurisdictions.
- 1.11 Because of the special position of Jacana Energy and PWC (as the incumbent retailers), there are some conditions that only apply to their licences; these conditions are identified as such in the template licence.

⁷ ERA, s.91(1)

⁸ ERAR, reg.22

⁹ ERA, s.91(2)

¹⁰ Government Owned Corporations (Power Corporations Restructure) Regulations s.15

Chapter 2: Proposed Changes to Retail Licence Conditions

Introduction

2.1 This section describes the conditions contained in the template licence. Interested parties are encouraged to make submissions on any of the conditions included in the template licence, as well as on any other conditions they think should be included.

Definitions and Interpretation: clause 1

2.2 Terms which have a defined meaning are identified in italics. Schedule 1 sets out the definitions of a number of terms that are used in the template licence, as well as the rules of interpretation that are to be applied to the template licence.

2.3 Where a term is defined in the ERA, its definition is not repeated in the template licence, although the fact that it is defined in the ERA is made clear through it being italicised. In this way the template licence avoids unnecessary duplication of definitions.

Grant of licence: clause 2

2.4 Under section 23(1) of the ERA, an electricity retail licence authorises the licensee to trade in electricity and sell and retail electricity to customers. Clause 2 of the template licence is the provision under which this authorisation is granted to the licensee. Clause 2 refers to retail of electricity to customers, but only in respect of electrical installations or premises which are located within the *retail area*.

2.5 In relation to the retail licence issued to Jacana Energy, the *retail areas* are limited to the geographical areas of:

- Darwin, Katherine, Tennant Creek, Alice Springs (including cities/townships and the surrounding rural areas); and
- Daly Waters, Borroloola, Timber Creek, Elliott, Newcastle Waters, Yulara, Ti Tree and Kings Canyon.

2.6 In relation to the retail licence issued to PWC, the *retail areas* are limited to Jabiru, Nhulunbuy, Alyangula, McArthur River Mine and Indigenous communities under the Indigenous Essential Services (IES) program.

2.7 In relation to other retailers, the current licences limit the *retail areas* to Darwin, Katherine, Tennant Creek and Alice Springs (including cities/townships and the surrounding rural areas).

2.8 Retail areas were initially established to create exclusive rights to PWC to retail to non-contestable customers prior to full retail contestability. While this condition precedent is no longer applicable, maintaining retail areas for PWC and Jacana are necessary to clarify between the two licensees who is responsible for the obligation to supply (referred to as 'Local Area Retailer' in other jurisdictions). The Commission notes that this provision may be amended in the future if obligations relating to local areas are defined in other regulatory instruments.

- 2.9 It is intended that there will be no change to the retail areas in Schedule 2 for PWC and Jacana Energy. For the other retailers, the retail areas will include the geographical location of the Northern Territory of Australia.

Term: clause 3

- 2.10 Under section 18 of the ERA, an electricity retail licence may be granted for an indefinite period or a fixed term. The template licence is for an electricity licence that is granted for an indefinite period. Once such a licence is issued, it continues until it is surrendered by the licensee, or cancelled by the Commission, in accordance with the provisions of the ERA.

Annual return and licence fee: clauses 4 and 8.1

- 2.11 Under section 19 of the ERA, the holder of an electricity retail licence that is granted for two years or more is required to lodge an annual return with the Commission and to pay to the Commission an annual licence fee.
- 2.12 The annual licence fee is fixed by the Minister and the Commission may permit it to be paid in instalments. Clause 4 of the template licence requires the licensee to comply with the requirement to lodge an annual return, the contents of this return being prescribed by the Commission from time to time. Clause 8.1 of the template licence requires the licensee to comply with the requirement to pay an annual licence fee.

Suspension, variation and transfer of licence: clauses 5, 6 and 7

- 2.13 Sections 32, 33 and 36 of ERA regulate the variation, transfer and suspension of electricity retail licences. Clauses 5, 6 and 7 of the template licence cross refer to these provisions.

Other charges: clause 8.2

- 2.14 Under section 39 of the ERA, the system controller is entitled to impose and recover charges approved by the Commission and relating to system control. Clause 8.2 of the template licence imposes an obligation on the holder of an electricity retail licence to pay such of those charges as may be imposed on it.

Compliance with regulatory instruments: clause 9

- 2.15 There are a number of codes, rules, guidelines, protocols and standards made under either the ERA or the *Utilities Commission Act* which impose obligations on electricity retailers. One of the most relevant of these is the Electricity Retail Supply Code. Clause 9 of the template licence requires the licensee to comply with all of these regulatory instruments to the extent they are applicable to the licensee. Section 24(1)(a) and (b) of the ERA requires the Commission to impose this licence condition in electricity retail licences.

Capacity to operate: clause 10

- 2.16 Section 24(1)(c) of the ERA requires the Commission to impose a licence condition in electricity retail licences that relates to the licensee's financial or other capacity to continue the operations authorised by the licence. Consistently with this, clause 10 of the template licence requires the licensee, at the request of the Commission, to provide the Commission with details of the licensee's financial, technical and other capacity to continue operations

under its electricity retail licence. Any requested information must be provided, in a manner and form determined by the Commission, within 20 business days of such a request.

Compliance process and compliance reporting: clause 11

- 2.17 The Commission is responsible for monitoring and enforcing compliance with licence conditions. The purpose of clause 11 of the template licence is to assist the Commission in that process through requiring the licensee to implement a compliance process, provide annual compliance reports to the Commission, subject its compliance to external audit and notify the Commission of any licence breaches. In addition, section 24(1)(d) of the ERA requires the Commission to impose a licence condition in electricity retail licences that requires the licensee to have its operations audited and to report the results of the audit to the Commission.
- 2.18 Clause 11.1 requires the licensee to develop, document, maintain and comply with a compliance process for ensuring that it complies with its obligations under its electricity retail licence. In addition, the Commission can require the licensee to demonstrate to the Commission's satisfaction that the compliance process is adequate and being complied with.
- 2.19 Clause 11.2 requires the licensee to provide a compliance report to the Commission, no later than 31 August after each financial year, describing the measures taken by the licensee during that financial year to ensure compliance with its obligations under the licence. In addition, the Commission may require the chairperson or chief executive officer of the licensee to provide a statutory declaration that the licensee has complied with both its compliance process and its licence obligations.
- 2.20 Under clause 11.3, the Commission may require the licensee to appoint an independent auditor to audit the licensee's compliance with its licence obligations. Alternatively, under clause 11.4, the Commission may itself appoint an independent auditor to undertake such an audit. In either case the costs of the audit will be payable by the licensee.
- 2.21 Under clause 11.5, the licensee must, within a reasonable time, report to the Commission on the occurrence of any licence breach, and advise the Commission of any remedial action it is undertaking to rectify the breach.

Changes in officers or major shareholders: clause 12

- 2.22 Before the Commission can issue an electricity retail licence it must be satisfied that the applicant is a suitable person to hold the licence (ERA, s.16(2)(a)). In deciding whether an applicant is such a suitable person, the Commission may consider the commercial and other dealings of, and the standard of honesty and integrity in those dealings shown by, the officers and major shareholders of the applicant (ERA, s.16(3)(c)). Accordingly, the Commission has a legitimate ongoing interest in the identity of the officers and major shareholders of the licensee.
- 2.23 Under clause 12 of the template licence, the licensee must notify the Commission of any change to any officer or major shareholder of the licensee within 20 business days. For these purposes, an officer is a director, secretary or executive manager responsible for carrying out day to day operations under the licence. A major shareholder is an entity which

has a controlling interest in the licensee. This licence condition is required to be included in an electricity retail licence by section 24(1)(e) of the ERA.

Community service obligations: clause 13

2.24 Section 24(1)(f) of the ERA requires the Commission to impose a licence condition in electricity retail licences that requires the licensee to comply with the requirements of any scheme approved and funded by the Minister for the performance of community service obligations. Clause 13 of the template licence provides for such a licence condition.

Customer standards and procedures: clause 14

2.25 Section 24(3)(b) of the ERA requires the Commission to impose a licence condition in electricity retail licences that requires the licensee to develop and comply with customer related standards and procedures. Clause 14 of the template licence provides for such a licence condition.

Adequate supply arrangements: clause 15

2.26 Section 16(2)(d) of the ERA provides that the Commission may only issue an electricity retail licence if it is satisfied that the applicant will be able to meet reasonably foreseeable obligations for the sale of electricity. Moreover, section 28(1)(e) of the ERA permits the Commission to impose a licence condition in electricity retail licences that requires the licensee to take reasonable steps to ensure that it has in place arrangements to generate and supply electricity to its customers. Clause 15 of the template licence reflects these requirements by requiring the licensee to ensure that it has in place arrangements to meet the reasonably foreseeable requirements of its customers for electricity. In addition, this clause requires the licensee to provide a supply of electricity that is safe, reliable and of a satisfactory quality to its customers.

Standard terms and conditions: clause 16

2.27 Section 91 of the ERA requires the holder of an electricity retail licence to fix standard terms and conditions governing the sale of electricity to such of its customers as fall within a class of customers that is prescribed by regulation. Section 22 of the ERAR, prescribes customers for the purpose of requiring licensed electricity retailers to fix standard terms and conditions governing the sale of electricity to them as those to whom an electricity entity sells electricity and who have not negotiated a written agreement with the electricity entity relating to the sale of electricity.¹¹ If an electricity entity wishes to apply standard terms and conditions to the prescribed class of customers (that is, customers who have not negotiated a separate written agreement), the electricity entity must have a summary of the terms and conditions approved by the Commission and publish the standard terms and conditions in the Gazette.¹²

2.28 Clause 16 of the template licence requires the licensee to fix standard terms and conditions governing the sale of electricity by the licensee to its customers. These standard terms and conditions are subject to approval by the Commission.

¹¹ ERAR, s.22

¹² ERA, s.91(2)

Coordination agreement: clause 17

2.29 Section 28(1)(i) of the ERA permits the Commission to impose a licence condition in electricity retail licences that requires the licensee to enter into and comply with a coordination agreement, on terms approved by the Commission, which regulates the provision of services to customers by the retailer and any relevant generator or network provider. Clause 17 of the template licence provides for such a licence condition.

Statement of charges: clause 18

2.30 Clause 18.1 of the template licence requires the licensee, if requested by a customer at the time of entering into the electricity retail contract, to provide to that customer a statement of charges which includes separate items for:

- (a) the amount charged for the electricity sold; and
- (b) the total amount charged by any network provider or system controller in respect of that customer.

The purpose of this clause is to enable customers to obtain information about both their electricity usage charges and their network-related charges. This will enable customers to modify their consumption of electricity in a way that minimises these charges.

2.31 Clause 18.2 of the template licence requires the licensee, if requested by a customer seeking to negotiate a contract for the sale of electricity, to provide to that customer:

- (a) details of the charges to be made by any network provider or system controller in respect of that customer; and
- (b) an estimate of the total amount of these charges that is likely to be charged in respect of that customer for a 12 month period.

The purpose of this clause is to enable customers to obtain information that may be relevant to where they locate the network and to the nature of the equipment that they connect to the network. To the extent that electricity retailers vary in their pass through of such network and system control charges, this information may also guide the customer's decision as to which retailer it contracts with.

Disconnection: clause 19

2.32 The System Control Technical Code, and a customer's contract, regulate the disconnection of a customer's premises. Clause 19 of the template licence provides that the holder of an electricity retail licence may not disconnect or discontinue the supply of electricity to a premises except in accordance with those procedures.

Notice of changes: clause 20

2.33 Clause 20 of the template licence requires the holder of an electricity retail licence to notify its customers of any changes in their rights, obligations or charges by including an explanatory notice with the next bill that is sent to those customers. This provision is

designed to ensure that customers are kept informed of the terms and conditions that apply to the sale of electricity to them.

Provision of information to the Commission/system controller: clause 21

- 2.34 Clause 22.1 of the template licence requires the holder of an electricity retail licence to provide the Commission or the system controller with such information as they may reasonably require in performing their functions or exercising their powers. This is an important provision because licensees will often have information that is required for this purpose.
- 2.35 The ongoing suitability of a person to be the holder of an electricity retail licence, and the ongoing ability of such a licensee to meet its reasonably foreseeable obligations for the sale of electricity, are critical matters. Accordingly clause 22.2 of the template licence requires the licensee to notify the Commission, as soon as reasonably practicable, of anything that is reasonably likely to adversely impact on these matters.

Compliance with laws: clause 22

- 2.36 Clause 23 of the template licence requires the holder of an electricity retail licence to comply with all applicable laws relating to retailers and the selling of electricity, including the ERA, regulations made under the ERA and any applicable Ministerial pricing orders or Commission-made pricing determinations.

Obligation to offer to sell to out-of-contract customers: clause 23

- 2.37 Clause 24 of the template will only apply to Jacana Energy and PWC (for their respective licence areas). It requires Jacana Energy and PWC to sell electricity out-of-contract customers in their respective retail areas.

Chapter 3: Next Steps

- 3.1 Interested parties are encouraged to make submissions on any of the conditions included in the template licence, as well as on any other conditions they think should be included. The consultation period commences on **6 July 2015** and closes on **24 August 2015**.
- 3.2 Under section 32(2)(b) of the ERA, the Commission may vary the terms of an electricity retail licence if it has given the licensee reasonable notice of the proposed variation and has allowed the licensee a reasonable opportunity to make representations about the proposed variation. The Commission considers that this Consultation Paper gives electricity retail licensees reasonable notice of the variations that the Commission proposes to make to their retail licences, and that the opportunity to make submissions in response to this Consultation Paper constitutes a reasonable opportunity for electricity retail licensees to make representations about the variations that the Commission proposes to make.
- 3.3 Under section 32(3) of the ERA, the Commission may only make a variation to the terms of and electricity retail licence if the Commission considers, among other things, the variation to be necessary to further the objects of the ERA. The objects of the ERA are set out in section 3 of the ERA as being:
- (a) to promote efficiency and competition in the electricity supply industry;
 - (b) to promote the safe and efficient generation, transmission, distribution and selling of electricity;
 - (c) to establish and enforce proper standards of safety, reliability and quality in the electricity supply industry;
 - (d) to establish and enforce proper safety and technical standards for electricity installations;
 - (e) to facilitate the maintenance of a financially viable electricity supply industry; and
 - (f) to protect the interests of consumers of electricity.
- 3.4 The Commission considers that the proposed electricity retail licence conditions set out in the template licence are consistent with, and necessary to further, one or more of these objects. In addition, these conditions reflect the fact that all electricity customers in the Northern Territory have become contestable, and the imposition of these conditions on all retailers will ensure consistency as between the conditions that apply to them.
- 3.5 Accordingly, once the Commission has evaluated the submissions made in response to this Consultation Paper, it proposes to vary the existing conditions of each electricity retail licence so that they are consistent with the conditions contained in the template licence, amended so as to reflect these submissions where appropriate.

Annexure A: Electricity Retail Licence Template

ELECTRICITY RETAIL LICENCE

Issued to

[insert name of licensee]

Date of Issue

[#]

As varied on

[#]

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Electricity Retail Licence

Licensee: [insert name of licensee]

1 Definitions and Interpretation

1.1 In this licence a word or phrase in italics:

- (a) has the meaning given to it in part 1 of schedule 1; or
- (b) if the word or phrase is not defined in part 1 of schedule 1, has the meaning given to it in the *Electricity Reform Act*.

1.2 This licence must be interpreted in accordance with the rules set out in part 2 of schedule 1.

2 Grant of licence

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

- (a) trade in electricity; and
- (b) sell and retail electricity to *customers* , but only in respect of *electrical installations* or premises which are located within the *retail area*,

in accordance with the terms and conditions of this licence.

3 Term

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

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

4 Annual return

4.1 The licensee must lodge an annual return containing such information as is required from time to time by the *Utilities Commission* by written notice in accordance with section 19 of the *Electricity Reform Act*.

5 Suspension of licence

5.1 This licence may be suspended under section 36 of the *Electricity Reform Act*.

6 Variation of licence

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

7 Transfer of licence

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

8 Licence fee and other charges

8.1 The licensee must pay an annual licence fee (as determined by the *Minister*), or instalment of the annual licence fee (as determined by the *Utilities Commission*), to the *Utilities Commission* in accordance with section 19 of the *Electricity Reform Act*.

8.2 The licensee must pay such charges relating to the *operations* of system control as are imposed on it in accordance with section 39 of the *Electricity Reform Act*

9 Compliance with regulatory instruments

The licensee must:

- (a) comply with all applicable provisions of any *code*, *rule* or guideline made under the *Utilities Commission Act* from time to time, and any guidelines made under such codes or rules **[ERA, s.24(1)(a)]**;
- (b) comply with all applicable provisions of any codes, protocols, standards and guidelines made under the *Electricity Reform Act* from time to time **[ERA, s.24(1)(b)]**; and
- (c) without limiting clauses 9(a) and (b) of this licence, comply with all applicable provisions of the *Electricity Retail Supply Code*, the *Guaranteed Service Level Code*, the *Electricity Standards of Service Code*, the *Network Access Code*, the *Ring-Fencing Code* **[Note: this code only applies to PWC]**, any *system control technical code* and any *network technical code*.

10 Capacity to operate

10.1 The licensee must, from time to time, provide the *Utilities Commission* with details of the licensee's financial, technical and other capacity to continue *operations* under this licence, if requested to do so by the *Utilities Commission*. **[ERA, s.24(1)(c)]**

10.2 The licensee must provide any information requested by the *Utilities Commission* under clause 10.1 of this licence:

- (a) in a manner and form determined by the *Utilities Commission*; and
- (b) within 20 *business days* of the request.

11 Compliance process and compliance reporting

11.1 Compliance process

- (a) The licensee must develop, document, maintain and comply with auditable internal policies, procedures and systems (collectively, a "compliance process") for ensuring that it complies with its obligations under this licence.
- (b) The compliance process must include policies, procedures and systems for:
 - (i) the training of employees about the obligations of the licensee under this licence;
 - (ii) the regular internal audit by the licensee of its compliance with its obligations under this licence;
 - (iii) the regular reporting to, and consideration by, the board of the licensee concerning compliance with the obligations of the licensee under this licence;
 - (iv) dealing with any complaints made by a *customer* or other third party to the licensee in connection with non-compliance by the licensee with its obligations under this licence; and
 - (v) detecting and reporting to the *Utilities Commission* any breach of this licence.
- (c) The *Utilities Commission* may (after giving reasonable notice to the licensee) require the licensee to demonstrate to the *Utilities Commission's* satisfaction that:
 - (i) the compliance process is adequate; and/or
 - (ii) the licensee is complying with the compliance process.
- (d) Any notification made by the *Utilities Commission* to the licensee concerning the *Utilities Commission's* opinion of the adequacy of the compliance process will not affect the licensee's obligations under this licence.

11.2 Compliance reports

- (a) On or before 31 August each year, the licensee must provide a report ("compliance report") to the *Utilities Commission* which describes the measures taken by the licensee during that *financial year* to ensure compliance with its obligations under this licence.
- (b) The compliance report, and the *Utilities Commission's* assessment of the licensee's compliance with its obligations under this licence, may be made publicly available by the *Utilities Commission*.

- (c) The *Commission* may require that compliance by the licensee with both the licensee's compliance process referred to in clause 11.1 and its obligations under this licence be verified by way of a statutory declaration by the chairperson of the board of the licensee and the chief executive officer of the licensee, or any other person who is formally delegated powers at an equivalent, as approved by the *Commission*, subject only to such breaches as are expressly referred to in that declaration.

11.3 External audit

- (a) The *Utilities Commission* may, upon reasonable notice to the licensee, require the licensee to appoint an independent auditor to undertake an audit of the licensee's compliance with any of its obligations under this licence.
- (b) The standards and requirements to apply to an audit under clause 11.3 must be determined by the *Utilities Commission* in consultation with the licensee. The auditor must report in accordance with those standards and requirements.
- (c) The auditor must provide a copy of the auditor's report to the licensee and the *Utilities Commission* as soon as reasonably possible after it has been completed.
- (d) The licensee is responsible for paying the costs of undertaking the audit.

11.4 Appointment of external auditor by *Utilities Commission*

- (a) The *Utilities Commission* may, upon reasonable notice to the licensee, appoint an independent auditor to undertake an audit of the licensee's compliance with any of its obligations under this licence.
- (b) In the event that the *Utilities Commission* appoints an independent auditor:
 - (i) the *Utilities Commission* must nominate the standards and requirements to apply to an audit under clause 11.4(a), and the auditor must report in accordance with those standards and requirements; and
 - (ii) the licensee must cooperate with any reasonable requests made by the independent auditor in undertaking the audit.
- (c) The *Utilities Commission* must provide a copy of the auditor's report to the licensee as soon as reasonably possible after it has been completed.
- (d) The licensee is responsible for paying the costs of undertaking the audit.

[ERA, s.24(1)(d)]

11.5 Notification of breaches

- (a) Within a reasonable time (being not more than three *business days*) after the licensee has become aware that a breach of this licence has occurred, the

licensee must report that breach to the *Utilities Commission* and advise the *Utilities Commission* of the remedial action that is being undertaken to rectify the breach.

12 **Changes in officers or major shareholders**

The licensee must notify the *Utilities Commission* of any change to any *officer* and, if applicable, any *major shareholder*, of the licensee within 20 *business days* after the change. **[ERA, s.24(1)(e)]**

13 **Community service obligations**

13.1 The licensee must comply with the requirements of any scheme approved and funded by the *Minister* for the performance of community service obligations by *electricity entities*. **[ERA, s.24(1)(f)]**

14 **Customer standards and procedures**

14.1 The licensee must develop, document, maintain and comply with procedures for dealing with *customer* enquiries, complaints and disputes, and the standards that it will apply for the purposes of dealing with such enquiries, complaints and disputes. **[ERA, s.24(3)(b)]**

15 **Adequate supply arrangements**

15.1 The licensee must take reasonable steps to ensure that it has in place at all times arrangements to:

- (a) enable it to meet the reasonably foreseeable requirements of its *customers* for electricity- **[ERA, s.28(1)(e)]**; and
- (b) provide a supply of electricity that is safe, reliable and of a satisfactory quality to its *customers*.

16 **Standard terms and conditions**

16.1 If the licensee intends to sell electricity to customers of a prescribed class for the purposes of applying standard terms and conditions, the licensee must fix standard terms and conditions in accordance with section 91 of the *Electricity Reform Act*.

16.2 The licensee must prepare a summary of the standard terms and conditions in a form approved by the *Utilities Commission*.

17 **Coordination Agreement**

17.1 The licensee must enter into, and comply with, an agreement, on terms approved by the *Utilities Commission*, with each *electricity entity* holding a *generation licence* or *network licence* which provides services to the licensee's *customers* as to the coordination of the provision of services to those *customers*, including arrangements whereby the licensee

has responsibility for taking up any *customer* complaints about the quality of services being supplied with the other *electricity entity* on the *customer's* behalf. [ERA, s.28(1)(i)]

17.2 To avoid doubt, the matters described in this clause 16.1 may be contained in an *access agreement* or another agreement between the licensee and the relevant *electricity entity*.

18 **Statement of charges**

18.1 A statement of charges to a *customer* must, if requested by the *customer* at the time the contract for the sale of electricity to that *customer* by the licensee is entered into, include separate items for:

- (a) the amounts charged for the electricity sold; and
- (b) the total amounts charged by any *network provider* or *system controller* in respect of that *customer*.

18.2 Where a *customer* is seeking to negotiate a contract for the sale of electricity by the licensee, the licensee must, if requested by the *customer*, provide to the *customer*:

- (a) details of the charges to be made by any *network provider* or *system controller* in respect of that *customer*; and
- (b) an estimate of the total amount of the charges referred to in paragraph (a) that is likely to be charged in respect of that *customer* for a 12 month period.

19 **Disconnection**

19.1 The licensee must not *disconnect* or discontinue *supply* of electricity, or take any action which may lead to the *disconnection* or discontinuance of *supply* of electricity, to a *customer*, except in accordance with the *disconnection* procedures prescribed in any applicable *system control technical code*, where it applies, or otherwise in accordance with the *customer's* contract for the sale of electricity to that *customer* by the licensee.

20 **Notice of changes**

20.1 The licensee must notify each of its *customers* of any changes in rights, obligations and charges applicable to the sale of electricity to that customer by including an explanatory notice with the next statement sent to that customer.

21 **Provision of information to the Utilities Commission/system controller**

21.1 The licensee must, from time to time, provide the *Utilities Commission* or any *system controller*, in a manner and form determined by the *Utilities Commission* or the *system controller*, such information as the *Utilities Commission* or the *system controller* may reasonably require in connection with the performance of their functions or exercise of their powers.

- 21.2 As soon as reasonably practicable after it becomes aware of any matter that is reasonably likely to result in the licensee:
- (a) not being a suitable person to hold this licence (taking into account the matters referred to in section 16(3) of the *Electricity Reform Act*); or
 - (b) being unable to meet its reasonably foreseeable obligations for the sale of electricity,

the licensee must notify the *Commission* of that matter.

22 **Compliance with laws**

The licensee must comply with all applicable laws that relate to *retailers* and the *selling* of electricity in the Northern Territory, including the *Electricity Reform Act*, regulations made under it and any applicable *Pricing Orders*.

23 **Obligation to offer to sell to out-of-contract customers [To be included in PWC and Jacana Energy licenses only.]**

- 23.1 In this clause, an "out-of-contract customer" is a *customer* who is not an *electricity entity*, and is an *orphaned customer*.
- 23.2 The licensee must offer to sell electricity to an out-of-contract customer on terms and conditions considered fair and reasonable in the circumstances by the licensee.
- 23.3 Any questions as to whether a customer satisfies any of the criteria set out in clause 24.1 will be decided by the *Utilities Commission*.
- 23.4 Before the licensee sells electricity to out-of-contract customers, the licensee must develop and publish standard terms and conditions governing the sale of electricity by the licensee to out-of-contract customers.
- 23.5 The standard terms and conditions developed and published by the licensee under clause 24.4 are to include the principles to be used by the licensee to set the prices to be paid for electricity supplied to individual out-of-contract customers.
- 23.6 The standard terms and conditions developed and published by the licensee may be varied from time to time but such variations can only take effect with 28 days written notice to out-of-contract-customers.
- 23.7 The price to be paid by an out-of-contract customer for the electricity supplied to the *customer* can only be varied with 28 days written notice to the *customer*.
- 23.8 The licensee must continue to sell electricity to an out-of-contract customer for as long as the *customer*.
- (a) pays the price set by the licensee for the electricity supplied to the *customer*; and

(b) complies with any other terms and conditions under which the electricity is being supplied.

23.9 The licensee's obligation to sell electricity pursuant to clause 24.2 ceases for an out-of-contract customer when that *customer* is supplied electricity under a contract negotiated with an *electricity entity*.]

Date:

THE COMMON SEAL of UTILITIES)

COMMISSION is duly affixed in the)
presence of:)

.....)

Signature of authorised person

.....

Office held

.....

Name of authorised person (block letters)

Schedule 1

Part 1 - Definitions

In this licence:

“business day” means a day on which banks are open for general banking business in Darwin, excluding a Saturday or Sunday;

“code” means any code made by the *Utilities Commission* under section 24 of the *Utilities Commission Act*;

“Electricity Retail Supply Code” means the code of that name made by the *Utilities Commission* under section 24 of the *Utilities Commission Act* and regulation 2A of the *Utilities Commission Regulations*;

“Electricity Standards of Service Code” means the code of that name made by the *Utilities Commission* under section 24 of the *Utilities Commission Act* and regulation 2B of the *Utilities Commission Regulations*;

“financial year” means a period of 12 months ending on 30 June;

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

“Guaranteed Service Level Code” means the code of that name made by the *Utilities Commission* under section 24 of the *Utilities Commission Act* and regulation 2B of the *Utilities Commission Regulations*;

“major shareholder” means an entity, as defined in section 9 of the *Corporations Act 2001* (Cth), which has a beneficial interest in more than 50% of the shares in the licensee or exercises control over the licensee within the meaning of section 50AA of the *Corporations Act*;

“Minister” means the Minister of the Crown who is responsible for the administration of the *Electricity Reform Act*;

“Network Access Code” means the Network Access Code referred to in the *Electricity Network (Third Party Access) Act*;

“network licence” means a licence to operate or own an *electricity network* granted under Part 3 of the *Electricity Reform Act*;

“network technical code” means a technical code prepared and made publicly available by a network provider under clause 9(2) of the *Network Access Code*;

“officer” means a director, secretary or executive manager responsible for carrying out day to day *operations* under this licence;

“orphaned customer” means a *customer* that was previously sold electricity under a negotiated customer contract which has expired and that has not subsequently entered into a negotiated customer contract with an *electricity entity*;

“Pricing Orders” means electricity pricing orders issued by the Minister, and pricing determinations made by the Utilities Commission, under the Electricity Reform Act;

“retail area” means the geographical area of areas specified in schedule 2;

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

“retailer” means a holder of a *retail licence*;

“Ring-Fencing Code” means the Northern Territory Ring-Fencing Code made by the *Utilities Commission* under section 24 of the *Utilities Commission Act* and regulation 2 of the *Utilities Commission Regulations*;

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

“system control technical code” means a technical code prepared by a *system controller* and approved by the *Utilities Commission* as referred to in clause 27A of the *Network Access Code* and section 38(1) of the *Electricity Reform Act*; and

“Utilities Commission” means the Utilities Commission established under the *Utilities Commission Act*.

Part 2 - Interpretation

In this licence, unless the contrary intention appears:

- 1 headings are inserted for convenience and do not affect the interpretation of this licence;
- 2 the singular includes the plural and vice versa;
- 3 words importing a gender include any gender;
- 4 the word "person" includes a firm, body corporate, partnership, joint venture, unincorporated body or association, trust or governmental agency;
- 5 a reference to a condition, clause or schedule is to a condition, clause or schedule of this licence;
- 6 a reference to terms of an offer or agreement is to all terms, conditions and provisions of the offer or agreement;
- 7 a reference to this licence or another document includes any variation or replacement of any of them;
- 8 a reference to a statute, regulation, proclamation, order in council, ordinance, by-law, code, law or similar instrument includes all statutes, regulations, proclamations, orders in council, ordinances, by-laws, codes, laws and similar instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- 9 a reference to a person includes that person's executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;
- 10 the verb "include" (in all its parts, tenses and variants) is not used as, nor is it to be interpreted as, a word of limitation; and
- 11 if an event must occur on a stipulated day which is not a *business day* then the stipulated day will be taken to be the next *business day*.

Schedule 2

Retail Area

The retail area(s) covered by this licence, for which there is a right to sell and retail electricity are the geographical areas listed below:

[Insert for Jacana Energy]

Darwin (city, suburbs and surrounding rural areas)
Katherine (city, suburbs and surrounding rural areas)
Tennant Creek (city, suburbs and surrounding rural areas)
Alice Springs (city, suburbs and surrounding rural areas)
Daly Waters
Borrooloola
Timber Creek
Elliott
Newcastle Waters
Yulara
Ti Tree
Kings Canyon

[Insert for PWC]

Jabiru
Nhulunbuy
Alyangula
McArthur River Mine
Indigenous communities under the Indigenous Essential Services (IES) program

[Insert for all other retailers]

The Northern Territory of Australia