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UTILITIES COMMISSION  
OF THE NORTHERN TERRITORY

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# ELECTRICITY RETAIL LICENCE



ISSUED TO  
Power and Water Corporation  
(ABN 15 947 352 360)

# ELECTRICITY RETAIL LICENCE

This Licence is issued pursuant to Part 3 of the *Electricity Reform Act 2000*.

## Licensee

Power and Water Corporation

ABN 15 947 352 360

## Date

This licence was issued by the Utilities Commission on 31 March 2005 and last varied on 12 September 2024.

Date: 12 September 2024

THE COMMON SEAL of UTILITIES )  
COMMISSION is duly affixed in the )  
presence of: )

Kimberlee McKay

Signature of authorised person

DIRECTOR Utilities Commission

Office held

KIMBERLEE MCKAY

Name of authorised person (block letters)



## Variation history

Date	Reason for variation
	The (then) Power and Water Authority was granted a retail licence on 31 March 2000, which expired on 31 March 2005. This retail licence was granted to the (now) Power and Water Corporation on 31 March 2005 and has been varied as follows:
23 October 2007	Correction of typographical error made by the Utilities Commission – correction to “Corporation” instead of “Authority”

Date	Reason for variation
29 August 2008	Amendment to Schedule 2: change references from “Aboriginal Essential Services Program” to “Indigenous Essential Services program”
2 March 2010	<p>Amendment to clause 17 to:</p> <ul style="list-style-type: none"> <li>• defer the obligation for the Power and Water Corporation (PWC) to notify existing customers using 750 megawatt hours (MWh) of electricity a year (those currently defined as non-contestable customers) that they are to be contestable from 1 April 2010 until market circumstances make this advice relevant to these customers;</li> <li>• establish a mechanism for PWC to notify these customers of changes to market circumstances; and</li> <li>• 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.</li> </ul>
28 February 2011	<p>Replacement of clauses 9 (Compliance with Regulatory Instruments) and 11 (Audit of Operations and Compliance) with the new requirement for a compliance process.</p> <p>Deletion of obsolete due dates in clauses 13 (Customer standards and procedures) and 19 (Coordination agreement).</p> <p>List of cities and townships in Schedule 2 separated into regulated and non-regulated networks, consistent with the PWC Network licence.</p>
27 June 2014	<p>Split of retail areas in Schedule 2 into Part A and Part B to effect continued operation of the retail business following structural separation of Power and Water Corporation from 1 July 2014.</p> <p>On and after 1 July 2014 as per Government Owned Corporations (Power and Water Electricity Businesses Restructure) Regulations section 49:</p> <p>Part A of this licence does not apply to Power and Water Corporation and applies instead to Power Retail Corporation.</p> <p>Part B of the licence applies to Power and Water Corporation and does not apply to Power Retail Corporation.</p> <p>Part A of this licence as so applying to Power Retail Corporation and Part B of the licence as so applying to Power and Water Corporation are taken, for all purposes, to be separate retail licences held individually by Power Retail Corporation and Power and Water Corporation respectively.</p>
30 September 2014	Correct an administrative error under Part A of Schedule 2 by amending ‘Daly River’ to ‘Daly Waters’. Daly River is a remote community, and is covered under Part B of Schedule 2 – Indigenous communities under the Indigenous Essential Services (IES) program.

Date	Reason for variation
3 April 2015	Insertion of cl.10 (Compliance with regulatory instruments) for consistency and avoidance of doubt across all licences.
12 September 2024	Application of new licensing template and standard licence conditions in accordance with the Utilities Commission's <i>Review of the Northern Territory's Electricity Supply Licencing Regime, Decision paper – standard licence conditions, January 2024</i> (available on the Utilities Commission website).

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# Part A – Definitions and interpretation

## DEFINITIONS

In this licence:

**applicable laws** includes the *Electricity Reform Act 2000*, the Regulations and any technical requirements or standards contained in the Regulations, the Pricing Order, the *National Electricity (Northern Territory) (National Uniform Legislation) Act 2015*, the *Utilities Commission Act 2000*, Utilities Commission Regulations 2001 and the *Electrical Safety Act 2022*;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

# INTERPRETATION

In this licence, unless the contrary intention appears:

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

## LICENCE ADMINISTRATION

### 1 Definitions and Interpretation

In this licence a word or phrase:

- (a) has the meaning given to it in Part A; or
- (b) if the word or phrase is not defined in Part A, then it has the meaning given to it in the *Electricity Reform Act 2000*.

This licence must be interpreted in accordance with the rules set out in Part A.

### 2 Grant of licence

Under Part 3 of the *Electricity Reform Act 2000*, 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

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

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

### 4 Suspension or cancellation of licence

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

### 5 Variation of licence

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

### 6 Transfer of licence

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

### 7 Licence fee and other charges

- 7.1. The licensee must pay an annual licence fee or instalment of the annual licence fee, as the case may be, to the Utilities Commission as determined by the Minister under section 19 of the *Electricity Reform Act 2000*.



- 7.2. The licensee must pay the System Controller and Market Operator any applicable charges relating to the operations of system control and market operations as approved by the Utilities Commission.

## GENERAL CONDITIONS

### 8 Information to the Utilities Commission

#### 8.1. Annual return

The licensee must lodge an annual return by 1 August each year. The annual return must contain such information as specified by the Utilities Commission by written notice. At a minimum, the licensee will be required to provide information on:

- (a) key person/s for the Utilities Commission to contact regarding the licensed operations; and
- (b) details of electricity supply operations for use in the charging of licence fees.

#### 8.2. Change in circumstances

The licensee must give a notice in writing to the Utilities Commission if:

- (a) the licensee is put under external administration as defined by the *Corporations Act 2001* (Cth), within 2 business days of that external administration occurring;
- (b) an application is made to, or an order is made by, a court for the winding up or dissolution or a resolution is passed or any steps are taken to pass a resolution for the winding up or dissolution of the licensee in accordance with relevant legislation including the *Bankruptcy Act 1996* (Cth) or *Corporations Act 2001* (Cth), within 2 business days of that event occurring;
- (c) there is a change to the financial or technical capacity of the licensee, such that the licensee's capacity to carry on operations or comply with obligations under this licence may be materially affected, within 10 business days of that change.

#### 8.3. Change in officers

The licensee must give a notice in writing to the Utilities Commission of any change of directors or Board members, Chief Executive Officer, Chief Financial Officer and Company Secretary (or equivalent positions) as well as the key contact person/s of the licensee (as advised in the licensee's annual return) within 20 business days of that change.

#### 8.4. Change in shareholders (if applicable)

The licensee must give a notice in writing to the Utilities Commission of any change in the shareholding of the licensee resulting in the transfer of more than 50% of the shares in the licensee to a third party or a change in the entity that exercises control over the licensee within the meaning of section 50AA of the *Corporations Act 2001* (Cth), within 20 business days of that change.

## 8.5. Other information to the Utilities Commission

The licensee must, from time to time, provide the Utilities Commission, in a manner and form to be determined by the Utilities Commission, such information as the Utilities Commission may request.

## 9 Information to the System Controller

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

## 10 Compliance with regulatory instruments

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

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

## 11 Compliance process

### 11.1. Establishment and maintenance of a compliance process

- (a) Within 3 months of issue of this licence, the licensee must establish, document, maintain and comply with appropriate auditable internal policies, procedures and systems (“compliance process”) for ensuring that it complies with its obligations under this licence, and all applicable laws, codes, rules, standards or guidelines.
- (b) The compliance process must include policies, procedures and systems for:
  - (i) training of employees about the obligations of the licensee under this licence;
  - (ii) regular internal audit by the licensee of its compliance with its obligations under this licence;
  - (iii) regular reporting to, and consideration by, the Board of the licensee concerning compliance with the obligations of the licensee under this licence;
  - (iv) dealing with any complaints made by a customer or other third party to the licensee in connection with non-compliance by the licensee with its obligations under this licence;
  - (v) detecting and reporting to the Utilities Commission any breach of the licensee’s compliance with its obligations under 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 licensee’s compliance process is adequate; and/or
  - (ii) the licensee is complying with its 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 of the licensee will not affect the licensee's obligations under this licence.

### **11.2. Independent audit**

- (a) Upon reasonable notice to a licensee, the Utilities Commission may appoint, or require the licensee to appoint, an independent auditor to undertake an audit of the licensee's compliance with any of its obligations under this licence (independent audit).
- (b) The licensee must consult with, and gain the approval of, the Utilities Commission for its preferred independent auditor and proposed scope for the audit.
- (c) The scope of the audit and the standards or requirements to apply to an independent audit must comply with any guidelines published by the Utilities Commission from time to time. In the absence of guidelines, the scope and standards or requirements will be determined by the Utilities Commission in consultation with the licensee. Where the Utilities Commission appointed the auditor, the Utilities Commission will nominate the standards or requirements.
- (d) The licensee must cooperate with any reasonable requests made by the independent auditor in undertaking the audit.
- (e) The licensee will be responsible to pay the costs of undertaking the audit.

## **12 Compliance reporting**

### **12.1. Notification of material non-compliance (material breach)**

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

### **12.2. Annual compliance report**

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

## **13 Community service obligations**

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

## 14 Operator

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

# RETAIL CONDITIONS

## 15 Adequate supply arrangements

The licensee must take reasonable steps to ensure that it has in place at all times arrangements to supply electricity to its customers.

## 16 Disconnection

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

## 17 Customer related standards and procedures

The licensee must comply with:

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

## 18 Customer notification of changes

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

# CONDITIONS SPECIFIC TO THIS LICENCE

## 19 Obligation to offer to sell to out-of-contract customers

- (a) In this clause, an "out-of-contract customer" is a customer who:
  - (i) is not an electricity entity; and
  - (ii) is a customer that was previously sold electricity under a negotiated customer contract which has expired and has not subsequently entered into a negotiated contract with an electricity entity.

- (b) 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.
- (c) The terms and conditions for an out-of-contract customer may be varied from time to time but such variations can only take effect with 20 business days written notice to out-of-contract customers.
- (d) If the licensee receives a request from an out-of-contract customer, within 5 business days of receipt of the request, the licensee is to advise the out-of-contract customer in writing of:
  - (i) the offer to supply electricity;
  - (ii) the price to be paid by the customer for the electricity supplied to the customer; and
  - (iii) any other terms and conditions under which the electricity will be supplied.
- (e) The licensee must continue to sell electricity to an out-of-contract customer for as long as the customer:
  - (i) pays the price set by the licensee for the electricity supplied to the customer; and
  - (ii) complies with any other terms and conditions under which the electricity is being supplied.
- (f) The licensee's obligation to sell electricity pursuant to clause 19(b) ceases for an out-of-contract customer when that customer is supplied electricity under a contract negotiated with an electricity entity.

# Schedule 1

## RETAIL AREA

For the purpose of clause 2(b) of this licence, there is a right to sell and retail electricity to customers in the following electricity systems:

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