
DRAFT GUARANTEED SERVICE LEVEL CODE

CONSULTATION PAPER

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The Commission will make submissions publicly available. If you do not want your submission to be public you must clearly specify that the document (or part of it) should be kept confidential. A version of the submission suitable for publication (i.e. with any confidential material removed) should also be provided.

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 provided electronically by CD, DVD or email in Adobe Acrobat or Microsoft Word format. However, if this is not possible, submissions can be made in writing.

Inquiries

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CHAPTER 1

Intention to make an Guaranteed Service Level Code

- 1.1 The Utilities Commission intends making a Guaranteed Service Level Code (proposed Code) to prescribe matters including:
- the criteria setting out the guaranteed service levels (GSL) applicable to an electricity network provider;
 - the GSL payment arrangements from an electricity network provider to small electricity customers; and
 - arrangements for dispute resolution between a small electricity customer and an electricity network provider or retailer.

Authority for Code

- 1.2 The Commission may make codes or rules relating to the conduct or operations of the electricity supply industry or licensed electricity entities if authorised to do so by the *Electricity Reform Act* or a Regulation under the *Utilities Commission Act*.¹

Code making considerations and objectives

- 1.3 In performing its code making function, the Commission must have regard to the need:²
- (a) *to promote competitive and fair market conduct;*
 - (b) *to prevent misuse of monopoly or market power;*
 - (c) *to facilitate entry into relevant markets;*
 - (d) *to promote economic efficiency;*
 - (e) *to ensure consumers benefit from competition and efficiency;*
 - (f) *to protect the interests of consumers with respect to reliability and quality of services and supply in regulated entities.*
- 1.4 The Commission is also guided in performing its functions by the objectives of the *Electricity Reform Act*.³
- (a) *to promote efficiency and competition in the electricity supply industry;*

¹ *Utilities Commission Act* ss24(1) and (2).

² *Utilities Commission Act* s6(2)

³ *Electricity Reform Act* s3

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- (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 electrical installations;
 - (e) to facilitate the maintenance of a financially viable electricity supply industry; and
 - (f) to protect the interests of consumers of electricity.

Code making process

- 1.5 The Commission must, before making, varying or revoking a code or rules, consult with the Minister and representative bodies and participants in the electricity supply industry.⁴
- 1.6 The Commission must give notice of the making, variation or revocation of a code or rules to the Minister and each licensed electricity entity to which the code or rules apply, and ensure that copies of the code or rules are available for inspection and purchase by members of the public.⁵ Notice of the making of a code or rules, or the variation or revocation of a code or rules is to be published in the Gazette.⁶
- 1.7 A code or rule, or variation or revocation of a code or rule, takes effect on the date on which it is notified in the Gazette or a later date specified by the Commission in the code or rules.

Previous work by the Commission

- 1.8 The Commission was requested by the Territory Government in August 2009 to undertake a series of reviews as part of a priority reform program to increase the efficiency of the electricity supply industry, improve customer standards of service and reliability and, where possible, align the Territory's regulatory arrangements with those of the national electricity market.

⁴ *Utilities Commission Act s24(4).*

⁵ *Utilities Commission Act s24(6)*

⁶ *Utilities Commission Act s24(7)*

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- 1.9 As part of the work program reviews, the Commission has completed the Review of Options for Implementation of a Customer Service Incentive Scheme for Electricity Customers. The final report was provided to the Treasurer in July 2010 and released publicly in August 2010.
- 1.10 The Commission's review recommended that a GSL scheme be established to provide financial rewards and penalties for reliability and customer service performance by the electricity network service. Customers using less than 160 megawatt hours a year (in the Darwin-Katherine, Alice Springs and Tennant Creek systems) would be eligible for payments if defined minimum performance targets are not achieved.
- 1.11 Papers for these reviews are available on the Commission website, www.utilicom.nt.gov.au.

Purpose and scope of this Consultation Paper

- 1.12 The purpose of this Consultation Paper is to notify the Minister, licensed electricity entities and interested parties of the Commission's intention to make a GSL Code, and to request comment on the proposed Code.
- 1.13 The scope of the Consultation Paper is limited to the terminology used in the Code and the process underpinning the GSL scheme. The Commission will not reconsider the recommendations made in the Final Report on the Review of Options for Implementation of a Customer Service Incentive Scheme for Electricity Customers⁷. These recommendations have been endorsed by the Territory Government.

Request for submissions

- 1.13.1 The Commission is seeking submissions from interested parties on the proposed Code, and any other matters they consider relevant to the effective performance of retail supply activities in the Territory.
- 1.14 The Commission requests submissions by 9 December 2011. The Commission notes that this timeframe was based on the Government's intention to establish a GSL Code by 1 January 2012. Further, the Commission considers that electricity market participants have already been extensively consulted as part of the consultation on the Issues Paper and Draft Report on the Review of Options for Implementation of a Customer Service Incentive Scheme for Electricity Customers.

⁷ Utilities Commission, July 2010, Review of Options for Implementation of a Customer Service Incentive Scheme for Electricity Customers – Final Report.

CHAPTER 2

Electricity supply in the Northern Territory

Background

- 2.1 The electricity supply industry in the Northern Territory is regulated through the *Electricity Reform Act, Electricity Networks (Third Party Access) Act, Utilities Commission Act* and associated legislation. This regulatory framework was introduced on 1 April 2000.
- 2.2 The regulatory 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 framework are:
- third party access to the Darwin-Katherine, Alice Springs and Tennant Creek electricity networks (owned and operated by the Power and Water Corporation);
 - all customers became contestable from 1 April 2010 (able to choose their electricity retailer); and
 - the Commission is the independent economic regulator, responsible for regulating monopoly electricity services, licensing market participants, and monitoring and enforcing compliance with regulatory standards for market conduct and service performance.
- 2.3 The Power and Water Corporation (PWC) is the main electricity business in the market systems, generating the majority of electricity used, operating the electricity networks and supplying retail services. PWC is a vertically integrated Territory Government owned corporation with generation, network and retail business units operating as separate businesses.⁸ The commercial relationship and transactions between each unit is subject to oversight and regulation by the Commission.⁹ PWC is also subject to oversight by a shareholding Minister (currently the Treasurer) and a portfolio Minister (currently the Minister for Essential Services).
- 2.4 PWC has been the only electricity retailer in recent years, supplying electricity to about 72 000 customers at 30 June 2010.¹⁰ The Commission granted a retail electricity licence to QEnergy Ltd in February 2011.
- 2.5 PWC is also the main electricity generator, with about 89 per cent of generation capacity in the market systems. There are four other generators producing electricity in

⁸ This paper refers to the separate business units as PWC Retail, PWC Networks and PWC Generation.

⁹ Regulatory instruments include the licensing framework and the Northern Territory Electricity Ring-Fencing Code.

¹⁰ Utilities Commission, March 2011, 2009-10 Power System Review, table 3.2.

the Darwin-Katherine and Alice Springs systems. However, these businesses generate electricity under contract for PWC rather than selling directly to an electricity retailer or to customers, and PWC provides the fuel used for electricity generation.¹¹

- 2.6 PWC Networks owns and operates the Darwin-Katherine, Alice Springs and Tennant Creek electricity networks, which comprise 666 kilometres (km) of transmission lines and 5156 km of distribution lines.¹²
- 2.7 PWC is also a major electricity supplier in regional and remote parts of the Territory, and is the water and sewerage service provider throughout the Territory.
- 2.8 Electricity supply in regional and remote centres of the Territory is managed through a contract for service model, with supply arrangements agreed between the service purchaser (most often the Territory Government) and a service provider (in most cases, PWC or a PWC subsidiary). These systems include the 72 communities and 82 outstations where essential services are provided through the Territory Government Indigenous Essential Services program; three mining townships, where electricity is supplied by the associated mining company; and eight remote townships.¹³

Northern Territory experience

- 2.9 In September and October 2008, a series of power outages occurred in the vicinity of the Casuarina zone substation (CZS) service area. These outages raised significant concerns about the reliability of the Northern Territory's electricity networks. As a result of these concerns, the Territory Government approved a reform program to strengthen regulatory oversight of the electricity supply industry and scrutiny of PWC. Part of this program of reform is the development of mechanisms to provide incentives to encourage PWC to improve service performance and to avoid very poor service performance.
- 2.10 Following the CZS outages in September and October 2008, the Minister for Essential Services indicated that the Commission would examine the possibility of PWC making payments to affected customers in recognition of poor service performance – commonly referred to as guaranteed service level or 'GSL' payments.
- 2.11 In December 2008, the Commission provided a report to the Territory Government with recommendations regarding GSL payments for those affected by the CZS. One-off, ex-gratia payments were made to affected customers, but no formal scheme was put in place.
- 2.12 The Commission further advised that, under current legislation, the Commission does not have the power to develop and implement an ongoing GSL scheme to apply generally throughout the Territory and that the responsibility for establishing a GSL scheme lies with the Territory Government.

¹¹ Utilities Commission, 2009-10 Power System Review, March 2011, pages 14-15. These generators are located at Pine Creek (between Darwin and Katherine), Shoal Bay (at the Darwin City Council dump) and Brewer Estate (in Alice Springs).

¹² Utilities Commission, March 2011, 2009-10 Power System Review, table 5.1.

¹³ The three mining townships are Nhulunbuy, Alyangula and Jabiru. The eight remote townships are Timber Creek, Borroloola, Daly Waters, Elliot, Newcastle Waters, Kings Canyon, Yulara and Ti-Tree.

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- 2.13 The Commission outlined the actions needed to establish a GSL scheme in the Territory and advised that once the authority and rules for such a scheme were made, the Commission could be charged with administering the scheme.

GSL schemes in other jurisdictions

- 2.14 Businesses operating in sectors with natural monopoly characteristics, such as electricity distribution networks, are subject to little or no competition, and have less incentive to provide good service as customers generally cannot move to an alternative provider. In the case of the electricity industry, governments or industry regulators typically monitor the performance of electricity network service providers to ensure they provide acceptable levels of service. In the Territory, this approach could be extended to the PWC generation and retail businesses, which also operate in an environment where they have no competitors.
- 2.15 The two most common approaches to performance incentive schemes adopted in Australia to provide network service providers with financial incentives to achieve a certain performance are:
- financial incentive (also referred to as s-factor) schemes which establish financial incentives and penalties for network performance and are imposed through the network revenue or price regulation framework; and
 - GSL schemes which involve payments to customers when performance does not meet a defined standard of service.
- 2.16 Financial incentive schemes operate by allowing an increase in regulated network revenue if service improves and decreasing regulated network revenue if service performance falls or fails to meet specified targets, so that average network charges increase or decrease in line with service performance.
- 2.17 GSL schemes focus on the worst served customers, with payments made directly to those customers affected by a specific instance of poor service performance, such as a power outage.
- 2.18 All Australian jurisdictions except the Territory have established GSL schemes for electricity network service performance, although the services subject to penalty payments and the applicable payment levels vary widely.
- 2.19 The legal authority and implementation mechanisms for the establishment of performance incentive schemes differ from state to state. The Australian Energy Regulator (AER) has a single service target performance incentive scheme which incorporates a financial incentive component and a GSL component. Currently, GSL schemes are imposed through industry codes or licence conditions in each jurisdiction, rather than through the AER scheme.

Objectives of a GSL scheme

- 2.20 GSL schemes set payments from an electricity network provider to an eligible customer for having experienced exceptionally poor service.
- 2.21 GSL payments are not intended to be compensation but rather some recognition for poor service. GSL schemes are also designed to provide an incentive for a network provider to improve service to its worst served customers.

- 2.22 GSL schemes are designed to set a floor to the level of service that a customer is entitled to receive by setting a threshold level for a particular aspect of service performance. If the actual level of service falls short, the service provider is required to make a payment to the affected customers. The threshold levels and the related customer payments are set in advance, so that customers know the standard of service they should expect to receive, and the service provider knows the consequences if those service levels are not met. Primarily, GSL schemes are designed to provide an incentive to improve service to the worst served customers.
- 2.23 GSL schemes are generally funded through the operational costs of a network provider and approved by the regulator through the network revenue determination cycle. The cost of the scheme is therefore borne by the network provider's wider customer base. Should the total actual GSL payments made over the regulatory period be below or above the estimated provision approved by the regulator, the network provider will retain or absorb the difference.

CHAPTER 3

Explanation of proposed Code

- 3.1 The purpose and reasons for the provisions of the proposed Code are explained below. This section of the Consultation Paper should be read together with the proposed Code (released together with this document).
- 3.2 The proposed Code reflects the Commission's recommendations resulting from the Review of Options for Implementation of a Customer Service Incentive Scheme for Electricity Customers (the Review).¹⁴
- 3.3 The scope of this Consultation Paper is limited to matters which were not covered in the Review.

Purpose of the proposed Code

- 3.4 The purpose of the proposed Code is to provide payments to certain customers if specified standards are not met.¹⁵ The proposed Code specifically deals with issues relating to:
 - the criteria setting out the GSL scheme;
 - GSL payment;
 - dispute procedures; and
 - process to review, add to or amend the Code.
- 3.5 In making the proposed Code, the Commission has:
 - sought to promote and achieve the object of the *Utilities Commission Act*;
 - sought to promote and achieve the objects of the *Electricity Reform Act*; and
 - had regard to the matters listed in section 6(2) of the *Utilities Commission Act*.

Eligibility

- 3.6 The proposed Code will only apply to customers using less than 160 megawatt hours (MWh) a year and located in the regulated networks: Darwin-Katherine, Alice Springs and Tennant Creek systems.
- 3.7 The Commission considers that the focus of a GSL scheme should be to reduce poor service performance for domestic and small customers, as larger businesses are able to manage risks through contractual or other arrangements e.g. insurance.

¹⁴ Utilities Commission, Review of Options for Implementation of a Customer Service Incentive Scheme for Electricity Customers – Final Report, July 2010.

¹⁵ Utilities Commission Regulations, reg.2B.

- 3.8 The Commission also considers that the proposed GSL scheme should not extend beyond the market systems and regulated networks as it would raise practical issues with PWC ability to collect useable data. Moreover, the majority of customers are located in the market systems.

Criteria setting out the GSL scheme

- 3.9 The criteria for GSL payments reflect the Commission's recommendations from the Review.
- 3.10 The proposed Code sets out a staged introduction of a GSL scheme to the Territory with the single outage measure taking effect from the 1 January 2012, and with the remaining measures commencing from 1 July 2012. This approach is to enable PWC to develop all the necessary systems to comply with the GSL arrangements.
- 3.11 The reliability measures, thresholds and payments were derived following extensive consultation with market participants and interest parties throughout the development of the Review.
- 3.12 When completing the Review, the Commission decided to add a criterion requiring a new connection in a rural area to be established within 10 business days.¹⁶ The Commission acknowledges that the amendment in the Final Report had not been consulted on. Reflecting the views conveyed by interested parties following publication of the Final Report, the Commission proposes to change the wording of the definition for the criteria establishing a new connection to premises in a CBD/urban area and to premises in a rural area as follows:¹⁷

New connection of a premises in a CBD area or Urban area (excluding connections requiring network extension or augmentation) - Within 5 business days of receipt of a valid electrical certificate of compliance from the small customer, or as otherwise agreed by the customer.

New connection of a premises in a Rural area (excluding connections requiring network extension or augmentation) - Within 10 business days of receipt of a valid electrical certificate of compliance from the small customer, or as otherwise agreed by the customer.

- 3.13 New connections should exclude those connections requiring network extensions and augmentations since they tend to require longer timeframes for the provision of services.
- 3.14 The Commission is of the view that PWC Networks and small customers should be entitled to negotiate a timeframe for connection, should they wish to.

¹⁶ Utilities Commission, July 2010, Review of Options for Implementation of a Customer Service Incentive Scheme for Electricity Customers – Final Report, Table 1.1, page 2.

¹⁷ Cl.2.1.4, Table 1, Draft Guaranteed Service Level Code.

- 3.15 Further, the draft Code proposes to review the criteria for GSL payments (measures, levels, amounts) prior to the start of each network price determination for the following reasons:
- regular reviewing of the criteria will ensure that the GSL arrangements remain relevant;
 - aligning the review of the GSL payment criteria with the network price determination cycle will ensure that the GSL allowance approved by the regulator as part of the network price determination reflects the expected financial impact resulting from the changes to the GSL criteria.

Information to be published

- 3.16 The Review recommends that a network provider publish on its website information to allow customers to identify what feeder type they are connected to, and/or which area their property is located (urban or rural). The Commission considers that maps or schematics would be the preferred option as information presented in this format would be easily understood by customers.
- 3.17 The terms CBD, urban, rural short and rural long feeders, and CBD, urban and rural areas are defined in Schedule 1 of the draft GSL Code by reference to the map (or schematic) to be published by the network provider.
- 3.18 The Commission proposes that a map (or schematic) be published within 20 business days after the commencement of the Code.
- 3.19 The draft Code also proposes that the network provider keeps sufficient records to monitor its performance levels and to provide the information required to calculate GSL payments [cl.2.3.2]. This provision ensures that the network provider has the capabilities to make automatic payments when the occasion arises. This will also enable customers to query the network provider in case of a dispute.

GSL payment

- 3.20 The proposed Code requires a network provider to use best endeavours to automatically give a GSL payment to eligible customers.
- 3.21 The process for making payments to small customers is proposed to be as follows:
- the network provider is to calculate the GSL amount for each eligible small customer following an instance when a specified service standards has not been met;
 - the network provider is to inform the customer's retailer of the GSL payment to be passed through to the eligible customer, and to provide all necessary details on how the GSL amount was calculated to the retailer;
 - the retailer is to pass through the GSL payment and communicate the details showing how the GSL payment was derived on the customer's bill;
 - the network provider is to reimburse the retailer immediately after having notified it.
- 3.22 The proposed Code allows a customer to make a claim in the following cases:
- the customer is of the view that he or she is eligible for a GSL payment and the network provider has not made a GSL payment;

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- the customer is of the view that the GSL payment amount is erroneous and he or she has been disadvantaged.
- 3.23 The proposed Code does not allow payment errors in favour of customers to be recovered by the network provider. The Commission is of the view that this approach will incentivise the network provider to ensure that GSL payments are calculated accurately.

Dispute Process

- 3.24 The draft Code sets out a staged process to resolve disputes between a small customer and a network provider.
- 3.25 The proposed process is as follows:
- Step (1) - The disputing parties need to demonstrate they have attempted to resolve the dispute amongst themselves.
- Step (2) - Should step (1) fail, the disputing parties may direct their complaint to a body or agency authorised to deal with this type of dispute. .
- Step (3) - Should there be no identified body or agency able to deal with this type of dispute, the matter can be referred to the Commission which has the powers to enforce the determination.
- 3.26 The Commission considers that its role as economic regulator does not generally fit well with issues involving small customers. The Commission's preference would be for disputes relating GSL payments to be directed to a body or agency specialised in dealing with small customer complaints.
- 3.27 Should the Commission be involved in a dispute between a small customer and a network provider, the Commission's determination will be final and binding. In making a determination, the Commission may elect to seek further clarification from the disputing parties or may seek advice from anyone it thinks fit.

Amending this Code

- 3.28 The proposed Code allows for amendments and suitable variations of the proposed Code, which will be managed through the Commission's code change process in accordance with clause 5 of this proposed Code and section 24 of the *Utilities Commission Act*. This process will allow stakeholders and participants to have suitable input and comments on the proposed code variations to be considered by the Commission.
- 3.29 The Commission will provide a statement of reasons for decisions that vary the proposed Code.

Funding of the GSL scheme

- 3.30 The Commission is of the view that the GSL scheme should be funded from the network provider's existing revenue until the current regulatory period ends on 30 June 2014.
- 3.31 The Commission will consider an ex ante allowance for future GSL payments as part of the network price determination for the 2014-2019 period.

3.32 The proposed Code does not include any provision relating to the funding of the GSL scheme as the network revenue issue falls outside the ambit of the proposed Code.