

**NORTHERN TERRITORY TREASURY SUBMISSION TO THE UTILITIES
COMMISSION ON THE DRAFT STATEMENT OF APPROACH ON COMPLIANCE**

Northern Territory Treasury has reviewed the draft Statement of Approach on Compliance and agrees in principle with the proposed approach. It has however provided the following comment on the specific issues raised by the Commission.

Question 1

Should any other categories of licence and legislative obligations be added?

Treasury is of the view that the current allocation of categories as proposed by the Commission appears adequate. The formal allocation of the individual obligations into these categories will identify any requirement for additional categories.

Question 2

How comprehensive and relevant is Table 1?

Treasury considers that the impact ratings in Table 1 appear appropriate however it considers that in assessing the rating of a breach, consideration be given to the ability of the entity to readily access mechanisms to remedy the breach. Where breaches are likely to be isolated rather than systemic, and mechanisms and safeguards are in place to correct or rectify a breach without the need for regulatory intervention, the impact of that breach may be reduced relative to other breaches.

Table 1 includes examples of potential impacts and has identified Financial Impact as one area of concern, however it appears the focus is on the financial impact on customers, however in many cases the licensee could experience a significant financial impact as a result of a breach.

Question 3

Do you agree with the Commissions assessment of the high risk obligations in Appendix B?

Appendix B appears to be very broad and covers some obligations that may be outside the control of the electricity entity. If the primary aim of identifying high risk obligation is to inform and prioritise the Commission's monitoring and compliance audit process, targeting high risk priorities, Treasury considers this may prove difficult to achieve when drawing from such a large base and suggests consideration be given to refining this list further.

Question 4

Which other attributes if any could be used to define 'material' breaches?

The Commission proposes that a material breach be defined as "breaches with a medium to high risk rating". Under the licence obligations, regulated entities will be required to report on material breaches as soon as possible after becoming aware of the breach and to advise of the remedial measures taken. Given the extensive list of high risk obligations included in Appendix B, Treasury anticipates the number of medium risks would be much greater. Treasury is concerned that undue regulatory burden will be placed on licensees to individually report on a high number of incidents. Under the Australian Energy Regulator's (AER) approach they require

regulated entities to report individually on breaches of Level 1 obligations as soon as possible; Level 2 obligation breaches reported 6 monthly; and level 3 obligations to be reported annually. Treasury is of the view that a similar reporting process should be considered for the Territory electricity participants.

Question 5

What other sources of information should the Commission consider in monitoring regulatory compliance?

While in other jurisdictions and in the National Electricity Market (NEM) reference to a complaints body provides a good source of information, the Territory does not have a dedicated electricity Ombudsman and the current scope of the Territory Government Ombudsman does not provide for handling of electricity complaints. Consideration of options to strengthen the complaint mechanisms through the development of the retail price monitoring regime may provide a future source of information. Similarly reporting under proposed Service Level Standards and the Customer Incentive schemes (GSL and the paper based Financial Incentive scheme) may provide additional sources of information.

Question 6

What other matters relating to compliance audits should the Commission consider.

Significant costs can be incurred in undertaking an audit, Treasury would like to reinforce the Commissions approach that regard be given to the overall benefits of an audit relative to the costs, to ensure that licensees are not exposed to excessive audit requests. 3.53 indicates that the Commission intends to conduct compliance audits on a yearly basis but that it may consider one off or more regular (eg quarterly) targeted audits. The Commission should be mindful of the additional burden on licensees of the increased audit frequency relative to the long term benefits which may be realised.

Treasury notes that the Commission does not expect to request Independent Power Producers (IPP) licence holders to undertake external compliance audits however it is Treasury's view that the IPP's are not exempt from incurring material breaches or exposure to high risk incidents (ie safety) and therefore should not be excluded from the compliance audit process.

Question 7

How appropriate are the Commission's enforcement instruments and processes?

It is apparent that the Commissions statutory enforcement instruments are limited. There is some scope for other parties (Electricity Safety Regulator) to apply penalties for non compliance with some obligations under the Electrical Reform (Safety and Technical) Regulations however these are not available to the Commission.

The proposed approach to adopt the AER's approach of responding to non compliance appears a light handed and co-operative approach fostering a more positive response than punitive actions. Furthermore it supports the Commissions desire to generate a collaborative compliance monitoring approach. Experience over the longer term will determine if a more intrusive regulatory approach and enforcement avenues are required.

Other

Accompanying the AER's Statement of Approach on Compliance are Compliance Procedures and Guidelines clearly articulating the compliance reporting requirements of licensees. Is it the Commission's intention that a similar document will be issued or are these matters covered in the regulated entities' licences?

Treasury notes that the Commission will review the compliance monitoring of the Water and Sewerage activities at a later date.