



LICENSING MANUAL

LICENCES TO CONDUCT OPERATIONS IN THE NORTHERN TERRITORY ELECTRICITY SUPPLY INDUSTRY

February 2001

Version 1.1

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Disclaimer

This manual has been prepared by the Utilities Commission to assist persons carrying on operations in the Northern Territory electricity supply industry, or who might wish to carry on such operations, to consider whether they need to hold a licence.

This manual is designed to replace the 'Initial Licensing Guidelines (Provisional)' document published in January 2000 and to set out more fully the policies and procedures to be adopted by the Commission in the area of licensing operations in the electricity supply industry.

This manual is based on the *Electricity Networks (Third Party Access) Act 2000* and Code, the *Utilities Commission Act 2000*, the *Electricity Reform Act 2000* and the *Electricity Reform (Administration) Regulations*. If the legislation or other material underlying this manual is amended, the right to amend the manual is reserved.

The information contained in the manual is provided for the purposes of guidance only, and not intended to be an exhaustive statement of the law, policies and procedures applicable to the licensing of operations in the electricity supply industry.

Nothing in this document should be taken as:

- a substitute for independent professional advice, nor should it be used as a substitute for an examination of the source material used in its preparation; or
- a recommendation in connection with commencing, or continuing to carry on, operations in the Northern Territory electricity supply industry.

None of the Commission, the Northern Territory or any of their respective officers, employees and advisers is liable to reimburse or compensate any person for any costs or expenses incurred by that other person in evaluating or acting upon the manual, submitting a provisional application or formal application contemplated by this manual, or otherwise in connection with the grant, or failure to grant, of a licence to carry on operations in the Northern Territory electricity supply industry.

Version information

Every version of this licensing manual will be identified by a version number and date of issue. Version 1.1 of this manual became effective on the date of issue - 5 February 2001.

Utilities Commission Addresses:
3rd Floor, 38 Cavenagh Street, Darwin NT 0800
GPO Box 915, Darwin NT 0801
E-mail: utilities.commission@nt.gov.au
Website: www.utilicom.nt.gov.au

Definitions

“Access Act ”	means <i>Electricity Networks (Third Party Access) Act 2000</i>
“Access Code”	means Electricity Networks (Third Party Access) Code attached as a schedule to the Access Act as amended from time to time
“applicant”	means a person who has made application for a licence under Part 3 of the ERA or exemption from the requirement to be licensed under Part 3 of the ERA
“Commission”	means the Utilities Commission of the Northern Territory established pursuant to section 5 of the UCA
“Electricity Regulations”	means the <i>Electricity Reform (Administration) Regulations</i>
“ERA”	means the <i>Electricity Reform Act 2000</i>
“person”	means any person, natural or corporate or any entity
“Regulatory Minister”	means the Minister of the Northern Territory Government who is responsible for Part 3 of the ERA
“UCA”	means the <i>Utilities Commission Act 2000</i>

CHAPTER**1****BACKGROUND**

1.1 This chapter discusses a range of issues which, while not specifically dealt with in this manual, may be relevant in considering whether a licence is required and if so what other matters may need to be addressed to commence operations in the Territory's electricity supply industry.

Pre-existing licences

1.2 Section 113 of the ERA provides:

“(2) If immediately before the commencement of this section a person held a licence granted under the repealed [Electricity] Act, the Utilities Commission must on that commencement grant the person a licence under Part 3 to carry on operations in the electricity supply industry that the person was permitted to carry on under the licence granted under the repealed Act.

(3) A licence granted in accordance with subsection (2) –

- (a) is subject to the same terms and conditions that applied to the licence granted under the repealed Act; and*
- (b) remains in force for the remainder of the period for which it was granted under the repealed Act.”*

1.3 Section 113 commenced on 1 April 2000 and the Commission re-issued all licences extant as at 1 April 2000 on terms and conditions (including duration) identical to those of the pre-existing licence. Once those licences expire, any replacement licence will be on terms and conditions consistent with those applying to all new licensees.

Exemptions

1.4 Section 87 of the ERA provides that, with ministerial approval, the Commission may grant an exemption from some or all of the requirements in Part 3 of the Act, including the requirement to be licensed.

1.5 Any request for an exemption from the requirement to be licensed should be made to the Commission in a form similar to an application for a licence.

1.6 While any application for an exemption will be considered on its merits in light of the relevant legislation, the Commission anticipates that few exemptions will be granted. The ability of the Commission to customise licences to suit particular conditions is sufficiently flexible to accommodate most circumstances. Moreover, the attraction for exemption from licences should be minimal because the intention is to not disturb currently effective arrangements (such as remote operations) and to tailor licence fees to recognise the administrative burden involved.

1.7 The focus of this manual is therefore on applications for licences, and only indirectly deals with the question of exemptions. Further guidance on the matter of exemptions can be obtained from the Commission.

On-suppliers

1.8 Regulations 14 and 15 of the Electricity Regulations deal with the situation of on-suppliers. An “on-supplier” is defined by regulation 2 of the Electricity Regulations as an owner or occupier of a place who supplies and sells electricity for use on those premises. The most common example of an on-supplier is a caravan park, where the operator of the park supplies power at a cost to residents.

1.9 Regulations 14 and 15 relieve on-suppliers from the need to hold a licence under section 14 of the ERA and to comply with section 28 dealing with conditions applicable to licences to sell electricity. As a result, as long as an on-supplier complies with the conditions in regulation 15, there is no need to obtain a licence or exemption to sell electricity under those limited circumstances.

1.10 On-supply may either be by way of a metered supply, in which case the on-supplier may charge no more than the lowest tariff rate which would apply to the receiver if that receiver was a non-contestable customer being supplied by the electricity entity holding the licence to retail electricity to non-contestable customers in that area. The amount receivers are charged on the basis of a metered supply must be calculated in the same way for all receivers on-supplied on the premises.¹

1.11 If the supply is not metered, there is no limitation on the method by which electricity usage may be charged and the on-supplier may charge in way decided by the on-supplier.²

1.12 If on-supplied electricity is to be priced in a manner inconsistent with that provided by the regulations, a retail licence must be sought.

1.13 An on-supplier may be limited in their ability to on-supply by conditions imposed upon them in their agreement with the electricity entity under which they obtain their electricity supply.

Access agreements

1.14 It should be noted that a retail or generation licence does not authorise the electricity entity to have access to an electricity network. An access agreement entered into under the Access Code with the relevant network service provider (PAWA Networks in most cases) is required for that purpose.

1.15 Therefore, in addition to applying for a licence, all potential participants in the contestable segment of the Territory’s electricity supply industry must negotiate access agreements with a relevant network service provider contemporaneously with seeking a licence to enter the market.

1.16 The negotiation of access agreements is governed by the provisions of the Access Code and persons seeking access should refer to that document. The Commission will be available to facilitate/conciliate these negotiations as required.

1.17 As provided for by the Access Code, the conclusion of an access agreement will require, among other things, a network user’s agreement to:

¹ see reg. 15(3) of the Electricity Regulations

² see reg. 15(1) of the Electricity Regulations

- (a) pay for services provided by the networks operator according to negotiated prices up to the maximum prices approved by the Commission;
- (b) use reasonable endeavours to ensure that:
 - the user's actual demand at a connection point does not exceed the contract maximum demand for that connection;³
 - the quantity of electricity transferred to the electricity network by or on behalf of the user at a connection point does not exceed the declared sent-out capacity from the user in respect of that connection;⁴ and
 - the user's use of the network is in 'balance' in that, after allowing for network energy losses, the quantity of electrical energy transferred into the network in respect of each of its access agreements for each energy usage period is equal to the quantity of electrical energy transferred out of the network for that period;⁵
- (c) arrange the supply and transportation of standby power to satisfy this 'balancing' obligation, and to keep the power system controller informed of such arrangements and any material changes;⁶
- (d) pay for any balancing amount of electricity (with the setting of such out-of-balance charges regulated by the Commission);
- (e) comply with good electricity industry practice in operating, maintaining, constructing and commissioning plant or equipment connected to the electricity network or in transferring electricity to or taking electricity from the electricity network;⁷
- (f) comply with a Technical Code to be issued by PAWA Networks regarding connection to and use of the electricity network;⁸ and
- (g) where the granting of access necessitates the augmentation of connection equipment or network system assets that would otherwise not be 'commercially viable' (as defined by the Access Code) – make a capital contribution in respect of the capital investment associated with the designing, constructing, installing and commissioning of the connection equipment or network system assets.⁹

³ see section 25(1) of the Access Code

⁴ see section 25(2) of the Access Code

⁵ see section 26(1) of the Access Code

⁶ see section 26(2) of the Access Code

⁷ see section 30(1) of the Access Code

⁸ see section 30(2) of the Access Code

⁹ see section 31(1) of the Access Code

CHAPTER

2

LICENSING ARRANGEMENTS

Obligation to be licensed

2.1 Section 14 of the ERA provides that a person must not carry on operations in the Territory's electricity supply industry for which a licence is required unless the person either:

- (a) holds a licence authorising the relevant operations; or
- (b) is exempted from holding a licence under section 87.

A breach of this requirement can attract a penalty of 2,500 penalty units. A penalty unit is currently \$100.¹⁰

2.2 Another class of persons who do not require a licence are on-suppliers, see paragraphs 1.8-1.13 above.

2.3 Furthermore, section 36 of the ERA allows for the suspension or cancellation of a licence if:

- (a) an electricity entity obtained its licence improperly; or
- (b) there has been any act of default or change of circumstances such that the electricity entity would no longer be entitled to be granted its licence.

Types of licences

2.4 The operations in the electricity supply industry for which a licence are required are:

- (a) generation of electricity (a licence for this type of operation will be known as a **'generation licence'**);
- (b) owning or operating an electricity network (**'network licence'**);
- (c) trading in, or the retailing of, electricity, involving:
 - (i) contestable customers throughout the Territory only (**'retail licence'**), or
 - (ii) non-contestable customers in a specified area (**'franchise licence'**);
- (d) system control over a power system (**'system controller licence'**); or
- (e) other operations for which a licence is required by the Regulations.

¹⁰ see section 3 of the *Penalties Act*

- 2.5 At this stage, no provision has been made by regulation for any 'other operations' for which a licence is required.

Authorities conferred by licences

2.6 All licences will authorise the electricity entity named in the licence to carry on operations in the electricity supply industry in accordance with the terms and conditions of the licence.

2.7 Section 107 of the ERA provides that a person licensed to carry on operations in the electricity supply industry will not be liable for damages:

- (a) arising out of a partial or total failure to supply electricity to a customer, or
- (b) for supplying to a customer electricity by an irregular or fluctuating voltage

unless the failure or irregular or fluctuating voltage is due to an act or omission done or made by the electricity entity in bad faith or through negligence.

2.8 A **generation licence** will authorise the licensed entity:

- (a) to generate electricity for sale; and
- (b) to sell electricity to electricity entities holding generation, retail or franchise licences (or as otherwise stated in the licence).

2.9 A **network licence** will authorise the licensed entity:

- (a) to operate the electricity network in the geographical area stated in the licence; and
- (b) if stated in the licence – to connect the electricity network to another electricity network.

2.10 **Retail** and **franchise** licences will authorise the licensed entity:

- (a) to trade in electricity (where 'trade' means the buying and selling of electricity other than to final consumers);
- (b) to retail electricity to contestable customers who own or occupy premises anywhere in the Territory (where 'retail' means the selling of electricity to specified groups of final consumers); and
- (c) in the case of a franchise licence only – to also retail electricity to all non-contestable customers who own or occupy premises within a specified geographical area or areas.

2.11 A **system controller licence** will authorise the licensed entity to monitor and control the operation of the power system with a view to ensuring that the system operates safely and securely, including by issuing directions to electricity entities that are engaged in the operation of the power system, or contribute electricity to, or take electricity from, the power system. The power system is defined as generation and network facilities which together are integral to the supply of electricity, operated as an integrated arrangement.

2.12 A single licence will be granted to the electricity entity named in the licence for each of the above licence types, irrespective of whether different operations are involved or operations take place at different locations in the Territory.

Term of licence

2.13 A licence may be granted for an indefinite period or for a term specified in the licence.

2.14 Applicants are invited to make submissions in relation to the term that they wish the licence to be granted. For the purposes of guidance, it is the expectation of the Commission that the maximum term of licences will broadly correspond to about half of the average expected lives of assets involved in the related operations. This would see licences issued for terms typically as follows:

Table 1 - Term of licence

generation	up to 10 years
retail	up to 5 years
franchise	up to 5 years
network	up to 20 years
system controller	up to 3 years

2.15 Section 19 of the ERA requires all holders of a licence granted for two years or more to lodge an annual return each year with the Commission before 1 August containing information specified in the licence or by written notice.¹¹

Annual licence fees

2.16 A person will not be granted a licence unless the person first pays no later than 14 days after the lodgment of the annual return an annual licence fee, or the first instalment of the annual licence fee, as the case may require.¹²

2.17 The annual licence fee for a particular type of licence will be the fee fixed from time to time by the Regulatory Minister. The fee is an amount that the Minister considers to be a reasonable contribution towards the costs of administration of the *Electricity Reform Act 2000*.

2.18 Fees to apply to the 15 month period ending 30 June 2001 as approved by the Minister are as follows:

Table 2 - Annual fees (payable by quarterly instalments)

Retail and Franchise:	
Contestable component	\$4,000 plus \$175 per % share of NT's contestable market
Non-contestable component	\$4,000 plus \$275 per % share of NT's non-contestable market
Generation:	
User of regulated network	\$4,000 plus \$50 per MW of installed capacity
Independent Power Producers (IPP)	\$1,000

¹¹ see reg. 4(1) of the Electricity Regulations

¹² see reg. 4(2) of the Electricity Regulations

Network:	
Access regulated networks	\$4,000 plus \$9 per total circuit kilometre
Non regulated networks	\$1,000
System Control:	\$2,500

2.19 The annual fee component of all licences granted after commencement of a licence year will be apportioned on the basis of the formula:

$$\text{fee payable} = \text{full year fee} \times \frac{Z}{Y}$$

where:

Z = the number of days remaining in the licence year for which the licence fee is payable; and

Y = the number of days in the licence year.

2.20 Where a licence commences within 90 days before the commencement of a licence year, the Commission may choose to calculate a single licence fee for the period until the end of the first full licence year. Any fee payable for a part of a licence year will be calculated in accordance with the formula above.

2.21 The initial licence year runs from 1 April 2000 until 30 June 2001 and thereafter will be on a financial year basis.

2.22 There will be no refund of fees available, whether in whole or in part on cancellation of a licence.

2.23 Market share will be calculated on the basis of energy sales data provided by licensees to the Commission as the percentage of total kWh in either the contestable or non-contestable market that the licensee's sales represent.

2.24 All energy sales, installed capacity and circuit kilometre data used to calculate an annual fee payable will be based on the latest available actual values prior to the commencement of the licence year.

2.25 Only one fee amount per licence type will be payable each year by a licensed entity.

CHAPTER

3

ROLE OF THE COMMISSION

Guiding principles

3.1 In its decision making with respect to its licensing (and other) functions, the Commission must have regard to the general factors specified in section 6 of the UCA and will also have regard to the objects of the ERA.

3.2 Section 6(2) of the UCA requires the Commission, in performing its functions, to have regard to the need:

- (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 industries;*
- (g) to facilitate maintenance of the financial viability of regulated industries; and*
- (h) to ensure an appropriate rate of return on government assets."*

3.3 The objects of the ERA (as set out in section 3) are:

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

Licensing functions

3.4 The Commission has responsibility for a number of licensing-related functions under the ERA, notably:

- (a) the granting of licences;
- (b) specifying licence conditions;
- (c) maintaining a register of licences issued;
- (d) monitoring and enforcing licence conditions; and
- (e) varying the terms or conditions applying to a licence.

Granting licences

3.5 The Commission may only issue a licence if satisfied that:

- (a) the applicant is a suitable person to hold the licence; and
- (b) certain nominated requirements are met in the case of each licence type.

The application process is detailed in Chapter 4 below.

Specifying licence conditions

3.6 The ERA provides that the Commission, on granting a licence, must make the licence subject to certain statutory conditions in a manner determined by the Commission. Furthermore, the Commission may make the licence subject to such other conditions as the Commission considers appropriate. The nature of licence conditions is detailed in Chapter 5 below.

Register of licences

3.7 The Commission is to keep a register of the licences granted to electricity entities under the ERA. The register is to include:

- (a) the terms and conditions of each licence; and
- (b) any other information required by the Regulations.

A copy of the register is located on the Commission's web site (www.utilicom.nt.gov.au) to enable public inspection.

Compliance monitoring

3.8 The Commission is to be responsible for monitoring whether all licence conditions are being complied with and enforcing licence conditions. A contravention of the licence is a breach of the ERA, which could give rise to monetary penalties. The Commission may suspend or cancel the licence¹³ of an electricity entity where that licensee has been guilty of a material contravention of one or more of its licence conditions.

Varying licence conditions

3.9 The Commission may vary licence conditions by written notice to the electricity entity involved, as the Commission considers appropriate (but not so as

¹³ see section 36 of the ERA

to remove a mandatory statutory condition). A variation may be made only if the Commission considers it necessary to further the objects of the ERA, the Access Act or the Access Code.¹⁴

Confidentiality

3.10 Provisions in the UCA and the ERA prevent the Commission or its officers from disclosing any information that could effect the competitive position of a licensed person or is commercially sensitive.

¹⁴ see section 32(3) of the ERA

CHAPTER**4****APPLYING FOR A NEW LICENCE****Applications and fees**

4.1 An application for a licence is to:

- (a) be made to the Commission in a form approved by the Commission; and
- (b) contain the information specified in the form.¹⁵

4.2 The Commission has not approved any paper 'form' as such for applications. This manual details the Commission's information requirements and some guidance in the manner in which applications should be presented.

4.3 The Commission will accept a single application in respect of several operations of an applicant. While the Commission will accept applications in this form, separate licences will be issued for each type of licence stated in paragraph 2.4 above.

4.4 The applicant must pay to the Commission an application fee fixed by the Regulatory Minister. Application fees payable are in addition to the annual licence fees to be paid by licensed entities.

4.5 The application fee is to be the amount that the Minister considers appropriate to meet the reasonable costs of determining the application. The Minister has set application fees for the period through to 30 June 2001 at \$1000 (this also payable for an application to transfer a licence). This fee will be payable in respect of each class of licence sought (five categories are listed in paragraph 2.4 above), regardless of whether or not applications are made separately or are aggregated into a single application document.

4.6 Finally, an applicant will be required to provide the Commission with any further relevant information that is requested by the Commission once the Commission has examined the application submitted.

Consideration of application

4.7 The Commission may only issue a licence if satisfied that:¹⁶

- (a) the applicant is a suitable person to hold the licence;
- (b) in the case of a generation licence – the generating plant will have the necessary characteristics to generate electricity of the appropriate quality

¹⁵ see section 15 of the ERA

¹⁶ see section 16(2) of the ERA

for the relevant electricity network;

- (c) in the case of a network licence – the network has the necessary characteristics for transmitting or distributing electricity safely;
- (d) in the case of retail and franchise licences – the applicant will be able to meet reasonably foreseeable obligations for the sale of electricity; and
- (e) in the case of a system controller licence – the applicant will be able to adequately exercise system control functions.

4.8 In deciding whether an applicant is a suitable person to hold a licence, the Commission will be required to consider:¹⁷

- (a) the applicants previous commercial and other dealings and the standard of honesty and integrity shown in those dealings;
- (b) the financial, technical and human resources available to the applicant;
- (c) the officers and, if applicable, major shareholders of the applicant and their previous commercial and other dealings and the standard of honesty and integrity shown in those dealings (including breaches of statutory and other legal obligations); and
- (d) other matters prescribed by the Regulations.¹⁸

Notice of licence decisions

4.9 The Commission is required to give an applicant for a licence written notice of the Commissions decision on the application.¹⁹

¹⁷ see section 16(3) of the ERA

¹⁸ no 'additional matter' has this far been prescribed

¹⁹ see section 34 of the ERA

CHAPTER**5****SPECIFYING LICENCE CONDITIONS****Types of conditions**

5.1 Licences granted may be made subject to certain conditions, which include limitations or constraints, determined by the Commission.²⁰

5.2 A licensed entity must not contravene a condition of its licence. The penalty provided for breach of this requirement is currently \$250,000.²¹ The ERA provides for recovery of any profits made from contravention of a licence condition and/or suspension or cancellation of the licence for a material contravention of a licence condition.²²

5.3 Licence conditions are of two broad types:

- (a) 'statutory conditions', which the ERA imposes or requires the Commission to impose; and
- (b) 'other conditions', which are within the discretion of the Commission to apply.

Statutory conditions

5.4 The ERA provides that the Commission must make a licence subject to conditions determined by the Commission requiring the licensed entity to:²³

- (a) comply with applicable codes or rules made under the UCA as in force from time to time;
- (b) comply with protocols, standards and codes applying to the electricity entity under the Regulations;
- (c) meet specified requirements relating to the entity's financial or other capacity to continue operations under the licence;
- (d) have all or part of the operations authorised by the licence audited and to report the results of the audit to the Commission;
- (e) notify the Commission about changes to officers and, if applicable, major shareholders of the entity;
- (f) comply with the requirements of any scheme approved and funded by the

²⁰ see section 24 of the ERA

²¹ see section 31(1) of the ERA

²² see section 31(2) of the ERA

²³ see generally section 24

Minister for the performance of community service obligations by electricity entities;

- (g) develop and comply with customer-related standards and procedures; and
- (h) monitor and report on the levels of compliance with the minimum standards of service and safety with respect to non-contestable customers set by the Commission.

Other conditions

5.5 The Commission may, on granting a licence, make the licence subject to further conditions that the Commission considers appropriate.

5.6 The ERA indicates (see section 25) that a **generation licence** may be subject to conditions determined by the Commission requiring the generation entity to:

- (a) comply with directions of the system controller;
- (b) provide electricity of a quality suitable for the electricity network stated in the licence;
- (c) not do anything affecting the compatibility of the entity's electricity generating plant with any electricity network so as to prejudice public safety or the security of supply; and
- (d) grant to each network provider those rights to use or have access to the generation entity's plant that are necessary for the purpose of ensuring the proper integrated operation of the power system and the proper carrying on of the operations authorised by the network provider's licence.

5.7 Appendix A sets out the terms likely to appear in a generation licence.

5.8 The ERA indicates that a **retail licence** may be subject to conditions determined by the Commission requiring the retail entity to:

- (a) take reasonable steps to ensure that it has in place at all times arrangements to generate and supply electricity to its (contestable) customers;
- (b) until a date determined by the Minister – request its (contestable) customers to give written consent to the retail entity providing their names, addresses and other contact details from time to time to the Commission and the Commission providing that information to other retail entities; and
- (c) enter into and comply with an agreement with each generation and network entity providing services to the retail entity's customers as to the co-ordination of the provision of services to those customers, including arrangements for handling any complaint that a customer has about the quality of the services.

5.9 Appendix B sets out the terms likely to appear in a retail licence.

5.10 The ERA indicates that, in addition to the conditions that may apply with respect to a retail licence, a **franchise licence** may be subject to conditions determined by the Commission requiring the retail entity to:

- (a) if the retail entity is a related body corporate in relation to a licensed generation entity – keep the business of selling of electricity to non-contestable customers separate from the business of the generation of

- electricity in the manner and to the extent specified in the conditions;
- (b) sell electricity to non-contestable consumers who own or occupy premises within its specified retail area on application by those customers;²⁴
 - (c) sell electricity to non-contestable customers on fair and reasonable terms (which terms may differ between customers or classes of customers);
 - (d) maintain specified accounting records and prepare accounts according to specified principles;
 - (e) take reasonable steps to identify when its non-contestable customers will or could become contestable customers, and give those customers at least 28 days notice of that fact;
 - (f) for a period prescribed in the Regulations after a customer becomes contestable – continue to sell electricity to contestable customers on the same tariff schedule that applied to those customers immediately before they became contestable, if those customers so elect; and
 - (g) comply with minimum standards of service and safety with respect to non-contestable customers set by the Commission, which are initially to be at least equivalent to the actual levels of service and safety prevailing during the year before the commencement of contestability.

5.11 To date, the only franchise licence issued has been issued in combination with a retail licence. Appendix C sets out the terms likely to appear in a combined franchise/contestable retail licence.

5.12 The ERA indicates that a **network licence** may be subject to conditions determined by the Commission requiring the network provider to:

- (a) comply with directions of the system controller;
- (b) if the network provider is a related body corporate in relation to a licensed generation or retail entity – keep the network business separate from any other business in the manner and to the extent specified in the conditions;
- (c) not do anything affecting the compatibility of the electricity network with any electricity generating plant or other electricity network so as to prejudice public safety or the security of supply;
- (d) comply with the obligations established by the Access Code relating to a network provider;
- (e) not buy or sell electricity directly or indirectly except if it is necessary to operate the network or an associated purpose or for administrative purposes;
- (f) in accordance with the Access Code, operate, maintain (including repair and replace if necessary) and protect its electricity network to ensure the adequate, economic, reliable and safe provision of electricity;²⁵

²⁴ Section 29 provides that an electricity entity does not have an obligation to non-contestable customers and the electricity entity is not in breach of a customer sale contract in relation to an electrical installation or premises of a non-contestable customer in circumstances nominated in that section.

²⁵ Section 27(1) provides that an electricity entity does not have an obligation to connect or distribute electricity to a customer's electrical installation or premises, and is not in breach of an access agreement, in circumstances nominated in that section.

Furthermore, section 27(2) provides that an electricity entity operating an electricity network is

- (g) operate the electricity network in coordination with other electricity networks to which it is connected directly or indirectly;
- (h) maintain specified accounting records and prepare accounts according to specified principles;
- (i) in accordance with the Access Code, grant to each licensed generator those rights to use or have access to the electricity network that are necessary for the purpose of ensuring the proper integrated operation of the power system and the proper carrying on of the operations authorised by the generator's licence;
- (j) follow a specified process to resolve disputes between the network provider and customers as to the transmission and distribution of electricity; and
- (k) take responsibility for control of its own electricity network.

5.13 Appendix D sets out the terms likely to appear in a network licence.

5.14 Finally, the ERA indicates that the granting of a **system controller licence** may be subject to conditions determined by the Commission requiring the system controller to:

- (a) if the system controller is a related body corporate in relation to a licensed generation entity – keep the business of system control separate from the business of generating electricity to the extent specified in the conditions;
- (b) maintain specified accounting records and prepare accounts according to specified principles;
- (c) exercise the functions and powers of the system controller in the best interests of all parties operating in the power system; and
- (d) consult with all licensed generators and network entities when establishing and varying the operating protocols and arrangements for dispatch and system security.

5.15 Appendix E sets out the terms likely to appear in a system control licence.

5.16 Paragraphs 5.6 to 5.15 above do not limit the sorts of conditions which may be imposed by the Commission.

CHAPTER**6****INFORMATION REQUIREMENTS****General**

6.1 Information to be supplied as part of an application for a licence is that information which is necessary for the Commission to perform both:

- (a) its assessment of the suitability of an applicant for a licence; and
- (b) its specification of the licence conditions to apply were a licence is to be granted.

6.2 The Commission does not propose to adopt a specific licence application form. Instead, this Chapter outlines the information that applicants are encouraged to provide.

6.3 Applications for a licence are to be made in writing.

6.4 Applicants are reminded that it is an obligation of the applicant to ensure all information furnished to the Commission is complete and correct. Provision of false, misleading or incomplete information would go directly to the question of the suitability of an applicant to hold a licence, as well as potentially constituting an offence under the ERA.

Contact details

6.5 Applications should provide the name and title of a nominated contact officer, and their telephone and facsimile (or e-mail) numbers.

6.6 A postal and street address to which correspondence can be sent should also be provided.

Licence types required

6.7 The applicant must state the type of licence (or licences) they are seeking.

6.8 With connection to each type of licence sought, the applicant must state details of the facilities concerned, and details (as applicable) of the area in which the licence activities are to be carried on.

6.9 In light of paragraph 2.12 above, the applicant should state the term (in years) for which they wish the licence to be granted.

Licensee details

6.10 The applicant must show that:

- (a) they are a resident of or have permanent representation in Australia;
- (b) they have the capacity to be sued in their own name in an Australian Court;
- (c) if a company, it is not under external administration as defined by the Corporations law or under a similar form of administration under any laws applicable to it;
- (d) if a natural person, he/she is not an undischarged bankrupt; and
- (e) the applicant has a credit rating or financial situation commensurate with the potential financial exposure.

6.11 If the applicant is a company, licence applications should include a copy of the applicant's Certificate of Registration of the company.

6.12 If the applicant is a wholly owned subsidiary of another company, or one of a group of related companies, summary information about the parent company and the ownership structure of the related companies should be provided.

6.13 The directors, senior management and major shareholders of an applicant should be made known to the Commission in an application. Any breach of a statutory or legal obligation by any of these persons must be made known to the Commission.

Nature of industry participation

6.14 The applicant should provide general information about its existing activities, both within and outside the electricity industry. The application should summarise the reasons why the applicant intends to participate in the Northern Territory electricity industry, and the broad nature of that participation.

6.15 In providing the above explanation, the applicant should address the Commission's objectives as set out in section 6 of the UCA and the objects of the ERA, and explain how the granting of a licence would be consistent with those requirements.

Technical capacity

6.16 Applicants must show that they have the technical capacity to comply with the likely conditions of the licence of the relevant type (as set out above) and any associated codes and guidelines published at the time.

6.17 In order to demonstrate technical capacity to the Commission, applicants should provide:

- (a) details of their experience in and knowledge of the electricity industry;
- (b) a summary of the skills and experience of the directors and senior managers, and their relevance to meeting the requirements of the licence;
- (c) evidence that the applicant has the capacity to comply with the licence conditions, codes and guidelines relevant to its application; and
- (d) if the applicant is to rely on another entity to provide staff and resources, a summary of the relationship between the applicant and this entity, including any formal agreements to provide services, and a summary of

this other entity's experience in and knowledge of the electricity industry, and technical capacity to meet the relevant requirements of the licence.

Financial viability

6.18 The financial resources available to the applicant should be addressed in considerable detail. Audited financial reports for at least three years should be provided in the first instance. The requirement for audited reports is waived in the case of newly incorporated bodies, but equivalent information should be provided in relation to the other corporations in the applicant's group.

Cross-ownership and ring-fencing

6.19 Applicants should outline:

- (a) the basis on which services and resources will be transacted between relevant operating areas of the applicant, or the applicant and other related entities;
- (b) in the case of applicants that are wholly owned subsidiaries, proposed audit arrangements for the applicant and whether separate reports for the licensed entity and its parent are to be prepared and made publicly available; and
- (c) other guidelines or standards relating to financial separation, ring-fencing, and separate audit arrangements which the applicant intends to follow.

Licence conditions

6.20 Where the applicant is seeking particular licence conditions, the nature and reasons for seeking these conditions should be explained. In such circumstances, the applicant should also provide a draft outline of the proposed licence condition(s).

Exemptions

6.21 Where an applicant seeks to be exempted from some of the requirements of Part 3 of the ERA or modifications to, or exemptions from applicable codes or rules as they would otherwise apply to the applicant, the application should nominate those provisions and detail the special circumstances giving rise to the request for an exemption. The applicant should also provide a draft of the form of the proposed exception or modification.

Commercially sensitive information

6.22 The Commission may make public the information included in an application for a licence. Where the applicant considers information contained in an application to be commercially sensitive, the applicant should clearly identify such information and the reason they regard it as commercially sensitive, so that the Commission can consider whether the information should be released or not.

CHAPTER**7****REVIEW OF DECISIONS AND APPEALS****Review of decisions**

- 7.1 The ERA provides for:
- (a) certain persons who are dissatisfied with certain kinds of decisions of the Commission in relation to licensing to have the decision reviewed by the Commission; and
 - (b) persons who have had a decision reviewed by the Commission but who are dissatisfied with the results of the review, to appeal the decision to the Supreme Court.
- 7.2 An application for review may be made to the Commission by:²⁶
- (a) an applicant for the grant or variation of the conditions of a licence, or for agreement to transfer a licence, or for review of the decision of the Commission to refuse an application; or
 - (b) an electricity entity regarding the decision to suspend or cancel the entity's licence, or to vary the conditions of the entity's licence.
- 7.3 An application for review is to:
- (a) be in writing;
 - (b) set out the decision to which the application relates;
 - (c) set out in detail the grounds on which the applicant seeks review and decision sought on the review;
 - (d) be accompanied by any information that the applicant considers should be taken into account by the Commission; and
 - (e) be lodged with the Commission within 14 days after the decision is given.
- 7.4 Once the application for review has been received, the Commission:
- (a) may stay the operation of the decision to which the application relates; and
 - (b) must make a decision on the review within four weeks of the application being lodged, and if a review is not decided within four weeks than the Commission is to be taken to have confirmed the decision;
 - (c) may confirm, amend or substitute the decision; and

²⁶ see section 83 of the ERA

- (d) must give the applicant written notice of the Commission's decision, and the reasons for the decision, on the review.

Appeals

7.5 An applicant who is dissatisfied with a decision of a review by the Commission has a right to appeal to the Supreme Court. This appeal is only to be made on the grounds that:²⁷

- (a) there has been bias; or
- (b) the facts on which the decision has been made has been misinterpreted in a material respect.

7.6 The appeal must be made within 14 days after receipt of the written notice of the decision appealed against.

7.7 The Minister has the power to intervene, personally or by counsel or other representative, in a review or appeal for the purpose of introducing evidence, or making submissions, on any question relevant to the public interest.²⁸

²⁷ see section 84 of the ERA

²⁸ see section 85 of the ERA

APPENDICES

APPENDIX A – Terms likely to appear in a Generation Licence

The conditions set out in the table below do not limit the sorts of conditions which may be imposed by the Commission.

Type of licence term or condition	Nature of licence term or condition
General introductory terms	
1.	<p>Grant of licence</p> <p>Under Part 3 of the ERA, the Commission licenses the licensee to:</p> <ul style="list-style-type: none"> (a) generate electricity for sale at the electricity generating plants described in a schedule attached as contemplated by paragraph (b); and (b) sell electricity: <ul style="list-style-type: none"> (i) to contestable customer; or (ii) to electricity entities holding a retail licence or a generation licence; or (iii) provision may be made for specific sales here <p>in accordance with the terms and conditions of this licence.</p> <p>Authority: <i>Sections 20(1) and 21 of the ERA</i></p>
2.	<p>Term of the licence</p> <p>This licence commences on the date it is issued and continues until:</p> <ul style="list-style-type: none"> • it is surrendered by the licensee under section 35 of the ERA; • it is cancelled by the Commission under section 36 of the ERA; or • a specified term [10 years, suggested by this manual] although the Commission is open to submissions on this point. <p>Authority: <i>Section 18 of the ERA (The term of a licence can be indefinite or for a specified term)</i></p> <p>If the licence is granted for 2 years or more, the licensee must lodge an annual return containing the following information:</p> <ul style="list-style-type: none"> (a) [specify]; and (b) such other information as is required from time to time by the Commission by written notice. <p>Authority: <i>Section 19 of the ERA</i></p> <p>This licence may be suspended under section 36 of the ERA.</p>
3.	<p>Variation of licence</p> <p>This licence may only be varied in accordance with section 32 of the ERA.</p>
4.	<p>Transfer of licence</p> <p>This licence may only be transferred in accordance with section 33 of the ERA.</p>

Type of licence term or condition		Nature of licence term or condition
5.	Licence fee and other charges	<p>The licensee must pay an annual licence fee or instalment of the annual licence fee, as the case may be, to the Commission as determined by the Minister.</p> <p>Authority: <i>Section 19 of the ERA</i></p> <p>The licensee must pay the System Controller any charges relating to the operation of system control in accordance with the Regulations.</p> <p>Authority: <i>Section 39 of the ERA</i></p>
General statutory conditions		
6.	Compliance with regulatory instruments	<p>The licensee must:</p> <ul style="list-style-type: none"> (a) comply with all applicable provisions of the Network Access Code, the System Control Technical Code, [the Technical Code] and [list other codes or rules]; (b) comply with any other applicable <i>code</i> or <i>rule</i> made under the UCA from time to time; (c) comply with all applicable provisions of [list protocols, standards and codes]; and (c) comply with any other applicable protocol, standard and code applying to the licensee under the Regulations. <p>Authority: <i>Sections 24(1)(a) and (b) of the ERA</i></p> <p>The licensee must notify the Commission within 3 business days if it becomes aware of a material breach by the licensee of any of the regulatory instruments described in this section.</p>
7.	Capacity to operate	<p>The licensee must, from time to time, provide the Commission, in a manner and form to be determined by the Commission details of the licensee's financial, technical and other capacity to continue operations under this licence.</p> <p>Authority: <i>Section 24(1)(c) of the ERA</i></p>
8.	Audit of operations	<p>The licensee must undertake annual audits of:</p> <ul style="list-style-type: none"> • all or part of the operations authorised by this licence and report the results of the audit to the Commission. • compliance with obligations under regulatory instruments. <p>Authority: <i>Section 24(1)(d) of the ERA</i></p>
9.	Changes to officers/ shareholders	<p>The licensee must notify the Commission about changes to officers and, if applicable, major shareholders of the licensee, within 20 business days after the change.</p> <p>Authority: <i>Section 24(1)(e) of the ERA</i></p>
10.	CSO obligations	<p>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.</p> <p>Authority: <i>Section 24(1)(f) of the ERA</i></p>
11.	Customer related standards and procedures	<p>The licensee must develop and comply with the following customer related standards and procedures:</p> <p>Authority: <i>Section 24(3)(b) of the ERA</i></p>

Type of licence term or condition		Nature of licence term or condition
12.	Corporate structure conditions	If two or more persons are granted a single licence in partnership or an unincorporated joint venture, the Commission must make the licence subject to conditions relating to the carrying on those activities in that manner. <i>Authority: Section 24(3)(a) of the ERA</i>
13.	Conditions contained in Regulations	Section 24(2) requires the Commission to impose those conditions which the Regulations require to be imposed. To date no such Regulations have been made.
Other optional generation conditions contemplated in the ERA		
14.	Follow directions of the System Controller	The licensee must comply with the directions of the System Controller. <i>Authority: Section 25(1)(a) of the ERA</i>
15.	Quality of electricity	The licensee must provide electricity of a quality suitable for the electricity network stated in the licence. <i>Authority: Section 25(1)(b) of the ERA</i>
16.	Compatibility	The licensee must not do anything to its electricity generating plant affecting the compatibility of its electricity generating plant with any electricity network so as to prejudice public safety or the security of supply. <i>Authority: Section 25(1)(c) of the ERA</i>
17.	Right of access	The licensee must: <ul style="list-style-type: none"> • grant each electricity entity holding a network licence rights to use or have access to the licensee's electricity generating plant that are interconnected or interface with the electricity entity's assets for the purposes of ensuring the proper integrated operation of the power system and the proper conduct of the operations authorised by the electricity entity's licence; and • in the absence of agreement as to the terms on which such rights are to be granted, comply with any determination by the Commission as to those terms. <i>Authority: Section 25(1)(d) of the ERA</i>
Additional conditions imposed by the Commission in accordance with section 24(4) of the ERA		
18.	Obligation to offer ancillary services	On request by the System Controller, the licensee must provide ancillary services on terms which are fair and reasonable in the opinion of the Commission. Ancillary services are those that the Commission decides are necessary or desirable to exercise system control over the power system.
19.	Participation in development of regulatory instruments	The licensee must participate, to the extent specified by the Commission, in the development, issue and review of any regulatory instruments.
20.	Provision of information to the Commission/ System Controller	The licensee must, from time to time, provide the Commission or the System Controller, in a manner and form to be determined by the Commission or the System Controller, such information as the Commission or the System Controller may require.

Type of licence term or condition		Nature of licence term or condition
21.	Safety and Technical Management Plan	<p>Within 6 months of the commencement of this licence, the licensee must prepare a safety and technical management plan dealing with matters prescribed by the Regulations and submit the plan to the Commission for approval.</p> <p>The condition also provides for annual review of the plan, compliance with the plan, and that amendment of the plan may only take place with approval of the Commission.</p>
22.	Compliance with laws	The licensee must comply with all the applicable laws including, but not limited to, the Regulations, Pricing Order and any technical or safety requirements or standards contained in the Regulations made under the ERA or ERA.
23.	Operator	<p>If an operator is appointed to the licensee's business under section 41 of the ERA, the operator must exercise its functions and powers in such a manner as may be specified by the Commission in the instrument of appointment.</p> <p>Under section 41 of the ERA, the Commission may appoint an operator if the licensee contravenes its licence or any other condition of the ERA or its licence ceases or ceases to be in force.</p>
24.	Co-ordination Agreement	<p>The licensee must enter into, and comply with, an agreement with each electricity entity holding a retail licence or network licence that provides services to the licensee's customers on terms approved by the Commission dealing with such things as:</p> <ul style="list-style-type: none"> (a) the co-ordination of information and request for connections, disconnections and reconnections; (b) the request for, and application of, security deposits; (c) the co-ordination of Acting procedures and application of receipts for customers; (d) the co-ordination of customer enquiries and complaints [under which the retailer has responsibility for taking up customer complaints the licensee]; (e) the resolution of customer disputes, and participation in the dispute resolution procedures; and (f) the allocation of responsibilities and liabilities for certain customer claims. <p>This condition mirrors the obligation imposed on a retailer under section 28(1)(k) of the ERA. Many of these conditions may be picked up in an access agreement.</p>
25.	Ring-fencing	In the case of vertically integrated businesses, the need to keep the various arms of that business separate. The ERA does not specifically contemplate ring-fencing in the case of the generation business, however compliance with the Ring-Fencing Code has been added as a requirement for all licences issued to PAWA due to its position of market dominance.

APPENDIX B – Terms likely to appear in a Retail Licence

The conditions set out in the table below do not limit the sorts of conditions which may be imposed by the Commission.

Type of licence term or condition	Nature of licence term or condition
General introductory terms	
1.	<p>Grant of licence</p> <p>Under Part 3 of the ERA, the Commission licenses the licensee to:</p> <ul style="list-style-type: none"> (a) trade in electricity; and (b) sell and retail electricity to contestable customers, in accordance with the terms and conditions of this licence. <p>Authority: Sections 20(1) and 23 of the ERA</p>
2.	<p>Term of the licence</p> <p>This licence commences on the date it is issued and continues until:</p> <ul style="list-style-type: none"> • it is surrendered by the licensee under section 35 of the ERA; • it is cancelled by the Commission under section 36 of the ERA; or • a specified term [5 years suggested by this manual] although the Commission is open to submissions on this point. <p>Authority: Section 18 of the ERA (<i>The term of a licence can be indefinite or for a specified term</i>)</p> <p>The licensee must lodge an annual return containing the following information:</p> <ul style="list-style-type: none"> (a) [specify]; and (b) such other information as is required from time to time by the Commission by written notice. <p>This licence may be suspended under section 36 of the ERA.</p> <p>If the licence is granted for 2 years or more, the licensee must lodge an annual return containing the information specified in the licence or by written notice.</p> <p>Authority: Section 19 of the ERA</p>
3.	<p>Variation of licence</p> <p>This licence may only be varied in accordance with section 32 of the ERA.</p>
4.	<p>Transfer of licence</p> <p>This licence may only be transferred in accordance with section 33 of the ERA.</p>
5.	<p>Licence fee and other charges</p> <p>The licensee must pay an annual licence fee or instalment of the annual licence fee, as the case may be, to the Commission as determined by the Minister.</p> <p>Authority: Section 19 of the ERA</p> <p>The licensee must pay the System Controller any charges relating to the operations of system control in accordance with the Regulations.</p> <p>Authority: Section 39(1) of the ERA</p>

Type of licence term or condition	Nature of licence term or condition
General statutory conditions	
6.	<p>Compliance with regulatory instruments</p> <p>The licensee must:</p> <ul style="list-style-type: none"> (a) comply with all applicable provisions of the Network Access Code, the System Control Technical Code and the Network Technical Code; (b) comply with all applicable provisions of the Ring-Fencing Code after such a code is made by the Commission; (c) comply with all applicable provisions of any other code or rule made under the UCA from time to time; (d) comply with all applicable provisions of [list protocols, standards and codes]; and (e) comply with any other applicable protocol, standard and code applying to the licensee under the Regulations. <p>The licensee must notify the Commission within 3 business days if it becomes aware of a material breach by the licensee of any of the regulatory instruments described in section 6 of this licence.</p> <p>Authority: Section 24(1)(a) and (b) of the ERA</p>

APPENDIX C – Terms likely to appear in a Franchise/contestable Retail Licence

The conditions set out in the table below do not limit the sorts of conditions which may be imposed by the Commission.

Type of licence term or condition	Nature of licence term or condition
General introductory terms	
1.	<p>Grant of licence</p> <p>Under Part 3 of the ERA, the Commission licenses the licensee to:</p> <ul style="list-style-type: none"> (a) trade in electricity; and (b) sell and retail electricity to contestable customers; and (c) sell and retail electricity to non-contestable customers, but only in respect of electrical installations or premises which are located within the retail area, <p>in accordance with the terms and conditions of this licence.</p> <p>Authority: Sections 20(1) and 23 of the ERA</p>
2.	<p>Term of the licence</p> <p>This licence commences on the date it is issued and continues until:</p> <ul style="list-style-type: none"> • it is surrendered by the licensee under section 35 of the ERA; • it is cancelled by the Commission under section 36 of the ERA; or • a specified term [5 years suggested by this manual] although the Commission is open to submissions on this point. <p>Authority: Section 18 of the ERA (<i>The term of a licence can be indefinite or for a specified term</i>)</p> <p>The licensee must lodge an annual return containing the following information:</p> <ul style="list-style-type: none"> (a) [specify]; and (b) such other information as is required from time to time by the Commission by written notice. <p>This licence may be suspended under section 36 of the ERA.</p> <p>If the licence is granted for 2 years or more, the licensee must lodge an annual return containing the information specified in the licence or by written notice.</p> <p>Authority: Section 19 of the ERA</p>
3.	<p>Variation of licence</p> <p>This licence may only be varied in accordance with section 32 of the ERA.</p>
4.	<p>Transfer of licence</p> <p>This licence may only be transferred in accordance with section 33 of the ERA.</p>

	Type of licence term or condition	Nature of licence term or condition
5.	Licence fee and other charges	<p>The licensee must pay an annual licence fee or instalment of the annual licence fee, as the case may be, to the Commission as determined by the Minister.</p> <p>Authority: <i>Section 19 of the ERA</i></p> <p>The licensee must pay the System Controller charges relating to the operations of system control in accordance with the Regulations.</p> <p>Authority: <i>Section 39(1) of the ERA</i></p>
General statutory conditions		
6.	Compliance with regulatory instruments	<p>The licensee must:</p> <ul style="list-style-type: none"> (a) comply with all applicable provisions of the Network Access Code, the System Control Technical Code and the Network Technical Code; (b) comply with all applicable provisions of the Ring-Fencing Code after such a code is made by the Commission; (c) comply with all applicable provisions of any other code or rule made under the UCA from time to time; (d) comply with all applicable provisions of [list protocols, standards and codes]; and (e) comply with any other applicable protocol, standard and code applying to the licensee under the Regulations. <p>The licensee must notify the Commission within 3 business days if it becomes aware of a material breach by the licensee of any of the regulatory instruments described in section 6 of this licence.</p> <p>Authority: <i>Section 24(1)(a) and (b) of the ERA</i></p>
7.	Capacity to operate	<p>The licensee must, from time to time, provide the 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 Commission.</p> <p>The licensee must provide any information requested by the Commission under this clause:</p> <ul style="list-style-type: none"> (a) in a manner and form determined by the Commission; and (b) within 20 business days of the request. <p>Authority: <i>Section 24(1)(c) of the ERA</i></p>
8.	Audit of operations	<p>The licensee must undertake an audit of:</p> <ul style="list-style-type: none"> (a) all or part of the operations authorised by this licence in respect of each financial year; and (b) compliance with the obligations under this licence and any applicable documents described in section 6 in respect of each financial year. <p>The licensee must report the results of the audit under this clause in respect of a financial year to the Commission by a date to be determined by the Commission.</p> <p>Authority: <i>Section 24(1)(d) of the ERA</i></p>

Type of licence term or condition		Nature of licence term or condition
9.	Changes to officers/ shareholders	The licensee must notify the Commission of any change to any officer and, if applicable, any major shareholder of the licensee within 20 business days after the change. Authority: <i>Section 24(1)(e) of the ERA</i>
10.	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. Authority: <i>Section 24(1)(f) of the ERA</i>
11.	Customer related standards and procedures	The licensee must develop and comply with customer related standards and procedures. Authority: <i>Section 24(3)(b) of the ERA</i>
Other retail conditions contemplated in ERA		
12.	Obligation to offer to sell to non-contestable customers	On the request of a non-contestable customer, the licensee must offer to sell electricity to that non-contestable customer in respect of electrical installations or premises which are located within its retail area on fair and reasonable terms and conditions. Those terms may differ between customers or classes of customers. The licensee does not have an obligation to offer to sell a non-contestable customer in the circumstances set out in section 29 of the ERA. Authority: <i>Sections 28(1)(c) and (d) and 91 of the ERA</i>
13.	Contestable customers – adequate supply arrangements	The licensee must take reasonable steps to ensure that it has in place at all times arrangements to generate and supply electricity to its contestable customer. Authority: <i>Section 28(1)(e) of the ERA</i>

	Type of licence term or condition	Nature of licence term or condition
14.	Non-contestable customer consents and information	<p>Until otherwise determined by the Minister, the licensee must:</p> <p>(a) at least 28 days prior to the date it expects a non-contestable customer to become, or is likely to become, a contestable customer request those non-contestable customer to give their written consent to the disclosure of their name, address and other contact details to the Commission and by the Commission to other retailers; and</p> <p>(b) provide copies of those consent and information relating to the consenting customers to the Commission.</p> <p>Authority: Section 28(1)(g) of the ERA</p> <p>The licensee must, at least 28 days prior to the date it expects a non-contestable customer to become, or is likely to become, a contestable customer:</p> <p>(a) notify the non-contestable customer in a manner and form specified by the Commission of the date that it will become, or is likely to become, a contestable customer; and</p> <p>(b) notify the non-contestable customer of its applicable tariffs and charges.</p> <p>For the purposes of the provisions of this clause, the licensee must take reasonable steps to identify when its non-contestable customer will or are likely to become contestable customer.</p> <p>Authority: Sections 28(1)(g) and (h) of the ERA</p> <p>The licensee must continue to offer to sell electricity to contestable customer on the same tariff schedule as those customers were on immediately before becoming contestable customer for a period specified in the Regulations ("Grace Period").</p> <p>Authority: Section 28(1)(h)(i) of the ERA</p> <p>Note: Regulation 5 of the Electricity Regulations prescribes a period of 2 years as the grace period for the purposes of 28(1)(h) of the ERA.</p> <p>The licensee must take reasonable steps to give a customer notice in a manner and form determined by the Commission at least 28 days prior to the expiry of the customer's Grace Period.</p> <p>Authority: Section 28(1)(h)(ii) of the ERA</p>
15.	Compliance with minimum standards	<p>The licensee must monitor and report on its compliance with the levels of service and safety for non-contestable customer which existed at the date of issue of this licence and any minimum standards of service and safety which contained in a code made by the Commission under the UCA.</p> <p>Authority: Section 92 of the ERA</p>
16.	Standard terms and conditions	<p>The licensee must not publish the standard terms and conditions applicable to its non-contestable customer or customers of a prescribed class in the Government Gazette without obtaining the prior written approval of the Commission.</p> <p>Authority: Section 91 of the ERA</p>

	Type of licence term or condition	Nature of licence term or condition
17.	Coordination Agreement	<p>The licensee must enter into and comply with an agreement, on terms approved by the 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 to the agreement.</p> <p>To avoid doubt, the matters listed in this clause may be contained in an access agreement or another agreement between the licensee and another electricity entity.</p> <p>Authority: <i>Section 28(1)(k) of the ERA</i></p> <p>The licensee may be required to enter into an agreement as to the coordination of services to its customers, including arrangements whereby any complaint that a customer has about the quality of the services being supplied is taken up by the licensee with other electricity entities on the customer's behalf.</p>
Additional conditions imposed by the Commission in accordance with section 24(4) of the ERA		
18.	Obligation to offer to sell to contestable customers	<p>In this section, a "relevant contestable customer" is a contestable customer who:</p> <ul style="list-style-type: none"> (a) is not an electricity entity; and (b) was previously sold electricity under a customer contract which has expired or been terminated; and (a) has used reasonable endeavours to obtain an offer from retailers other than the licensee; and (b) has failed to receive an offer that is reasonable. <p>If the licensee receives a request from a relevant contestable customer, then the licensee must offer to sell electricity to that customer on terms which are fair and reasonable in the opinion of the Commission.</p> <p>Any question as to whether a contestable customer satisfied any of the criteria set out in this clause will be decided by the Commission.</p>
19.	Statement of changes	<p>A statement of charges to customers must, if requested by a customer, at the time the contract is entered into, separate items for:</p> <ul style="list-style-type: none"> (a) the amounts charged for the electricity sold; and (b) the total amounts charged by an electricity entity which is authorised to operate an electricity network in respect of that customer.
20.	Disconnection	<p>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 the System Control Technical Code, where it applies, or otherwise in accordance with the customer's contract.</p>

	Type of licence term or condition	Nature of licence term or condition
21.	Customer enquires	Within 3 months of issue of this licence, the licensee must establish and comply with procedures to deal with customer consultation or enquires in respect of its non-contestable customer on terms approved by the Commission.
22.	Participation in development of regulatory instruments	The licensee must participate, to the extent specified by the Commission, in the development, issue and review of any regulatory instruments.
23.	Provision of information to the Commission/ System Controller	The licensee must, from time to time, provide the Commission or the System Controller, in a manner and form to be determined by the Commission or the System Controller, such information as the Commission or System Controller may request.
24.	Notice of charges.	The licensee must notify its non-contestable customer 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.
25.	Compliance with laws	The licensee must comply with all the applicable laws including, but not limited to, the Regulations, the Pricing Order and any technical or safety requirements or standards contained in the Regulations made under the ERA.
26.	Operator	If an operator is appointed to the licensee's business under section 41 of the ERA, the operator must exercise its functions and powers in such a manner as may be specified by the Commission in the instrument of appointment. Authority: <i>Section 41 of the ERA</i>

APPENDIX D – Terms likely to appear in a Network Licence

The conditions set out in the table below do not limit the sorts of conditions which may be imposed by the Commission.

Type of licence term or condition	Nature of licence term or condition
General introductory terms	
1.	<p>Grant of licence</p> <p>Under Part 3 of the ERA, the Commission licenses the licensee to:</p> <ul style="list-style-type: none"> (a) own and operate an electricity network within the geographic area specified in a schedule attached (as such electricity network is extended or augmented from time to time within that geographic area); and (b) connect the electricity network referred to in paragraph (a) to another electricity network specified in schedule 3, in accordance with the terms and conditions of this licence. <p>Authority: <i>Sections 20(1) and 22 of the ERA</i></p> <p>Note: Para. (b) only applies if the Commission chooses to include this right in the licence.</p>
2.	<p>Term of the licence</p> <p>This licence commences on the date it is issued and continues until:</p> <ul style="list-style-type: none"> • it is surrendered by the licensee under section 35 of the ERA; • it is cancelled by the Commission under section 36 of the ERA; or • a specified term [20 years suggested by this manual] although the Commission is open to submissions on this point <p>Authority: <i>Section 18 of the ERA (The term of a licence can be indefinite or for a specified term)</i></p> <p>The licensee must lodge an annual return containing the following information:</p> <ul style="list-style-type: none"> (a) [specify]; and (b) such other information as is required from time to time by the Commission by written notice. <p>This licence may be suspended under section 36 of the ERA.</p> <p>If the licence is granted for 2 years or more, the licensee must lodge an annual return containing the information specified in the licence or by written notice.</p> <p>Authority: <i>Section 19 of the ERA</i></p>
3.	<p>Variation of licence</p> <p>This licence may only be varied in accordance with section 32 of the ERA.</p>
4.	<p>Transfer of licence</p> <p>This licence may only be transferred in accordance with section 33 of the ERA.</p>

Type of licence term or condition		Nature of licence term or condition
5.	Licence fee and other charges	<p>The licensee must pay an annual licence fee or instalment of the annual licence fee, as the case may be, to the Commission as determined by the Minister.</p> <p>Authority: <i>Section 19 of the ERA</i></p> <p>The licensee must pay the System Controller any charges relating to the operation of system control in accordance with the Regulations.</p> <p>Authority: <i>Section 39(1) of the ERA</i></p>
General statutory conditions		
6.	Compliance with regulatory instruments	<p>The licensee must:</p> <ul style="list-style-type: none"> (a) comply with all applicable provisions of the Network Access Code, the System Control Technical Code, the Technical Code and the Network Planning Criteria and [list other codes or rules]; (b) comply with any other applicable code or rule made under the UCA from time to time; (c) comply with all applicable provisions of [list protocols, standards and codes]; and (d) comply with any other applicable protocol, standard and code applying to the licensee under the Regulations. <p>Authority: <i>Sections 24(1)(a) and (b) of the ERA and the Network Access Code</i></p> <p>The licensee must notify the Commission within 3 business days if it becomes aware of a material breach by the licensee of any of the regulatory instruments described in this section.</p>
7.	Capacity to operate	<p>The licensee must, from time to time, provide the Commission, in a manner and form to be determined by the Commission, details of the licensee's financial, technical and other capacity to continue operations under this licence.</p> <p>Authority: <i>Section 24(1)(c) of the ERA</i></p>
8.	Audit of operations	<p>The licensee must undertake annual audits of all or part of the operations authorised by this licence and report the results of the audit to the Commission.</p> <p>Authority: <i>Section 24(1)(d) of the ERA</i></p>
9.	Changes to officers/ shareholders	<p>The licensee must notify the Commission about changes to officers and, if applicable, major shareholders of the licensee within 20 business days after the change.</p> <p>Authority: <i>Section 24(1)(e) of the ERA</i></p>
10.	CSO obligations	<p>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.</p> <p>Authority: <i>Section 24(1)(f) of the ERA</i></p>
11.	Customer related standards and procedures	<p>The licensee must develop and comply with the following customer related standards and procedures.</p> <p>Authority: <i>Section 24(3)(b) of the ERA</i></p>

Type of licence term or condition		Nature of licence term or condition
12.	Corporate structure	If two or more persons are granted a single licence in partnership or an unincorporated joint venture, the Commission must make the licence subject to conditions relating to the carrying on those activities in that manner. <i>Authority: Section 24(3)(a) of the ERA</i>
13.	Conditions contained in Regulations	The Commission must make this licence subject to any mandatory conditions specified in the Regulations. <i>Authority: Section 29(2) of the ERA</i>
Other optional network conditions contemplated in ERA		
14.	Compliance with directions of System Controller	The licensee must comply with directions of the System Controller. <i>Authority: Section 26(1)(a) of the ERA</i>
15.	Compatibility	The licensee must not do anything to its electricity network affecting the compatibility of its electricity network with any other electricity network or electricity generating plant so as to prejudice public safety or the security of supply. <i>Authority: Section 26(1)(b) of the ERA</i>
16.	Compliance with Network Access Code	The licensee must comply with its obligations under the Network Access Code. <i>Authority: Section 26(1)(c) of the ERA</i>
17.	Restrictions on trading	The licensee must not buy or sell electricity directly or indirectly in connection with conducting operations authorised by this licence, except if it is necessary: (a) to operate the electricity network; or (b) for a purpose associated with planning, designing, constructing, maintaining or operating the electricity network; (c) for the licensee's administrative purposes; or (d) [specify other purpose]. <i>Authority: Section 26(1)(d) of the ERA</i>
18.	Operation and maintenance	The licensee must operate, maintain (including repair and replace if necessary) and protect its electricity network in accordance with the Network Access Code and Network Technical Code. <i>Authority: Section 26(1)(e) of the ERA</i>
19.	Coordination	The licensee must operate its electricity network in coordination with other electricity networks to which it is connected directly or indirectly. <i>Authority: Section 26(1)(f) of the ERA</i>
20.	Accounts	The licensee must comply with the accounting/financial separation provisions of the Ring-fencing code. See separate ring-fencing provisions. <i>Authority: Section 26(1)(g) of the ERA</i>

Type of licence term or condition		Nature of licence term or condition
21.	Ring-fencing	<p>The licensee must keep the business of owning or operating the electricity network separate from any other business of the electricity entity or any other person. See separate ring-fencing provisions.</p> <p>This condition may be included if the licensee is the same or a related body corporate in relation to an electricity entity granted a generation licence or retail licence.</p>
22.	Integrated Operations	<p>The licensee must:</p> <ul style="list-style-type: none"> • in accordance with the Network Access Code, grant each electricity entity holding a generation licence rights to use or have access to those parts of the licensee's electricity network that are interconnected to or interface with the electricity entity's assets for the purposes of ensuring the proper integrated operation of the power system and the proper conduct of the operations authorised by the electricity entity's licence; and • in the absence of agreement as to the terms on which such rights are to be granted, comply with any determination by the Commission as to those terms. <p>Authority: Section 26(1)(j) of the ERA</p>
23.	Dispute resolution procedures	<p>The licensee must within 3 months of issue establish and comply with procedures to do with customer consultation, enquiries or disputes on terms approved by the Commission.</p> <p>Authority: Section 26(1)(k) of the ERA</p>
24.	Network control	<p>Subject to provisions conferring powers on the System Controller under section 38 of the ERA, the licensee must be responsible for network control of its electricity network.</p> <p>Authority: Section 26(1)(m) of the ERA</p>
Additional conditions imposed by the Commission in accordance with section 24(4) of the ERA		
25.	Safety and technical management plan	<p>Within 6 months of the commencement of this licence, the licensee must prepare a safety and technical management plan dealing with matters prescribed by the Regulations and submit the plan to the Commission for approval.</p>
26.	Disconnection	<p>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 section 27(2) of the ERA and the disconnection procedures prescribed System Control Technical Code, where it applies, or otherwise in accordance with the customer's contract.</p>
27.	Consultation	<p>The licensee must participate, to the extent specified by the Commission, in the development, issue and review of any regulatory instruments.</p>
28.	Provision of information to the Commission/ System Controller	<p>The licensee must, from time to time, provide the Commission or the System Controller, in a manner and form to be determined by the Commission or the System Controller, such information as the Commission or the System Controller may require.</p>

Type of licence term or condition		Nature of licence term or condition
29.	Compliance with laws	The licensee must comply with all the applicable laws including, but not limited to, the Regulations, the Pricing Order and any technical or safety requirements or standards contained in Regulations made under the ERA.
30.	Operator	If an operator is appointed to the licensee's business under section 41 of the ERA, the operator must exercise its functions and powers in such a manner as may be specified by the Commission in the instrument of appointment. Authority: <i>Section 41 of the ERA</i>
31.	Coordination Agreement	The licensee must enter into, and comply with, an agreement with each electricity entity holding a retail licence or generation licence that provides services to the licensee's customers on terms approved by the Commission, dealing with such things as: <ul style="list-style-type: none"> (a) the coordination of information and requests for connections, disconnections and reconnections; (b) the request for, and application of, security deposits; (c) the coordination of Acting procedures and application of receipts from customers; (d) the coordination of customer inquiries and complaints, under which the retailer has responsibility for taking up customer complaints with the licensee; (e) the resolution of customer disputes, and participation in the dispute resolution procedures; and (f) the allocation of responsibilities and liabilities for certain customer claims. <p>This requirement mirrors the obligation placed upon a retailer under section 28(1)(k) of the ERA.</p>

APPENDIX E – Terms likely to appear in a System Control Licence

The conditions set out in the table below do not limit the sorts of conditions which may be imposed by the Commission.

Type of licence term or condition	Nature of licence term or condition
General introductory terms	
1.	<p>Grant of licence</p> <p>Under Part 3 of the ERA, the Commission licenses the licensee to exercise system control over the power system described in a schedule attached in accordance with the terms and conditions of this licence.</p> <p>Authority: <i>Sections 20(1) and 30 of the ERA</i></p> <p>Subject to the Regulations, the licensee has the function of monitoring and controlling the operation of the power system with a view to ensuring that the power system operates reliably, safely and securely in accordance with the System Control Technical Code.</p>
2.	<p>Powers of the System Controller</p> <p>In carrying out the System Controller's functions under the ERA, the licensee has:</p> <p>(a) power to issue directions to electricity entities which are engaged in operation of the power system, or contribute electricity to, or take electricity from, the power system in accordance with section 38 of the ERA; and</p> <p>(b) the other powers conferred by the Regulations.</p>
3.	<p>Term of the licence</p> <p>This licence commences on the date it is issued and continues until:</p> <ul style="list-style-type: none"> • it is surrendered by the licensee under section under section 35 of the ERA; • it is cancelled by the Commission under section 36 of the ERA; or • a specified term [3 years suggested by this manual] although the Commission is open to submissions on this point. <p>Authority: <i>Section 18 of the ERA (The term of a licence can be indefinite or for a specified term)</i></p> <p>The licensee must lodge an annual return containing the following information:</p> <p>(a) [specify]; and</p> <p>(b) such other information as is required from time to time by the Commission by written notice.</p> <p>This licence may be suspended under section 36 of the ERA.</p> <p>If the licence is granted for 2 years or more, the licensee must lodge an annual return containing the information specified in the licence or by written notice.</p> <p>Authority: <i>Section 19 of the ERA</i></p>
4.	<p>Variation of licence</p> <p>This licence may only be varied in accordance with section 32 of the ERA.</p>

Type of licence term or condition		Nature of licence term or condition
5.	Transfer of licence	This licence may only be transferred in accordance with section 33 of the ERA.
6.	Licence fee	The licensee must pay an annual licence fee or instalment of the annual licence fee, as the case may be, to the Commission as determined by the Minister. Authority: <i>Section 19 of the ERA</i>
General statutory conditions		
7.	Compliance with regulatory instruments	<p>The licensee must:</p> <ul style="list-style-type: none"> (a) comply with all applicable provisions of the Network Access Code, the System Control Technical Code and the Network Technical Code; (b) comply with all applicable provisions of the Ring-Fencing Code after such a code is made by the Commission; (c) comply with all applicable provisions of any other code or rule made under the UCA from time to time; (d) comply with all applicable provisions of [list protocols, standards and codes]; and (e) comply with any other applicable protocol, standard and code applying to the licensee under the Regulations. <p>The licensee must notify the Commission within 3 business days if it becomes aware of a material breach by the licensee of any of the regulatory instruments described in section 7 of this licence.</p> <p>Authority: <i>Section 24(1)(a) and (b) of the ERA</i></p>
8.	Capacity to operate	<p>The licensee must, from time to time, provide the 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 Commission.</p> <p>The licensee must provide any information requested by the Commission under this clause:</p> <ul style="list-style-type: none"> (a) in a manner and form determined by the Commission; and (b) within 20 business days of the request. <p>Authority: <i>Section 24(1)(c) of the ERA</i></p>
9.	Audit of operations	<p>The licensee must undertake an audit of:</p> <ul style="list-style-type: none"> (a) all or part of the operations authorised by this licence in respect of each financial year; and (b) compliance with the obligations under this licence and any applicable documents described in section 7 of this licence in respect of each financial year. <p>The licensee must report the results of the audit this clause in respect of a financial year to the Commission by a date to be determined by the Commission.</p> <p>Authority: <i>Section 24(1)(d) of the ERA</i></p>

Type of licence term or condition		Nature of licence term or condition
10.	Changes to officers and major shareholders	The licensee must notify the Commission of any change to any officer and, if applicable, any major shareholder of the licensee within 20 business days after the change. <i>Authority: Section 24(1)(e) of the ERA</i>
11.	CSO 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. <i>Authority: Section 24(1)(f) of the ERA</i>
12.	Customer related standards and procedures	The licensee must develop and comply with customer related standards and procedures. <i>Authority: Section 24(3)(b) of the ERA</i>

Type of licence term or condition	Nature of licence term or condition
<i>Other system control conditions contemplated in ERA</i>	
13.	<p>Development of System Control Technical Code</p> <p>Within 3 months after the issue of this licence, the licensee must prepare a System Control Technical Code and submit it for approval by the Commission.</p> <p>The System Control Technical Code may set out:</p> <ul style="list-style-type: none"> (a) operating protocols; (b) arrangements for system security and dispatch; (c) arrangements for disconnection; and (d) any other matters relating to the monitoring, operation and control of the power system, <p>which the System Controller considers appropriate for the reliable, safe, secure and efficient operation of the power system.</p> <p>The licensee may amend the System Control Technical Code at any time, but only with the prior written approval of the Commission.</p> <p>If requested to do so by the Commission, the licensee must amend the System Control Technical Code in the manner suggested by the Commission.</p> <p><i>Authority: Sections 24, 30 and 38 of the ERA</i></p> <p>The licensee must consult with all electricity entities holding a generation licence, network licence or retail licence when establishing and amending the System Control Technical Code.</p> <p><i>Authority: Sections 30(1)(d) of the ERA</i></p>
14.	<p>Disconnection</p> <p>The licensee must disconnect customers in accordance with any protocols which are developed by the licensee in the System Control Technical Code.</p>
<i>Other conditions</i>	
15.	<p>Provision of other services</p> <p>If the licensee, in conducting its business under this licence, provides services for which the licensee is not remunerated under the charges approved by the Commission, then the terms on which the licensee provides those services must be fair and reasonable.</p> <p>Any questions as to what is fair and reasonable will be decided by the Commission.</p>

Type of licence term or condition		Nature of licence term or condition
16.	Provision of information to the Commission	<p>The Commission may request the licensee to monitor certain activities in connection with the operation of the power system.</p> <p>The licensee must comply with a request of the Commission under this clause.</p> <p>The licensee must keep items of information collected or derived in the course of monitoring the activities of any electricity entity or other person in connection with the operations of the power system ("Monitored Information") for a time period determined by the Commission.</p> <p>If the Commission requests the licensee to provide any Monitored Information, the licensee must provide that information to the Commission as soon as practicable after receiving the request.</p> <p>If:</p> <ul style="list-style-type: none"> (a) the Commission requests the licensee to provide any item of information which not Monitored Information; and (b) that item is in the possession of the licensee or could be obtained by the licensee by taking reasonable steps; and (c) the licensee would not be in breach of an agreement or other confidentiality obligation if it disclosed the item to the Commission, <p>then the licensee must provide that item to the Commission as soon as practicable after receiving the request.</p>
17.	Compliance with laws	The licensee must comply with all the applicable laws including, but not limited to, the Regulations, the Pricing Order and any technical or safety requirements or standards contained in the Regulations made under the ERA.
18.	Operator	<p>If an operator is appointed to the licensee's business under section 41 of the ERA, the operator must exercise its functions and powers in such a manner as may be specified by the Commission in the instrument of appointment.</p> <p>Authority: <i>Section 41 of the ERA</i></p>