



Information Procedures

**Required under the Ringfencing
Code**

1. Introduction

1.1 *The Ring-Fencing Code*

The Utilities Commission of the Northern Territory ('the Commission') released its Northern Territory Electricity Ring-Fencing Code ('the Code') on 1 July 2001.

The objectives of the Code, as set out in Clause 3, are to:

- promote and safeguard competition and fair and efficient market conduct in the electricity supply industry including by promoting the simulation of competitive market conduct and preventing the misuse of monopoly power; and
- require that electricity entities have in place arrangements to ensure that related businesses are not treated in such a manner by a prescribed business as to confer a non-commercial discriminatory price or non-price advantage on the related business as compared to an arm's length third party in the same commercial circumstances.

Clauses 4 and 5 of the Code place obligations on Power and Water to submit for approval, among other things, information procedures to the Commission within 6 months of the introduction of the Code.

1.2 *Power and Water Corporation (Power and Water)*

Power and Water Corporation is a Government owned corporation established under the *Government Owned Corporation Act 2001* to provide electricity, water and sewerage services to customers across the Northern Territory.

The Northern Territory Government determined that Power and Water remain the sole provider of water and sewerage services, as well as remaining the only licensed entity for electricity networks, system control and franchise retail. Power and Water has competitors in the market for electricity generation and contestable retail.

1.3 *Why does Power and Water need information procedures?*

The Code makes a distinction between Power and Water's prescribed businesses (Generation, Networks, System Control and Franchise Retail) and its related businesses (Generation and Contestable Retail).

Power and Water Generation is categorised under the Code as both a prescribed and a related business depending upon which Power and Water business it is dealing with. The intent of the Code is to have Generation as a whole treated as:

- a 'related business' when it comes to the conduct of other prescribed businesses (Networks, System Control and Franchise Retail); and
- a 'prescribed business' for the purpose of its conduct with respect to other related businesses (Contestable Retail).

Table 1 illustrates the relationships between prescribed and related businesses under the Code.

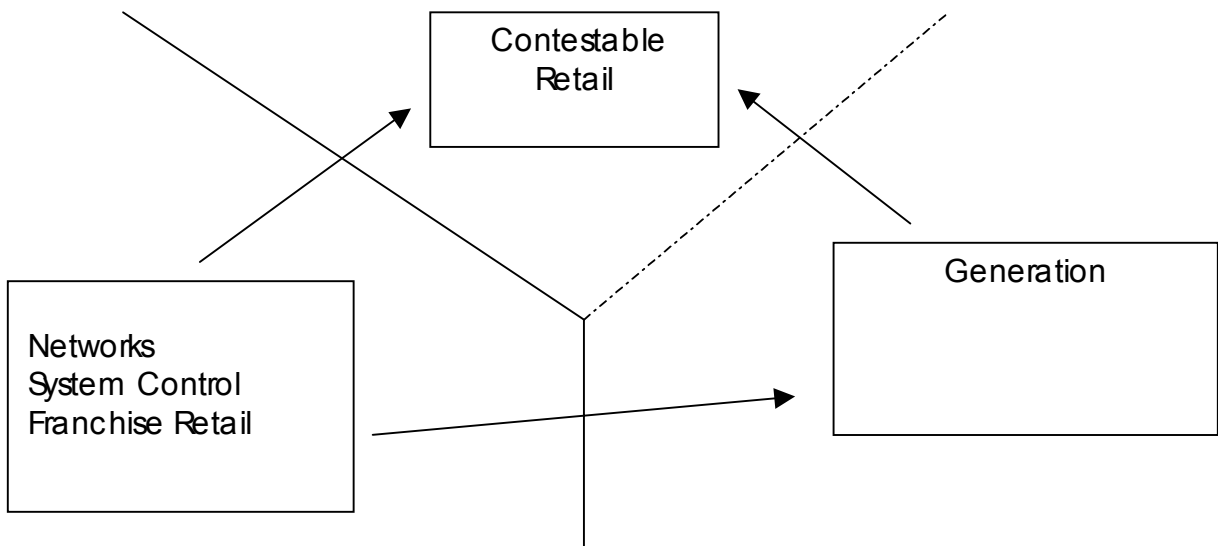
Business Relationships under the Ring-Fencing Code

Table 1

Prescribed business	Related Businesses
Generation	Contestable Retail
Networks	Contestable Retail Generation
System Control	Contestable Retail Generation
Franchise Retail	Contestable Retail Generation

Diagram 1 illustrates the business relationships under the Code where the arrows represent information flows from prescribed businesses to related businesses, the solid lines represent ring-fencing obligations existing due to the monopoly status of the businesses and the dotted line represents ring-fencing obligations existing due to the market dominance of the business.

Diagram 1



As shown in Table 1 and Diagram 1 above, Power and Water's prescribed businesses are 'ring-fenced' from Power and Water's related businesses under the Code. That means that the flow of confidential or commercially sensitive

information from the prescribed businesses to related businesses is restricted by the Procedures. The restriction on information flow is to prevent a competitive advantage being provided to Contestable Retail and Generation because of their related business status with Networks, System Control and Franchise Retail.

Power and Water's related businesses may obtain a competitive advantage if they are given preferential access to confidential or commercially sensitive information held by prescribed businesses. Preferential access means that the information is made available to Contestable Retail and Generation, but not to competitors of those businesses.

A simple example of this may be Franchise Retail giving Contestable Retail customer load profiling information (or allowing the access of that information) relating to customers as they qualify from franchise to contestable status, and not allowing the same information to be available to or accessible by any of Power and Water's competitors. This would allow Contestable Retail to obtain an advantage over a competitor in relation to that customer, as it will then be aware of the customer's unique load profiles. Contestable Retail would therefore be able to be the first in – and best dressed – when offering a price to contract that customer for the supply of electricity.

To prevent any competitive advantage being achieved via these means, the Procedures have been prepared in accordance with Clause 5 of the Code.

2. Definitions and Interpretation

The Procedures seek to provide definitions, which are consistent with those in the Code, or other relevant industry regulation Acts. Where words and phrases are not defined in this section, they shall have the meaning given to them by the Code, or other relevant statutory instruments.

Code means the Northern Territory Electricity Ring-fencing Code released by the Utilities Commission of the Northern Territory on 1 July 2001 and any subsequent amendments made to the Code.

Commercially Sensitive Information is defined as information that, if provided preferentially by a prescribed business to a related business, may give the related business a commercial advantage over its competitors. It is further defined in Clause 5 of the Procedures.

Confidential Information is defined in Clause 5 of the Procedures.

Prescribed Business is defined in clause 11.2 of the Code to mean:

- (a) a business (or component of a business) carried on by an electricity entity which consists of:
 - (i) the operation of an electricity network and the provision of network access services in relation to that electricity network to customers;
 - (ii) the provision of power system control and dispatch services in relation to any electricity network;

- (iii) the sale of electricity to non-contestable customers; or
- (iv) a business (or component of a business) carried on by an electricity entity which consists of the provision of any other goods or services:
 - to which the regulations authorising the making of this Code extend to; and
 - which the Commission determines in accordance with clause 6 are not reasonably contestable and should be included within the definition of 'prescribed business' for the purposes of this Code; or
- (b) the business carried on by the Power and Water Corporation of generating electricity for sale (whether to third parties or notionally to another business division of Power and Water) carried on by Power and Water Corporation, until such time as the Commission is satisfied that having regards to factors set out in section 6(2) of the Act and such other matters as the Commission considers are appropriate:
 - (i) Power and Water Corporation no longer has a substantial degree of market power in the market for the generation of electricity for sale in respect of a particular geographical area; or
 - (ii) this Code should no longer apply to that business.

Prescribed businesses include the following activities:

Electricity generation;

Electricity networks;

System Control; and

Franchise Retail.

Related Business is defined in clause 11.2 of the Code to mean, in relation to a particular prescribed business of an electricity entity, any business carried on or activities undertaken in the electricity supply industry by that electricity entity or an associate of that electricity entity operating in a contestable market which do not form part of that prescribed business.

Power and Water's related businesses include:

- Contestable Retail; and
- Generation.

Staff includes employees, consultants, contractors and agents of Power and Water.

3. Application and Scope

The Procedures are designed to clarify actions to be taken by Power and Water staff involved in Power and Water's prescribed businesses, when dealing with any information flow towards businesses with which they have a 'related business' relationship (ie are ring-fenced from). More specifically, the Procedures govern the identification, handling, storing, sharing and publishing of such information by a prescribed business, as well as the electronic, physical and procedural security measures relating to such information.

Primarily it is each prescribed business that must safe-guard against sharing confidential or commercially sensitive information with related businesses.

However, the Procedures are to apply to all Power and Water staff, whether they are employees, consultants, contractors or agents of Power and Water, even those who are not in a prescribed business. Specific procedures have also been included in this document for Contestable Retail and Generation staff.

Indeed, where staff in service units including economic services, financial services or commercial services are performing a task for a prescribed or related business, the tasks must be completed as though the staff of the service units are actually staff of that prescribed or related business. The principles and procedures contained in this document are in addition to the confidential information provisions set out in section 10 of the Code of Conduct (Employment Instruction No. 13) issued under the *Public Sector Employment and Management Act*.

4. Principles

The fundamental principle underlying the Procedures is that certain information, which may be sourced in different ways, may be confidential or commercially sensitive in nature. Clause 5 of these Procedures outlines the characteristics of confidential and commercially sensitive information. Such information, in the possession of Power and Water's prescribed businesses, is:

- to be used only for the purpose it was provided or obtained, namely the provision of electricity services to customers (operational reasons); and
- not to be shared with related businesses (Contestable Retail and Generation) unless prior written consent is received from the customer; and
- otherwise dealt with in accordance with the Procedures.

5. Confidential and commercially sensitive information

5.1 Confidential Information

Power and Water staff, when accepting or using information, need to ask themselves the following questions:

- Who is disclosing this information?

- How do they intend for me to handle this information? (This includes how a reasonable person would anticipate that the staff member handle the information)
- Is there anything that I am doing with the information, which may be contrary to these intentions?

5.2 How do I determine whether the information is confidential?

To help determine whether information is confidential, as a starting point, staff should ask themselves the questions below. The answers to these questions will determine how the information should be handled and whether the information should be disclosed to a third party (including a prescribed or related business of Power and Water).

- What is the extent to which the information is known outside the organisation? *The less people outside the organisation who are privy to the information, the greater the chance that the information is intended to be confidential.*
- What is the extent to which the information is known by employees of the organisation? *The less people inside the organisation who are privy to the information, the greater the chance that the information is intended to be confidential.*
- What are the measures taken to protect the information? *The greater the security protecting the information, the greater the chance that the information is intended to be confidential.*
- What is the value of the information? *The greater the value (or potential value) of the information, the greater the chance that the information is intended to be confidential.*
- What was the cost of ascertaining/developing the information? *The greater the cost of ascertaining or the greater the cost of the research and development of the information, the greater the chance that the information is intended to be confidential.*
- What was the degree of difficulty in ascertaining the information? *The harder the information is to obtain, the greater the chance that the information is intended to be confidential.*
- What was the degree of skill and effort expended in getting the information? *The amount of skill needed to obtain and/or interpret the information, the greater chance that the information is intended to be confidential.*
- What is the degree of internal and external protection of the information? *The greater the protection of the information, the greater the chance that the information is intended to be confidential.*
- Where there any express directions that the material is confidential? *The more explicit the discloser is about retaining the information as*

confidential, the greater the chance that the information is intended to be confidential.

- What is general industry practice in relation to the degree of confidentiality to be attached to such information? *The greater the industry practice to retain the information as confidential, the greater the chance that the information is to be confidential.*
- What is level of seniority/responsibility of people to whom the information is disclosed? *The higher the seniority of staff who have the information disclosed to them, the greater the chance that the information is intended to be confidential.*

It is important to note that this list is not exhaustive. If staff are still unsure about the nature of the information or if the answer to most of the questions above is 'I don't know', then staff should consult their supervisor before using or disclosing the information that may be in contrary to the disclosers intended use.

5.3 Commercially sensitive information

Commercially sensitive information is one source of confidential information. However, information may be commercially sensitive without being confidential, it is all a matter of what information, if released to a competitor, would give that competitor a greater ability to compete for the organisation's market share. Or, in relation to Power and Water's prescribed businesses, what information, if disclosed from Power and Water network to Power and Water generation (as a related business) would give Power and Water generation a competitive advantage over a competing generator?

To determine whether information is commercially sensitive, it is necessary to assess the information against the following question:

- Would the prescribed business give the information to a competitor of Contestable Retail or Generation?

This question focuses on the concept of competitive advantage, and asks whether the information would be disclosed in full, in part, or not at all. *The less information the prescribed business would disclose to a competitor of Contestable Retail or Generation, the more likely that the information is commercially sensitive.*

Staff should also take into consideration the operations of the related business. The information may not be commercially sensitive to the prescribed business, but by disclosing the information it may allow for a competitive advantage in the operations undertaken by that related business.

Confidential and commercially sensitive information may also include information that is obtained by Power and Water's Prescribed Businesses in the course of conducting their monopoly business activities. Prescribed

Businesses should not act as agents for Related Businesses to facilitate preferential access to confidential or commercially sensitive information.

5.4 Exceptions

Listed below are circumstances in which the disclosure of the information will be acceptable:

- 5.4.1 **public domain:** the disclosure, use or reproduction of information if the relevant information is at the time, generally and publicly available other than as a result of breach of confidence by the business unit who wishes to disclose, use or reproduce the information or any person to whom the business unit has disclosed the information;
- 5.4.2 **employees and advisers:** the disclosure of information by a business unit or the business unit discloses to:
 - a) an employee or officer of the business unit or a related body corporate of the business unit or Power and Water; or
 - b) legal or other professional adviser, auditor or other of the business unit;
 - (i) which require the information for the purposes of the Procedures, or for the purposes of advising the business unit or the business unit's disclosee in relation thereto;
- 5.4.3. **consent:** the disclosure, use or reproduction of information with the consent of the person or persons who provided the relevant information under the Procedures;
- 5.4.4. **law:** the disclosure, use or reproduction of information to the extent required by law or by a lawful requirement of:
 - (a) any government or governmental body, authority or agency having jurisdiction over a Business Unit or its related bodies corporate; or
 - (b) any stock exchange having jurisdiction over a Business Unit or its related bodies corporate;
- 5.4.5. **disputes:** the disclosure, use or reproduction of information if required in connection with legal proceedings, arbitration, expert determination or other dispute resolution mechanism relating to the Procedures, or for the purpose of advising a person in relation thereto;
- 5.4.6. **trivial:** the disclosure, use or reproduction of information which is trivial in nature;
- 5.4.7. **safety:** the disclosure of information if required to protect the safety of personnel or equipment;
- 5.4.8. **potential investment:** the disclosure, use or reproduction of information by or on behalf of a Business Unit to the extent reasonably required in connection with the Business Unit's

financing arrangements, investment in that Business Unit or a disposal of that Business Unit's assets;

- 5.4.9. **regulator:** the disclosure of information to the Commission or any other regulatory authority having jurisdiction over a Business Unit, pursuant to the Procedures or otherwise;
- 5.4.10. **reports:** the disclosure, use or reproduction of information of an historical nature in connection with the preparation and giving of reports under the Procedures; or
- 5.4.11. **aggregate sum:** the disclosure, use or reproduction of information as an unidentifiable component of an aggregate sum.

5.5 *Restricted Information*

For the purposes of the Procedures, certain information has already been classified as confidential and commercially sensitive information. The information includes:

- 5.5.1 **Customer information**, which includes usage and personal information relating to contestable and franchise customers.
- 5.5.2. **Personal information relating to a customer** includes details such as name and address, electricity consumption, their financial position and payment history, and tariff information (for non-Power and Water contestable customers).
- 5.5.3. **Network information**, which includes information relating to access applications and agreements, planning, tariffs and product development.
- 5.5.4 **Network Access Applications.** Each contestable customer is required to make an access application to the network provider (ie Power and Water Networks) within two years of becoming eligible. The information provided in an access application is commercially sensitive if the application is made directly to Networks, as its preferential disclosure to Contestable Retail, or Generation could provide a competitive advantage.
- 5.5.5. **Planning information** may include forward-looking scenario modelling, forecasting of demand growth trends and other forecasting carried out by the prescribed business for network planning related reasons. Where preferential access to this information would provide a competitive advantage to a retailer or generator, this information is commercially sensitive.
- 5.5.6 **Tariff information** relating to contestable customers is commercially sensitive information as it could provide a competitor retailer an opportunity to approach the customer with a 'better deal'.

- 5.5.7 **Joint product development** between Networks and Contestable Retail or Generation could also provide a competitive advantage if the product development requires the sharing of information between the businesses or the opportunity for joint product development is not provided to competitors.
- 5.5.8. **Other network information** that could potentially be commercially sensitive includes information on planned network improvements and network reliability, and advance information on planned outages. Preferential access to this information could provide a competitive advantage to a retailer, as it may provide them with an opportunity to provide superior customer service.
- 5.5.9. **Competitor information**, which if shared, may provide a competitive advantage to Contestable Retail or Generation. This information includes competing generator's operating and maintenance schedule, meter data and business plans.

If there is any doubt regarding the confidential or commercially sensitive nature of information staff should seek advice from their supervisor.

6. Specific Procedures

In accordance with the above principles:

- All information that is confidential or commercially sensitive may be provided to a related business if the discloser has given consent or if the disclosure is within the instructions for the use of the information given by the discloser; and
- All information that is confidential or commercially sensitive should not be given to either a related business, or a competitor of that related business, until consent has been received from the discloser.

6.1 *Information sharing:*

Where network planning information is required to be forwarded to a particular retailer, this information will be made available to all retailers on a non-discriminatory basis.

Where the Network engages in joint product development with a related business, that part of the joint product relating to Networks should be made available on request to all competitors of the related business.

Confidential or commercially sensitive information pertaining to a customer must not be provided to Contestable Retail, Generation or competitors, unless:

- Written instruction has been received from the customer to allow sharing of the information.

6.2 *Hard-copy documents:*

Business units within the prescribed business will maintain files separate to those Contestable Retail and Generation.

Only staff within a particular business unit may retrieve files relating to that business unit.

Files or documents containing confidential or commercially sensitive information are to be stored in a secure location, and should be locked away when unattended.

Files or documents containing confidential or commercially sensitive information must be marked confidential, so as to inform others of the need to treat the file or document in accordance with the Procedures.

6.3 *Electronic documents:*

Each business unit is provided with a secure folder (ie. password-protected) on the Power and Water computer network.

Each business unit must store all electronic files pertaining to their business unit, and containing confidential or commercially sensitive information, within their secure folder.

As required, secure sub-folders will be created where access to confidential or commercially sensitive information is to be restricted to particular staff within a business unit.

For example, the Economic Service unit requires access to MV90 data for all contestable customers (from both Power and Water and other retailers) in order to carry out economic analysis relating to network pricing. Economic Services will maintain a secure sub-folder, within the Economic Services folder on the network, for this particular work and all related files are to be stored on this secure sub-folder. Access to this folder will be restricted on a 'needs' basis.

6.4 *General computer security:*

Access to the computer network and information systems are to be password-protected.

Where a staff member is dealing with confidential or commercially sensitive information, they must use screensaver passwords, with the screensavers to be activated within 5 minutes of inactivity.

All staff will ensure the secrecy of their passwords. Passwords must not be disclosed to other persons.

Where staff move to a new position within Power and Water, whether on a temporary or permanent basis, their access to the Power and Water computer network and information systems will be varied to reflect the requirements of the new position.

6.5 CIS access:

Access to the Customer Information System (CIS) is to be password-protected.

Applications for access to CIS (or equivalent franchise customer information management systems) will be processed and administered exclusively by Franchise Retail (the owner of CIS). Each application will be reviewed to ensure the appropriate level of access to CIS is provided.

A nominated representative of the General Manager Retail will review access to CIS on an annual basis.

CIS users will be reminded, each time that they log onto the system, that there are criminal penalties for:

- Accessing the system (or parts of the system) without the proper authority; and
- Deleting, altering or changing information inappropriately.

Access to the primary CIS administration screen will be restricted to the CIS System Administrator.

6.6 MV90 data and access:

Technology Services, as the provider of Metering Services, is the owner of the MV90 system and, as such, is responsible for ensuring that access to this system is only provided where it is appropriate to do so.

Applications for a password to obtain access to MV90 data and systems are to be forwarded to the Technology Services business unit for processing.

Passwords to obtain access to the system are managed by Technology Services.

Metering services will maintain two passwords for each electronic meter:

- Read-only password, which provides the user with read-only meter information; and
- Master password, which is used for programming purposes.

Read-only passwords must only be provided to a retailer (or any other person) where the written permission of the customer has been obtained.

The master password must not be provided to any other person than the Metering Services Manager and the technicians responsible for maintaining and operating the MV90 system.

6.7 *Network information:*

Network tariffs should not be discussed with, or released to, Contestable Retail or Generation prior to publication in the NT Government Gazette.

Access application information should only be provided to those persons involved in assessing the application.

Access application information should not be provided to Contestable Retail, Generation or any competitor, unless a written request has been received from the applicant or as required under Clause 10 of the *Electricity Networks (Third Party) Access Code* under the *Electricity Networks (Third Party Access) Act 2000*.

6.8 *Contestable Retail Staff and Generation staff:*

All employees, consultants, contractors and agents of Contestable Retail and Generation who have access to information systems that are shared with the prescribed business, such as CIS, are to sign the appropriate undertaking to acknowledge that they will only use the systems, or information contained therein, for the purposes for which access was provided.

6.9 *Generation:*

Any information relating to standby generation arrangements or negotiated Electricity Supply and Purchase contracts with competing Retailers or Generators is confidential or commercially sensitive information and should not be shared with Contestable Retail.

6.10 *Compliance and reporting:*

All employees of Power and Water, and all consultants, contractors and agents of the prescribed business will be provided with a copy of the Power and Water confidentiality agreement and Information Procedures.

All employees, consultants, contractors and agents are to sign confidentiality agreements.

All employees of Power and Water, and all consultants, contractors and agents of the prescribed business are to sign the appropriate undertaking to acknowledge that they have received, read and understood the Procedures, and that they will endeavour to apply them at all times.

New employees will receive a copy of the Procedures as part of their induction process, and will be required to sign the appropriate undertaking at that time.

It will be a condition of employment that staff will comply with the Procedures and not misuse any confidential or commercially sensitive information they may obtain or come across in carrying out their duties.

It will be a condition of engagement that any consultants, contractors or agents will comply with the Procedures and not misuse any confidential or

commercially sensitive information they may obtain or come across in carrying out their duties.

Any employee who suspects any actual or suspected breach of the Procedures, must report the matter to their line manager, who must then report the actual or suspected breach to the Principal Commercial Adviser – Commercial Services.

If, after investigation by the Principal Commercial Adviser, it is determined that a breach has occurred, the breach will be reported to the Utilities Commission and the staff member who breached the Procedures will be dealt with under Power and Water's disciplinary procedures.

7. Further Information

If you have any questions relating to this form or the Procedures, please contact your supervisor.

Power and Water Corporation**Information Procedures Confidentiality Agreement****Acknowledgment**

I have received and read the Information Procedures and clearly understand my rights and responsibilities in relation to the use of Power and Water's confidential or commercially sensitive information and Power and Water's information systems, and agree to abide by the provisions set out in the Information Procedures.

Full Name:

Position:

Business Unit:

Section:

Phone No:

Region:

Supervisor:

Signed:

Date:

Further Information

If you have any questions relating to this form or the Information Procedures, please contact your supervisor.

Please return the completed form to the Corporate Information Manager, 3rd floor Energy House – Fax 89 247365.