

Deloitte.



Power and Water Corporation
Ring-Fencing Guideline Compliance Report
For the period 1 July 2019 to 30 June 2020

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1. Executive Summary

1.1 Introduction

The Australian Energy Regulator (the "AER") published the Electricity Distribution Ring-Fencing Guideline on 30 November 2016 under the National Electricity Rules (the "NER") with amendments made on 17 October 2017 (the "Guideline"). The Guideline requires functional separation of regulated and competitive business activities to promote competition in the provision of contestable electricity services.

Under clause 6.2.1c of the Guideline, Deloitte has been engaged per the engagement letter between Power and Water Corporation and Deloitte dated 12 September 2020 as the qualified independent authority for the period from 1 July 2019 to 30 June 2020.

Power and Water Corporation and the Guideline

Background

Since 2001, Power and Water Corporation has been subject to the Utilities Commission Electricity Ring Fencing Code and Guidelines (in various forms). From 1 July 2019, under Clause 6.17 of the NT National Electricity Rules, Power and Water Corporation was required to comply with AER Ring-Fencing Guideline obligations.

As detailed in the Annual Ring-Fencing Compliance Report, the AER agreed with Power and Water Corporation that to the extent that Power and Water Corporation offers non-electricity services, has no affiliate entity in place and subject to derogations applied by the NT Government (in recognition of the nature of the broader Power and Water Corporation operations), a number of clauses of the Guideline are not relevant to Power and Water Corporation. These clauses are:

- Provisions in the Guideline relating to legal separation, branding and cross promotion (retrospectively clauses 3.1, 4.2.1, 4.2.2, 4.2.3 of the Guideline).
- Restrictions on disclosure of confidential information under clause 4.3 of the Guideline.

However, Power and Water Corporation must still comply with the clauses where:

- Power and Water Corporation offers contestable electricity services (as defined in clause 1.4 of the Guideline).
- The disclosure is necessary to enable Power and Water Corporation to provide its distribution services, its transmission services, or its other services.
- With respect to disclosure of confidential information to any person outside of the Power and Water Corporation legal entity (in addition to a related electricity service providers (RESP)).

In regard to clause 3.2.1 (a) and 3.2.2 (a)-(c) Power and Water Corporation are currently consulting with the AER to determine whether the extension of accounting separation and cost allocation and attribution applies to related electricity service providers.

On this basis, our scope did not extend to the derogated Guideline obligations as we have considered these not to be applicable in the period covered by the report.

1.2 Summary of Findings

The following table summarises observations and recommendations against the Guideline obligation (the “Obligation”) where an exception was identified. The rating of each Obligation has been applied in accordance with *Section 1.3*.

No.	Category	Ref.	Guideline Obligation	Results of Testing	Recommendation	Rating	Material Breach
6	Obligation not to discriminate	4.1(b)	<p>A DNSP must not discriminate (either directly or indirectly) between a related electricity service provider and a competitor (or potential competitor) of a related electricity service provider in connection with the provision of:</p> <p>i. direct control services by the DNSP (whether to itself or to any other legal entity); and / or</p> <p>ii. contestable electricity services by any other legal entity.</p>	<p>Based on the testing performed we identified matters of exception against the obligation, with key point(s) below:</p> <p>Power and Water Corporation has not put appropriate measures to ensure compliance with this obligation.</p> <p>Due to the deficiencies in the measures we were not able to assess whether discriminatory behaviour has occurred between Power and Water Corporation and their related electricity service provider and a competitor or not.</p> <p>Specifically, against the measures we tested, we identified:</p> <ul style="list-style-type: none"> Power and Water Corporation’s Ring-Fencing webpage provides minimal reference to the equal treatment of RESPs and competitors. The standard agreements and sample contracts reviewed do not contain Ring-Fencing clauses. Power and Water Corporation’s Ring-Fencing Training is still being drafted and was not delivered to employees in the period. 	<p>To address the identified matters of exception, we recommend that Power and Water Corporation implement measures to ensure that they comply with the obligation including:</p> <ul style="list-style-type: none"> The agreement template and fact sheet – Confidentiality Deeds to reflect Ring-Fencing requirements: <ul style="list-style-type: none"> Agreement templates approved by Legal to be used for all procurement activities and the fact sheet – Confidentiality Deeds to be updated to reflect Ring-Fencing requirements. At a minimum the use of confidential information under the Guideline to be prioritised. Finalise and deliver to impacted staff the Ring-Fencing training package. Priority to be given to seconded and/or shared staff. 	Exception	Material Breach
12	Protection of confidential information	4.3.2 (a) (b)	A DNSP must:	<p>Based on the testing performed we identified matters of exception against the obligation, with key point(s) below:</p>	<p>To address the identified matters of exception, we recommend that Power and Water Corporation implement measures to ensure that they comply with the obligation including :</p>	Exception.	Immaterial Breach

			<p>(a) keep confidential information confidential</p> <p>(b) only use confidential information for the purpose for which it was acquired or generated</p>	<ul style="list-style-type: none"> • Whilst Power and Water Corporation's ICT systems managing confidential information addressed the requirements under Section 4.3.2 (a) (b) we identified that the: <ul style="list-style-type: none"> ○ definition of confidential information within the Privacy Policy, the Ring-Fencing Code – restrictions on information distribution procedure and Information Sharing Protocol is inconsistent with the definition of confidential information under the Guideline. Inconsistent definitions may cause confusion and staff to mishandle the treatment of confidential information. ○ Ring-Fencing Code - restrictions on information distribution procedure did not reflect requirements under the Guideline. • No active monitoring program to monitor instance where large volumes of data or records from systems containing confidential information is shared between the responsible electricity provider and Power and Water Corporation or across each individual entity. 	<ul style="list-style-type: none"> • Power and Water Corporation implement an active monitoring program to monitor and investigate instances where large volumes of data or records from systems containing confidential information is shared between the responsible electricity provider and Power and Water Corporation or across each individual entity. • Power and Water Corporation form a consistent view of what constitutes confidential information for Power and Water Corporation and reflect across all relevant policies. Where relevant Power and Water Corporation may consider the definition of confidential information under the Guideline across relevant policies. • Update the Finance Ring-Fencing Code restrictions in the information Distribution Procedure to reflect the requirements under the Guideline, as follows: <ul style="list-style-type: none"> ○ Reference the Guideline, specifically requirements under clauses 3.2.1 and 3.2.2 to ensure the policy can be used as a Guideline preventative control. 		
13	Disclosure of information	4.3.3 (a)-(g)	<p>A DNSP must not disclose confidential information to any person, including a related electricity service provider, unless:</p> <p>(a) the DNSP has first obtained the explicit informed consent of the</p>	<p>Based on the testing performed we identified matters of exception against the obligation in Section 4.3.2 (a) (b) above. As a result of the exceptions identified in 4.3.2. (a)(b), we were unable to conclude on the compliance with this obligation.</p>	<p>To address the identified matters of exception, we recommend that Power and Water Corporation implement measures to ensure that they comply with the obligation.</p>	Exception	Immaterial Breach

			<p>relevant customer, or prospective customer, to whom the confidential information relates;</p> <p>(b) the disclosure is required by, or for the purpose of complying with any law;</p> <p>(c) the disclosure is necessary to enable the DNSP to provide its distribution services, its transmission services or its other services (including by acquiring services from other legal entities);</p> <p>(d) the information has been requested by or on behalf of a customer, or potential customer, of another legal entity, and the disclosure is necessary to enable the legal entity to provide its transmission services, contestable electricity services or other services to the customer or potential customer;</p> <p>(e) the disclosure is solely for the purpose of providing assistance to another Network Service Provider in response to an event (such as an emergency) that is beyond the other Network Service Provider's reasonable control;</p>				
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			<p>(f) the disclosure is solely for the purposes of research by a legal entity other than a related electricity service provider of the DNSP</p> <p>(g) a related electricity service provider of the DNSP has requested the disclosure and the DNSP complies with clause 4.3.4 in relation to that confidential information.</p>				
14	Sharing of information	4.3.4	<p>(a) Subject to clause 4.1(c)iv. and to this clause 4.3.4, where a DNSP shares confidential information with a related electricity service provider, or where confidential information that a DNSP has disclosed under clause 4.3.3(f) is then disclosed by any person to a related electricity service provider of the DNSP, the DNSP must provide access to that confidential information (including the derived information) to other legal entities on an equal basis.</p> <p>(b) A DNSP is only required by clause 4.3.4(a) to provide information to a legal entity where:</p> <p>i. the legal entity has requested that it be included on the information register in</p>	Based on the testing performed we identified matters of exception against the obligation in Section 4.3.2 (a) (b) above. As a result of the exceptions identified in 4.3 2. (a)(b), we were unable to conclude on the compliance with this obligation.	To address the identified matters of exception, we recommend that Power and Water Corporation implement measures to ensure that they comply with the obligation.	Exception	Immaterial Breach

			<p>respect of information of that kind; and</p> <p>ii. the legal entity is competing, or is seeking to compete, with the DNSP, or a related electricity service provider of the DNSP, in relation to the provision of contestable electricity services.</p> <p>(c) A DNSP is not required by clause 4.3.4(a) to provide information to a legal entity where the DNSP has disclosed the information in the circumstances set out in clauses 4.3.3(a) to (e).</p> <p>(d) Without limiting clause 4.3.4(a), a DNSP must establish an information sharing protocol that sets how and when it will make the information referred to in clause 4.3.4(a) available to legal entities and must make that protocol publicly available on its website.</p> <p>(e) Where a DNSP discloses information referred to in clause 4.3.4(a) to any other legal entity under this clause 4.3.4, it must do so on terms and conditions that require the other legal entity to comply with clause 4.3.2 and 4.3.3(a) to (d) in relation to that information as if the</p>			
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			other legal entity was a DNSP.				
16	Conduct of service providers	4.4.1 (a)	A DNSP: (a) must ensure that any new or varied agreement between the DNSP and a service provider, for the provision of services to the DNSP that enable or assist the DNSP to supply direct control services, requires the service provider to comply, in providing those services, with: i. clauses 4.1, 4.2.1, 4.2.2 and 4.3.2 of this Guideline; and ii. clause 4.2.3 of this Guideline in relation to the brands of the DNSP; as if the service provider was the DNSP.	Based on the testing performed we identified matters of exception against the obligation, with key point(s) below: <ul style="list-style-type: none"> Agreements and confidentiality deeds, we tested between Power and Water Corporation and their service providers did not contain obligations for service providers to adhere to the requirements of the Guideline. 	To address the identified matters of exception, we recommend that Power and Water Corporation implement measures to ensure that they comply with the obligation, including: <ul style="list-style-type: none"> The agreement template and fact sheet – Confidentiality Deeds to reflect Ring-Fencing requirements: <ul style="list-style-type: none"> Agreement templates approved by Legal to be used for all procurement activities and the fact sheet – Confidentiality Deeds to be updated to reflect Ring-Fencing requirements. At a minimum the use of confidential information under the Guideline to be prioritised. 	Exception	Material Breach
17	Conduct of service providers	4.4.1 (b)	A DNSP: (b) must not, directly or indirectly, encourage or incentivise a service provider to engage in conduct which, if the DNSP engaged in the conduct itself, would be contrary to the DNSP's Obligations.	Based on the testing performed we identified matters of exception against the obligation in Section 4.4.1 (a) above. As a result of the exceptions identified in 4.4 1 (a), we were unable to conclude on the compliance with this obligation.	To address the identified matters of exception, we recommend that Power and Water Corporation implement measures to ensure that they comply with the obligation.	Exception	Material Breach
21	Maintaining compliance	6.1	A DNSP must establish and maintain appropriate internal procedures to ensure it complies with its Obligations under this Guideline.	Based on the testing performed we identified matters of exception against the obligation, with key point(s) below: <p>Power and Water Corporation has not established or maintained an appropriate control environment to ensure that it complies with the Guideline.</p>	To address the identified matters of exception, we recommend that Power and Water Corporation implement measures to ensure that they comply with the obligation. including: <ul style="list-style-type: none"> Power and Water Corporation update the Non-compliance / Breach Register to capture Guideline breaches or develop a 	Exception	Material Breach

				<p>Specifically, against the measures we performed tested against we identified:</p> <ul style="list-style-type: none"> The Promapp compliance system, Breach Register, Non-compliance Event Management and Reporting Procedure and Obligation Register are not set up to record breaches against the AER's Ring-Fencing obligations. Power and Water Corporation's Ring-Fencing training is still being drafted and was not delivered to employees in period. Other training documents referenced as measures do not address Ring-Fencing obligations. 	<p>standalone Guideline Non-compliance / Breach Register.</p> <ul style="list-style-type: none"> Power and Water Corporation update the Promapp - compliance breach module to capture and report on Ring-Fencing breaches. Power and Water Corporation establish proactive second line assurance reviews of controls in place against the Guideline, with a view to identify control weaknesses and potential reportable breaches. Finalise and deliver to impacted staff the Ring-Fencing training package. Priority to be given to seconded and/or shared staff. Establish a contact centre quality reporting process to identify and highlight Ring-Fencing related issues as a check to confirm Ring-Fencing training was understood. 		
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1.3 Rating Applied

The ratings applied to the results of our testing are defined below based on Deloitte's interpretation of the Guideline. The evaluation of the results of our tests as they relate to the Obligations is based on applying our professional judgement and considering the available facts and circumstances.

No Exception	Requirements of the Obligation have been met with no or only minor improvement opportunities. Any findings noted are considered minor and require routine efforts to correct in the normal course of business.
Exception	The requirements of the Obligation have not been fully met. Findings noted require remedial action.

Independent Assurance Report to the Directors of Power and Water Corporation

Adverse Opinion

We have undertaken a reasonable assurance engagement on Power and Water Corporation's Statement of Compliance, in all material respects, with the Annual Ring-fencing Guideline as evaluated against 6.2.1 of the Ring-fencing Guideline, for the period from 1 July 2019 to 30 June 2020. This Statement will accompany our report, for the purpose of reporting to the Australian Energy Regulator.

In our opinion, because of the significance of the matters discussed in the Basis for Adverse Opinion, section of our report, Power and Water Corporation's Statement that they have complied, in all material respects, with the Annual Ring-fencing Guideline as evaluated against 6.2.1 of the Ring-fencing Guideline, for the period from 1 July 2019 to 30 June 2020 is not fairly stated.

Basis for Adverse Opinion

Power and Water Corporation has not established or maintained an appropriate control environment to ensure that it complies with the Guideline. We have assessed that the failure to establish and maintain an appropriate control environment constitutes material and pervasive non-compliance with the requirements of the Guideline. Furthermore, due to this failing we have been unable to evaluate the extent to which Power and Water Corporation has complied with the individual obligations as set out in the Guideline.

We conducted our engagement in accordance with Standard on Assurance Engagements ASAE 3100 *Compliance Engagements* ("ASAE 3100") issued by the Auditing and Assurance Standards Board.

We believe that the evidence we have obtained is sufficient and appropriate to provide a basis for our adverse opinion.

Responsibilities of the Directors of Power and Water Corporation

The Directors are responsible for:

- a) Providing a statement with respect to the outcome of the evaluation of the compliance activity against the requirements of the Guideline, which accompanies this independent assurance report.
- b) Identifying risks that threaten the 6.2.1b of the Guideline identified above being met;
- c) Identifying suitable compliance requirements in the Guideline as required by the AER; and
- d) Identifying, designing and implementing controls to enable the requirements of the Guideline to be met and to monitor ongoing compliance.

Our Independence and Quality Control

We have complied with the independence and other relevant ethical requirements relating to assurance engagements and apply Auditing Standard ASQC 1 *Quality Control for Firms that Perform Audits and Reviews of Financial Reports and Other Financial Information, Other Assurance Engagements and Related Services Engagements* in undertaking this assurance engagement.

Liability limited by a scheme approved under Professional Standards Legislation.

Our responsibility is to express an opinion on whether Power and Water Corporation's Statement that they have complied, in all material respects, with the Annual Ring-fencing Guideline as evaluated against 6.2.1 of the Ring-fencing Guideline, for the period from 1 July 2019 to 30 June 2020 is fairly stated. ASAE 3100 requires that we plan and perform our procedures to obtain reasonable assurance about whether Power and Water Corporation's Statement that they have complied, in all material respects, with the Annual Ring-fencing Guideline as evaluated against 6.2.1 of the Ring-fencing Guideline, the period from 1 July 2019 to 30 June 2020 is fairly stated.

An assurance engagement to report on the Power and Water Corporation's Ring-Fencing Compliance Report involves performing procedures to obtain evidence about the compliance activity and controls implemented to meet the requirements of the Guideline. The procedures selected depend on our judgement, including the identification and assessment of risks of material misstatement in the Ring-Fencing Compliance Report, as evaluated against 6.2.1b of the Guideline. Our procedures included, but were not limited to:

- Inquiring with Power and Water Corporation personnel about measures in place to enable Power and Water Corporation to comply with the Obligations;
- Inquiring with management whether they are compliant with the Obligations and corroborating our inquiry with the results of our procedures; and
- On a sample basis, inspecting documentation to evidence the measures.

Inherent Limitations

Because of the inherent limitations of an assurance engagement, together with the internal control structure it is possible that fraud, error, or exception with compliance requirements may occur and not be detected.

A reasonable assurance engagement for the period from 1 July 2019 to 30 June 2020 does not provide assurance on whether compliance with the Guideline will continue in the future.

Restricted Use

This report has been prepared for use by the Directors of Power and Water Corporation for the purpose of meeting the reporting requirements to the AER. We disclaim any assumption of responsibility for any reliance on this report to any person other than Power and Water Corporation, or for any purpose other than that for which it was prepared. However, we understand that a copy of the report has been requested by AER. We agree that a copy of the report may be provided to AER for their information in connection with this purpose but, as will be made clear in the report, only on the basis that we accept no duty, responsibility or liability to any party, other than you, in connection with the report or this engagement. It is our understanding that the AER may publish a copy of our report on their website. We do not accept responsibility for the electronic presentation of our report on the AER's website. The security and controls over information on the web site is not evaluated or addressed by the independent assurance practitioner. The examination of the controls over the electronic presentation of the Ring-Fencing Compliance Report on the AER's web site is beyond the scope of this engagement.

DELOITTE RISK ADVISORY



Angela Jaric

Partner

20 November 2020, Melbourne

2. Detailed Findings

The descriptions of the tests of compliance that were performed, findings relating to the tests of compliance or particular aspects of the engagement, our recommendations and conclusion of whether there has been a breach of the requirements of the Guideline are described below.

The rating of each Obligation has been applied in accordance with *Section 1.3*.

No.	Category	Ref.	Guideline Obligation	Measures and Testing	Results of Testing	Recommendation	Rating
1	Legal separation	3.1 (a)	A DNSP must be a legal entity.		As outlined in section 1.1 of this report, Power and Water Corporation has been provided with derogation in relation to this obligation. For this reason, Deloitte has not performed any testing on this obligation.		
2	Legal separation	3.1 (b)	A DNSP may provide distribution services and transmission services but must not provide other services.		As outlined in section 1.1 of this report, Power and Water Corporation has been provided with derogation in relation to this obligation. For this reason, Deloitte has not performed any testing on this obligation.		
3	Separate accounts	3.2.1 (a)	A DNSP must establish and maintain appropriate internal accounting procedures to ensure that it can demonstrate the extent and nature of transactions between the DNSP and its affiliated entities.		Note: This obligation is not applicable as Power and Water Corporation does not have any affiliate entities.		
4	Cost allocation and attribution	3.2.2 (a), (b)	A DNSP must allocate or attribute costs to distribution services: - in a manner that is consistent with the Cost Allocation Principles and its approved CAM , as if the Cost Allocation Principles and CAM otherwise applied to the allocation and attribution of costs between distribution services and non-		Note: This obligation is not applicable as Power and Water Corporation does not have any affiliate entities.		

			distribution services. - and must not allocate or attribute other costs to the distribution services it provides.				
5	Cost allocation and attribution	3.2.2 (c)	A DNSP must establish, maintain and keep records that demonstrate how it meets cost allocation and attribution Obligations.	Note: This obligation is not applicable as Power and Water Corporation does not have any affiliate entities.			
6	Obligation not to discriminate	4.1(b)	A DNSP must not discriminate (either directly or indirectly) between a related electricity service provider and a competitor (or potential competitor) of a related electricity service provider in connection with the provision of: i. direct control services by the DNSP (whether to itself or to any other legal entity); and / or ii. contestable electricity services by any other legal entity.	Measure (s) <ul style="list-style-type: none"> Power and Water Corporation's Ring-Fencing webpage outlines that it treats all Responsible Electricity Providers and competitors the same when it comes to contestable electricity services. Standardised agreements between Power and Water Corporation and their related electricity service providers. Tests Performed: <ul style="list-style-type: none"> Inspected Power and Water Corporation's draft training material to determine whether it includes the obligation for a DNSP not to discriminate between a related electricity service provider and a competitor. Inspected Power and Water Corporation's ring-fencing website to determine whether it addresses the obligation to not discriminate between a RESP and a competitor 	Based on the testing performed we identified matters of exception against the obligation, with key point(s) below: Power and Water Corporation has not put appropriate measures to ensure compliance with this obligation. Due to the deficiencies in the measures we were not able to assess whether discriminatory behaviour has occurred between Power and Water Corporation and their related electricity service provider and a competitor or not. Specifically, against the measures we tested, we identified: <ul style="list-style-type: none"> Power and Water Corporation's Ring-Fencing webpage provides minimal reference to the equal treatment of RESPS and competitors. The standard agreements and sample contracts reviewed do not contain Ring-Fencing clauses. 	To address the identified matters of exception, we recommend that Power and Water Corporation implement measures to ensure that they comply with the obligation including : <ul style="list-style-type: none"> The agreement template and fact sheet – Confidentiality Deeds to reflect Ring-Fencing requirements: <ul style="list-style-type: none"> Agreement templates approved by Legal to be used for all procurement activities and the fact sheet – Confidentiality Deeds to be updated to reflect Ring-Fencing requirements. At a minimum the use of confidential information under the Guideline to be prioritised. Finalise and deliver to impacted staff the Ring- 	Exception.

				<ul style="list-style-type: none"> Review the population of feedback cases received within the audit period to determine whether the feedback cases were received on the basis Power and Water Corporation has not provided contestable services to customers. 	<ul style="list-style-type: none"> Power and Water Corporation's Ring-Fencing Training is still being drafted and was not delivered to employees in the period. 	Fencing training package. Priority to be given to seconded and/or shared staff.	
7	Offices, staff, branding and promotions	4.2.1(a)	A DNSP must use offices that are separate from any offices from which a related electricity service provider provides contestable electricity services.	As outlined in section 1.1 of this report, Power and Water Corporation has been provided with derogation in relation to this obligation. For this reason, Deloitte has not performed any testing on this obligation.			
8	Staff sharing	4.2.2(a)	A DNSP must ensure that its staff involved in the provision or marketing of direct control services are not also involved in the provision or marketing of contestable electricity services by a related electricity service provider.	As outlined in section 1.1 of this report, Power and Water Corporation has been provided with derogation in relation to this obligation. For this reason, Deloitte has not performed any testing on this obligation.			
9	Staff sharing	4.2.2(c)	The remuneration, incentives and other benefits (financial or otherwise) a DNSP provides to a member of its staff must not give the member of staff an incentive to act in manner that is contrary to the DNSP's Obligations under this Guideline.	As outlined in section 1.1 of this report, Power and Water Corporation has been provided with derogation in relation to this obligation. For this reason, Deloitte has not performed any testing on this obligation.			

10	Branding and cross-promotion	4.2.3(a)	<p>A DNSP:</p> <p>i. must use branding for its direct control services that is independent and separate from the branding used by a related electricity service provider for contestable electricity services, such that a reasonable person would not infer from the respective branding that the DNSP and the related electricity service provider are related.</p> <p>ii. must not advertise or promote its direct control services and its contestable electricity services that are not direct control services together (including by way of cross-advertisement or cross-promotion).</p> <p>must not advertise or promote contestable electricity services provided by a related electricity service provider other than the DNSP itself.</p>	As outlined in section 1.1 of this report, Power and Water Corporation has been provided with derogation in relation to this obligation. For this reason, Deloitte has not performed any testing on this obligation.			
11	Office and staff registers	4.2.4 (a), (b)	<p>A DNSP must establish, maintain and keep a register that identifies:</p> <p>(a) the classes of offices to which it has</p>	<p>Measure (s)</p> <ul style="list-style-type: none"> Staff and Office sharing register maintained and published on the Power and Water's ringfencing webpage 	<p>Based on the testing performed we identified matters of improvement against the measures, with key point(s) below:</p>	<p>To address the identified matters of improvements, we recommend the below:</p> <ul style="list-style-type: none"> Power and Water Corporation include a version control number to 	No Exception.

			not applied; and (b) the nature of the positions (including a description of the roles, functions and duties) of its members of staff and must make the register publicly available on its website.	Tests Performed: <ul style="list-style-type: none"> We conducted a search for the office and staff registers on the Power and Water Corporation customer-facing website to determine whether they were in place and in use. We inspected the registers to determine information that identified: <ul style="list-style-type: none"> (a) the classes of offices to which it has not applied; and, (b) the nature of the positions (including a description of the roles, functions and duties) of its members of staff. 	<ul style="list-style-type: none"> There was no version control evident on the office and staff sharing registers. 	denote the version of office and staff sharing registers.	
12	Protection of confidential information	4.3.2 (a) (b)	A DNSP must: (a) keep confidential information confidential (b) only use confidential information for the purpose for which it was acquired or generated	Measure (s) <ul style="list-style-type: none"> Allowable uses of confidential information defined as per Privacy guidelines and documented in relation to data stored in ICT systems, customer records, HR records, financial records. ICT systems managing and containing confidential information - T3.03 EA Application Catalogue. Information sharing protocol and Information sharing register. Data classification register – register containing data classified as confidential. ICT environment – process map outlining Power and Water technology environment. Tests Performed: <ul style="list-style-type: none"> We inspected Power and Water Corporation’s Privacy 	Based on the testing performed we identified matters of exception against the obligation, with key point(s) below: <ul style="list-style-type: none"> Whilst Power and Water Corporation’s ICT systems managing confidential information addressed the requirements under Section 4.3.2 (a) (b) we identified that the: <ul style="list-style-type: none"> definition of confidential information within the Privacy Policy, the Ring-Fencing Code – restrictions on information distribution procedure and Information Sharing Protocol is inconsistent with the definition of confidential information under the Guideline. Inconsistent definitions may cause confusion 	To address the identified matters of exception, we recommend that Power and Water Corporation implement measures to ensure that they comply with the obligation including : <ul style="list-style-type: none"> Power and Water Corporation implement an active monitoring program to monitor and investigate instances where large volumes of data or records from systems containing confidential information is shared between the responsible electricity provider and Power and Water Corporation or across each individual entity. Power and Water Corporation form a consistent view of what 	Exception.

				<p>and Confidential Information Policy, and information sharing protocol to determine whether there was a clear and consistent definition of what constituted confidential information.</p> <ul style="list-style-type: none"> We inspected Power and Water Corporation's ICT systems managing confidential information to determine whether ICT systems containing confidential information was defined as confidential information under the Guideline were identified. 	<p>and staff to mishandle the treatment of confidential information.</p> <ul style="list-style-type: none"> Ring-Fencing Code - restrictions on information distribution procedure did not reflect requirements under the Guideline. No active monitoring program to monitor instance where large volumes of data or records from systems containing confidential information is shared between the responsible electricity provider and Power and Water Corporation or across each individual entity. 	<p>constitutes confidential information for Power and Water Corporation and reflect across all relevant policies. Where relevant Power and Water Corporation may consider the definition of confidential information under the Guideline across relevant policies.</p> <ul style="list-style-type: none"> Update the Finance Ring-Fencing Code restrictions in the information Distribution Procedure to reflect the requirements under the Guideline, as follows: <ul style="list-style-type: none"> Reference the Guideline, specifically requirements under clauses 3.2.1 and 3.2.2 to ensure the policy can be used as a Guideline preventative control. 	
13	Disclosure of information	4.3.3 (a)-(g)	<p>A DNSP must not disclose confidential information to any person, including a related electricity service provider, unless:</p> <p>(a) the DNSP has first obtained the explicit informed consent of the relevant customer, or prospective customer, to whom the confidential information relates;</p>	<p>Measure (s)</p> <ul style="list-style-type: none"> Allowable uses of confidential information defined as per Privacy guidelines and documented in relation to data stored in ICT systems, customer records, HR records, financial records. ICT systems managing and containing confidential information - T3.03 EA Application Catalogue. Information sharing protocol and Information sharing register. 	<p>Based on the testing performed we identified matters of exception against the obligation in Section 4.3.2 (a) (b) above. As a result of the exceptions identified in 4.3 2. (a)(b), we were unable to conclude on the compliance with this obligation.</p>	<p>To address the identified matters of exception, we recommend that Power and Water Corporation implement measures to ensure that they comply with the obligation.</p>	Exception.

		<p>(b) the disclosure is required by, or for the purpose of complying with any law;</p> <p>(c) the disclosure is necessary to enable the DNSP to provide its distribution services, its transmission services or its other services (including by acquiring services from other legal entities);</p> <p>(d) the information has been requested by or on behalf of a customer, or potential customer, of another legal entity, and the disclosure is necessary to enable the legal entity to provide its transmission services, contestable electricity services or other services to the customer or potential customer;</p> <p>(e) the disclosure is solely for the purpose of providing assistance to another Network Service Provider in response to an event (such as an emergency) that is beyond the other Network Service Provider's reasonable control;</p> <p>(f) the disclosure is solely for the purposes of research</p>	<ul style="list-style-type: none"> • Data classification register – register containing data classified as confidential. • ICT environment – process map outlining Power and Water technology environment. <p>Tests Performed:</p> <ul style="list-style-type: none"> • We inspected Power and Water Corporation's Privacy and Confidential Information Policy, and information sharing protocol to determine whether there was a clear and consistent definition of what constituted confidential information. • We inspected Power and Water Corporation's ICT systems managing confidential information to determine whether ICT systems containing confidential information was defined as confidential information under the Guideline were identified. 			
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			<p>by a legal entity other than a related electricity service provider of the DNSP</p> <p>(g) a related electricity service provider of the DNSP has requested the disclosure and the DNSP complies with clause 4.3.4 in relation to that confidential information.</p>				
14	Sharing of information	4.3.4	<p>(a) Subject to clause 4.1(c)iv. and to this clause 4.3.4, where a DNSP shares confidential information with a related electricity service provider, or where confidential information that a DNSP has disclosed under clause 4.3.3(f) is then disclosed by any person to a related electricity service provider of the DNSP, the DNSP must provide access to that confidential information (including the derived information) to other legal entities on an equal basis.</p> <p>(b) A DNSP is only required by clause 4.3.4(a) to provide information to a legal entity where:</p>	<p>Measure (s)</p> <ul style="list-style-type: none"> Power and Water has published an Information sharing protocol and Information sharing register on its webpage. <p>Tests Performed:</p> <ul style="list-style-type: none"> We conducted a search for the information register on the Power and Water Corporation customer-facing website to determine whether it was in place and operable. We inspected the Information Register to determine whether: <ul style="list-style-type: none"> It was in place and that information disclosure is accurate and reflects recent information sharing. It is designed to meet the requirements of the Ring-Fencing Guideline. It is publicly available on the Power and Water website. 	Based on the testing performed we identified matters of exception against the obligation in Section 4.3.2 (a) (b) above. As a result of the exceptions identified in 4.3 2. (a)(b), we were unable to conclude on the compliance with this obligation	To address the identified matters of exception, we recommend that Power and Water Corporation implement measures to ensure that they comply with the obligation.	Exception.

			<p>i. the legal entity has requested that it be included on the information register in respect of information of that kind; and</p> <p>ii. the legal entity is competing, or is seeking to compete, with the DNSP, or a related electricity service provider of the DNSP, in relation to the provision of contestable electricity services.</p> <p>(c) A DNSP is not required by clause 4.3.4(a) to provide information to a legal entity where the DNSP has disclosed the information in the circumstances set out in clauses 4.3.3(a) to (e).</p> <p>(d) Without limiting clause 4.3.4(a), a DNSP must establish an information sharing protocol that sets how and when it will make the information referred to in clause 4.3.4(a) available to legal entities, and must make that protocol publicly available on its website.</p> <p>(e) Where a DNSP discloses information referred to in clause</p>			
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			4.3.4(a) to any other legal entity under this clause 4.3.4, it must do so on terms and conditions that require the other legal entity to comply with clause 4.3.2 and 4.3.3(a) to (d) in relation to that information as if the other legal entity was a DNSP.				
15	Information register	4.3.5 (a) - (c)	<p>(a) A DNSP must establish, maintain and keep a register of all:</p> <ul style="list-style-type: none"> i. related electricity service providers; ii. other legal entities who provide contestable electricity services but who are not affiliates of the DNSP; who request access to information identified in clause 4.3.4(a), and must make the register publicly available on its website. <p>(b) For each legal entity that has requested that a DNSP provide access to information identified in clause 4.3.4(a), the DNSP's information register must:</p> <ul style="list-style-type: none"> i. identify the kind of information requested by the legal entity; and ii. describe the kind of information requested by the legal entity in 	<p>Measure (s)</p> <ul style="list-style-type: none"> • Power and Water has published an Information sharing protocol and Information sharing register on its webpage. <p>Tests Performed:</p> <ul style="list-style-type: none"> • We conducted a search for the information register on the Power and Water Corporation customer-facing website to determine whether it was in place and operable. • We inspected the Information Register to determine whether: <ul style="list-style-type: none"> ○ It was in place and that information disclosure is accurate and reflects recent information sharing. ○ It is designed to meet the requirements of the Ring-Fencing Guideline. ○ It is publicly available on the Power and Water website. 	<p>Based on the testing performed we identified matters of improvement against the measures, with key point(s) below:</p> <ul style="list-style-type: none"> • There was no version control evident on the information register. 	<p>To address the identified matters of improvement, we recommend the below:</p> <ul style="list-style-type: none"> • Power and Water Corporation include a version control number to denote the version of the information register. 	No Exception.

			<p>sufficient detail to enable other legal entities to make an informed decision about whether to request that kind of information from the DNSP.</p> <p>(c) A legal entity may request that the DNSP include it on the information register in relation to some or all of the kinds of information that the DNSP is required to provide under clause 4.3.4(a), and the DNSP must comply with that request.</p>				
16	Conduct of service providers	4.4.1 (a)	<p>A DNSP: (a) must ensure that any new or varied agreement between the DNSP and a service provider, for the provision of services to the DNSP that enable or assist the DNSP to supply direct control services, requires the service provider to comply, in providing those services, with:</p> <p>i. clauses 4.1, 4.2.1, 4.2.2 and 4.3.2 of this Guideline; and</p> <p>ii. clause 4.2.3 of this Guideline in relation to the brands of the DNSP; as if the service provider was the DNSP.</p>	<p>Measure (s)</p> <ul style="list-style-type: none"> Agreement templates approved by Legal to be used for all procurement activities. Fact Sheet - Confidentiality Deeds - Web linked. <p>Tests Performed:</p> <ul style="list-style-type: none"> Inspected a series of Power and Water Corporation's contact/agreement templates and confidentiality deeds to determine whether they contained clauses or statements that provide direction to their service providers regarding their obligations under section 4.4.1 of the ring-fencing guidelines. Verified that these templates were utilised in practice by reference to sample contracts with Power and Water Corporation's suppliers. 	<p>Based on the testing performed we identified matters of exception against the obligation, with key point(s) below:</p> <ul style="list-style-type: none"> Agreements and confidentiality deeds, we tested between Power and Water Corporation and their service providers did not contain obligations for service providers to adhere to the requirements of the Guideline. 	<p>To address the identified matters of exception, we recommend that Power and Water Corporation implement measures to ensure that they comply with the obligation, including:</p> <ul style="list-style-type: none"> The agreement template and fact sheet – Confidentiality Deeds to reflect Ring-Fencing requirements: <ul style="list-style-type: none"> Agreement templates approved by Legal to be used for all procurement activities and the fact sheet – Confidentiality Deeds to be updated to reflect Ring-Fencing requirements. At a minimum the use of 	Exception.

						confidential information under the Guideline to be prioritised.	
17	Conduct of service providers	4.4.1 (b)	A DNSP: (b) must not, directly or indirectly, encourage or incentivise a service provider to engage in conduct which, if the DNSP engaged in the conduct itself, would be contrary to the DNSP's Obligations.	<p>Measure (s)</p> <ul style="list-style-type: none"> Agreement templates approved by Legal to be used for all procurement activities. Fact Sheet - Confidentiality Deeds - Web linked. <p>Tests Performed:</p> <ul style="list-style-type: none"> Verified Power and Water Corporation's draft training material to determine whether it includes the requirement that a DNSP must not incentivise a service provider to act in a manner contrary to the DNSP's obligations under the Guideline. 	Based on the testing performed we identified matters of exception against the obligation in Section 4.4.1 (a) above. As a result of the exceptions identified in 4.4 1., we were unable to conclude on the compliance with this obligation.	To address the identified matters of exception, we recommend that Power and Water Corporation implement measures to ensure that they comply with the obligation	Exception.
18	The AER will not grant a waiver of an Obligation under this Guideline other than in accordance with this clause 5	5.2 (a) - (h)	A DNSP may apply in writing to the AER for a waiver . An application for a waiver must contain all information and materials necessary to support the DNSP's application, including: (a) the Obligation in respect of which the DNSP is applying for a waiver; (b) the reasons why the DNSP is applying for the waiver; (c) details of the service, or services , in relation to which the	<p>Measure (s)</p> <ul style="list-style-type: none"> Waiver Register published by the AER and linked on Power and Water Corporation's website. https://www.powerwater.com.au/_data/assets/pdf_file/0019/53803/Ring-fencing-guideline-waiver-register.pdf <p>Tests Performed:</p> <ul style="list-style-type: none"> We performed a search of Power and Water Corporation's customer-facing website to determine whether a waiver register is publicly available. We inspected the applications in the Waiver Register to determine whether it contained information 	Based on the testing performed we identified matters of improvement against the measures, with key point(s) below: <ul style="list-style-type: none"> There was no version control evident on the waiver register. 	To address the identified matters of improvement, we recommend the below: <ul style="list-style-type: none"> Power and Water Corporation include a version control number to denote the version of the waiver register. 	No Exception.

			<p>DNSP is applying for the waiver;</p> <p>(d) the proposed commencement date and expiry date (if any) of the waiver and the reasons for those dates;</p> <p>(e) details of the costs associated with the DNSP complying with the Obligation if the waiver of the Obligation were refused;</p> <p>(f) the regulatory control period(s) to which the waiver would apply;</p> <p>(g) any additional measures the DNSP proposes to undertake if the waiver were granted;</p> <p>and</p> <p>(h) the reasons why the DNSP considers the waiver should be granted with reference to the matters specified in clause 5.3.2(a), including the benefits, or likely benefits, of the grant of the waiver to electricity consumers.</p>	<p>relating to and supporting Clauses (a) to (h).</p>			
19	Waiver register	5.7 (a)	<p>A DNSP must establish, maintain and keep a register of all waivers (including any variation of a waiver) and must make</p>	<p>Measure (s)</p> <ul style="list-style-type: none"> Waiver Register published by the AER and linked on Power and Water Corporation's website. https://www.powerwater.com.au/data/assets/pdf_file/ 	<p>Based on the testing performed we identified matters of improvement against the measures. These matters are reported in Section 5.2 (a) - (h) above.</p>	<p>Refer above for 5.2 (a) - (h).</p>	<p>No Exception.</p>

			the register publicly available on its website.	0019/53803/Ring-fencing-guideline-waiver-register.pdf Tests Performed: <ul style="list-style-type: none"> We performed a search of Power and Water Corporation's customer-facing website to determine whether a waiver register is publicly available. We inspected the applications in the Waiver Register to determine whether it contained information relating to and supporting Clauses (a) to (h). 			
20	Waiver register	5.7 (b)	The register established under clause 5.7(a) must include: i. the description of the conduct to which the waiver or interim waiver applies; and ii. the terms and conditions of the waiver or interim waiver; as set out in the AER's written decision, provided by the AER to the DNSP, to grant (or vary) the waiver or interim waiver.	Measure (s) <ul style="list-style-type: none"> Waiver Register published by the AER and linked on Power and Water Corporation's website. https://www.powerwater.com.au/data/assets/pdf_file/0019/53803/Ring-fencing-guideline-waiver-register.pdf Tests Performed: <ul style="list-style-type: none"> We performed a search of Power and Water Corporation's customer-facing website to determine whether a waiver register is publicly available. We inspected the applications in the Waiver Register to determine whether it contained information relating to and supporting Clauses (a) to (h). 	Based on the testing performed we identified matters of improvement against the measures. These matters are reported in Section 5.2 (a) - (h) above.	Refer above for 5.2 (a) - (h).	No Exception.
21	Maintaining compliance	6.1	A DNSP must establish and maintain appropriate internal procedures to ensure it complies with its Obligations under this Guideline.	Measure (s) <ul style="list-style-type: none"> Power and Water has a policy - Risk and Compliance Policy Statement. Power and Water has documented process maps on compliance activities in 	Based on the testing performed we identified matters of exception against the obligation, with key point(s) below: Power and Water Corporation has not established or maintained an appropriate control environment	To address the identified matters of exception, we recommend that Power and Water Corporation implement measures to ensure that they comply with the obligation: <ul style="list-style-type: none"> Power and Water Corporation update the 	Exception.

				<p>Promapp for all employees to access</p> <ul style="list-style-type: none"> • Power and Water has a standard – Compliance Management Standard. • Power and Water has a Procedure – Compliance Obligation Management Procedure. • Power and Water has a Procedure - Non-compliance Event Management and Reporting Procedure. • Power and Water has a Procedure - BU Compliance Management Template. • Power and Water has a Procedure – Compliance Attestation and Declaration Procedure. • Power and Water has a Procedure - Control Verification Procedure. • Power and Water has a Procedure - Draft Internal Audit Procedure Manual. • All staff must undertake mandatory training on the Competition and Consumer Act • Power and Water maintains an obligation register, which is managed by the Compliance Team. • Register of non-compliance - NT Ring-Fencing Code. • Promapp – compliance breach screenshot. <p>Tests Performed:</p> <ul style="list-style-type: none"> • Inspected the draft training materials to determine whether they outline the obligation for Power and Water Corporation not to discriminate between a related electricity service provider and a competitor. 	<p>to ensure that it complies with the Guideline</p> <p>Specifically, against the measures we tested, we identified:</p> <ul style="list-style-type: none"> • The Promapp compliance system, Breach Register, Non-compliance Event Management and Reporting Procedure and Obligation Register are not set up to record breaches against the AER's Ring-Fencing obligations. • Power and Water Corporation's Ring-Fencing training is still being drafted and was not delivered to employees in period. • Other training documents referenced as measures do not address Ring-Fencing obligations. 	<p>Non-compliance / Breach Register to capture Guideline breaches or develop a standalone Guideline Non-compliance / Breach Register.</p> <ul style="list-style-type: none"> • Power and Water Corporation update the Promapp - compliance breach module to capture and report on Ring-Fencing breaches. • Power and Water Corporation establish proactive second line assurance reviews of controls in place against the Guideline, with a view to identify control weaknesses and potential reportable breaches. • Finalise and deliver to impacted staff the Ring-Fencing training package. Priority to be given to seconded and/or shared staff. • Establish a contact centre quality reporting process to identify and highlight Ring-Fencing related issues as a check to confirm Ring-Fencing training was understood. 	
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				<ul style="list-style-type: none"> Inspected the Non-compliance Event Management and Reporting Procedure to determine whether the procedure addressed the management and monitoring of Ring-Fencing breaches. 			
22	Annual compliance report	6.2.1 (a), (b) (c)	<p>A DNSP must prepare an annual ring--fencing compliance report each regulatory year.</p> <p>The annual compliance report must identify and describe, in respect of the regulatory year to which the report relates:</p> <p>i. the measures the DNSP has taken to ensure compliance with its Obligations under this Guideline;</p> <p>ii. any breaches of this Guideline by the DNSP, or which otherwise relate to the DNSP; and</p> <p>iii. all other services provided by the DNSP in accordance with clause 3.1; and</p> <p>iv. the purpose of all transactions between the DNSP and an affiliated entity.</p> <p>The annual compliance report must be accompanied by an assessment of</p>	<p>Measure (s)</p> <ul style="list-style-type: none"> Power and Water Corporation 2019-20 Ring-Fencing Compliance Report. The Compliance team maintains a Non-compliance / Breach Register who also notifies the regulator within the required timeframes. Non-compliance Event Management and Reporting Procedure. <p>Tests Performed:</p> <ul style="list-style-type: none"> Inspected a copy of Power and Water Corporation's Ring-Fencing Breach Register to determine whether reportable breaches contained the following information: <ul style="list-style-type: none"> Date of the breach; Reportable date of the breach; the nature and cause of the breach; Impacts of the breach, and; Remediation activities to address the breach. Obtained and review the annual compliance declaration to determine whether any breaches/ occurred during the audit period. Inspected a copy of Power and Water Corporation's Annual Ring-Fencing 	<p>Based on the testing performed we identified matters of improvement against the measures, with key point(s) below:</p> <ul style="list-style-type: none"> The incident date in the Annual Compliance declaration to the Board and Utilities Commission are not aligned with the incident date in the breach register. 	<p>To address the identified matters of improvement, we recommend the below:</p> <ul style="list-style-type: none"> Power and Water Corporation should seek to align the incident date in the Annual Compliance declaration to the Board and Utilities Commission to the breach register and compliance report to the AER. 	No Exception.

			<p>compliance by a suitably qualified independent authority.</p>	<p>Compliance Report 2019-20 to determine if it addresses points (i) to (iv) and that the disclosures are consistent with our expectation based on the reasonable assurance procedures performed.</p>			
23	Compliance breaches	6.3	<p>A DNSP must notify the AER in writing within 5 (five) business days of becoming aware of a material breach of its Obligations under this Guideline.</p>	<p>Measure (s)</p> <ul style="list-style-type: none"> • The Compliance team maintains a Non-compliance / Breach Register who also notifies the regulator within the required timeframes. • Non-compliance Event Management and Reporting Procedure. • Promapp - compliance breach reporting platform. <p>Tests Performed:</p> <ul style="list-style-type: none"> • Inspected a copy of Power and Water Corporations' Breach Register (exported from the Promapp system) for reportable breaches and identification of the reporting date of the breaches being within the acceptable mandated window to determine whether breaches and/or near misses were captured during the audit period. 	<p>Based on the testing performed we have not identified any matters of exception.</p>	<p>Based on the testing performed we have not identified any matters of exception.</p>	<p>No Exception.</p>