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Submission to Public Accounts Committee
Inquiry into Splitting the Power and Water Corporation
12th Legislative Assembly of the Northern Territory
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Overview

1. The Electrical Trades Union (ETU) is the Electrical, Energy and Services Division of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU). The ETU represents approximately 65,000 workers electrical and electronics workers across the country and the CEPU as a whole represents approximately 100 000 workers nationally, making us one of the largest trade unions in Australia.

2. The ETU Northern Territory Branch represents workers in the Northern Territory energy industry and with many of those are directly involved in the generation sector. We are therefore pleased to have the opportunity to participate in this consultation process as the implications of any reform to the Territory energy market will have a direct impact on our members and a broad impact on the community with regards to issues where the ETU has an organisational position, such as price and reliability.

3. The ETU welcomes the opportunity to submit to the Committee on matters relating to its parliamentary inquiry into current proposals by the Northern Territory Government to disaggregate the publically owned Northern Territory Power and Water Corporation (PWC).
4. Comments and issues raised in this submission are made in a good faith and constructive context and the ETU would welcomes the opportunity to make further submissions in person to the Committee as part of the inquiry hearings process.
5. A secure, reliable and affordable supply of electricity is fundamental to ensuring the expected standard of living of a majority of the population for a first world country such as Australia and the Territory Government has the responsibility of providing essential services such as electricity to its taxpayers in a reliable, affordable and sustainable manner
6. The Governments proposed energy sector reform is the most fundamental change to the Territory energy sector in modern times, and the Committee is right to closely examine the broad impacts of the Government's proposal to dis-aggregate the Northern Territory Power and Water Corporation (PWC), and specifically examine the bills currently before the Assembly, as it will have far reaching implications for every Territorian.
7. In this submission we prove the following key points, and ask the Committee to consider adopting the following recommendations as part of its final report.

Key Points

8. The new arrangements proposed by the Government are costly and have significant implications for Territory taxpayers.

9. The current publically owned vertically integrated single business will be split up and replaced by up approximately 6-8 new entities. This is costly inefficient and counter to the stated fundamental premise of the reforms.
10. Taxpayers are being asked to sign up to the reforms on the basis of blind faith. The detailed arrangements of the reform are being left to develop throughout the implementation phase, thereby avoiding prior scrutiny.
11. There has been no evidence provided that lower electricity costs will result from these reforms. In fact, evidence from other states points to the contrary.
12. There is an unseemly rush to introduce the new arrangements without the appropriate level of analysis being carried out for the cost-benefits of the full range of options available. For example, the Darwin-Katherine system has sufficient generation capacity until 2019-20, therefore the need to rush this reform is incomprehensible and risks bad public policy outcomes.
13. As the bills before the house currently stand, they allow for partial or full privatisation of public assets.
14. The only way any Government can claim a proper mandate to embark on these reforms is if Territorians are able to express their preference through a democratic process that focuses on this issue in isolation from all others.

Recommendations

15. Recommendation 1 - the proposal to dis-aggregate PWC be put to a full referendum of all Territorians.
16. Recommendation 2 – Part 5A (ss53A-53U) of the *PWC Legislation Amendment Bill 2014* be removed on the basis it clearly provides for privatisation of public assets.

17. Recommendation 3 - Legislative amendments that provide ownership restrictions for public assets be hardwired into current and/or proposed future Government owned business legislation to ensure public ownership of essential service assets and reassure taxpayers.
18. Recommendation 4 - Detailed independent modelling on electricity price paths over 5, 10 and 15 year periods be urgently undertaken to ascertain the residential price impact of the dis-aggregation of PWC and associated market reforms. This information should be made publicly available and reported back to the Committee before any further consideration of the current reforms.
19. Recommendation 5 - The government undertake further analysis and investigation on alternative market designs and report back to the committee on feasibility and costs before any further consideration of the current reforms.

Legislation

20. With respect to section a) of the Committee Terms of Reference for this Inquiry, namely '*the provisions of the Power and Water Corporation Legislation Amendment Bill 2014 serial 63, the Power Generation Corporation Bill 2014 serial 64, and the Power Retail Corporation Bill 2014 serial 65*', the ETU has several concerns with the draft bills before the house.
21. Overall the bills currently before the Assembly provide for the basic legislative framework for the current Northern Territory Power and Water and Water Corporation to be re-structured by dis-aggregating the business into separate government owned entities for retail, generation and network/transmission respectively.

22. Comments in relation to the Power Retail Corporation Act 2014 are made at paragraphs 97-98 of this submission.

23. Comments in relation to the Power Generation Corporation Act 2014 are made at paragraphs 79-82 of this submission.

Exclusionary Periods

24. Both the RetailCorp and GenCorp Acts provide for exclusion periods.

25. Gencorp is prohibited from operating as a retailer for a minimum of 4 years, with a possibility of extension to maximum of 10 years.

26. RetailCorp is prohibited from operating as a generator for a minimum of 5 years, with a possibility of extension to a maximum of 10 years.

27. Both exclusionary periods are to be reviewed with 4 years of the commencement of the act.

28. We believe that the intent of these arrangements is clear. The 5 years periods act as an establishment period for each GOC to consolidate its new role, but after such time as the market allows, the intention is for each to be able to take on the function prohibited to become Generator-Retailers as is common in other states that have a much large market, such as Queensland, New South Wales and Victoria.

29. We do not believe that in a smaller market, such as the Territory, will be able to provide the required level of competition to allow this to be sustainable.

30. Looking at the experience of similar reform in a comparable market such as Western Australia where these arrangements failed, one has to wonder if it is wise to go through the significant expense of fundamental market reform to disaggregate power and water whilst clearly leaving the door open for at least partial re-aggregation and vertical integration within only 4 or 5 years.

31. Our view is that these tokenistic exclusionary period belie a misplaced optimism at best, or cynical planning to benefit private sector supporters worst.

Privatisation

32. The Government has gone to great lengths on the public record to assure Territorians of two main things – that the reforms will place downward pressure on skyrocketing power prices, and that the splitting up of PWC will not result in privatisation.
33. We have long held grave concerns that this reform process is simply a prelude to privatisation and unfortunately it would seem that these fears have been well founded.
34. Section 53 of the Power and Water Corporation Legislation Amendment Bill 2014 clearly allows for the full, or partial, privatisation of state owned assets through Regulation.
35. By allowing the transfer to occur through Regulation, it effectively puts the ability the transfer or sale of state owned assets beyond the scope of Parliamentary – and therefore democratic, investigation, debate and analysis.
36. The ETU stands opposed to these provisions and their intent.
37. We are strongly of the view that Sections 53A-53U should be repealed and replaced by provisions that enshrine continued public ownership of essential service assets and corporations.
38. This could be done by drafting provisions that stipulate ownership restrictions and/or requirements for any change of circumstance, for example, the holding of a referendum. Such provisions could be doubly entrenched and may have regard to the financial sustainability of the entity.

39. This would ensure that the assets that Territorians currently own will remain under public ownership where they can continue to receive the benefits as well as exercise control and influence over their management via democratic processes.
40. The ETU is concerned that the wholesale generation review, along with the dis-aggregation of PWC, is simply making the necessary market reforms to easily facilitate future energy privatisation within the Territory.
41. Privatisation is often justified on, among other grounds, that it will create greater efficiencies through competition and help retire current levels of debt or ameliorate future debt. However, the ETU rejects these assertions completely.
42. Privatisation of essential service assets or agencies such as electricity, which are usually natural monopolies, is not in the long term economic interests of governments or consumers.
43. Governments have historically pursued competition policy and tried to create more competitive energy markets via reviews such as the one currently and by separating generation, transmission, distribution and retail supply of electricity as is being done currently in PWC. Ironically in jurisdictions where this has occurred, such as Victoria and South Australian, has simply led to public oligopolies being replaced by private ones.
44. Privatisation as policy in government goes far beyond that of misplaced confidence in a particular ideology, there are numerous independent reports¹ that have analysed privatisation parts of Australia's energy sector and shown that in almost every case it has failed to deliver on its promises

¹ John Quiggin Opinion and Consulting, '*Electricity Privatisation in Australia – A record of failure.*' 2014.
Orion Consulting, '*Analysis of Queensland Government Electricity Sector Cash Flow*', 2014.

and led to worse economic and social outcomes compared to public ownership.

45. The reforms currently underway in the Territory have a very familiar and predictable tone that we suspect has less to do with improving consumer outcomes for taxpayers through effective energy sector reform, and more to do with providing opportunity for the corporate sector to make private profits from Territory consumers.

Final Report into Territory Wholesale Generation Arrangements

46. We note the Utilities Commission Review of Wholesale Electricity Generation Market Arrangements for the Northern Territory Final Report (the Report), and the Government's subsequent response to the report of accepting its findings and recommendations.

47. In addition to the structural separation of PWC to create new government corporations, the Report is proposing legal separation of the PWC Gas unit, which implies the establishment of a separate corporation law entity. This will mean the creation of yet another separate entity to enter the marketplace.

48. The report also recommends functional independence of System Control from PWC Networks, which presumably means another separate entity within the PWC structure, that will require additional resources in to take on the new functions of real time power system operation and to be the Market Operator who manages participant registration, prudential requirements, market settlement and metering data.

49. Further, the establishment of a new independent central reliability assurance contracting body, the Reliability Assurance Manager, is also recommended.

50. Additionally, the report acknowledges that the recommendations proposed in will take time to implement (one to two years) and will need to be adequately resourced and it recommends the establishment of a dedicated planning and implementation team, with representation from key agencies to oversee reform implementation.
51. Therefore, to give effect to the new arrangements, the Northern Territory electricity market would need to be dis-aggregated from a vertically integrated single entity (PWC) into approximately six new Government owned entities.
52. Only the Darwin-Katherine system is proposed to be covered by the proposed new arrangements, with the report stating that “The applicability of the Commission’s findings to the other two smaller regulated networks. Tennant Creek and Alice Springs has yet to be determined”.
53. Does this also mean that the new arrangements will only be the Darwin-Katherine portion of the market? Will there need to be separate tariffs and pricing methodologies? It is conceivable that the Government could task a third party (eg AEMO) to regulate the competitive market in Darwin-Katherine, whilst leaving the Utilities Commission to continue regulating all other areas.
54. We consider it to be wholly unacceptable that the communities of Tennant Creek and Alice Spring have the future security and reliability of an essential service left with a question mark hanging over it, whilst simultaneously having to be bear a share of the significant financial burden associated with reform implementation.
55. A wholesale energy trading arrangement requires sophisticated real time system operation and management software along with market settlement and metering data software. PWC does not currently have this specialist technical capability in house and would need to increase its staffing to employ people with these skills and knowledge The costs of this will be

significant, our investigations have put the estimate of cost at between \$10 – 20 million, the alternative to PWC acquiring this software is for it to enter into a contract for a third party (eg AEMO) to undertake these functions which will carry ongoing costs that are at the current time unknown.

56. The report continually uses word “should” which is quite alarming. It even acknowledges that there are other market designs that haven’t been fully analysed, stating “to explore the alternatives fully would require significant more time than was allowed for the review”.
57. It would be far better to spend the time to explore all options properly to get the reform right rather than rush into a single solution for expediency sake to meet an arbitrary deadline set by the Government.
58. Surely Territory taxpayers deserve certainty in the integrity of the decision making process and outcomes before the Government implements such costly changes to an essential service.
59. The Government needs to undertake further analysis and investigation on alternative market designs and report back to the Committee on feasibility and costs before any further consideration of the bills currently before the house.
60. The Report states that the current over supply of generation plant is, in effect, inefficient investment by Government and proposes that industry participants should determine efficient levels of energy supply and generation investment, with regulatory oversight.
61. Essentially new generation investment is to be left to market forces to determine on the assumption that in a market the size of the Territory this will occur in a rationale manner.

62. The Report acknowledges that introducing competition into the generation market when there is adequate plant capacity until 2019-20 in the Darwin-Katherine system will exacerbate the oversupply situation and will result in PWC or GenCorp having to write-down its asset base stating² "... in an efficient market, full costs can only be expected to be recovered for efficient level of capacity. This means that PWC Generation would not receive a rate of return for assets that are in excess of meeting the predetermined reliability standards."
63. This expensive solution is proposed as the only way of ensuring the potential for PWC Generation to not exploit its market power if it were opened up to competition. This is being done to overcome a "potential" not a demonstrably real problem.
64. The report just brushes aside the cost and provides no detailed cost-benefit analysis, as evidenced by the statement that *"The NTEM implementation process as recommended by the Commission will provide an opportunity to analyse costs in more detail than has been possible in the current review"*³.
65. The Report is silent on how existing contracts with customers and generators are to be treated, and it is reasonable to assume that there would be significant legal issues with Power Purchase Agreements congruent to a significant loss of revenue to GenCorp/RetailCorp/PWC if these contracts are to be severed, the application of current Community Service Payments, Retailer of Last Resort provisions and metering costs.
66. These are all significant issues that will have a major impact on customers and need to be fully explored, considered and planned for before embarking on the reform process.

² Utilities Commission Review of Wholesale Electricity Generation Market Arrangements for the Northern Territory Final Report, p14-15.

³ Utilities Commission Review of Wholesale Electricity Generation Market Arrangements for the Northern Territory Final Report, p17.

Generation

67. The Territory's electricity market is unique in that the cost of energy dominates the 'price stack', the Australian Energy Market Commission (AEMC) recently calculated⁴ that generation purchase costs account for 63% of the standing offer price of electricity in the Territory, therefore any reform to wholesale generation arrangements will have a significant impact on electricity prices.
68. The Territory has an island system of generation which means that with the exception of the Darwin to Katherine system which is interconnected, Alice Springs is a discrete system as is Tennant Creek and a number of smaller centres.
69. The Power and Water Corporation owns the majority of the power stations located in the Northern Territory, and the main Territory market characteristics are that loads are fairly predictable and rather than being industry and weather dependent, they are almost exclusively weather dependent.
70. The Utilities Commission's *2011-12 Power System Review* identified that the three regulated systems (Darwin-Katherine, Alice Springs and Tennant Creek) are expected to have sufficient generation capacity to maintain supply into the medium term. The Darwin-Katherine system is not expected to need new capacity until 2019-20 while Alice Springs and Tennant Creek systems will not require new capacity until 2020-21.
71. System peaks occur in the Darwin system during the 'wet season' build-up and in Alice Springs during 'summer'. Darwin's maximum daily demand (peak) is about 300MW and Alice Springs is 60MW with annual peak demand growth at approximately 2.5%.

⁴ Australian Energy Market Commission, 'NT Electricity Price Trends', December 2013.

72. The Darwin-Katherine interconnected system includes the Power and Water owned and operated Channel Island, Weddell and Katherine Power Stations and the privately owned Pine Creek Power Station, with all output purchased by Power and Water. The interconnected system is linked by a 132kv transmission line from Darwin to Katherine and represents approximately 75% of Power and Water owned generating capacity.
73. In Alice Springs, Power and Water Generation own and operate the Ron Goodin and Owen Springs Power Stations. They also purchase the output from a privately owned power station at the Brewer Estate, 25km south of Alice Springs.
74. Power and Water Generation also owns and operates power stations at Tennant Creek, Yulara and Kings Canyon. In addition, a number of minor power stations dedicated to smaller townships like Borroloola, Elliott, Daly Waters, Timber Creek, and Ti Tree are owned by Power and Water Generation and operated by Remote Operations group within Power and Water for Power and Water Generation.
75. In addition, throughout the Territory there are approximately 60 remote community power stations owned by Indigenous Essential Services Pty Ltd (a wholly-owned, not-for-profit subsidiary company of the Power and Water Corporation) and operated by Remote Operations group within Power and Water.
76. There is already a sunk cost by Government in ensuring that the Darwin-Katherine system has sufficient generation capacity until 2019-20.
77. PWC has a long-term fuel contract and cannot take advantage of cheaper fuel offered by other suppliers because of the take-or-pay obligations under the contract. It can only overcome this disadvantage if it off loads this excess gas.

78. The proposed reform will, far from the changes resulting in a level playing field, actually result in PWC being disadvantaged by having to absorb additional costs and a significant loss of revenue.

Power Generation Corporation Bill 2014

79. The Power and Generation Corporation Bill 2014 establishes the stand alone state owned generator, RetailCorp which is to function as state owned corporation and is subject to the relevant provisions of the Government Owned Corporations Act.

80. Sections 9(c),(g),(h) sets out technology development and research, including software, as a legislative requirement of GenCorp. Such as undertaking is an expensive one that would run into tens of millions of dollars.

81. Expenditure of this nature is at odds with the Government's numerous statements on the public record about the perilous state of Territory finances.

82. Rather than streamlining businesses practices to provide a safe and reliable supply of electricity at the minimum cost to Territorians, this section obliges GenCorp to carry out potentially expensive development practices at cost to the taxpayer, to be presumably sold off as part of longer term privatisation plans.

Retail

83. The Territory retail market has approximately 82,000⁵ customers and has been progressively opened to competition in tranches since 2000 and achieved full retail contestability in 2010.

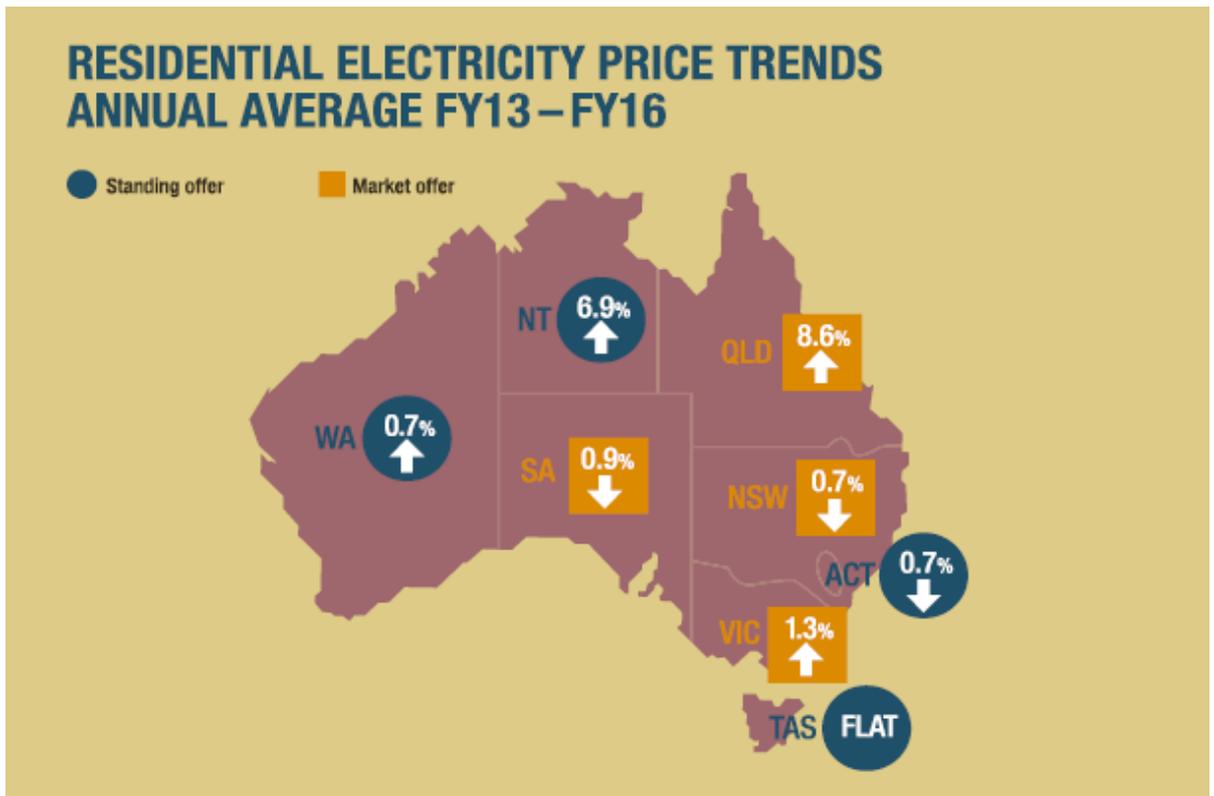
⁵ PWC Annual Report 2013, p40.

84. The majority of residential customers are in Darwin (approximately 75%), followed by Alice Springs (16%), Katherine (5%) and Tennant Creek and other smaller communities (4%).
85. It is particularly worth noting within the context of the proposed reforms, on our understanding the top 200 customers by usage account for approximately one third of PWC electricity revenue. If this is accurate, this means that 0.3% of total customers are drive approximately one third of the PWCs total electricity revenue.
86. Should there be a new generation entrant into a new competitive wholesale market, it is reasonable to assume that there will be a commercial arrangement between the new generator and non RetailCorp retailer(s). Given public statements about long term plans for retailers to have the potential to become generator-retailers it is possible that any new generation capacity will be 100% taken by RetailCorp competitors.
87. This would lead to these top 200 customers being aggressively targeted by RetailCorp/PWC competitor(s) as their contracts (currently with PWC) come up for renewal, as competitor(s) would be able to offer cheaper rates compared to PWC/RetailCorp/GenCorp.
88. While this may be to the price advantage of heavy usage commercial customers, the consequence of this is that competitor retailers and generators will be able to substantially acquire the vast majority of Power and Water's most profitable customers and both RetailCorp and GenCorp will lose significant market share and revenue while still needing to recover fixed costs, as currently more than 40%⁶ of PWCs costs are related to energy (gas) purchases, but a loss in market share to Power and Water Generation does not result in them reducing energy costs because of the take-or-pay obligations of the commercial contracts.

⁶ PWC Annual Report 2013, p52.

89. While larger commercial customers in Darwin may benefit from a private generator entering the marketplace, the loss of market share by PWC/GenCorp/RetailCorp will see the Territory taxpayers bear the cost of lost revenue.
90. Lost revenue to could amount to millions in annual subsidies being required and/or a massive cost cutting program that will see staffing, maintenance and capital programs shredded. This will be done via significant outsourcing of work to the private sector – especially in Power Networks.
91. Retail prices in the Territory have been subject to some of the largest increases in the nation in recent years. The Government announced a 20% increase on standing prices from 1 January 2013, followed by 5% increases on 1 January 2014 and 2015, with network costs in the Territory increased by a massive 21% over 2013/13.
92. Independent analysis⁷ of Territory electricity price by the AEMC found that *‘the main driver for electricity prices in the Northern Territory is the government’s decision to move towards cost reflectivity’*.
93. The same AEMC analysis showed that the Territory is being subjected to the second largest price increases in the nation over the period of 2013 – 2016, and this is all without factoring in the impact of the proposal to disaggregate PWC.

⁷ Australian Energy Market Commission, ‘NT Electricity Price Trends’, December 2013.



Source - AEMO

94. We believe that based on the evidence of electricity price rises under the current government alone, Territorians can have no confidence in claims that the splitting up of PWC will result in downward pressure on power prices through increased competition.

95. We are alarmed that at no stage the Government has made public independent estimates and modelling of the impact of the proposed reforms on residential prices. In the absence of this modelling we consider it to be reckless public policy and regulatory reform of the highest order for a government to take any decisions to press forward with such wide-ranging and fundamental reforms to the Territory energy sector.

96. We also submit that in the interests of transparency and accountability, the Government should make public all costs associated with the review process itself and the establishment and ongoing operational costs of any future market. For example, the financial impost associated with the new role required to administer the Reliability Assurance Mechanism or an independent gas regulator.

Power Retail Corporation Bill 2014

97. The Power and Retail Corporation Bill 2014 establishes the stand alone state owned retailer, RetailCorp which is to function as state owned corporation and is subject to the relevant provisions of the Government Owned Corporations Act.

98. Section 9(f) of the Bill could be construed as meaning that RetailCorp could operate the entire electricity supply line, including transmission and distribution. The Committee may wish to take action to clarify the matter.