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Economic regulation—the necessary evil

By Rod Shogren, former ACCC Commissioner

Rod Shogren finished his five-year term as a Commissioner on 29 April 2002. Rod was the Commissioner responsible for telecommunications and energy. His contributions are widely recognised inside and outside the Commission.

As I leave the ACCC after five years as a Commissioner, I hope some reflections on that period may be of interest and perhaps assistance to those still in the economic regulation business.

My term has coincided with the first five years of open competition in telecommunications with a new industry-specific regulatory regime. We have also seen the establishment of the National Electricity Market, the National Gas Code governing access to gas pipelines, major developments in the economic regulation of airports, and a growing level of access to rail infrastructure. Much progress has been made. Competition has developed where previously there was little or none, e.g. in telecommunications and parts of the electricity market. Consistent national regulation has been introduced where competition is naturally limited, e.g. in electricity and gas transmission. Massive efficiencies have been achieved, largely through corporatisation and privatisation stretching back beyond my five years, but also through the impact of competition and, to some extent, regulation.

These gains have flowed through into lower prices, new services and better quality services for users. The price falls have occurred across all the industries mentioned, some reflecting efficiency gains, some reduction in monopoly rents and therefore at the expense of producers. The proliferation of new services and achievement of better quality have occurred mainly where technological changes are more rapid, e.g. in telecommunications.

It is easy for a regulator to overestimate their own importance. We need to remember that much, perhaps most, of the gains that have been made are the result of corporatisation/privatisation and removing statutory restrictions on entry into the market by new players. Where regulation comes into play is in guaranteeing access to facilities and exerting downward pressure on monopoly pricing, i.e. redressing the remains of market power after entry restrictions have been removed.

It is often argued that all the benefits of price falls in telecommunications, e.g. for long-distance phone calls, have been due to technological change reducing industry costs. This claim is worth examining in a little detail. It is true that technological advances have the potential to reduce costs. However, in the past a protected monopolist had little incentive to introduce the new technology. There was little pressure to reduce costs or provide better services. There was no competition, no threat of loss of market share, and no threat of takeover.

Had cost-reducing technology been introduced, the benefits would most likely have dissipated into poor management and bad work practices. If they did find their way into profits, there is no reason why they would have been passed on to customers.

Corporatisation started to change this. Although in the absence of privatisation and the possibility of takeover, pressure for better management performance could be limited. What really made a difference were new entry and the development of competition. But the scope for competition in network industries to develop is limited by the natural monopoly or bottleneck characteristics of, for example, electricity and gas transmission and distribution, rail track and associated facilities, and the customer access network in telecommunications, consisting of the lines connecting customers to their local exchanges.

Here the objective of regulation is to allow unhindered competition in upstream and downstream markets of the bottleneck. In this way we can still get competition in electricity generation, gas production, energy retailing, train operation, airlines, and the carriage of voice and data beyond the customer access network. (Note that some of these areas can be considered success stories; others are disappointments.) In telecommunications, competition for customer access is also possible through unbundling, i.e. allowing other carriers to lease facilities owned by Telstra who then provide services over them to end-users.

In all these cases, access regulation is needed, although to differing degrees. Owners of electricity and gas transmission wires or pipelines want third parties to pump energy into their facilities and users to take it out. They will try to gain monopoly profits, but at least they actively promote access.

The story is different where an industry is vertically integrated. There, the owner of the bottleneck facility has an interest in restricting access to protect its upstream and/or downstream business from competition.

When governments have been wise enough to insist on disaggregation, e.g. by splitting electricity generation, transmission, distribution and retailing, the chances of competition flourishing in contestable markets are good. By contrast, competitors to the incumbent in telecommunications are potentially always at its mercy, and competition depends wholly on the effectiveness of the access regime and on policing abuses of market power. (Incidentally, there is, or at least was, no shortage of analysts, paid by incumbents, who would argue that it was in fact in the incumbent's interest to encourage access to its facilities. Strangely, access seekers, i.e. competitors, never seem to experience this encouragement.)

All this is by way of background to what a well-prepared but inexperienced new regulator might have expected back in 1997. If only I had known then what I know today! I was not well prepared in the sense that I had not thought through many of these differences in industry characteristics. Consequently, when I look back over some of my early speeches, I find they have a certain naivety.

I spoke of light-handed regulation although I knew that we were responsible for setting prices, which is one of the most intrusive forms of regulation there is.

Nevertheless, our regulatory frameworks require us to set prices, whether in the form of gas reference tariffs or arbitrated outcomes of price disputes in telecommunications. The reason for such intrusive decision-making lies in the problem we are dealing with: access to infrastructure whose owners have great market power. Access is mandated so as to allow competition in upstream and/or downstream markets. In the presence of monopoly power, efficient access prices will not apply except through regulation.

Of course, whether or not they are achieved through regulation depends on the skill of the regulator. When access is not possible without regulation, i.e. when the access provider directly competes with access seekers in upstream or downstream markets, the task of the regulator in setting access prices is even more sensitive and important.

The decision must balance the objectives of facilitating competition (at least in the sense of removing hindrances), efficient use of infrastructure, efficient levels of investment by the infrastructure owner (the access provider), and efficient levels of upstream and down-stream investment by access seekers (users of the services provided by the infrastructure) and by the infrastructure owner as well.

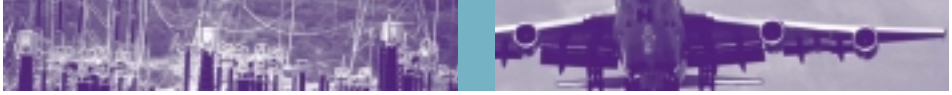
Clearly this is a big ask of the regulator and a very complex task. Nevertheless, once it is accepted that an access regime is desirable, the task cannot be shirked. Given its complexity, there is no way it can avoid being intrusive unless a very rough-and-ready broad-brush approach is to be taken.

When the main concern is merely redressing market power, price regulation can be more light-handed. For example in electricity and gas transmission—without the additional problems of vertical integration and leveraging market power from a non-competitive market into a potentially competitive one. Incentive regulation of the CPI–X kind is feasible as well as desirable when structural separation is the norm. We have been going through the more intrusive process of setting prices for the first time by coming to grips with the transmission companies' costs, such as appropriate asset values and cost of capital. In the process of regulatory resets, however, I would hope and expect this intrusiveness to diminish.

When on the other hand, vertical integration means leveraging between markets is a problem with the infrastructure owner competing against its wholesale customers in retail markets, it may be harder to get away from cost-based pricing and use incentive regulation. Practically speaking, setting access prices cannot rely on detailed cost studies year after year. Simpler mechanisms will have to be employed, such as the specification of a price path over a period of years from a starting point that has been reached after a detailed assessment of costs.

In either case, whether the results are worth the effort is a matter for review once there is sufficient experience. It is far too soon to evaluate that experience yet, which is why current views are based purely on in-principle positions and almost no empirical evidence. Indeed, arguments about our regulatory framework and its implementation have progressed little since that framework was put in place.

The arguments of those who say that our form of regulation has turned out to be too heavy-handed amount effectively to restatements of claims that we should have no regulation at all. By light-handed regulation they mean not looking at costs, not using the building-blocks approach, not calculating an appropriate weighted average cost of capital. But as I have explained, those things are necessary once it is conceded that regulation is needed for monopoly infrastructure assets. So the claim that we should not be doing all those things is a claim that we should not be regulating monopoly infrastructure assets.



But during the 1990s Australian governments decided unanimously that such assets would be subject to access regimes. This is not surprising. It occurs virtually everywhere in the world where utilities are in private ownership. Even in New Zealand, which is sometimes spoken of as if it had no access regulation, access prices were not left to the market. There they were set by the courts in processes that took years.

Down the track, perhaps Australia will once again debate whether we were right to introduce economic regulation and access regimes. I would be astounded if it is concluded at that time that the process of corporatisation, privatisation and structural separation was wrong or should be reversed. To my mind, the only interesting argument is whether competition would have developed more with less regulation. Eventually we will be in a position to evaluate whether it would have been better to allow infrastructure owners to price without constraint; whether their monopoly profits would have attracted new technology and new entrants; whether we would have ended up with greater duplication of infrastructure development, deeper networks and more facilities-based competition.

This argument has little attraction in an area such as gas transmission or rail track; more in electricity transmission where substitutes for transmission investment exist in the form of embedded generation and better location of loads; and perhaps more still in telecommunications where technological alternatives to bottleneck facilities are available.

As I see it, the issue is one of timing. We now think that few if any natural monopolies are permanent. Technology will ultimately bypass them all. But how much patience is needed to wait for that to happen? What economic inefficiency would we have to put up with? What economic gains would we be forgoing by waiting?

Even where technological change is fastest, in telecommunications and information technology, incumbent owners of infrastructure seem to have remarkably resilient market power. For example, five years ago most observers thought that by now competition in local telephony would have burgeoned through alternative technologies to wireline phones such as fixed wireless, cable and use of power lines. It hasn't happened in Australia nor in America, where cable networks are very widespread and the higher population makes introduction of new technologies easier.

What conclusions do I draw after five years? First, that what economic regulators do is necessary, important and has major ramifications. We therefore have to do it carefully. Second, we cannot avoid the hard work of setting access prices. If monopoly infrastructure owners were free to do as they choose, the opportunity cost of all the investment that would be lost and all the new services that would be delayed, would be too great to contemplate.

Third, the thing we should fear most is that we will, through our regulatory decisions, hinder the development of competition where market power is greatest, i.e. in the true bottlenecks and natural monopoly services. In facilitating upstream and downstream competition, we must bend over backwards not to allow core utility services to remain uncontestable any longer than the economic deployment of new technology dictates.

If I have one overriding concern it is that facilitating upstream and downstream competition and constraining monopoly profits is to some degree at the expense of breaking down monopolies.

Finally, I am confirmed in the view that economic regulation is best approached and integrated into the organisation from the viewpoint of a general competition policy agency. Such an agency is most likely to have a rich understanding of the processes of competition and the distinction between facilitating competition and protecting or assisting competitors. It is less likely to be susceptible to arguments about why each industry's uniqueness justifies unique treatment.

Nevertheless, despite the necessity of the regulator's work and my pride in what has been achieved, I believe it useful to regard economic regulation as a necessary evil. That way we can work towards reducing the level of regulation rather than encouraging its increase.

Telecommunications

Regulation review

The Productivity Commission's report on telecommunications competition regulation was released on 21 December 2001 and will shortly be tabled in federal parliament. The government is developing its response to the report and invited written comments by 15 February 2002.

The ACCC made several submissions to the review which can be viewed from the Productivity Commission's website at <http://www.pc.gov.au/inquiry/telecommunications/subs/sublist.html>.

Regulatory principles for public information disclosure

In January 2002 the ACCC released a discussion paper, *Regulatory principles for public disclosure of record-keeping rule information*. The discussion paper proposes a public disclosure regime that attempts to balance the interests of consumers, competitors and the disclosing firm.

The ACCC sought feedback from market participants by 22 February 2002. The ACCC will place all non-confidential submissions on its website.

This work complements the telecommunications industry regulatory accounting framework (RAF) released by the ACCC in May 2001 to introduce a vertical and horizontal accounting separation model that requires revenue and cost information for wholesale and retail services to be reported to the ACCC at six-monthly intervals.

ADSL roll-out

In September 2001 the ACCC issued a competition notice to Telstra about its ADSL services. The notice was to come into force on 30 November of last year, but the ACCC agreed to extend this date to 31 March 2002 to allow time for commercial negotiations on pricing and for the implementation of Telstra's proposed architecture changes.

The ACCC is hopeful that the outcome of the issue of the notice will be an increase in the number of providers offering services to residential and small business end-users and that such competition will result in a wider variety of services being offered at more competitive prices.

Telecommunications access disputes (arbitrations)

At the end of November 2001 the ACCC had three current arbitrations. Interim determinations have been made for these arbitations. One arbitration concerns public switched telecommunications network (PSTN) and the rate of payment for call termination, and two arbitrations concern analogue subscription broadcasting.

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Electricity

Network and distributed resources code change package

In December 2000 the National Electricity Code Administrator (NECA) lodged applications with the ACCC for authorisation of amendments to the National Electricity Code. The proposed amendments deal with the planning and approval provisions for new transmission network augmentations.

On 13 February 2002 the ACCC issued its determination. It has decided to grant authorisation, on condition that several amendments are made to the proposed code changes. The ACCC's determination outlines its analysis and views. The determination can be found on its website at <http://www.accc.gov.au>. Subject to the conditions imposed, the ACCC considers the code changes an improvement on the existing network planning and approval arrangements as they provide a clearer, more streamlined assessment framework within which new investment is possible.

Amendments to the National Electricity Code

New South Wales derogations

On 5 October 2001 the ACCC received applications for authorisation (Nos A90801, A90802 and A90803) of amendments to the New South Wales derogations to the National Electricity Code. The applications were lodged by NECA on behalf of the New South Wales Ministry of Energy and Utilities under Part VII of the TPA. These amendments relate to the metering arrangements of chapter 7 of the code.

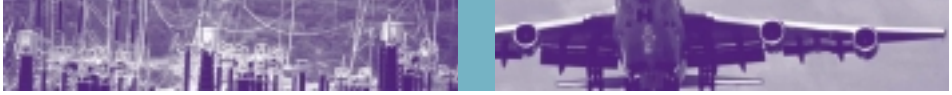
The changes to the New South Wales derogations:

- introduce transitional arrangements for metering services in the wholesale electricity market
- provide the local network service providers (LNSPs) with a monopoly for the provision of metering services.

The ACCC considers it important to have an operating environment in which customers can decide on the retailer of their choice and so benefit in full from FRC. It also considers that allowing LNSPs to have temporary exclusivity in meter provision would simplify the process for customers who choose to switch retailers, and will minimise disruption to the metering data systems.

The ACCC authorised the derogation on 23 January 2002. This implies that all metering services, including meter ownership and installation, meter reading, and metering data agency will become contestable at the end of the derogation, unless the jurisdictional review determines otherwise for meter ownership.

The period of the authorisation is limited to 31 December 2010. This is the period of time set down by the ACCC in the 10 December 1997 determination for authorisation of the existing National Electricity Code.



Prudential arrangements: security deposits

On 6 February 2002 the ACCC issued its final determination for authorisation of code changes relating to prudential arrangements.

The prudential supervision process is the framework NEMMCO uses to manage the risk associated with the guarantee of payments from market participants. Previously, to satisfy the requirements of the prudential arrangements, market participants were required to seek credit support, in the form of a bank guarantee from an entity that satisfies the acceptable credit criteria as set out in the code.

It has recently become acceptable for market participants to lodge cash as a security deposit. This became especially viable for short-term periods of high prices, as it would allow participants to call on cash deposits rather than costly bank guarantees should they require extra funds. It was considered prudent to formalise the arrangements due to the increasing use of the facility and sums on deposit. The code changes therefore spell out the rights and responsibilities of NEMMCO and market participants.

In releasing its determination, the ACCC considered that the code changes would contribute to enhancing competition in the market.

Regulatory review of transmission service standards

On 27 May 1999 the ACCC released its draft statement of regulatory principles for the regulation of transmission revenues (draft regulatory principles).

The draft regulatory principles outlined the ACCC's initial views on service standards that it would impose on transmission network service providers (TNSPs). The ACCC is further developing these service standards, undertaking a regulatory service standards review.

The review will propose appropriate service standards and benchmarks to apply across the National Electricity Market and for each transmission network, considering national and international developments and incorporating existing statutory requirements. The review will also include an analysis of market-based service standards and the development of an incentive scheme for the maintenance of service standards.

It is expected that the project's consultant will issue a discussion paper outlining the benchmark service standards in March. After a round of consultations with TNSPs and other market participants, the project consultant will design an incentive mechanism and deliver a final report to the ACCC at the end of May 2002. The ACCC expects to release its final version of transmission service standards later this year after appropriate public consultation.

Negotiation guidelines for discounts on electricity transmission

On 21 September 2001 the ACCC released its determination regarding network pricing code changes. That determination provides for network users to negotiate discounts on their transmission charges, and sets out the circumstances under which such discounts can be recovered from other network users. Specifically, the determination states that TNSPs may recover the costs of discounts to transmission use of system general charges and common service charges where the discounts meet guidelines to be promulgated by the ACCC.

On 10 October 2001 the ACCC released its draft guidelines for the 'Negotiation of Discounts on Transmission Charges' and sought submissions from interested parties (a copy of the draft guidelines can be obtained from the ACCC website. The ACCC received several submissions and is currently reviewing them. The finalised guidelines should be released by mid-May 2002 after the ACCC has had a chance to review a couple of real-world discount applications.

The ACCC's network pricing determination also contains transitional arrangements for discounts negotiated before the guidelines are finalised and submitted to the ACCC for approval of cost recovery. In assessing these applications the ACCC intends to maintain consistency with the draft guidelines. To date the ACCC has received one application which was approved on 31 January 2002.

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Gas

Over the last quarter the ACCC has finalised work on a number of gas access arrangements including the Moomba to Adelaide pipeline system, the Wallumbilla to Gladstone via Rockhampton pipeline and continues preparations for the 2002 review of the Victoria transmission system. The ACCC has also been working on several other gas-related projects, including draft greenfields guidelines and the ring fencing compliance review.

Access arrangements

Wallumbilla to Gladstone via Rockhampton pipeline

Duke Energy has sought review by the Australian Competition Tribunal of the ACCC's decision to include a major events trigger in the access arrangement it drafted and approved for Duke's Wallumbilla to Gladstone pipeline (also known as the Queensland gas pipeline).

The tribunal heard arguments from the ACCC, Duke Energy and Epic Energy on 8 April 2002. Argument was confined to the legal issue of whether the ACCC had the power to include a major events trigger into the access arrangement it drafted and approved for the QGP.

Duke and Epic argued that the derogation provisions of the Gas Pipelines Access (Queensland) Act removed from the ACCC the power in s. 3.17 of the code to insert a major events trigger. A major events trigger is a provision that allows the ACCC to re-examine the non-derogated aspects of the access arrangements if certain events occur, such as the interconnection of another pipeline with the QGP, before the derogated review date.

The matter was heard by Deputy President Hely, Professor Round and Mr Latta.

The tribunal has indicated it will hand down its decision on 10 May.

2002 review: Victorian transmission access arrangements

The ACCC has begun the first scheduled review of the GasNet Australia (Operations) Pty Ltd and the Victorian Energy Networks Corporation (VENCorp) gas transmission access arrangements which it approved in 1998. GasNet and VENCorp lodged revisions with the ACCC on 28 March 2002 to come into effect on 1 January 2003.

Under the market carriage capacity management system operating in Victoria, users pay tariffs to both the system owner, GasNet, and the independent system operator, VENCorp. Approximately 85 per cent of the combined tariff is paid to GasNet.

Matters the ACCC are considering include:

- the relationship between the two service providers and between their access arrangements, in particular a proposal by GasNet not to make any services available
- GasNet's proposal to 'reopen' the capital base, increasing the 1 January 1998 value by $35.8 million
- GasNet's proposal to include the cost of the Southwest pipeline under the gas code's economic feasibility test
- the proposed merger of the GasNet principal transmission system and Western transmission system access arrangements
- GasNet's proposed real tariff increase of over 10 per cent over the second access arrangement period
- the proposed introduction of prudent discounts
- GasNet's proposed tariff restructure whereby injection charges would be levied on the 10 peak days (rather than 5) and the withdrawal charge would be solely levied on total volume (rather than one charge on peak and another on total volume)
- VENCorp's expected real tariff reduction of approximately 10 per cent for metering charges and approximately 4 per cent for commodity charges over the second access arrangement period
- VENCorp's proposal to move from annual to five-yearly budget approval for registration and commodity tariffs.

The ACCC has requested submissions from interested parties on the proposals and released an issues paper. It is currently considering these submissions and expects to issue its draft decision shortly. The ACCC will then hold a public forum on the issues raised in that decision and its proposed approach. After considering further submissions, the ACCC will issue its final decision. In conjunction with the review of the access arrangements the ACCC will assess the re-authorisation of the market and system operation rules. Authorisation was first granted in August 1998 and expires on 1 January 2003. VENCorp will need to reapply for authorisation this year. The ACCC has started background work on this matter and has held discussions with VENCorp.

Other regulatory issues

Greenfields

Greenfields risk in the gas sector is an issue the ACCC is currently addressing. Greenfields pipeline projects are likely to face greater uncertainty than more established pipelines with respect to forecasts for growth on future expected demand.

The ACCC recognises that prospective investors in new pipelines need to understand how the regulatory regime will apply to their investment.

To assist pipeliners in this process the ACCC is currently drafting a guideline document on the options under the regulatory frameworks available under the code and Part IIIA.

The ACCC will be producing this guideline to:

- explain the application of the regulatory framework and the ACCC's approach to the regulation of greenfields projects
- demonstrate the flexibility of the regulatory framework and the various approaches available for the structure of an access arrangement or access undertaking
- indicate the ACCC's preferred methods for dealing with project-specific risks
- assist prospective service providers to evaluate the likely regulatory outcomes for potential or proposed greenfields projects.

Its aim is to promote greater certainty through greater transparency, and to address some of the concerns that have been raised about the difficulties of developing new pipelines. A draft of the guideline is expected to be completed within the first half of this year and will be made available to all interested parties. Copies will also be available from the ACCC website.

The ACCC also expects to host a consultative forum before finalisation of the greenfields guideline.

Tender for the supply of gas to the Loddon Murray region of Victoria

On 1 November 2001 the ACCC released its decision to approve an application lodged by the Loddon Murray Gas Supply Group (LMGSG) to conduct a competitive tender. This tender was to determine a preferred supplier of gas for the Loddon Murray region of Victoria and allows the successful bidder to construct both a transmission and distribution pipeline to the area. The Victorian Office of the Regulator General (now the Essential Services Commission) released its decision approving the distribution components of the tender at the same time.

Under the access arrangement approval process, proposed tariffs for covered pipelines are submitted to the ACCC for assessment. Alternatively, for new pipelines, the gas code allows tariff-related aspects to be established through a competitive tender process. The ACCC's role under this scenario is to ensure that the tender rules allow tariffs to be determined by competitive forces. When the tender has been conducted in accordance with the approved tender rules, the tariffs are 'locked in' for the initial access arrangement period.

Following the ACCC's approval of the LMGSG's request, the group conducted the tender and bidding closed on 15 March 2002.

On 9 April 2002 the ACCC was advised by the LMGSG that no formal bids had been received. Despite this, several companies expressed an interest in the project and LMGSG indicated their intention to approach those parties for further information to progress the venture.

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Transport and Prices Oversight

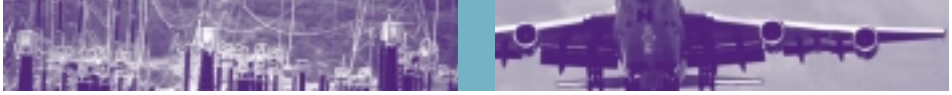
Aviation

Airport terminal users protected by price controls

The ACCC has decided not to apply access regulation to the domestic express terminal at Melbourne airport because airlines are well protected by other regulatory arrangements.

The decision comes after Virgin Blue asked the ACCC to determine the terminal covered by access regulation contained in s. 192 of the Airports Act. The Minister of Transport decided that 'airports services' at Melbourne airport are covered by access regulation. Under the Airports Act, the ACCC has the role of deciding if a given service is an 'airport service' and therefore covered by access regulation in Part IIIA of the Trade Practices Act.

The terminal is already subject to price control under the Prices Surveillance Act and in August 2000 the ACCC approved a price of $1.65 per passenger for use of the terminal. These statutory



price controls limit Melbourne airport's ability to exercise its market power over the terminal.

Virgin Blue is already using the terminal under a commercially negotiated agreement but is waiting to hear from the ACCC for formal right to use the terminal. This would enable Virgin Blue to seek ACCC arbitration if Melbourne airport did not agree to lower its price.

In deciding not to apply the access regulations to the terminal, the ACCC was mindful that it has already determined a fair price for the terminal. The ACCC also notes Melbourne airport has not denied Virgin Blue terminal access. Virgin Blue is using the terminal under a negotiated agreement that applies until 2007.

This decision is based on the characteristics of this particular case. Any future request for access regulation of airport terminals will be considered on its merits.

The decision is available on the ACCC website.

Lower aeronautical charges required at Perth and Brisbane airports

Regulatory reports issued by the ACCC require Perth and Brisbane airports to lower aeronautical charges in 2001–02 to comply with CPI–X price caps.

Aeronautical charges are the prices charged by airports to airlines for airport services such as use of runways, aprons and terminal facilities. Aeronautical services provided by Melbourne, Brisbane and Perth airports are subject to a price cap under the Minister's Direction 24 issued under the Prices Surveillance Act.

The reports show that while Melbourne airport has broadly complied, aeronautical charges at Perth and Brisbane airports have not been reduced enough in recent years to meet the price cap administered by the ACCC. The regulatory framework specifies that the reduction in charges must occur during this year.

The report discusses service quality and shows that, in general, quality has not been sacrificed to reduce costs under the price cap arrangements. This is a good result for both passengers and airlines.

These are the final ACCC reports on the airports before the current price cap arrangements expire at the end of June 2002, having been in place for five years. The reports also cover financial reporting and pricing of some services not covered by the price cap.

The regulatory reports are available from the ACCC's website.

Post

The ACCC has not objected to changes in Australia Post's discount rates for the Ad Post service.

In November 2001 Australia Post notified the ACCC of a number of changes it intended to make to the pricing of its Ad Post service. Ad Post provides direct mail businesses with discounted postal rates for bulk advertising mail. Under the Prices Surveillance Act, Australia Post is required to notify the ACCC of any price increases for its reserved services. The reserved services are those for which Australia Post has a legislated monopoly.

The proposed changes would phase out the Ad Post discount for all customers except charities. The phase-out is proposed in two stages—an initial price increase in Ad Post prices from 1 July 2002, with the discontinuation of the Ad Post service from 1 July 2003.

There were initial concerns about the lack of adequate consultation before Australia Post informed users of the proposed price increases and the insufficient lead time for their introduction. However, Australia Post engaged in further consultation with bulk mail users and delayed implementing the initial reduction of the discount by eight months.

In reaching its decision, the ACCC also noted Australia Post's claim that the Ad Post service has been making losses for several years.

Waterfront

Adsteam Marine Limited

On 30 January 2002 Adsteam notified the ACCC of its proposal to increase charges for towage services at the ports of Sydney (Jackson and Botany), Adelaide, Melbourne and Brisbane. The proposed price increases were:

- 11.7 per cent in Brisbane
- 13.1 per cent in Port Botany
- 15.8 per cent in Adelaide
- 23.4 per cent in Melbourne
- 26.2 per cent in Port Jackson.

This notification proposed identical price rises to a notification that was lodged with the ACCC in December 2001 and withdrawn in January 2002.

Adsteam argued that the price rises would achieve a margin cost of 18 per cent at all ports. According to Adsteam the increases were to offset the effects of higher unit costs because of declining volumes of tug job numbers. At the same time, Adsteam claimed costs were also affected by investment in more powerful tugs required to service larger ships.

The ACCC undertook a limited public consultation process. The vast majority of users consulted argued against the proposed increase in charges. Submissions from interested parties all said that the price increases were unjustified.

The ACCC's assessment of the notification shows that Adsteam's proposed prices would be greater than those required to meet the efficient cost of providing harbour towage services in these ports. The ACCC found that, in setting its proposed prices, Adsteam has double-counted its profit margins.

On 20 February 2002 the ACCC announced that it had not approved the harbour towage rate increases and on 28 February released a statement of reasons for the decision.

The statement of reasons sets out in detail the analysis that led the ACCC to the conclusion that no price increases were justified including the double counting of the return on capital costs (tug boats).

However, Adsteam chose not to adopt the ACCC's decision and increased its prices to the level of the notified prices. There are no powers under the Prices Surveillance Act to prevent prices increasing. The government has subsequently announced that the Productivity Commission will conduct an inquiry into the economic regulation of harbour towage.

The ACCC's statement of reasons is available on the ACCC's website.

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National Competition Council

Certification of access regimes

Queensland gas

The NCC's draft assessment of the Queensland access regime for gas pipeline services (Queensland regime) against the clause 6

principles takes account of public submissions received, discussions with interested parties, technical advice where relevant, new material forwarded to the minister in 2001, as well as other relevant material.

On the basis of the information available to it, the NCC has reached a preliminary view that the Queensland regime does not satisfy the clause 6 principles for the services of all 'covered' pipelines in the state. As such, the NCC's preliminary view is that the regime is not an effective access regime.

The NCC is seeking written comments from interested parties on its draft recommendation on the effectiveness of the Queensland regime by close of business on Friday, 5 April 2002.

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NT electricity

The NCC released its draft recommendation in September 2000, noting that a number of issues remained outstanding against the Competition Principles Agreement criteria. The NCC was therefore unable to consider the code effective and recommend certification to the minister.

Principal areas of concern included limitations on contestability and the out-of-balance energy system. The NT Government made amendments to the regime to address these outstanding concerns.

Following this, the NCC completed its final assessment of the regime and forwarded its recommendation to the Commonwealth Minister in December 2001.

The minister accepted the NCC's recommendation and certified the regime as effective on 21 March 2002.

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Victorian rail access regime

On 27 July 2001 the NCC received an application from the Victorian Government for certification of the Victorian rail access regime as 'effective' under Part IIIA.

The regime covers a range of matters including a negotiation framework, pricing principles and dispute resolution processes. The Office of the Regulator General (ORG) administers the regime. ORG has developed papers and guidelines to indicate how it will manage this appointment (available from http://www.reggen.vic.gov.au).

The NCC has published a position paper detailing concerns about whether the regime complies with the clause 6 principles. The Victorian Government is considering amendments to address these concerns. The proposals are detailed in the position paper.

The NCC has received submissions from interested parties to consider before finalising its assessment.

Contact: Trish Lynton
(03) 9889 9888

South Australian ports and maritime services access regime

In August 2001 the NCC received an application from the South Australian Government to certify their ports and maritime services access regime as effective. The regime provides for third party access to certain maritime services provided at prescribed ports.

The NCC has sought submissions from interested parties and is currently considering the matters raised.

Contact: Geraldine Anthony
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Declaration applications

Western Power

On 7 May 2001 Western Power instituted proceedings in the Federal Court in Perth against the NCC and Normandy seeking to prevent the NCC from considering Normandy's application for declaration of certain Western Power electricity transmission and distribution services. Western Power argues that the application services are not 'services' within the meaning of Part IIIA. These proceedings are ongoing.

Contact: Michelle Groves
(03) 9285 7476

Freight Australia

On 1 May 2001 the NCC received an application from Freight Victoria Limited, a private company trading as Freight Australia, for declaration of the rail line services provided by the rail lines it leases from the Victorian Government, excluding services provided by sidings and some branch lines.

In December 2001 the NCC forwarded its recommendation to not declare the service to the Commonwealth Minister. In February 2002 the minister decided to not declare the service in accordance with the NCC's recommendation.

The minister was not satisfied that declaration would promote competition in a dependent market to any greater extent than the Victorian rail access regime. This meant that criteria (a) of s. 44H(4) was not satisfied and the service could not be declared. Copies of the minister's decision and the NCC's recommendation are available from its website at <http://www.ncc.gov.au>.

Freight Australia has applied to the Australian Competition Tribunal for a review of the minister's decision.

Contact: Trish Lynton
(03) 9889 9888

Portman Iron Ore Limited

Portman Iron Ore Limited has withdrawn its application for declaration of the services provided by the Koolyanobbing–Esperance rail line. WestNet Rail operates this line under a 49-year lease from the Western Australian Government.

Contact: Michelle Groves
(03) 9285 7476

AuIron Energy Ltd

The NCC has received an application under Part IIIA from AuIron Energy Limited for a recommendation to declare the service provided by the Wirrida–Tarcoola railway line.

The NCC has consulted interested parties and will publish a draft recommendation in May 2002. Interested parties will then have an opportunity to provide further comment before the NCC sends its final recommendation to the Commonwealth Minister.

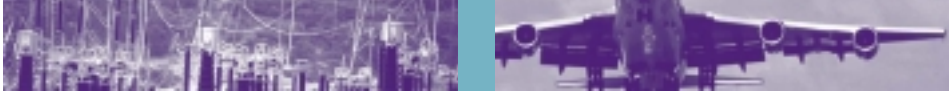
Contact: Damian Adams
(03) 9285 7786

National gas code

Revocations

Moomba to Sydney and Dalton to Canberra transmission pipelines (NSW)

The NCC released a draft recommendation on 17 December 2001 recommending that the pipelines remain covered pipelines as they meet the coverage criteria of s. 1.9 of the National Gas Access Code. The NCC requested submissions on its draft recommendation by 11 February 2002.



The NCC is currently considering the information it received and will be forwarding its final recommendation to the Commonwealth Minister for Industry, Science and Resources by 8 April 2002.

Copies of the NCC's draft recommendation and all submissions are available on its website at <http://www.ncc.gov.au>.

Contact: Michelle Groves
(03) 9285 7476

Parmelia pipeline (WA)

In February 2002 the NCC forwarded its final recommendation to revoke coverage of the pipeline to the Western Australian Treasurer.

On 13 March 2002 the Western Australia Treasurer decided to revoke coverage. Copies of the NCC's recommendation and the Treasurer's decision are available on <http://www.ncc.gov.au>.

Contact: Damian Adams
(03) 9285 7786

Roma distribution system

On 4 February 2002 the NCC received an application from the Roma Town Council for revocation of coverage of the Roma distribution system under the *Gas Pipelines Access (Queensland) Act 1998*.

The Roma distribution system serves bundled gas supply to a total of 295 customers through 69.8 km of reticulated gas pipe in the area of the town of Roma. It is owned and operated by the Roma Town Council. It is currently covered under the Queensland Access Act, and its regulator is the Queensland Competition Authority. There is no access arrangement in place at the moment.

The NCC forwarded its final recommendation to revoke coverage to the Queensland minister in April 2002.

Contact: Damian Adams
(03) 9285 7786

Victoria

Essential Services Commission

The Essential Services Commission commenced operation from 1 January 2002. The inaugural chairperson is Dr John Tamblyn who has held the position of Regulator-General in Victoria since 1997. There will be two part-time commissioners who have not yet been appointed.

Gas

Review of gas distribution access arrangements

The ESC is required to undertake a review of the access arrangements of the Victorian gas distributors by the end of 2002 for the next five-year period from 2003.

Further submissions were received from stakeholders on ORG's position paper in November. The ESC released a response in December 2001.

Details of the access arrangement review are available on the website at <http://www.esc.vic.gov.au>.

Implementation of Safety Net

The ESC released a consultation paper for stakeholder comment on 7 November 2001 and submissions were received until 7 December 2001. It also released a draft decision paper on the revised gas retail code (15 February 2002) and submissions on the draft decision paper were accepted until 4 March 2002. After reviewing submissions received the ESC has released the final decision paper. It is available on the ESC website.

Retail rules

On 9 November 2001 VENCorp submitted to the ESC proposed amendments to the rules for approval. The proposed amendments were developed through ongoing consideration by industry working groups, working under the auspices of the Victorian Gas Retail Rules Committee seeking to implement full retail contestability. The ESC released an issues paper seeking comments on the proposed amendments. The submissions were received and considered and a final decision paper was issued by the ESC on 17 January 2002 (available on the website at <http://www.esc.vic.gov.au>.

Water

On 7 March 2002 the ESC released its sixth annual comparative performance report of Melbourne's three retail water businesses (City West Water, South East Water and Yarra Valley Water). The report covers key performance issues of quality and reliability, affordability and customer service. The aim of this report is to stimulate competition by comparison and inform customers about the level of service they receive. The report, covering the 12-month period to June 2001, shows Melbourne's water customers are continuing to receive improved levels of service on most of the performance indicators measured by the ESC.

Western Australia

Office of Gas Access Regulation

There have been no specific new developments on the assessment of proposed access arrangements for pipelines covered by the code in Western Australia since the last newsletter.

Briefly, there are three pipeline systems for which decisions are pending including the Dampier to Bunbury natural gas pipeline, the Goldfields gas pipeline and the Kalgoorlie to Kambalda lateral. The requirement to lodge a proposed access arrangement for the Kalgoorlie to Kambalda lateral was originally deferred by the Western Australian Independent Gas Pipelines Access Regulator until 1 December 2002, but this date has now been brought forward to 1 July 2002.

Draft decisions for the Dampier to Bunbury natural gas pipeline and the Goldfields gas pipeline were issued on 21 June 2001 and 10 April 2001 respectively. While the regulator is endeavouring to progress the assessment of these access arrangements, both are currently the subject of legal action in the Supreme Court of Western Australia.

Information on developments relating to gas access regulation is available from the Office of Gas Access Regulation website <http://www.offgar.wa.gov.au>.

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South Australia

South Australian Independent Industry Regulator

Electricity supply industry

Review of distribution code

The Office of the SAIIR commenced a review of chapter 3 of the distribution code (connections requiring network extension and/or augmentation) in December 2001.

The arrangements for payments by consumers for extensions and augmentations have been the source of criticism for some time and the SAIIR undertook early in 2001 to carry out a review later in the year.

A discussion paper was released to facilitate public consultation on the review. Interested parties were initially allowed until 8 February 2002 to make submissions to the review. Following several requests the SAIIR extended the deadline for submissions to 1 March 2002.

Distribution price review process—information paper

The SAIIR released the first in a series of papers on the 2005–10 distribution price review in December 2001. The information paper is intended to establish a clear framework for the conduct of the 2005 price review and discusses the legal framework and key phases of work to be completed by the SAIIR in making the price determination. The paper sets out a timetable (and prioritisation) for completion of issues relating to the price review.

Following comments from stakeholders on the timetable and process set out in the information paper, the SAIIR updated and reissued the paper in February 2002.

Distribution service standards for 2005–10: discussion paper

A discussion paper on the distribution service standards for 2005–10 was released by the SAIIR in February 2002. This paper identifies the various approaches to service standard regulation and the performance measures that should apply to ETSA Utilities for the period 2005–10. Closing date for submissions on the discussion paper was 8 March 2002.

A South Australian perspective

On 4 February 2002 the SAIIR advertised the release of a request for proposal about a project determining consumer preferences for service standards in electricity distribution in South Australia.

This consultancy will support the work that the SAIIR has to do for the 2005 electricity distribution price review. In particular, it will feed into the process of developing the service standards framework to apply to ETSA Utilities over the 2005–10 regulatory period.

The SAIIR needs to develop an understanding of the value electricity consumers place on service standards. A consumer survey is considered to be the most reflective and comprehensive way to determine this value.

Transmission issues

In December 2001 the SAIIR released a discussion paper entitled 'Transmission Line Performance in South Australia and the SA Transmission Code'.

The paper assesses proposals which may provide appropriate commercial and/or regulatory incentives to encourage ElectraNet SA to improve transmission line and in particular interconnector availability. The paper also reviews the changing role of the SAIIR in relation to the performance incentive scheme and the current and future role of the ACCC.

Closing date for submissions to the paper was 25 January 2002.

Full retail contestability

Electricity retail competition

A discussion paper on electricity retail competition, 'Consumer Protection Issues for Small Customers' was released by the SAIIR in December 2001.

The paper reviews the existing electricity retail code and raises a range of issues for electricity industry participants, consumers and other stakeholders to consider.

Some of the matters canvassed in the paper are the need for minimum consumer standards with which all retailers must comply such as contractual issues (billing cycles, collection methods, repayment arrangements, treatment of customers experiencing payment difficulties, grounds for disconnection, and information disclosure) and a range of other consumer issues such as privacy, the obligation on retailers to offer to sell electricity, complaint handling, security deposits, cooling off periods and payment options available, especially for regional customers.

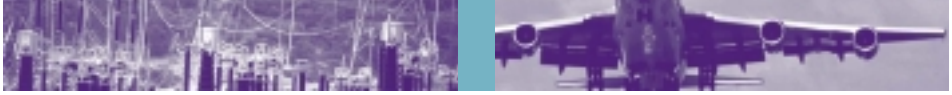
Public feedback will be important in determining the level of consumer protection which may be implemented under a revised retail code and other arrangements for domestic and small business electricity customers who will be able to choose their electricity retailer from 1 January 2003.

Submissions on the discussion paper closed on 1 March 2002.

Licence applications

Major licence applications currently being processed by the SAIIR include:

- Auspine Green Energy Pty Ltd—generation licence for proposed 60MW biomass-fueled power station at Tarpeena. It is intended that the plant be operational by October 2003.
- Southernlink Transmission Company Ltd—transmission licence for the proposed 'hybrid' interconnector based around an upgrade in capacity of the existing Heywood interconnector between Victoria and SA. A discussion paper on this application was released in November 2001 with four submissions received (from TransEnergie, TransGrid, ElectraNet and the Electricity Consumers Coalition of SA). A number of issues have been raised and the SAIIR intends to circulate the submissions to each of the above parties to seek further comment. Once those responses have been received, the SAIIR will review the key issues and determine if it is possible to consider issuing a licence.
- Ausker Energies Pty Ltd—generation licence for proposed wind farm at Tungketta Hill.



- Transgrid—transmission licence for proposed SA–NSW Interconnect (SNI). A discussion paper on this application was issued in August 2001. The SAIIR has issued a draft determination on the TransGrid transmission licence application for a proposed 275 kV transmission line from Buronga in NSW to Robertstown and/or Berri in SA (the SNI). The draft determination outlines details of comments received on the discussion paper issued by the SAIIR in August 2001 and also includes the SAIIR's preliminary assessment of the licence application.

  Before issuing a final determination the SAIIR considers it appropriate to provide the opportunity for public comment on the nature of the determination and the associated issues. Written submissions on this matter closed on 1 February 2002.

Licence approvals

Tarong Energy Corporation

The original application for this generation licence was a joint application from Tarong Energy Corporation and Global Intertrade Pty Ltd. Following advice from Global Intertrade in December 2001 that it wished to withdraw from the project all project arrangements, licence and approval applications and land options were transferred to, and assumed by Tarong Energy Corporation.

On 29 January 2002 the SAIIR issued a generation licence to Tarong Energy Corporation Ltd authorising operations at the Starfish Hill Wind Farm.

Rail

Darwin–Tarcoola railway

The SAIIR released a discussion paper on the determination of an appropriate return on assets for the Tarcoola–Darwin railway for ceiling price-setting purposes in January 2002. Submissions are invited on the preliminary views expressed and other matters raised in the paper. Closing date for submissions was 22 March 2002.

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ACT

Independent Competition and Regulatory Commission

Wheelchair accessible taxis

Because of the ACT election in October 2001, the formation of the new government and the suspension of Assembly sittings over the festive season, several ICRC reports have been tabled but have not yet received a response from the incoming government. ICRC's reports on wheelchair accessible taxis (WATs) and petrol prices in the ACT were tabled in the Assembly before the election but the government has not formally responded. However, in one of its early decisions, the new government reversed the previous government's decision to transfer all WAT licences to the proposed second taxi network. Implementation of the previous government's decision was delayed until the ICRC was able to consider the competition issues in the transfer. The ICRC advised in its report that a short period of mandatory alignment of WATs with the second network would promote future competition in the taxi market by assisting with the establishment of a competitive second network serving the Canberra market.

Petrol pricing

The ICRC's report on petrol pricing advised that there was no discernible anti-competitive practices in the retailing of petrol pricing. The ICRC's view was that the retail market was competitive and that margins for retailers were slim. The market was also marked by substantial structural change as retailers sought to gain sufficient scale to survive in the long term. Prices in the ACT market were found to be comparable with other locations in the region, once wholesale prices, taxation related matters and costs for transport were taken into account. The government has yet to present its views to the Legislative Assembly on the advice provided by the ICRC.

Full retail contestability in gas

The ACT retail gas market was contestable from 1 July 2001, but in practical terms remained closed until constraints on supply were resolved. These constraints included the territory developing effective market operating rules, no metered connection with the Eastern Gas pipeline, and the need for the further development of the network's systems. With the exception of metering of the interconnector with the Eastern Gas pipeline, those constraints have now been removed. Other than ActewAGL Retail there is no other active participant in the gas retail market, although there is another licence holder. The ICRC expects that the market will see the beginning of competition for retail gas customers this winter.

FRC in electricity

Until 1 January 2002, the ACT was maintaining progress with NSW and Victoria on the introduction of contestability into the retail market for customers below 100 MWh. The October election, however, intervened to delay the proclamation of 1 January 2002 as the date for a fully open market. Immediately before the election the Legislative Assembly Standing Committee on the Urban Services Portfolio was considering the costs and benefits of FRC. However, that process ceased when the Assembly rose for the election. In December the ICRC was issued a reference to consider the overall costs and benefits of FRC in electricity, particularly the effect of FRC on the disadvantaged, the economy, as well as the ACT's obligations under the National Competition Policy. The ICRC was required to report as soon as possible after completing its inquiry at the end of March 2002. The ICRC released an issues paper in January 2002 and it will release a draft report soon. It is likely that, given the requirements of the *Independent Competition and Regulatory Commission Act 1997*, the ICRC will be unable to report until late in April.

Taxi pricing and taxi and hire car reform inquiries

The ICRC received a reference to inquire into and determine prices for taxi services in the ACT in November 2001. The issues paper was released in December. The ICRC has received submissions on the issues paper that will be considered in preparing the draft report. The draft report is due by the end of March and the final report by the end of May 2002. The ICRC introduced a new pricing methodology in last year's price inquiry, to be further refined in this current inquiry.

The ICRC also received a reference to inquire into and provide advice on reforms for the taxi and hire car industries in January 2002. The review follows the National Competition Policy review into the taxi and hire car legislation conducted by Freehills Regulatory Group. While some of the recommendations of the Freehills review were adopted, other decisions were

deferred pending a further review by the ICRC. It will report on the reform inquiry as soon as possible after it completes its inquiries at the end of May 2002. The ICRC will include its draft recommendations on the reforms to the taxi and hire car inquiry in a joint report with its views on taxi pricing. The joint draft report, released in April 2002, provide an opportunity for the related issues of taxi and hire car regulation together with service and price issues to be considered together. The draft report recommends, in part:

- deregulation of entry to the taxi market, including removal of licence quota restrictions after a three-year phasing in period
- deregulation of the hire car industry, removal of licence quota restricitions after a three-year phasing in period
- licences be issued for three distinct services (taxis, wheelchair accessible taxis and hire vehicles including vehicles carrying up to 9 persons)
- restrictions on re-entry to the taxi market for those who opt to access the safety net arrangement suggested by the ICRC
- a heavy emphasis be placed on the establishment and policing of service quality and driver accreditation standards
- taxi prices to rise by 2.9 per cent.

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New South Wales

Independent Pricing and Regulatory Tribunal

IPART reports mentioned below can be downloaded from <http://www.ipart.nsw.gov.au>.

Energy

Costs of Full Retail Contestability

IPART intends to undertake a review and make determinations on the recovery of FRC costs of all electricity and gas networks and retail businesses. The review should be completed by the second quarter in 2002. IPART has engaged PB Associates to undertake a review of all FRC related costs and will shortly release an information paper.

Electricity

Form of economic regulation review

Under the National Electricity Code regulators are required to determine the form of economic regulation two years in advance of its application through a determination on network revenues or prices. As the current determination expires in June 2004 IPART is required to determine by June 2002 the form of regulation to apply beyond 2004. IPART released an issues paper in August 2001. The secretariat subsequently released a paper detailing options for the form of regulation that facilitated discussion at the 21 February 2002 public forum. IPART will consider this issue and release a draft decision in April 2002.

Retail tariff

The Minister for Energy has requested that IPART undertake a mid-term review of regulated 'safety net' tariffs for small retail customers as provided for in its determination. IPART is to report by 1 June 2002. IPART's current determination provides for rationalisation of existing tariffs and the gradual increase in those tariffs that do not recover the costs of supply. The terms of reference require IPART to assess whether there has been a material change in the cost components used to determine the 'cost reflective' target tariffs and whether the regulation of tariffs that are currently below the relevant target level is affecting the operation of a competitive electricity retail market.

Undergrounding of electricity distribution cables

IPART has engaged consultants to assist it in reviewing the costs and benefits for undergrounding electricity distribution cables in urban areas of NSW and is considering the funding options.

Demand management

As part of its inquiry into 'The role of demand management and other options in the provision of energy services' IPART released three discussion papers in February.

- *Efficient network pricing and demand management* (prepared by East Cape Pty Ltd). This paper considers the principles for network pricing and the effect of network prices on the location of distributed generation and incentives for demand management.
- *Distributed energy solutions* (prepared by SEDA). This paper assesses the commercial viability and potential capacity of a range of distributed generation and demand management options. It provides details of costs and other assumptions for 35 generic technologies.
- *Mechanisms for promoting societal demand management* (prepared by Energy Futures of Australia). This paper brings together information on various mechanisms that could be used to promote demand management to achieve environment or equity objectives.

IPART is seeking comments on these reports while it prepares a draft report due to be released by the end of March. A final report is due by the end of June 2002.

Gas

Retail reviews

In December 2001 IPART published its final report on gas default tariffs for small customers (using less than 1TJ per annum) served by Country Energy. The report contains the voluntary pricing principles agreed between Country Energy and IPART and sets a price path to 2004.

IPART is currently reviewing prices charged by Origin Energy in Albury, Jindera and a number of Murray Valley towns, and has also started collecting information for reviews of prices charged by Integral Energy in Shoalhaven and ActewAGL in Queanbeyan and Yarrowlumla.

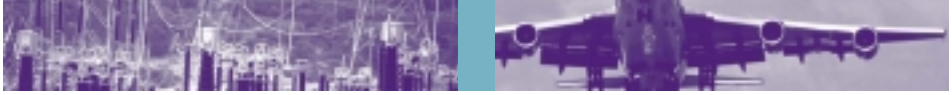
Energy licensing

IPART's report on electricity businesses' compliance with licence conditions in 2000–01 is currently with the Minister for Energy. The report will be available from IPART's website shortly after it is tabled.

To assist licence holders, IPART has prepared consolidated reference documents, which bring together all obligations imposed as electricity licence conditions or natural gas authorisation conditions.

Separate reference documents are available from IPART's website covering:

- electricity distribution network service providers' licence conditions
- retail suppliers' licence conditions
- standard retail suppliers' and retailers' of last resort endorsement conditions
- natural gas reticulators' authorisation conditions
- natural gas retail suppliers' authorisation conditions



- natural gas standard suppliers' and retailers' of last resort endorsement conditions.

IPART is also developing compliance reporting manuals for each licence/authorisation type. These pro forma templates will consolidate the reporting, auditing and data accuracy requirements for each licence/authorisation condition.

To monitor compliance in the early stages of full retail competition, the Minister for Energy has introduced quarterly compliance reporting for at least the first half of 2002. Electricity DNSPs and electricity and gas retail suppliers will report to IPART in April and August 2002 on their compliance with key customer protection-related licence/authorisation conditions.

In March 2002 IPART will hold a workshop to explain the proposed recommendations from its review of the electricity and gas licensing regimes. The review is to recommend changes to licence/authorisation conditions or administrative arrangements that will improve licence/authorisation holders' compliance with licence/authorisation conditions and the government's energy policies.

Transport

An issues paper for the reviews on taxi fares, private buses and private ferries was released on 21 February 2002. At the same time IPART was conducting its annual determination of public transport fares for CityRail and State Transit Authority services. IPART has to make recommendations to the Minister for Transport in June 2002.

IPART is also assisting the ACT Independent Competition and Regulatory Commission in its review of taxi fares, and a review on future directions for the ACT taxi and hire car industries. Final reports for each of these reviews are to be finalised by the end of May 2002.

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Tasmania

Office of the Tasmanian Energy Regulator

Reliability and Network Planning Panel (RNPP)

System Controller's directions

The System Controller has an obligation under the Tasmanian Electricity Code (TEC) to maintain the power system in a safe and secure operating state. The ability to fulfill this obligation relies on the System Controller's powers to ensure that the most appropriate physical resource is used to correct any identified system deficiency. One of the powers the TEC gives the System Controller is to issue directions for reasons of public safety or to maintain the security of the electricity system. Directions to electricity entities may include load shedding, recalling equipment into service or requiring electricity generators to vary their dispatch.

The RNPP is charged with determining guidelines governing the exercise of the System Controller's powers. Accordingly, the RNPP drafted guidelines and sought submissions from code participants and the public. The RNPP has now issued its determination, which incorporates its response to issues raised through its consultation process. This determination is available on the regulator's website at <http://www.energyregulator.tas.gov.au>.

Supply upgrade to Smithton substation

The RNPP assessed a proposal by Transend Networks to augment supply to Smithton substation, which is currently supplied by a single circuit 110 kV line from Port Latta Tee. An outage of the 110 kV line results in loss of the total Smithton substation load and the proposal would increase the security of supply to Smithton substation customers. The RNPP reviewed the options and recommended the proposed second 110 kV transmission circuit on the existing towers from Port Latta to Smithton.

The TEC provides for a network service provider to seek endorsement from the RNPP that proposed capital investment satisfies the regulatory test specified by the TEC. If the RNPP recommends the proposal and the regulator determines that an augmentation of the network is justified, the network service provider may arrange for the augmentation to be undertaken. In January 2002 the RNPP recommended the Transend proposal for augmentation of supply to the Smithton substation; the proposal satisfied the regulatory test.

Electricity licence applications

Issue of Bell Bay power station generation licence

In preparation for the Tasmanian Government's arrangement for Tasmania's entry into the NEM, ownership of the Bell Bay power station has been transferred from Hydro Tasmania, to a newly created subsidiary, Bell Bay Power Pty Ltd (BBP).

BBP was granted a generation licence on 7 January 2002 following public consultation. Hydro Tasmania has initiated a staged project to convert Bell Bay power station from an oil-fired back-up generator into a base load station operating on natural gas. The conversion started in early 2002.

Ring fencing

The regulator is currently reviewing the 1999 electricity distribution ring fencing guidelines in view of the forthcoming pricing investigation and in light of the recommendations made to the National Regulator's Forum by the working group on accounting issues. Given the current structure of the electricity supply industry in Tasmania, with only one distributor/retailer (Aurora Energy), these guidelines focus on accounting ring fencing and regulatory reporting. New template reporting formats will also be developed.

It is expected that the draft revised guidelines will be released for comment in late May 2002.

Code changes

Vegetation management

The regulator has submitted a draft TEC chapter to the Code Change Panel (CCP) for the management of vegetation around distribution powerlines. The draft code was initially developed by a working group that included the Tasmania Fire Service and Aurora Energy, the distribution network service provider. The CCP initiated public consultation on the draft chapter and received 15 submissions from interested parties. The CCP will issue a report to the regulator containing its recommendations on the chapter. This report will be available on the regulator's website at: <http://www.energyregulator.tas.gov.au>.

Bass Strait Islands code chapters

For the purposes of electricity regulation, Tasmania has been divided into two supply areas—the Tasmanian mainland and the Bass Strait Islands. Due to the isolation of the islands, different systems operate and different regulatory regimes apply. In conjunction with Hydro Tasmania, the owner of generation and distribution facilities on the islands, the regulator is developing a new chapter of the Tasmanian Electricity Code covering generation, distribution, system security and network operation functions on the islands.

Pricing

Electricity pricing investigation

The current pricing determination expires in December 2002. The government is preparing regulations to extend the current determination to December 2003 in anticipation of Tasmania joining the NEM. The next pricing investigation has therefore been deferred. However, preliminary work has started and the regulator anticipates issuing the first discussion paper on the services to be declared for the purposes of the pricing investigation in late May 2002. The terms of reference will be issued by early June 2002. Preliminary work has also started on the form of incentive regulation to be applied in the next regulatory period. The investigation should be completed by the third quarter of 2003.

Urban water pricing audit

The Government Prices Oversight Commission has been engaged by the State Government to assess whether Tasmania's councils are complying with Tasmania's national competition policy (NCP) water reform obligations as they apply to urban water and wastewater services. These obligations are set out in the *Strategic framework for the efficient and sustainable reform of the Australian water industry*, agreed by the Council of Australian Governments (COAG) in 1994 and included in the *Agreement to implement the national competition policy and related reforms*, which comprises part of NCP.

The primary focus of the audit will be to examine whether councils are recovering sufficient revenue from their water and wastewater businesses to recover all costs, but not so high as to provide a rate of return that indicates monopoly profits.

Reports

Electricity supply industry performance report 2000–01

In December 2001 the regulator released the first comprehensive review of the state's electricity industry in preparation for the fundamental change to the energy industry in 2002–03—a change necessitated by the fact that Tasmania's energy requirement is approximately in balance with the production capability of the hydro system. These changes include the introduction of natural gas, the anticipated entry to the NEM via the Basslink cable between Tasmania and Victoria and the development of a long-term wind generation program.

The report details the performance of the three major industry entities—Transend Networks, Aurora Energy and Hydro Tasmania—in 2000–01 and provides an analysis of the main industry performance measures, including electricity prices and reliability in Tasmania with interstate comparisons.

A full copy of the report can be accessed at the regulator's website at <http://www.energyregulator.tas.gov.au>.

Tasmanian natural gas project

Duke Energy International Tasmania Holdings Pty Ltd has been granted licences for the construction of a natural gas pipeline that will carry gas from Five Mile Bluff (northern Tasmania) to Bridgewater (south) and to Port Latta (north-west). Construction of the first stage started in January 2002.

The tender process for franchises for the distribution and retailing of natural gas, conducted by the Tasmanian Government, is under way. Licences are expected to be issued to the franchisees by mid-2002.

The regulator has developed draft codes and licences for the retail and distribution of gas. These have been subject to public consultation and have been presented to bidders.

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Queensland

Queensland Competition Authority

Electricity

The QCA is currently in the lead-up process to approve network prices for distribution network service providers (DNSPs) for 2002–03. As part of that process the QCA conducted an audit of the DNSPs' distribution cost of supply and price models to ensure that the prices are consistent with the DNSPs' pricing principles statements. The audits raised no material issues.

The QCA has also reviewed the DNSPs' method of calculating distribution loss factors. The assessment of the integrity and appropriateness of the method will form part of the QCA's process for approving distribution loss factors for 2002–03.

Regulatory accounting and information reporting, including service quality measures, are nearing finalisation. The DNSPs are due to start reporting service quality measures from March 2002, with the format of the regulatory accounts to be finalised shortly. This process has occurred in conjunction with the QCA's participation in the National Regulatory Reporting Requirements forum, which wants to align data collection and reporting across jurisdictions more closely.

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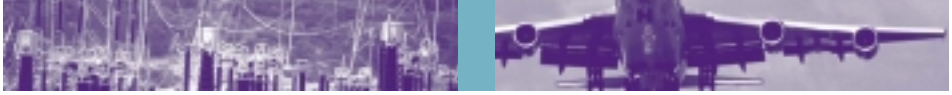
Gas

The QCA released its final decision on proposed access arrangements lodged for the Allgas and Envestra distribution networks on 3 October 2001. The final decision did not approve the proposed access arrangements in their current form and required a series of amendments.

Roma Town Council recently lodged an application with the National Competition Council for revocation of coverage for its distribution system. The QCA will not be taking any action in relation to Roma's distribution system until the NCC has made its decision on coverage.

Allgas and Envestra had submitted revised access arrangements to the QCA by 12 November 2001. The revised access arrangements included the service providers' proposed reference tariff schedules for 2001–02. The QCA released the proposed schedules for public consultation. Some inconsistencies between the proposed schedules and the final decision were identified during the consultation phase.

The identification of these inconsistencies resulted in some changes to the requirements outlined by the QCA in its final decision. Following discussions with the QCA, Allgas and Envestra resubmitted revised documents



incorporating amended reference tariffs and certain other agreed changes. The QCA was satisfied that the resubmitted documents reflected the amendments required by them.

The QCA released its final approval of the access arrangements on 21 December 2001. It constituted the 'further final decision' required by s. 2.19 of the code. This decision was to approve the revised access arrangements, which took effect from 1 January 2002.

The Allgas and Envestra approved access arrangements and reference tariff schedules, the QCA's draft and final decisions and the final approval are available on the QCA's website at <http://www.qca.org.au>.

Contact: Gary Henry
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Water

In November 2001 the QCA released for public comment a draft report outlining its recommendations on the pricing practices of the Gladstone Area Water Board (GAWB). The report identifies a number of pricing practices which the QCA considers are preferable to those being applied by GAWB and which represent a difference in approach. Nevertheless, these differences result in only minor price changes for most users. Several submissions have been received.

The QCA has also recently received a ministerial direction to assess certain matters relating to gazetted prices for channel and river irrigators receiving water infrastructure services (including harvesting, storage, distribution and reticulation) provided by SunWater within the Burdekin Haughton Water Supply Scheme. Submissions have been invited on these matters.

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Jim Binney (Burdekin Haughton Water Supply Scheme)
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Local government

The fourth review of QCA's progress in implementing competition reforms has been completed. The review covers reforms implemented by Queensland's 125 councils during the 12 months to 31 July 2001 in respect of 513 nominated business activities and 92 COAG water activities and costs associated with general competition reforms.

Overall, good progress has been made. Many small councils have substantially increased their implementation of competition reforms with progress over the past twelve months exceeding that for the previous two years.

A report and accompanying recommendations for payments to councils under the Local Government Financial Incentive Payments Scheme have been submitted to the ministers.

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Rail

Queensland Rail's (QR) approved access undertaking came into effect on 20 December 2001 and expires on 30 June 2005.

The QCA has started preliminary work on several matters to give effect to the approved undertaking. These matters include the development by QR of a standard access agreement for coal train services, a cost allocation manual and a new reference tariff for coal train services in Central Queensland.

The QCA's decision on QR's 2001 access undertaking, its approval documentation and the approved undertaking are available on the QCA website at <http://www.qca.org.au>.

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Northern Territory

Utilities Commission

Post-grace period arrangements

Since introduction of competition in the NT electricity supply industry on 1 April 2000, three tranches of customers have become contestable. The two-year grace period for tranche 1 customers expires on 31 March 2002, and for tranche 2 on 30 September 2002. A handful of such customers (including a number of government agencies) have yet to negotiate a contract with their choice of supplier.

The Commission has used its licensing powers to oblige PAWA to continue to supply any customer without a contract at the end of the grace period. The default tariff will not be regulated, but will be a tariff that PAWA considers to be fair and reasonable in the circumstances. An information circular has been issued advising contestable customers that the default tariff is likely to be higher than offer prices already on the table.

Contestable NT Government agencies

Three sets of tenders for the supply of electricity to contestable NT Government sites have been issued since September 2001, but no contracts have yet been awarded. The major sticking point appears to be the (higher) prices offered by both suppliers submitting tenders. Matters have been complicated by only one generation company selling wholesale energy in the NT at the moment.

Electricity ring fencing code

In accordance with clause 5 of the code the Commission approved the accounting and cost allocation procedures on 12 November 2001.

Information procedures have also been submitted for approval. Discussion continues on the scope and treatment of commercially sensitive information.

Economic dispatch

In January 2002 the Commission published a background paper on implementing economic dispatch in the NT (to replace the initial out-of-balance arrangements), following up on generation-related amendments to the network access code which took effect on 1 July 2001.

Network tariffs

Discounting: the Commission is drafting guidelines for negotiations between network users and PAWA networks within the constraint of the reference tariff.

Embedded generation: under the approved reference tariffs, end-users rather than generators pay for the use of the network. Generators connect for free. Consequently, no network charges currently apply if a co-generation plant only exports to, or is islanded from, the network. An appropriate methodology for calculating standing charges is currently under discussion.

Full retail contestability

The government is expected to announce shortly the terms of reference for a 'public benefits test' review of FRC in the NT. Contestability will

come down to 160MWh pa on 1 April 2003, with full retail contestability planned for two years later if a net public benefit is established.

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Other

Joint study on approaches to regulation

IPART, the ACCC and the ESC of Victoria, on behalf of the regulators' forum, have jointly commissioned Farrier Swier Consulting (FSC) to prepare a discussion paper comparing building blocks and indexed approaches to regulation of monopoly prices.

To date, regulators have set the CPI–X parameters by establishing benchmark revenue requirements for service providers, which in turn is based on separate benchmarks for operating expenditure, depreciation and the cost of capital. However, a number of utilities have been highly critical of this approach and some have argued for a more 'light-handed' form of regulation using indexed-based approaches such as TFP. While the terminology and context varies, similar issues are also being debated overseas.

FSC has been asked to examine the relative merits of the different approaches having regard to their practical application and the objectives of regulation. The terms of reference for the study are available from IPART's website at <http://www.ipart.nsw.gov.au>.

Contributing to Network

If you are interested in providing an article to be published in *Network*, please contact Katrina Huntington on (03) 9290 1915 or email to <katrina.huntington@accc.gov.au>.

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