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## The A to Z of emerging regulatory jargon

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Regulatory discourse is laden with jargon, and new terms and phrases are constantly being invented or imported from other fields.

The purpose of such jargon is (presumably) to improve communications between the parties in the regulatory process, potentially allowing them to economise on description and explanation by use of readily understood words and terms.

This article sets out an A to Z of some of the more important newer words and terms, noting where they come from and assessing how they have contributed to the quality of regulatory discussion.

### A–J effect

The ‘A–J effect’ is the abbreviation for the Averch–Johnson effect, based on H Averch and L Johnson, ‘Behavior of the Firm under Regulatory Constraint’, *American Economic Review*, 52, 1962, 1052–69.

Their model showed the circumstances in which rate-of-return regulation could distort the optimal input choice in favour of capital equipment.

The model is driven by the assumption that the regulated firm is allowed a rate of return above the rate of return consistent with zero economic profit but below the monopoly rate of return. This leads the firm to choose an inefficient mix of capital equipment and other inputs, with an excessive amount of capital equipment (over-capitalisation) to produce a given level of output.

The marginal product of capital is driven down but remains positive. This is often misrepresented as ‘gold plating’ (see below).

### Bottleneck

Outside of its literal interpretation, ‘bottleneck’ also refers to a temporary narrowing of a thoroughfare (e.g. a narrow bridge) and has also entered the jargon of technical areas such as IT to define a congestible part of any network. In regulatory discussion it describes the market power possessed by an access provider controlling an essential facility for an access seeker wishing to operate in a downstream market (see below).

While the term is evocative of an obstacle to access it is unclear how it is more broadly analogous to the circumstances of an access facility, and is therefore of limited value as a means of clarifying regulatory conversation.

### Capex

Merchant bankers and industry analysts have abbreviated ‘capital expenditure’ to ‘capex’ (and ‘operating expenditure’ to ‘opex’) and somehow this has found its way into standard regulatory discourse.

### Downstream

‘Upstream’ and ‘downstream’ literally refer, respectively, to the origin and destination of a river. In economics these terms have more generally been adopted to describe the stages of production processes, including for utility industries.

Upstream refers to the essential facility producing the wholesale service, while downstream has become an alternative term for retail operations where an access seeker uses the upstream facility as a production component in producing a retail service. Simple and evocative, the use of these terms has clearly improved regulatory communication.



## **ECPR**

The efficient component pricing rule, abbreviated as ECPR, is an approach to access pricing suggested by Baumol and Willig, which is sometimes also called the Baumol–Willig rule.

Under this rule the access provider is compensated for all opportunity costs in providing access, including any lost economic profits.

It is efficient in the sense that it will allow the entry of an access seeker that produces the downstream component (see above) more efficiently, but inefficient in the sense that it preserves in place any economic profits enjoyed by the incumbent (see below).

## **F2M**

This term reflects the e-age language of SMS and email users and has suddenly become an almost general abbreviation for fixed-to-mobile calls.

## **Gold plating**

‘Gold plating’ is different from the A–J effect (see above) in that it refers to the wasteful use of capital equipment in the sense of it having a zero or negative marginal product of capital.

It was first analysed by FM Westfield (‘Regulation and Conspiracy’, *AER*, 55, 1965, 424–53). As A–J analysed a situation where the utility operates with a positive marginal physical product of capital, the term ‘gold plating’ is inappropriate as a description of the A–J effect.

This point has been made in many places, including by one of the co-authors of the A–J paper (see L Johnson, ‘Behavior of the Firm Under Regulatory Constraint: A Reassessment’, *AER*, 63, 1973, 90–7). However, this has not stopped the frequent misuse of the term.

## **Holiday (access)**

Combines a term in common usage (holiday) with a standard regulatory term (access) to create the term ‘access holiday’, describing a guaranteed period of exemption from being subject to an access regime.

While perhaps a little informal, it is hard to misinterpret and therefore probably improves regulatory discourse.

## **Incumbent**

In more general usage as an ‘office holder’, particularly in a church, the word ‘incumbent’ has quite naturally entered into regulatory discussion to describe the entrenched and dominant supplier in a market.

## **Jungle**

Telstra’s description of the regulatory environment in which it operates. (See Telstra legal and regulatory website [www.telstra.com.au/regulatory/index.htm](http://www.telstra.com.au/regulatory/index.htm)).

## **Kinetic energy**

The use of the word ‘asymmetric’ has spread—seemingly like kinetic energy—easily to become the most ubiquitous word in regulatory discussion.

Some of the uses are ‘asymmetric information’ borrowed from principal–agent (agency) theory where it was used to describe the relative paucity of information available to the principal compared with the agent.

This has strong resonance with regulators. Typically it is the regulated utility that has the advantage over the regulatory body with respect to information that it itself generates and ‘owns’.

The regulator automatically starts at a disadvantage in this situation. ‘Asymmetric risk’, where the swings and roundabouts do not offset one another.’

Asymmetric regulation’, sometimes proposed to deal with the dominance of incumbency (see above). ‘Asymmetric incentives’, supposed characteristic of regulators leading them to set access prices too low and thereby destroy investment incentives.

## **Legacy**

Literally a will; in regulatory discourse it is applied to describe any features from the past, such as (legacy) powers of incumbency or vestiges of politicised pricing (legacy pricing).

## **Micromanagement**

While the source of this term is unclear, it has rapidly become a disparaging term for regulation that allegedly seeks to be too intrusive into the minutiae of the operations of a utility, such as the assessment of investments for possible inclusion in the regulatory base.

Those making this criticism sometimes seem to confuse the gathering of information essential to good regulatory practice with the desire to interfere with the internal operations of the utility.

## **Nostradamus effect**

Named after the 16<sup>th</sup> century French prophet who made cryptic predictions of disastrous events and outcomes, always at some vaguely specified future time and place.

Nostradamus’s musings were set out in verse-like prose known as quatrains.

The tradition lives on in the predictions of investment crises with dire consequences (massive blackouts, absence of dial tone, no water to wash the dishes, etc.) resulting from regulators setting prices too low.

## **Omniscient social planner**

This term, borrowed from the economics of centrally planned economies, is used by incumbents and their experts to describe the super human qualities a regulator would require to set access charges consistent with both allocative efficiency and having no threat to efficient investment.

## **Players**

Drawn from sporting parlance and board games, it has become common to use the word ‘players’ to describe utilities such as gas pipeline operators, electricity generators, mobile network operators.

However, utilities engage in a myriad of activities: production, investment, employment, borrowing, selling, etc. as well as perhaps a bit of ‘regulatory gaming’ and strategic market behaviour.

The ‘player’ appellation places undue weight on this ‘gaming’ or ‘strategic’ dimension (see below) of what a utility does, and is therefore probably not in the interests of more efficient regulatory discourse.

## **Quango**

A quasi-autonomous non-government organisation. The acronym was invented as a joke, but fell into regular use in the eighties, including in relation to the regulatory roles of some quangos.

## **Ramsey pricing**

Frank Ramsey (F Ramsey, ‘A Contribution to the Theory of Taxation’, *Economic Journal*, 36, 1927, pp. 47–61) set out an approach for raising a given amount of commodity tax revenue at the least overall cost to economic efficiency, basically by placing relatively high mark-ups on those services with the least elastic demands; that is, ‘thumping the one that can’t get away’.

It has been imported into regulatory economics to describe an efficient approach to covering a utility’s non-attributable costs.

As Ramsey did not apply it to utility pricing, and as Boiteux (M Boiteux, ‘Sur la Gestion des Monopoles Publics Astrients à l’Equilibre Budgétaire’, *Econometrica*, 24, 1, 1956, pp. 22–40; published in



English as 'On the Management of Public Monopolies Subject to Budgetary Constraints', *Journal of Economic Theory*, 3, 1971, pp. 219–40) did, it should more properly be called 'Ramsey–Boiteux' pricing.

Even though the details are not always well understood, importation of this term has probably been of net benefit to regulatory discourse.

**Strategic behaviour**

Borrowed from game theory, the description of that part of a utility's operations that involves 'gaming' the regulator through ambit claims, delays in providing information, etc. It is in this capacity that a utility can most accurately be called a player (see above).

**Transparency**

Borrowed from physical sciences and more general usage, 'transparency' has been adopted into regulatory discourse to distinguish the openness of explicit subsidy arrangements from hidden ones. It reflects a refreshing new use of the word.

**USO**

Acronym for 'universal service obligation' where a provider is obliged to offer services to all customers in a prescribed geographical area, usually at a uniform price. The use of the word 'universal' rather than 'national' or 'state' as the ambit of the obligation could be interpreted as an instance of regulatory over-reach.

**Venture capital**

Used elsewhere to describe capital raised to fund highly risky projects, making the capital costly. Some regulated utilities have adopted this term to describe the type of projects they invest in, including sometimes in seemingly safe and well-established assets.

Because of their venture-capital nature it is argued that these investments require high rates of return to compensate for the high weighted average cost of capital.

**Workable competition**

Workable (or effective) competition are terms that have been borrowed from general microeconomics and industrial organisation, and have become an increasingly popular term to describe the situation in utility markets.

While it is contrasted with 'perfect competition' it is not clear just how 'effective' competition is supposed to be in these circumstances.

For example, markets said to be effectively competitive are also sometimes described as exhibiting 'Ramsey pricing', but Ramsey pricing requires the ability to hold prices significantly above the cost of provision, suggestive of significant market power (SMP).

It is therefore important to know where 'effective' and 'workable' sit vis-à-vis the position on the

spectrum between perfect competition and pure monopoly; so use of these terms without elaboration could be misleading.

**X-efficiency**

An alternative term for production efficiency following an article by H Leibenstein in the *American Economic Review* in 1966, distinguishing allocative efficiency from what he named 'X-efficiency'.

**Yardstick competition**

A yardstick is literally a three-foot long stick or pole for measuring depths and distances, but more generally describes a standard for comparison.

In regulation, electricity or gas distributors could be made to 'compete' by being obliged to lower prices according to the movement in industry-wide total factor productivity, and this is called 'yardstick regulation'.

This approach can provide an incentive to increase TFP growth as, to the extent a distributor's reduction in costs exceeds the industry average, it can keep the difference as increased profits.

**Zero-sum game**

A game where gains to one party are exactly offset by losses to another party. Some have viewed the regulatory process as such a game.

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# national developments

**Telecommunications**

**Reports tabled in parliament**

In August 2003 the ACCC's three annual telecommunications reports to the Minister for Communications, Information Technology and the Arts, analysing competitive safeguards and price changes for telecommunications services, and reporting on Telstra's compliance with price control arrangements, were tabled in parliament.

They covered the financial year 2001–02.

In its assessment of **competitive safeguards** the ACCC argued that competition has not developed as extensively as was expected in 1997 and markets were not effectively competitive. Further, the extent and depth of competition varies greatly between markets.

The reasons include the structure of the industry, in particular Telstra's network ownership and high levels of integration, as well as the global downturn in the industry.

The ACCC's **changes in prices analysis** also revealed that price decreases have slowed. While the ACCC found that the overall price paid by consumers for services in 2001–02 fell by approximately 2.7 per cent in real terms, this is the lowest rate of decrease since 1998–99.

Further, price falls have not occurred evenly across consumer groups, with large business consumers enjoying a significant fall in the average price of PSTN services in 2001–02, whereas small business



consumers experienced a price increase, the first since the ACCC began monitoring price changes in 1996–97.

In its report into **Telstra's compliance** with the price control arrangements the ACCC assessed Telstra's audited report on fulfilment of its price control obligations to determine compliance.

The government sets the price controls on Telstra.

The ACCC was satisfied that Telstra has complied with the price cap requirements for 2001–02 for both the overall CPI-5.5 per cent price cap and the individual CPI-0 per cent and CPI-1 per cent price caps on the sub-baskets.

However, Telstra and the ACCC disagreed regarding the measurement of price movements and the extent of carry-over in relation to the basket of services comprising local calls and line rentals.

This may have implications for Telstra's compliance with the price controls in 2002–03.

The source of disagreement between Telstra and the ACCC relates to the appropriate application of the new methodology for calculating the yield on which the price movement for line rental is calculated.

### **Benchmark pricing—mobile termination service**

The ACCC's August report on the results of its monitoring of retail price movements for mobile services is a key component of its implementation of the retail benchmarking pricing principle for mobile phone termination services.

It outlines individual average retail price movements for GSM mobile services for Telstra, SingTel Optus and Vodafone.

The report estimates price movements using a methodology determined by the ACCC, in consultation with the industry, after the pricing principle was determined by the ACCC in July 2001.

The report covers January 2001 to December 2002, and will be updated when the ACCC assesses price movements for subsequent periods later this year.

The report will be useful for the ACCC's public inquiry into regulation of mobile telephony services, begun in April 2003.

It is considering what form of regulation, if any, should be applied to a range of services, including the mobile terminating and originating access

services, the domestic and international roaming services and 3G mobile services.

It also fulfils the ACCC's commitment to review the mobile termination pricing principle by 2003 and the new requirement to review all existing declarations before expiry dates; mobile originating and terminating service declaration will expire in June 2004.

A draft report should be released soon.

### **Declaration inquiry**

In September 2003 the ACCC announced a public inquiry into whether the declaration of the transmission capacity service should be maintained, varied or revoked.

The current declaration expires in March 2004 and under the Trade Practices Act the ACCC is required to review it before then.

Transmission capacity is a generic service used for the carriage of voice, data or other communications. Currently the ACCC regulates access to regional-to-capital, intra-regional, metropolitan and CBD transmission services. Intercapital transmission routes were removed from the declaration in 2001.

This followed an earlier variation in 1998 which had included the Melbourne–Adelaide, Adelaide–Perth and Sydney–Brisbane intercapital routes.

Preliminary findings should be released by end-November 2003.

### **Pay TV regional bundling**

In May 2003 Telstra Corporation Limited and Telstra Pay TV Pty Ltd notified the ACCC of conduct that constitutes a third line force.

Telstra Pay TV proposed to offer and supply Austar's subscription television services at a discount to retail customers who also acquire fixed line telephony services from Telstra Corporation Limited.

In late September 2003 the ACCC approved the bundling. Telstra Corporation-owned Telstra Pay TV can therefore provide Austar pay TV services at a discount to retail residential customers who also get telecommunications services from Telstra Corporation.

This is limited to the areas that Austar currently supplies—rural and regional Australia, Hobart and Darwin.

The ACCC gave public benefits as its reasoning, which is consistent with its Foxtel November 2002 decision.

Most market participants consulted disagreed, arguing that the conduct would stifle the development of alternative infrastructure in these areas.

After undertaking further analysis the ACCC maintained its original view.

### **Pay TV services—undertakings and exemption**

In early October 2003 the ACCC released its draft decision on the pay TV access undertakings and anticipatory exemption lodged by Telstra and Foxtel late last year.

The ACCC's draft view on the analogue access undertaking is that the proposals lodged cannot be supported in their current form.

In relation to the digital exemptions the ACCC believes these should be granted, but with important conditions.

The ACCC is considering submissions and will make a final decision shortly.

### **Telecommunications infrastructure**

In October 2003 the ACCC issued *Telecommunications Infrastructure in Australia 2002* as part of what will be regular reporting on telecommunications infrastructure. This is the second report.

The first, prepared by BIS Shrapnel, was released in August 2001.

The report, based on survey responses from 52 carriers operating in the Australian market reveals that more than \$3.4bn was invested in Australian telecommunications infrastructure in 2001–02.

Around half that figure reflected investment in the local access network, with Telstra accounting for most.

New carriers have yet to make significant inroads into eroding Telstra's subscriber base which accounted for 85 per cent of subscriber connections across all local access network types at the end of June 2002. Collectively, Telstra and SingTel Optus held approximately 99 per cent of all local access network connections.

The report is available on the ACCC's website.



## Core services—model terms and conditions

In October 2003 the ACCC issued its final determination on the model price and non-price terms and conditions for access to the public switched telephone network (PSTN), unbundled local loop service (ULLS) and local carriage service (LCS).

Publishing the model terms and conditions for these three core services flowed from the December 2002 amendments to the telecommunications specific provisions of the Trade Practice Act.

The determination is available on the ACCC website.

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## Electricity

### National electricity code—authorisation applications

#### Reserve trader sunset

*Applications by the National Electricity Code Administrator (NECA) dated 19 December 2002 relating to sections 3.12.1(a) and 3.12.1(b)—the extension of the reserve trader sunset provisions which were due to expire on 1 July 2003.*

On 9 April 2003 the ACCC released a draft determination concluding that the benefits outweighed any anti-competitive detriments associated with the extension.

On 16 April 2003 NECA lodged a variation seeking to correct an oversight and extend the operations of the safety net provisions and reserve contracting derogation consistently with that of the reserve trader provisions.

The ACCC released its final determination granting conditional authorisation on 6 August 2003.

NECA must review the reserve trader arrangements before 1 July 2004.

Despite the national electricity market (NEM) operating at high reliability levels the ACCC considers it prudent for the arrangements to be extended for two years, allowing the market time to gain further information regarding the full impact of the reserve trader provisions.

### Metering data—ombudsman access

*Applications by NECA on behalf of the Victorian Energy and Water Ombudsman and the Australia and New Zealand Energy and Water Ombudsman Network dated 27 March 2003 relating to amendments to provisions contained in chapters 7 and 8 of the code.*

They relate to an industry ombudsman's access to market settlement and transfer solutions information (MSATS) to help with investigations of specific complaints made against any code participant.

The ACCC released its final determination on 20 August 2003, satisfied that public benefit would result.

In particular, the changes facilitate the efficient resolution of complaints and disputes that ombudsmen investigate, such as disputes relating to the transfer of customers under full retail competition.

### Regional pricing of ancillary services

*Applications by NECA dated 27 March 2003 relating to code amendments seeking to modify the cost recovery arrangements of some ancillary services in the NEM.*

The arrangements deal with circumstances where part of the market becomes isolated and frequency control ancillary services (FCAS) need to be sourced locally.

These refinements are also intended to ensure that the revised arrangements for regional pricing of FCAS:

- enable economic purchasing of FCAS and extend the degree of co-optimisation between the energy and FCAS markets
- more appropriately apportion costs between overlapping regional and market-wide requirements for FCAS
- are robust in a wide range of more complex circumstances. The proposed changes are intended to implement revised arrangements that will cope with multiple local FCAS requirements, and overlapping local and global requirements
- provide a sound and logical basis for future refinements to the cost allocation arrangements for FCAS.

The ACCC released its final determination on 17 September 2003 granting conditional authorisation.

### Connection point responsibility

*Applications by NECA dated 23 June 2003 relating to amendments to the code for changes to the market rules that evolved from proposals originally put forward by the National Retailers' Forum aimed at:*

- further developing and enhancing connection point responsibility and enhancing relevant metering obligations
- creating deemed connection point responsibility
- allowing for adjustments and revised settlement statements.

NECA's recommended changes limit the application of the changes to market customers and shift the emphasis to clarifying the MSATS procedures.

The ACCC released its draft determination on 10 September 2003 proposing to authorise the code changes. The final determination should be released in November.

### Prudential framework and settlement residue auction arrangements

*Application by NECA dated 14 August 2003 relating to code amendments relating to the prudential framework and settlement residue auctions arrangements.*

The prudential framework amendments would provide:

- an optional reduction in maximum credit limits by allowing participants the option of reducing their payment period to 14 days, so the period over which the maximum credit limit is calculated decreases from 42 to 28 days
- an extension of the settlement reallocation provisions to allow participants to lodge reallocation requests after, rather than before, the end of the billing period
- the ability to terminate a reallocation request early with the agreement of both parties and NEMMCO
- a change to the period during which a market participant must remedy a default event before suspension from trade may occur from 24 hours to 1pm Sydney time on the next business day following the date of issue of the default notice.

The proposed amendment to the settlement residue auction arrangements extends the list of



persons whom NEMMCO may exclude from participation to include certain small players defined by the provision.

The ACCC expects to release a draft determination in early December 2003.

## Murraylink Transmission Company (MTC)

On 1 October 2003 the ACCC released its decision approving the conversion of the Murraylink interconnector from an unregulated interconnector to a regulated interconnector. By converting it will earn regulated revenue determined by the ACCC.

Before the decision, MTC was registered with NEMMCO as a market network service provider (MNSP).

MNSPs operate as unregulated interconnectors that rely on the spot price differential between two interconnected regions to earn revenue.

The ACCC used its regulatory test, which is a cost-benefit analysis, to determine the benefits of conversion for electricity consumers as well as the efficient cost of the project.

The ACCC put a cap on the Murraylink interconnector's revenues ranging from \$11.88m in 2004–05 to \$12.72m in 2012–13.

This is in line with the regulatory principles outlined in the code and the ACCC's *Draft principles for the regulation of transmission revenues*.

The revenue cap is based on a post-tax nominal return on equity of 11.44 per cent and an opening asset balance of \$97.33m.

## Tasmanian transmission network revenue cap

On 1 January 2004 the ACCC will begin regulation of the Tasmanian transmission network, owned and operated by Transend Networks.

The ACCC will determine the revenue cap to apply to the non-contestable services for 5½ years from 1 January 2004 to 30 June 2009.

Transend lodged an application with the ACCC on 14 March 2003 outlining its proposed revenue cap. The ACCC engaged GHD to review key aspects including capex, opex service standards and the opening asset base.

The ACCC released its draft revenue cap decision on 26 September 2003. It provides a revenue allowance for Transend that increases from \$95m

in 2003–04 to \$142m in 2008–09; about a 10 per cent per annum increase on average in transmission charges.

The ACCC envisages making a final decision in December 2003.

Documents are on the ACCC website.

## Draft regulatory principles

The national electricity code requires the ACCC to publish a statement of regulatory intent to establish guidelines on how it will exercise its regulatory powers.

The ACCC released its *Draft statement of principles for the regulation of transmission revenues* (DRP) in May 1999.

The ACCC has used the DRP as a guide in setting transmission network service providers' (TNSPs) revenues.

The DRP sets out the ACCC's approach to setting CPI-X revenue caps for regulated TNSPs in the NEM. In determining a revenue cap the DRP uses a cost building block approach.

The DRP is being reviewed now the ACCC has four years experience in regulating TNSPs' revenues and has completed all first round revenue cap decisions in each participating jurisdiction.

Several of the key issues that need to be reviewed are outlined below.

## Revaluation of the asset base v. the merits of roll-forward

In accordance with the code for all first round revenue cap decisions the ACCC adopted the state regulators' valuations of TNSPs' asset base values.

While the ACCC does not have unlimited discretion in determining an asset valuation methodology, the code provides for it to revalue the asset base at the second revenue reset.

However, revaluation may subject the TNSPs to high levels of uncertainty regarding their revenue stream. It could potentially lead to significant variations in the value of the asset base from one period to the next and might result in a windfall gain or loss for the TNSP.

The advantage in revaluation is that it would provide a useful transitional tool from the change of regulatory regimes. The ACCC has never commissioned a full valuation of any of the TNSPs' assets.

If the ACCC is not confident that the jurisdictional

asset values generate efficient returns it could revalue at the initial reset to ensure that errors in the asset base are not perpetuated.

The ACCC's preferred position is to adopt the initial jurisdictional valuation and add in new investment at cost. The attraction to this option is that a lock-in of the jurisdictional asset base is unlikely to deter new investment.

However, the problem is that if there are existing errors in the jurisdictional asset base these would be locked-in and carried into the future.

## Weighted average cost of capital

The TNSPs' weighted average cost of capital (WACC) is one of the inputs in to the ACCC's revenue cap determination. The WACC for a firm is the average of the costs of its equity, debt or other financing sources.

Among the more contentious parameters are the risk free rate and the equity beta.

Previously the ACCC has generally computed an equity beta of one for TNSPs. This implies that the firm has the same level of systematic risk as the market average.

Intuitively an equity beta of less than one seems more appropriate for regulated TNSPs in Australia given the level of market risk they face. These firms are regulated entities with a guaranteed revenue stream and a demand for their essential services that is inelastic.

Since the release of the DRP a greater number of firms comparable to TNSPs have listed on the Australian stock exchange.

The data from comparable firms enables the ACCC to use market data in estimating a proxy equity beta. Market evidence suggests the ACCC should use equity betas that are lower than those it has computed in the past.

However, to ensure the TNSPs are not under-compensated the ACCC is proposing to use upper confidence intervals. The combined use of the market data and upper confidence intervals may produce equity betas that are lower or higher than one.

Regarding the risk free rate the ACCC prefers the use of a five year government bond rate as a proxy. TNSPs argue for a 10 year rate as the longer term better reflects its investment horizon and asset lives.

The ACCC has maintained that the five year rate matches the regulatory period and does not reward additional interest risk which is not being borne.



## Benchmarking

The ACCC is currently exploring the use of increased benchmarking when setting revenue caps. The power of an incentive scheme can be increased by placing greater weight on exogenous measures of cost.

The difficulties with this approach are that costs may differ from one firm to the next because of firm specific factors such as longer power lines or differences in input costs.

While it is possible to produce an estimate of the average cost of a firm facing similar cost pressures, if firm specific costs are not comparable, the regulated firm may be systematically under-compensated.

The ACCC will explore the extent to which it is possible to develop comparable cost benchmarks.

## Review process

The ACCC will develop a draft regulatory principles 2004 which will take into account submissions from interested parties, expert advice and the ACCC's own work in other areas, such as gas and telecommunications and transport. They should be released mid-2004.

A discussion paper will be issued and should be read in conjunction with the DRP.

Submissions should explain how preferred approaches for addressing the issues meet the principles and objectives set out in sections 6.2.2 and 6.2.3 and other relevant parts of the code, particularly 6.2.4(a). The closing date was Friday, 28 November 2003.

## Regulation of transmission revenues

### Service standards guidelines

Part B, chapter 6 of the national electricity code requires the ACCC to set revenue caps for TNSPs. The ACCC must be satisfied with the level of service that TNSPs will provide in return for their revenue cap.

Therefore, the ACCC has developed service standards guidelines to outline how service levels will be considered in revenue cap decisions.

The ACCC published its draft service standards guidelines on 28 May 2003, held a public forum on 15 July 2003, and released its final decision on 5 November 2003.

These guidelines specify what service standards information TNSPs must provide to the ACCC in

their revenue cap applications and in their annual compliance statements.

The ACCC will monitor how performance standards are applied, and the effect they have on TNSPs' standards of service. It is establishing a service standards working group to encourage consultation on more specific market related measures that may be included as performance measures in the future.

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## Gas

### Productivity Commission review

In its submission to the Productivity Commission the ACCC concluded that the gas code is operating as intended but there could be improvement in some areas such as streamlining the access approval process, greater access to switching services through processing facilities, clarification of the status of expansions of pipeline capacity and simplifying competitive tenders.

The submission also noted progress in the development of a competitive national market for natural gas since the introduction of the gas code and a reduction in published pipeline tariffs.

The draft report is expected in mid-December.

### Moomba to Sydney pipeline system

On 2 October 2003 the ACCC released its final decision on East Australian Pipeline Limited's (EAPL) proposed access arrangement for the Moomba to Sydney pipeline (MSP).

The ACCC noted that the current tariff to transport gas from Moomba (in South Australia) to Wilton (just south of Sydney) was 66 cents a gigajoule and that under EAPL's proposed access arrangement the tariff would average 70 cents a gigajoule over the next five years.

While the ACCC broadly agreed with aspects of EAPL's proposal, such as capital expenditure, it did not agree to:

- value the pipeline assets at \$779m—concluding the value should be \$559m
- include operating costs of \$23m per annum—concluding \$18m per annum was a better estimate of the efficient costs of operating the pipeline

- incorporate a return on equity for the MSP of 14.84 per cent—estimating the appropriate return was 11.3 per cent.

Using the ACCC's values for these key inputs, the starting tariff proposed by the ACCC for the Moomba to Wilton segment was 52 cents averaging 53 cents over the access arrangement period.

The final decision noted that this reduction in tariffs from the current published tariff of 66 cents was unlikely to affect EAPL's cash flows in the short term because of its contractual arrangements with its main customer, AGL.

Under this arrangement AGL is required to make minimum monthly payments to EAPL regardless of the level of tariff.

On 23 October EAPL submitted an access arrangement that only partly complied with the amendments set out in the final decision.

EAPL's accompanying submission set out its reasons for not incorporating certain amendments. The ACCC is currently assessing this before releasing a final approval.

### Access dispute resolution processes

The ACCC has released a consultation paper *Outline of arbitration guidelines for gas access disputes*, calling for submissions by 19 December 2003.

The paper is based on the Gas Pipelines Access Law and the National Third Party Access Code for Natural Gas Pipeline Systems.

The regime covers disputes between a prospective user and a service provider over proposed terms and conditions for providing a service on a covered pipeline.

Only pipelines covered by the code and with an access arrangement in place are within the regime's scope.

A further round of consultations will follow the release of draft guidelines.

The consultation paper is available from the ACCC website at [www.accc.gov.au](http://www.accc.gov.au).



## Central ranges pipeline

The gas code allows tariff-related aspects for new pipelines to be established through a competitive tender process.

The Central Ranges Natural Gas and Telecommunications Association Inc, a community based group consisting of eight local government areas and two local development organisations in the central ranges region of NSW, sought approval from the ACCC to conduct a competitive tender under the gas code to develop a gas transmission pipeline. It also submitted an application to IPART relating to distribution pipelines for the same project.

The project involves constructing a new transmission pipeline that would most probably transport gas from an existing transmission pipeline (the central west pipeline, which terminates at Dubbo), as well as constructing a network of distribution pipelines to deliver gas to prospective users in the central ranges region (which extends broadly from Dubbo to Tamworth and Gunnedah).

The ACCC and IPART jointly released a public notice and issues paper on 14 January 2003. Public consultation closed on 7 February 2003.

In response to submissions received the association sought regulator approval to amend the tender process and requested a further public consultation. This took place from 20 February to 6 March 2003. The ACCC received no submissions.

The ACCC assessed the amended tender process against each of the criteria in section 3.28 of the code and concluded that the criteria were satisfied. Accordingly, on 12 March 2003, it approved the amended tender process.

Subsequently the association conducted a tender process that closed on 10 October 2003 and scheduled an announcement of the outcome on 19 October 2003.

The next regulatory step involves submission by the association of a final approval request to the ACCC (for the transmission system) and IPART (for the distribution system).

## MSOR authorisation

On 29 August 2003 VENCORP applied for minor variations to the market system and operation rules (MSOR) authorisation—which required changes to the force majeure provisions.

Condition C6.1 of the ACCC's determination

required changes to the MSOR by 8 September 2003 or shortly thereafter.

The ACCC granted interim authorisation on 3 September 2003 and is currently considering the application.

On 30 October 2003 VENCORP applied for minor variations.

VENCORP has also applied to vary its access arrangement under the gas code to ensure that the MSOR which forms part of that access arrangement is amended to reflect recent variations to the MSOR as authorised.

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## Transport and prices oversight

### Stevedoring monitoring report

The ACCC has published its fifth annual *Container stevedoring monitoring report*. The report, which covers the 2002–03 financial year, showed continued improvement in productivity levels.

However, nominal unit revenue for total stevedoring services increased for the first time during the ACCC's five year monitoring period.

Broad trends in the stevedoring industry observed by the ACCC during 2002–03 include increasing volumes, increased unit revenue (particularly from ancillary services), decreased unit costs and higher rates of return on assets.

Stevedoring productivity has increased substantially over the ACCC's monitoring program, with last year's productivity levels being the highest ever recorded.

The June quarter 2003 saw crane rates reach a record 27.5 container lifts per hour. The 2002–03 productivity levels are approximately 36 per cent higher than 1998–99 levels.

The ACCC continued to observe a trend towards the greater use of 40-foot containers relative to 20-foot containers. This has the effect of reducing stevedoring revenue on a per unit basis. There were small unit revenue increases across the industry for loading and unloading 20 and 40-foot containers respectively.

**Unit revenue** increased while **unit costs** declined in 2002–03. In the year to June 2003 industry-wide average revenue rose from \$166 per

20-foot equivalent unit (TEU) to \$169 per TEU while unit costs declined from \$131.14 in 2001–02 to \$129.66.

The ACCC noted that activities other than the core stevedoring activities of loading and unloading containers made a significant contribution to the financial results for 2002–03.

The increase in unit revenues was almost totally attributable to increases in revenue from 'other' services.

Also, costs other than the key cost categories of labour, equipment and premises were substantially higher per TEU in 2002–03 compared with 2001–02. The ACCC will explore trends in 'other' revenues and costs in subsequent reports.

As a result of higher unit revenues and lower unit costs, industry-wide unit margins rose from \$34/TEU to \$39/TEU during 2002–03.

This increase in margins is reflected in higher rates of return. On the basis of accounting data provided to the ACCC, the ACCC noted that average rate of return on assets (before interest and tax) for the three stevedores increased from 19.3 per cent in 2001–02 to 25.6 per cent in 2002–03.

The report is on the ACCC website or is available for \$10 from the ACCC publishing unit (02) 6243 1143.

### International freight charges

The ACCC is investigating a series of price increases announced by liner companies carrying cargo by ship from north east Asia to Australia. These companies operate as the Asia Australia discussion agreement (AADA).

The announced price increases, if implemented, potentially represent significant increases in costs to Australian businesses importing goods from China, Hong Kong and Taiwan.

The ACCC will conduct its investigation as a public process and has released an issues paper to which interested parties can make submissions—closing date is 12 December 2003.

### Airport quality monitoring report

On 13 November 2003 the ACCC issued its 2002–03 monitoring report on quality of service at major Australian airports; the first report since price caps were removed.





The ACCC found no marked changes in overall survey ratings by users compared with the previous year. Passengers generally rated facilities at Brisbane, Melbourne, Perth, Sydney and Adelaide as good, while airline users generally rated facilities at the airports as satisfactory to good.

New information on aircraft traffic indicates that Brisbane, Melbourne and Sydney do not appear to be experiencing significant runway capacity constraints, and average delays in the peak hour appear fairly low.

Quality monitoring is complementary to price regulation, as there is potential for airport operators to use their market power to reduce quality as an effective alternative to increasing prices. The report suggests little evidence of this.

The ACCC has been publishing regulatory reports for major airports since 1998. Past reports have covered both price cap and quality monitoring, as well as financial reporting.

A new price monitoring regime for airports was introduced on 1 July 2002, with airport charges no longer being subject to a price cap.

As part of this new regime the ACCC reviewed its approach to quality monitoring. As a result, the 2002–03 report includes new objective measures of quality, as well as survey results.

The airports covered by the current report are Adelaide, Brisbane, Canberra, Darwin, Melbourne, Perth and Sydney.

The report is available at [www.accc.gov.au](http://www.accc.gov.au).

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## National Competition Council (NCC)

### Part IIIA of the Trade Practices Act

#### Virgin Blue at Sydney domestic airport

On 30 June 2003 the NCC released its draft recommendation that the airside service at Sydney airport be declared. There were two key issues to consider.

First was whether access through declaration would promote competition in a dependent domestic passenger market (criterion (a) in s. 44G).

Second was whether access to the airside service would not be contrary to the public interest and, in particular, whether the costs of declaration would outweigh the benefits (criterion (f) in s. 44G).

The NCC sought the views of interested parties to its draft recommendation in August 2003 and received submissions, some of which introduced new and substantive material.

As a result the NCC gave interested parties the opportunity to comment on these issues by 12 September 2003.

The NCC forwarded the final recommendation to the relevant minister on 30 November 2003.

#### Gas code

##### Goldfields Gas Pipeline (WA)

On 27 November 2003 the NCC released its final recommendation in relation to the application from Goldfields Gas Transmission Pty Ltd (GGT) to revoke coverage of the Goldfields gas pipeline (GGP).

The NCC recommended that coverage should not be revoked; being satisfied that all four of the criteria in section 1.9 of the gas code are met for the whole of the GGP.

The Western Australian Minister for Energy, the Hon. Eric Ripper, has 21 days in which to make his decision.

##### Moomba to Sydney pipeline

In June 2001 the NCC received applications to revoke coverage of two pipelines within the Moomba to Sydney pipeline system (MSP) from the provisions of the national gas code.

The application pipelines were the MSP mainline (the main pipeline from Moomba to Sydney) and the Canberra lateral. The applications were made by East Australian Pipeline Limited, owner of the pipelines.

In November 2002 the NCC recommended to the minister that coverage not be revoked because the pipelines have substantial market power.

The minister sought further information from the NCC on further submissions he had received. The NCC forwarded its response to the minister in May 2003.

On 19 November the Hon Senator Campbell released his decision to revoke coverage of part of the MSP on the grounds that criterion (b) was not satisfied. Interested parties had 14 days in which to make an application for review of the decision, after which the minister's decision takes effect.

##### South west slopes and Temora networks

On 4 July 2003 the NCC received applications to revoke coverage of the south west slopes (SWS) natural gas distribution network and the Temora natural gas distribution network from the provisions of the *Gas Pipelines Access (New South Wales) Act 1998*. The applicant was the owner and operator of the pipelines, Country Energy.

The NCC released its final recommendation on 15 September 2003, finding that coverage under the gas code of the networks should be revoked. The NCC was not satisfied that all four of the criteria in section 1.9 of the national gas access code are met.

On 3 October 2003 the relevant minister revoked coverage.

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# state developments

state developments victoria western australia south australia act ne south wales tasmania queensland northern territory contacts ncc gas electricity airports rail transport prices ncc state de

## Victoria

### Essential Services Commission (ESC)

#### 2006–2010 electricity distribution price review

The ESC has begun planning and preliminary work leading up to the next electricity distribution price review.

The ESC expects to release an issues paper in August 2004 for consultation on the form of regulation, as per the requirements of the national electricity code.

#### Energy FRC effectiveness review

The Minister for Energy Industries has directed the ESC to undertake a review into the effectiveness of retail competition in both the gas and electricity markets.

The primary focus will be:

- the extent to which retail competition has been effective for, or in respect of, the sale of gas to consumers or classes of consumers
- measures that could be introduced or supported by government to enhance the effectiveness of retail competition
- whether or not there is a need for government to have a continuing role in overseeing the prices, and for the ESC to have a continuing role in overseeing the terms and conditions offered by retailers for supply of gas after 31 December 2004.

The ESC must provide a draft report to the minister by 14 May 2004 and a final report by 15 June 2004.

#### FRC market monitoring

The ESC is reviewing the market code of conduct and the advisory committee that oversees the effectiveness of the code in the competitive energy market. Both reviews will be completed by end 2003.

Regulators are being consulted to ensure the market code is consistent with other jurisdictions, and there are efforts to put in place a national energy market code of conduct (administered within individual jurisdictions).

In consultation with other jurisdictions the ESC will shortly review options for a system for monitoring price, service and efficiency of transfers in the retail market, including market share, market prices, efficiency of customer transfers and customer perceptions.

In October 2003 the ESC published a consultation paper on price information disclosure in the competitive energy market.

#### Customer protection

The ESC consulted in June 2003 on a draft energy retail code which sets the minimum standards for contractual offers for small customers in the competitive energy markets.

The code was drafted after consultation with customer groups, retailers and other jurisdictional regulators for national consistency where appropriate, to address barriers to competition and ensure adequate protection for vulnerable customers.

Further submissions have been received from community groups on the impact of late and high utility bills on low income customers and from retailers supporting the imposition of late payment fees.

Representation was also received from the Energy Retailers Association of Australia on the high priority issues to retailers for national consistency.

All these matters are being discussed with other regulators, and a draft decision will be published in late November for further consultation.

#### Regulatory accounting

The ESC will release a position paper on the regulatory accounting guideline in early December 2003.

The paper follows through on a number of proposals and issues identified in response to the 2001 electricity price review.

#### Retail performance

The 2002 annual performance report of gas and electricity retailers was published in June 2003.

The January–June 2003 report, to be published in December, will be the first energy retail comparative report to be published.

The ESC is also consulting on a better set of performance indicators to monitor small customer disconnections.

Final reports of the audits of gas and local electricity retail businesses (i.e. AGL, Origin, TXU), covering compliance for the calendar year 2002, were presented to the ESC in September. These are being evaluated and the ESC expects to publish the results in December 2003.

A strategic approach to undertaking audits in the competitive retail energy market is also being determined.

#### Public lighting review

The ESC is reviewing excluded service charges for the operation, maintenance and repair of public lighting to assess whether the charges are fair and reasonable.

The ESC released an issues paper in October examining the distributors' proposed charges for the provision of public lighting operation, maintenance and repair services and raising issues regarding the provision of these services.

The due date for submissions on the review was extended to 21 November 2003.



## Electricity transmission augmentation and land access guideline

The ESC is to begin work on a guideline that will comprise two components.

First, to develop the principles for contestability of capital works associated with the augmentation of the transmission system and, secondly, to accommodate amendments to the *Electricity Industry Act 2000* arising from the *Energy (Consumer Protection and Other Amendments) Act 2003*.

These provisions empower the ESC to develop a guideline for land access for the purpose of augmentation works.

## Reliability of retail supply

The ESC is developing a reliability of retail supply policy consistent with the head of power provided in s. 33 of the *Gas Industry Act 2001*.

The project included a general review of the provision (in consultation with VENCORP) within the context of the current contestable retail market for gas, before reaching a final conclusion in relation to the development of a policy position.

The project was scheduled to finish in November 2003.

## VENCORP cost recovery

In accordance with s. 69 of the Gas Industry Act the ESC approved VENCORP's recoverable full retail competition (FRC) expenditure and recovery mechanism in September 2002.

The decision provided for an annual re-set of tariffs within certain rebalancing constraints.

Following consideration by the retail market consultative committee VENCORP submitted its audited final capitalised expenditure to the ESC, together with proposed tariffs for 2003–04, on 15 May 2003.

The ESC review considered VENCORP's submission and an audit report from Price Waterhouse-Coopers.

The ESC also noted the consultation undertaken by VENCORP and the agreement by stakeholders to the proposed tariffs. The ESC accepted the reasonableness of the revised capitalised FRC expenditure and agreed with the proposed tariffs.

## Distribution business cost recovery

Under section 68 of the Gas Industry Act the Victorian government issued a cost recovery order in council (OIC) to establish a process for FRC cost recovery.

Under the OIC the ESC is required to make various determinations to allow a gas distribution business to recover certain expenditure incurred in preparing for the introduction of full retail competition in the Victorian gas industry.

The ESC released a final determination in August 2002 which documented approved recoverable capital expenditure, operating and maintenance expenditure and fees and charges.

On 1 October 2003 the ESC received submissions from Multinet, Envestra and TXU Networks consistent with the requirements of the OIC adjustment mechanism.

The ESC expected to make a final determination 30 November 2003.

## Retailer of last resort

The ESC is currently developing a paper for the implementation of retailer of last resort arrangements in both the gas and electricity markets.

This follows earlier consultation papers/processes and focuses specifically on customer allocation and pricing.

## Gas extensions

At the last state election the Victorian government announced a program to fund the reticulation of natural gas extensions to rural and regional Victoria.

The ESC is assisting with the facilitation of such projects, by way of clarifying the regulatory requirements, with all key stakeholders. The first of these projects concerns a proposal by Envestra to reticulate Bairnsdale.

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## Western Australia

## Office of Gas Access Regulation (OffGAR)

### Proposed access arrangements

There are two covered pipeline systems in Western Australia for which proposed access arrangements have yet to be approved: the Dampier to Bunbury natural gas pipeline (DBNGP) and the Goldfields gas pipeline (GGP).

In addition, the regulator has granted an extension until 1 July 2004 by which time a proposed access arrangement is to be submitted for the Kalgoorlie to Kambalda pipeline.

### DBNGP

The final decision on the DBNGP was issued on 23 May 2003. The decision was to not approve the proposed access arrangement submitted by Epic Energy (WA) Transmission Pty Ltd and 47 amendments are required before the regulator will approve the access arrangement.

On 8 August 2003 Epic Energy submitted a revised access arrangement and other information for the regulator to consider.

### GGP

A draft decision on the proposed access arrangement for the GGP was issued on 10 April 2001.

As reported in previous issues of *Network*, legal action begun by the owners of the GGP in the Supreme Court of WA was discontinued when the regulator issued a notice on 6 November 2002 stating he will amend his draft decision.

Although the owners of the GGP applied, on 27 March 2003, to the NCC for revocation of coverage of the GGP under the code, the regulator is proceeding with the amended draft decision.

On 10 June 2003 WMC Resources Ltd obtained an order nisi requiring the regulator and the state of Western Australia to show cause before the Supreme Court of WA why a writ of prohibition should not be issued against the regulator forbidding him from considering or determining whether, under clause 21(3) of the Goldfields gas pipeline agreement, the code shall not have effect in relation to the GGP.

The matter was heard by the court on 6 and 7 October 2003 and a decision is pending.



## Full retail contestability costs

As also reported in previous issues of *Network*, AlintaGas Networks Pty Ltd (AGN) submitted an application on 26 June 2003 seeking the regulator's binding approval under s. 8.21 of the code that capital costs associated with the introduction of FRC in Western Australia will meet the requirements of s. 8.16 of the code, binding the regulator's decision in the next review of AGN's access arrangement for the mid-west and south-west gas distribution systems.

The review of this access arrangement is scheduled to begin on 1 April 2004. AGN also sought the regulator's non-binding agreement to non-capital costs under s. 8.37.

On 1 October 2003 the regulator issued a final decision agreeing that the capital costs proposed by AGN for the implementation of a network management information system to a maximum of \$12m will meet the requirements of s. 8.16.

However, the regulator considered it inappropriate to provide a non-binding acknowledgment that FRC-related non capital costs estimated at about \$1.3m per annum are likely to satisfy the requirements of s. 8.37.

Information on the status of gas access regulation in WA is available on OffGAR's website at [www.offgar.wa.gov.au](http://www.offgar.wa.gov.au).

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## Office of The Rail Access Regulator (WA)

Since the last *Network* the Rail Access Regulator has completed a determination of the floor and ceiling costs for five rail lines in the freight network.

The determination is a requirement of the railways (access) code, the purpose of which is to establish the appropriate bands in which the track owner and access seekers can negotiate prices for access. The five rail lines are:

- Kwinana to Bunbury Inner Harbour (9 route sections)
- Forrestfield to Kalgoorlie (8 route sections)
- Kalgoorlie to Leonora (2 route sections)
- Kalgoorlie to Esperance (4 route sections)
- Brunswick to Premier (9 route sections).

The regulator has also begun a review of the floor and ceiling costs for specified grain lines in the freight network. The determination should be completed within the next couple of months.

The completed determinations are on the Office of the Rail Access Regulator's website [www.railaccess.wa.gov.au](http://www.railaccess.wa.gov.au).

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## South Australia

### Essential Services Commission of South Australia (ESCOSA)

#### Electricity supply industry

##### Standing contract price review

In October 2002 ESCOSA set the standing contract price for small consumers to be effective from 1 January 2003, expecting a similar analysis might be required in late 2003 for the wholesale electricity price that would be applicable from 1 January 2004.

AGL did not nominate revised standing contract prices for 2004, so ESCOSA needed to consider whether there was justification for a price reduction.

ESCOSA began this process following the release of a consultancy report which examined possible scenarios for wholesale electricity contracts over 2002 to mid 2003 and produced a range of estimates for supply during 2004.

Of the range of estimates provided, ESCOSA has indicated its preference for a wholesale energy price of \$69 per MWh for standing contract supply during 2004, compared to the \$71 per MWh used in 2003 standing contract pricing.

Comments have been sought on this preliminary view, and a decision on whether to proceed to a formal price determination will be taken in December.

ESCOSA will also review network charges in November to incorporate additional costs for Murraylink and ETSA Utilities' outage management system.

#### Electricity retail competition

When electricity FRC began ESCOSA undertook to regularly inform consumers on the development of electricity competition in South Australia.

In August it released a position paper on monitoring the development of electricity retail competition in South Australia, which set out the detailed framework.

In September the first in a regular series of statistical reports based on this framework was released.

The reports provide up-to-date statistics on the number of licensed SA retailers, those currently selling electricity to small customers, the volume of customer churn, and the percentage this represents of the overall small customer base.

A more detailed assessment report will be released in late November.

#### Demand management for electricity distribution networks—Guideline no. 12

ESCOSA has undertaken an extensive consultation process to develop a comprehensive guideline to help ETSA Utilities meet its regulatory demand management obligations as a network service provider.

The process involved the release of a discussion paper in August 2002, a position paper in January 2003, and a draft guideline in May 2003.

ESCOSA's final decision affirmed the principles in the draft guideline. The final guideline began operation on 1 September 2003.

#### Chapter 3 of the distribution code

Chapter 3 of part A of the electricity distribution code deals with the procedures ETSA Utilities must follow for establishing connections to the distribution network in situations where network extension and/or augmentation is required.

A review of chapter 3 began in December 2001 with the release of a discussion paper. A position paper in late June 2003 stated ESCOSA's preference for continuing with the user pays approach to funding network extension and augmentation.

Other issues with which the paper dealt include contestability of works, connection offers and inquiries, procedures for network extensions, network augmentation costs, customer rebates, application of chapter 3 to developments, demand side alternatives to network augmentation, and dispute resolution and compliance issues.



Two supplementary papers were released in August to clarify the manner of determining customer charges for network augmentation, and cost of capital and related issues (such as the user pays model and lump sum payment v. amortised payment models).

Following consultation ESCOSA will finalise amendments to chapter 3 by late 2003, with the amendments to take effect from the first quarter of 2004.

### **Electricity distribution price review**

In June 2005 the current price arrangements for ETSA Utilities established under the electricity pricing order ended.

The distribution price review is being conducted to meet ESCOSA's obligation to establish new arrangements for the 2005–2010 regulatory period.

### **Return on assets**

This paper forms part of a series that ESCOSA is releasing as part of the EDPR. Instead of compressing all decision making into a small time frame, ESCOSA will conduct a thorough review of all the issues and spread its decision making over a longer period.

This will give ETSA Utilities a greater amount of certainty for going forward because it will know ESCOSA's views on various critical factors, leading up to the final determination in 2005.

The return on assets paper was released in August; it sets out the issues relating to capital costs as used in the building block approach to determining allowable revenue.

This includes issues relating to asset roll forward, depreciation, and the regulatory rate of return that should be applied to the regulatory asset base.

Given the financial significance of this aspect of the price review, ESCOSA intends to release a preliminary conclusions paper before making a working conclusion early in 2004.

### **Gas supply industry**

Effective 1 July 2003, following amendments to the *Gas Act 1997*, ESCOSA assumed regulatory responsibility for aspects of the gas supply industry in South Australia.

ESCOSA has been working to develop appropriate gas industry codes and is reviewing the licences of existing or proposed industry entities with the view to either amending or issuing licences (retail,

distribution and retail market) that reflect the new regulatory regime.

### **Gas licensing and code regime**

The amendments to the Gas Act require ESCOSA to impose certain new conditions in gas entities' licences and to make certain industry codes. ESCOSA released an issues paper in July on the proposed gas licensing and code regime, seeking stakeholder comment.

ESCOSA is preparing draft licences and codes having regard to stakeholder feedback provided during the consultation process.

These documents will be the subject of further consultation before being finalised in December 2003. That date is driven by a need to have final licences and codes in place well before the commencement of gas FRC.

### **Retail market administrator (RMA)**

#### **Licensing**

RMAs perform certain functions in markets where full retail competition has been introduced, such as Victoria and NSW.

The South Australian *Gas Act 1997* has also established an RMA, which will establish and administer the framework for transactions between retailers and distributors operating in the competitive retail market.

Through amendments to the Gas Act ESCOSA has become the licensing authority for the retail RMA.

The RMA is responsible for overseeing the operation of the SA gas market under full retail competition and is independent of the commercial outcomes of the market. An example of one of the tasks the RMA undertakes is customer transfers between retailers.

RMAs will perform certain functions in markets where full retail competition has been introduced, such as Victoria and NSW.

The Gas Act has also established an RMA, which will establish and administer the framework for transactions between retailers and distributors operating in the competitive retail market.

In July 2003 ESCOSA received an application from Retail Energy Market Company Ltd (REMCo) to be licensed as a gas retail market administrator in SA, pursuant to part 3 of the Gas Act. The licence was issued on 7 November 2003.

### **Pricing**

Deciding the form of price regulation is typically one of the first stages in making a price determination. ESCOSA is currently deciding the appropriate form of price regulation applicable to REMCo for providing services to market participants in South Australia, and released a discussion paper in September 2003.

ESCOSA expects to let REMCo know by December 2003 of its initial view on the form of price regulation that will apply.

### **Ports**

#### **Ports price review**

ESCOSA has released its final conclusions in its review of price regulation of essential maritime services in proclaimed ports, as is required under the *Maritime Services (Access) Act 2000*.

It concluded that a more light-handed form of price regulation would be most appropriate.

This will focus on removing the incentive for regulated operators to earn excess profits from that subset of customers over whom they may be able to exercise market power without applying undue regulation in other areas, and without unduly hindering the striking of commercial agreements between the parties.

The new form of price regulation will commence on 31 October 2004, with price monitoring of services for three years; and negotiate/arbitrate arrangements in relation to grain berths—achieved by extending the existing ports access regime to cover cargo services at these berths.

### **Rail**

#### **Tarcoola–Darwin railway**

#### **Service policies and standards provisional guidelines**

Released 3 November 2003 and provides a provisional set of train–path allocation and reallocation policies, train management standards and service quality guidelines required under the AustralAsia Railway (Third Party Access) Code against the background of ESCOSA's views on the role, scope and content of such guidelines.

#### **Access pricing provisional guidelines**

Released in September and provides a provisional set of pricing guidelines required under the code, against the background of ESCOSA's views on the

role, scope and content of such guidelines. It incorporates comments received on the draft guidelines released in December 2002.

**Regulated rates of return—provisional determination**

Released in July and seeks to set parameters to clarify rates of investment return in the event of a dispute between the owners of the Tarcoola–Darwin railway line and users of the service.

The provisional determination made under the AustralAsia Railway (Third Party Access) Code, sets both a maximum and minimum rate of return; but the rates are only to be used by an arbitrator in the event of a dispute.

ESCOSA will issue final guidelines and determinations for all the above rail matters once the ministers, pursuant to clause 2 of the code, have prescribed those sectors of the Tarcoola–Darwin railway to which the code applies. This is expected to occur in mid January 2004.

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**New South Wales**

**Independent Pricing and Regulatory Tribunal (IPART)**

**Electricity**

**2004 review of distribution network prices**

IPART’s current determination on the regulatory arrangements applying to NSW distribution network service providers (DNSPs) expires on 30 June 2004.

To prepare for a new determination IPART reviewed the form of regulation that should apply from 1 July 2004. The new arrangements will include a weighted average price cap for the distribution component of network tariffs, a pass-through of transmission charges and a price cap for miscellaneous charges and monopoly fees.

In November 2002 IPART released an issues paper discussing these arrangements. It has also released draft models and an information request to collect the required data, which are available from the IPART website.

The closing date for submissions was 20 October 2003. The draft determination should be released around 15 December 2003 and a final determination in April 2004, for 1 July 2004 implementation.

**2004 review of regulated retail tariffs**

IPART’s current determination of regulated retail tariffs expires on 30 June 2004. The Minister for Energy and Utilities has asked IPART to determine appropriate default retail tariffs and charges for a further three years until 30 June 2007.

IPART released an issues paper on 3 October 2003. Standard retail suppliers are to provide submissions by 24 November and present their proposals publicly on 4 December 2003. Public submissions are due on 2 February 2004. IPART will provide a draft report in March and a final report in May 2004.

**Gas**

**Retail**

IPART has previously agreed to voluntary pricing principles (VPPs) for default retail prices for tariff customers of AGL retail, Origin Energy, Country Energy and ActewAGL (in Queanbeyan and Yarrowlumla).

Under these VPPs the respective retailers have agreed to limits on the increases in these tariffs.

These VPPs expire on 30 June 2004. The Minister for Energy and Utilities has requested IPART to ensure default tariffs for small retail customers continue to be protected until 30 June 2007, either through new VPPs or a gas pricing order under s. 27 of the *Gas Supply Act 1996*.

**Timetable for access arrangements**

Revisions submissions due	CEG 1 January 2004 AGLGN 31 December 2003
Advertise for public comment	mid January 2004
Tribunal appoints total cost and demand consultants	late January 2004
AGLGN and CEG make public presentations on initial proposals	last week of February 2004
Public presentations by total cost and demand consultants	last week of March 2004
Public forums for stakeholders to present views	late March/early April 2004
Public submissions due	mid April 2004
Draft decision released	early July 2004
AGLGN and CEG responses to draft decision due	late July 2004
AGLGN and CEG make public presentations on revised proposals	late July 2004
Public forums for stakeholders to present views	mid August 2004
Public submissions due	late August 2004
Final decision released	mid October 2004
Submissions of complying access arrangements by CEG and AGLGN	late November 2004
Approvals by tribunal of complying access arrangements	mid December 2004
Revised access arrangements commence	1 January 2005



IPART has begun a review of the gas VPPs in conjunction with its review of electricity default tariffs.

An issues paper was released on 3 October 2003. Standard gas retailers are to provide submissions by 24 November and present their proposals publicly on 4 December 2003. Public submissions are due on 2 February 2004.

IPART will provide a draft report in March and a final report in May 2004. This review is being run in conjunction with the review of regulated electricity retail tariffs.

## Networks

The next review of the access arrangement of AGL Gas Networks (AGLGN) will occur in 2004. This follows a request by AGLGN, agreed to by the tribunal, for six month extensions of the revisions submission date (to 31 December 2003) and the revisions commencement date (to 1 January 2005).

AGLGN requested this deferral so it could better understand the potential changes to the policy and legal environment given the pending review of the national gas code.

The next review of the access arrangement of Country Energy Gas (CEG) will also occur in 2004.

The tribunal agreed in June 2003 to extend the revisions submission date to 31 December 2003 and the revisions commencement date to 1 January 2005 (having earlier, in December 2002, agreed to extend the revisions submissions date to 30 June 2003).

CEG requested this deferral so it could in the regulatory process for Wagga Wagga with the AGL Gas Networks review process.

This will enable it to explore its regulatory options for part of their covered network which is currently regulated under AGLGN's access arrangement. Running the CEG and AGLGN reviews concurrently is expected to reduce regulatory costs.

## Transport

IPART is undertaking an audit of the policy and operation of the Rail Infrastructure Corporation's (RIC) unders and overs account and its application of the asset valuation roll forward principles as set out in the NSW rail access regime.

Should the ARTC and the NSW Government not finalise their current heads of agreement, IPART will also be assessing the real, pre-tax rate of return to be applied to RIC's opening and closing

regulatory asset base and the remaining mine life of the Hunter Valley coal mines.

Once the final report of the Parry ministerial inquiry has been released, IPART will undertake its annual review of maximum fares that can be charged on NSW government-owned public services.

This includes Sydney's CityRail passenger train network and State Transit Authority buses and ferries in Sydney and Newcastle.

IPART has a five-year standing reference to recommend fare changes for private transport operators. IPART will review fares in the private ferry and taxi industries and, after the release of the findings of the Unsworth inquiry, the NSW private bus industry.

## Water pricing

### Metropolitan water

In mid May 2003 IPART released determinations setting prices for water, wastewater and stormwater services provided by Sydney Water Corporation, Hunter Water Corporation, Gosford City Council and Wyong Shire Council.

The determination set a two year price path to apply from 1 July 2003 until 30 June 2005. While there were variations in price outcomes, in each case IPART increased water usage prices by 1 per cent in real terms for each year and reduced water access charges by between 1 and 5 per cent in real terms.

IPART expects to begin its next periodic pricing review for these agencies, together with the Sydney Catchment Authority, in June 2004.

On 22 September 2003 the Premier of New South Wales issued proposed terms of reference to IPART for an investigation into the use of pricing structures to reduce demand for water in the Sydney Basin. This investigation is to be conducted as a prelude to the next periodic pricing review and will consider a range of issues.

IPART expected to release an issues paper in late November calling for submissions, due mid February 2004.

IPART has begun an end of term review of the operating licences for Sydney Water Corporation and Sydney Catchment Authority. The current operating licences for these agencies expire on 31 December 2004. IPART is required to recommend to the ministers responsible the terms

of new operating licences to take effect from 1 January 2005.

An issues paper was released in October and a second paper on the water supply and demand balance is expected to be released in January 2004.

## Household survey

IPART commissioned Taverner Research Company to undertake a survey of 2600 households to collect data on various characteristics of the household. With the household's permission this data has been matched with water, electricity and gas billing data.

This gives IPART a better basis to understand the factors influencing consumption patterns and the potential effect of changes in price structures and levels. The consultant is preparing a summary report which should be published in December.

### Greenhouse gas abatement scheme

On 27 August 2003 IPART held a public seminar to launch the administrative systems and processes established to support the NSW greenhouse gas abatement scheme.

The scheme is now fully implemented and a range of application forms, guides to applying and other documents are available from the scheme website at [www.greenhousegas.nsw.gov.au](http://www.greenhousegas.nsw.gov.au).

IPART has published case studies of an initial group of trial accreditations of abatement certificate providers. These provide details of how each applicant was accredited, the costs of auditing their application, and the ongoing conditions of accreditation to which they are subject.

On 11 September 2003 IPART launched the on line certificate registry for the scheme. This can be accessed at [www.ggas-registry.nsw.gov.au](http://www.ggas-registry.nsw.gov.au). The registry will maintain registers of accredited abatement certificate providers and abatement certificates.

IPART has appointed an audit and technical services panel to help audit aspects of the scheme.

IPART has extended to 21 November 2003 the date for large electricity customers or persons carrying out state significant development to elect to manage a greenhouse gas benchmark (in preference to leaving this obligation with the electricity retailer).

Application forms to make this election are available from [www.greenhousegas.nsw.gov.au](http://www.greenhousegas.nsw.gov.au).



IPART has developed a standard reporting format for benchmark participants' annual compliance statements, and will trial this with some benchmark participants in November and December 2003, before releasing it in time for the first reporting deadline of 1 March 2004.

In June 2004 IPART will report to the Minister for Energy on benchmark participants' compliance with their 2003 greenhouse gas benchmarks.

### Other reviews

IPART undertakes reviews outside its utility regulation functions at the request of the NSW government or others. Recently completed and current reviews include:

- The performance of NSW Health—requested by the Director-General. The report was published by the Department of Health on 4 September and is available from its website via a link from the IPART website.
- Gaming harm minimisation measures—requested by the Minister for Gaming and Racing. The review began in September 2003, with the report due May 2004.
- Rentals for residential waterfront tenancies—requested by the Minister for Transport Services and the Minister Assisting the Minister for Natural Resources. The review began in October 2003, with the report due April 2004.

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## ACT

# Independent Competition and Regulatory Commission (ICRC)

### Reviews

#### Electricity network pricing

The ICRC released its draft report on electricity network pricing on 7 November 2003. The draft direction is for a CPI-5.4 per cent change for each of the five years of the regulatory period and is made under the national electricity code for the first time.

The 1999 network price direction was made under the Independent Competition and Regulatory Commission Act.

The draft set the opening regulatory asset base at \$480.9m, excluding metering assets of \$12.7m that had been included in the asset base for the previous period. The ICRC determined a WACC (pre tax real) of 6.9 per cent, compared to ActewAGL's proposed WACC of 7.53 per cent.

The ICRC accepted ActewAGL's proposed operating expenditure, but adjusted the proposed capital expenditure program down by 5 per cent reflecting the advice from the Burns Roe Worley review of capex and opex.

Submissions on the draft direction close on 24 December 2003. The final direction is expected by 22 March 2004, with public hearings likely in the first week of February.

#### Water and wastewater pricing

The ICRC released its issues paper on water and wastewater pricing on 23 July 2003 but has postponed the release of the draft decision until 3 December to consider issues raised in discussion with ACTEW Corporation.

Submissions on the draft direction are now due by 23 January 2004. The final direction will be released at the end of March 2004.

#### Taxi services pricing

The current price direction for taxi services expires on 30 June 2004. The ICRC received a reference for an inquiry to determine prices in September 2003 and released an issue paper in October.

The inquiry will focus on the review of price components for the current price index model, particularly the cost of labour, a review of the adequacy of the model and possible surveys of issues such as the average trip distance.

Submissions on the issues paper closed 28 November. The draft direction will be released in late February, with the final direction expected by end May 2004.

#### Water abstraction charge

In May 2003 the Treasurer issued the ICRC with a reference to provide advice on the water abstraction charge level that should apply to each kilolitre of water consumed in the ACT.

The final report was released on 10 October recommending a levy of 20 cents per kilolitre level

from 1 January 2004 as determined in the budget for 2003–04. The ICRC considered there was sufficient evidence to support the budget decision to increase the charge by 5 cents from 1 July 2004.

#### Electricity network infrastructure

The ICRC received a reference to investigate and advise on the public benefits associated with maintaining or removing restrictions on contestability of work on selected areas of the electricity network infrastructure in the ACT.

An issues paper was released on 10 October 2003 with submissions requested by 7 November. A draft advice was released on 4 December, not 28 November as advised in the issues paper. The final report should be available 16 February 2004.

#### Utility licence compliance reports

The ICRC is preparing its first compliance report under the *Utilities Act 2000* for the year ending 30 June 2002.

Utilities must report on licence and code matters for each year ending 30 June, with reports due by 1 October. The 2002 report should be released before end December 2003.

The 2003 reports have been received and will be released in March 2004, to allow comparisons with data from the previous year and other jurisdictions.

For the 2003 reporting period the ICRC extended the information being returned to include the nationally aligned reporting arrangements for both retail and electricity. The reporting obligation covers electricity, gas, water and wastewater.

#### Greenhouse gas disclosure on electricity invoices

The ICRC was instructed to implement the government's undertaking to the Legislative Assembly that the amount of greenhouse gas created through electricity use would be provided to customers on their electricity supply invoices.

All customers will now have information about their estimated greenhouse gas emissions on or with their invoices. In some cases suppliers are still amending their billing systems, but all will be fully compliant by March 2004.





## Gas access arrangement revisions

The ICRC is considering tenders for consultants to help review the revisions expected to be submitted by ActewAGL in early December.

The revisions have been delayed pending more information about the review of the gas code being undertaken by the Productivity Commission, coincident with the delay in IPART's consideration of AGL's revision application. The revisions are expected to take effect from 1 January 2005.

## Tasmania

### Tasmanian Energy Regulator (OTTER)

#### Natural gas distribution and retail

In April 2003 the Tasmanian Government signed a development agreement with Powerco Limited for the construction of stage 1 of a gas distribution system. Stage 1 is the 'backbone' network that will provide supply to up to 23 large industrial and commercial customers in up to nine Tasmanian centres.

The agreement was subject to conditions that have been fulfilled. Construction began in October 2003 in the Bell Bay industrial area and should finish in late 2004.

Licences to authorise the construction and operation of the stage 1 network have been issued to Powerco Tasmania Pty Ltd. A retail licence has been issued to Powerco Australian Holdings Pty Ltd.

Powerco Limited and the Tasmanian Government have signed the stage 2 development agreement for a network rollout to domestic customers. This will make gas available to approximately 38 500 of Tasmania's smaller commercial and residential customers.

Construction should begin in early 2005, subject to certain conditions being met, and is expected to be completed by April 2007.

#### Electricity price investigation

The final report on the investigation into maximum prices for distribution services and retail tariffs from 1 January 2004 was released on 1 October 2003.

#### Retail tariffs

The Tasmanian Energy Regulator has determined that Aurora Energy may not increase the average prices for retail tariffs by more than the:

- CPI plus 0.8 per cent in 2004
- annual change in the CPI plus 0.1 per cent in 2005
- annual change in the CPI in 2006.

The maximum prices for special services, e.g. special meter readings, will increase in line with the CPI only.

Since the investigation did not cover all input costs, the regulator had to make assumptions in regard to system control fees and transmission charges. Aurora Energy will be able to pass through to customers any differences between the estimates used by the regulator and the ACCC's final determination for Transend Networks Pty Ltd.

Similarly the regulator has made provision in the determination for any differences between forecast and actual system control costs.

Aurora Energy may adjust tariff rates within this limit, but there are additional safeguards to ensure a reduction in charges in real terms for low consumption residential customers, and for a reduction in off-peak tariffs. Other safeguards will protect customers from any large increases in any one year.

#### Retail services

The regulator has adopted a benchmark cost to serve of \$76.76 (May 2003\$) per customer per annum, excluding FRC, NEM entry and renewable energy certificate costs.

Provision has also been made for a benchmark net retail margin of 3 per cent per annum. This margin takes account of Aurora's working capital needs and the relatively low level of competition risks faced by Aurora Retail over the next three years.

Aurora and the regulator have also agreed on a set of retail service performance indicators for key services.

#### Distribution service

The regulator has determined that the maximum allowable revenues for distribution services will increase by \$3.21m in 2004 from the 2003 estimate of \$125.76m. Thereafter, revenues are expected to annually increase slightly to \$131.82m in 2006.

In 2002 Aurora Energy researched customers' willingness to pay for improvements in reliability and quality of distribution services and developed five options to deliver those improvements.

The regulator accepted three options as representing value for money for customers and providing substantial improvements in poor-performing areas.

An incentive regime is incorporated in the determination that will penalise or reward Aurora Energy should it fail to meet or exceed the target level of service.

The regulator has also made provision for the introduction of a guaranteed service level payment for customers experiencing lengthy or multiple outages.

#### Meters and meter data services

The provision of meters and meter data will be regulated as a specific service from 2004. It has been estimated that the average daily charge for residential meters (including meter reading and other operating costs) will be 7.32 cents per meter per day in 2004.

#### Reliability and network planning panel (RNPP)

##### Reviews

##### Standards

The RNPP has responsibility under the Tasmanian electricity code for determining and reviewing power system standards in Tasmania, including frequency operating and capacity reserve.

As part of the 2003 review consultation papers were published and a public hearing held on 20 June 2003. The revised standards were published in August 2003 and are available on the regulator's website [www.energyregulator.tas.gov.au](http://www.energyregulator.tas.gov.au).

##### Guidelines

The system controller has responsibility for ensuring that the power system is maintained in a safe, secure and reliable operating state.

To achieve this he has powers of direction in accordance with the *Electricity Supply Industry Act 1995* and the Tasmanian electricity code.

He may direct that generation be connected 'on' or 'off', that service of transmission elements be restored, or that load be shed. As these directions



affect electricity entities and customers, the code provides for the RNPP to develop guidelines for the use of these powers and review them annually.

The RNPP completed its 2003 review of the guidelines in November 2003, following public consultation, taking into account two directions issued by the system controller during 2002–03.

The review documents are available on the regulator's website at [www.energyregulator.tas.gov.au](http://www.energyregulator.tas.gov.au).

### Reliability

The RNPP has begun its 2003 review of the reliability of the Tasmanian power system in accordance with terms of reference issued by the regulator.

An issues paper will be published shortly seeking comments from code participants and interested parties. The final report should be published by end January 2004.

## Government Prices Oversight Commission (GPOC)

### Metro Tasmania pricing

GPOC's final report on the third investigation into Metro Tasmania Pty Ltd's pricing policies contains advice on:

- the appropriateness of pricing policies including comparison with like operators in Tasmania and elsewhere in Australia
- the efficiency of services and the effectiveness of the current arrangement with the Tasmanian Government including incentive mechanisms for the purchase of services, having regard to the cost of delivery and service levels
- suitable indicators for the measurement of both efficiency and effectiveness with a view to their being encapsulated in future community service agreements.

The report also contains recommendations on appropriate maximum fares as well as an appropriate index by which fares would be adjusted each year to compensate for changes in operating costs.

The Minister for Infrastructure Energy and Resources considered the GPOC recommendations before making the Metro Order 2003 which

includes a basket of maximum fares for the three years following 1 November 2003.

### MAIB pricing policies

GPOC has concluded its third investigation into the pricing policies of the Motor Accidents Insurance Board (MAIB), the Tasmanian Government business enterprise that administers the Tasmanian motor vehicle accident injury insurance scheme.

The *Motor Accidents Insurance Board—Pricing Policies Investigation 2003—Final Report* includes GPOC's recommendations on:

- the appropriateness of pricing policies including comparison with like schemes in Australia
- an appropriate mechanism to remedy any cross-subsidies remaining in the current pricing structure (especially in relation to different vehicle classes and different risk types)
- the appropriateness of MAIB's current investment strategies and dividend policies, giving consideration to solvency requirements and claim liability valuations
- appropriate maximum prices to be charged for the provision of motor accident personal injury insurance for all persons injured in motor vehicle accidents involving Tasmanian-registered vehicles for three years after the completion of the final report.

The government accepted GPOC's recommendations and has made an order setting maximum premiums. The MAIB is required to reset its premiums in accordance with the order.

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## Northern Territory

### Utilities Commission of the Northern Territory

#### Network access code

The Utilities Commission delivered its final report on the effectiveness of the territory's electricity network access code to the regulatory minister in April 2003.

The government accepted the recommendations dealing with the price regulation provisions of the code, with the resultant amendments being

gazetted on 29 October 2003. The government will consider the remaining recommendations.

### 2004 network price reset

The Utilities Commission released its final decision on price regulation methodology issues during November. Its approach combined three primary elements: a cost-based adjustment of base year prices; a tariff basket form of price control; and an externally-determined annual price cap escalation factor.

### Network loss factors

The Utilities Commission's draft findings of its compliance review of the methodology used by Power and Water to calculate energy loss factors were provided to the parties involved in October 2003. Parties have been invited to consider settling the matter by negotiation.

The commission has indicated it will not finalise or publish its findings, pending the outcome of these negotiations.

### CSO valuation

The Utilities Commission has received terms of reference to provide advice to the minister on the amounts of, and methods for setting, the community service obligation payments made to Power and Water for electricity provision principally associated with the government's policies of uniform (franchise) retail tariffs across the territory and a below-cost (franchise) retail price cap in Darwin.

The commission expects to issue a draft report to parties to the review by early December, and a final report to the minister by Christmas.

### Generation prices oversight

The government has approved details of the oversight of Power and Water's wholesale generation prices proposed by the Utilities Commission following NT Power's withdrawal from the territory's electricity market. The commission will begin working soon with relevant parties to implement the prices oversight.

### Side constraints for pricing to contestable customers

In August 2003 the Utilities Commission received terms of reference to advise the minister on an appropriate maximum annual increase in electricity **retail** prices to be applied by Power and



Water to contestable customers (following NT Power's withdrawal from the NT electricity market and Power and Water's subsequent position as monopoly supplier).

The commission reported to the minister in September 2003, with the findings remaining confidential to government.

### Ancillary services arrangements

The Utilities Commission has received an 'ancillary services arrangement' from Power and Water—which holds the system control licence in the regulated power systems—for consideration and approval.

The commission expected to publish its preliminary assessment by end November. A resultant ancillary services code and associated pricing determinations are expected to be in place by end March 2004.

### Annual power system review

The Utilities Commission released its latest annual review of trends in system capacity relative to forecast growth in October 2003.

While the review focuses on generation reserve margins, the commission also provides an assessment of the adequacy of gas supplies.

The latest assessment was less pessimistic than in the 2002 review as the number of short-term fuel purchasing options has increased over the last year, thereby increasing the likelihood that longer-term, lower-cost arrangements can be entered into for electricity generation in the territory based on the lower price of Timor Sea gas.

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## Commerce Commission, New Zealand

### Telecommunications

Nearing the second anniversary of the Telecommunications Act 2001, the commission continues its work implementing key aspects of the legislation and consulting extensively with industry during inquiries.

The commission held a conference on the total service long run incremental cost (TSLRIC) pricing principle, preliminary to commencing the pricing review of interconnection.

In September the commission issued its draft report to the Minister of Communications on unbundling, recommending that both the local loop and the public data network be unbundled.

The commission had earlier commenced an inquiry under schedule 3 of the Telecommunications Act to expand the scope of the unbundling investigations to include additional assets and services.

The commission held a conference on its draft telecommunications service obligations (TSO) determination in August. It also found that Telecom had complied with its obligations under the TSO deed in 2002–03.

### Electricity lines

The commission is making progress on developing the new regulatory regime for electricity lines businesses under part 4A of the Commerce Act 1986.

Work on further development of the price path threshold has continued, with a conference held earlier this month.

Under the draft decisions, distribution businesses would be assessed annually against the price path threshold, over a regulatory period of five years beginning on 1 April 2004.

The commission proposed resetting Transpower's price path threshold for one year from 1 July 2004, primarily because of uncertainties associated with the role and functions of the new electricity commission.

The commission has also begun work on the information disclosure requirements that will be required to support the thresholds regime. In the first instance it intends to adopt the existing regulations as part of a managed transition from the Ministry of Economic Development to the commission, with minor adjustments.

The commission has invited submissions from interested parties on an issues paper related to the development of an optimised deprival valuation handbook as part of the information disclosure function.

### Gas pipelines inquiry

The commission is on track in terms of cost and process in relation to its inquiry into whether control should be declared in respect of goods or services related to the transmission and distribution of natural gas.

A draft framework paper was released in July setting out the process and analytical framework it proposes to use during the gas pipelines inquiry. Following submissions from interested parties the commission held a conference in September.

The commission will continue to develop its framework with the intention of applying company specific information to the framework.

The commission proposes releasing a draft report around April 2004, and will provide its final report to the minister by 1 November 2004.

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## Contributing to Network

If you are interested in publishing an article in *Network*, please contact Katrina Huntington on (03) 9290 1915 or email to [katrina.huntington@acc.gov.au](mailto:katrina.huntington@acc.gov.au).

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