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Regulating electricity transmission— ACCC's new approach

(edited extract from speech by Ed Willett, ACCC commissioner, 'Promoting competition and fair trading', Australian Energy and Utility Summit, 22 July, Sydney)

Electricity

The ACCC's involvement in regulating electricity grew out of the 1995 National Competition Policy and the subsequent agreement to establish competitive electricity arrangements for generation and open up access to the state-controlled transmission and distribution system.

Since 1999 the ACCC has progressively assumed responsibility for regulating transmission from state regulators. Over the first five-year regulatory period around \$4.6 billion will have been invested in transmission, most of which has already taken place. This investment adds around 36 per cent to the replacement costs of transmission assets. This is very high considering the long life of these assets.

These high levels of investment have come at a price. Transmission prices have risen in all states, by an average of 16 per cent. This has been a result of growing demand and the need to accommodate efficient investment to ensure a reliable supply of electricity to Australia.

Given the huge changes in the electricity sector over the past decade, the ACCC now believes it is timely to review almost every aspect of its approach to regulating electricity transmission businesses. Following is a brief overview of the ACCC's work touching on its new regulatory principles, its revised regulatory test and new service standard proposals. The ACCC's proposals in these areas represent a significant change in regulatory practice.

Regulating electricity transmission— the ACCC's new approach

The underlying objective of the regulatory changes is to improve investment outcomes. By this I mean not just getting the amount of investment right, but also efficiency in the choice and delivery of investment projects.

Regulatory principles

The review of the regulatory principles has taken measures to increase certainty for investment and improve incentives for efficiency through its decisions on:

- the asset base
- the ex-ante capital expenditure (capex) framework
- the efficiency carry-forward mechanism
- the weighted average cost of capital (WACC) parameters.

The ACCC's first measure is to shift away from a periodic revaluation of the asset base to a lock-in. Under the current draft regulatory principles, our stated approach is to revalue all assets every five years on the basis of up-to-date replacement cost estimates, adjusted for asset age (through depreciation), and optimising out redundancy. This approach was useful as a transitional measure from government ownership to formal regulation by an independent regulator and dealt with many of the problems associated with historical cost values such as poor historical records.



But repeated revaluation creates its own problems such as the level of uncertainty that a transmission company or TNSP might be subject to. A TNSP invests now knowing that the investment will be revalued every five years which could potentially lead to significant variations in the value of the asset base from one period to the next. That revaluation might result in a windfall gain or downward loss for the TNSP but either way creates a risk that an investment now might be devalued in the future and the costs of the investment may never be recovered.

The ACCC intends to resolve this uncertainty by locking in the asset base. We propose to do this by adopting the initial jurisdictional valuation and adding in new investment at cost. The attraction of this option is that a lock-in of the jurisdictional asset base is unlikely to deter new investment and will produce a smoother price path than periodic revaluations.

The ACCC's second measure is to shift from an ex-post prudency assessment of capex to an ex-ante approach. This is the most exciting piece of work in the review of the regulatory principles. Currently, the ex-post assessment requires the ACCC to determine the expenditure to be included in the asset base after the investment has been made. The ACCC does this through setting a benchmark of good industry practice, and adopting the regulatory test as the starting point for assessing the prudency of TNSP's capex.

The evidence suggests that the ex-post prudency assessment has some potential shortcomings, which have been highlighted through the ACCC's reset of the revenue caps for TransGrid and EnergyAustralia.

It creates uncertainty for TNSPs when investing and the ACCC's task in determining which projects are efficient is not straightforward. It requires detailed analysis of the need for the project, technical specification and costs and benefits of each project at the time that the investment is made.

The proposed ex-ante cap involves a forward looking assessment of investment requirements over the regulatory period. I would like to point out that the TNSP is free to decide on the size and timing of its projects to meet statutory and code obligations. However, if a TNSP still decides to invest more than the fixed cap, it will not be compensated for that investment unless it is approved by the ACCC. Importantly, the ACCC will not conduct an ex-post prudency assessment of the TNSP's

investments. At the regulatory reset the ACCC will roll into the asset base the lesser of the firm cap or the actual amount spent.

The benefits of moving away from its current approach to approving capex ex-ante include:

- it improves incentive for transmission companies to invest in the most efficient projects
- it is potentially a less intrusive and more light handed form to regulating capex than a project-specific assessment
- it improves investment certainty by eliminating ex-post prudency assessments, making it more consistent with the ACCC's preferred option of locking in the jurisdictional asset base.

The ACCC acknowledges that there may be some drawbacks in adopting a pure ex-ante regime. Capex set on the basis of a firm ex-ante cap can provide limited flexibility to deal with the lumpy nature of capex or unforeseen investments that may be required. Therefore, the ACCC is proposing that certain projects be excluded from the firm cap.

The ACCC has identified three cases in which the capex might change significantly from the forecast:

- departures from load growth forecasts
- significant unforeseen events such as changes in legislation
- large and unpredictable projects.

The ACCC has proposed specific solutions for each of these cases. If there is a significant departure from load growth forecasts the ACCC will build flexibility into the capex program to ensure that it can increase to meet this demand. For significant and unforeseen events that affect the future capex program we are proposing to build 'off-ramps' into the cap. These will be treated in a similar manner as a pass-through mechanism. Finally the ACCC will exclude large and unpredictable projects from the cap, assessing them at the beginning of the regulatory period. If these projects do eventuate then assuming we have approved the project upfront, the Commission will automatically roll that project into the asset base.

Whether the ACCC adopts an ex-post prudency or ex-ante framework the regulatory test will have a role. Relying on the regulatory test requires that the checks and balances set out in the code are appropriate. However, it is not clear that these checks and balances work effectively.

The first check comes from a TNSP's consultation on its application. However, interested parties are unlikely to possess sufficient skills, expertise,

resources or time to make an informed assessment. The evidence shows that, except for interconnector investments, many applications of the regulatory test have not undergone critical assessment by interested parties.

Following the notice, interested parties can dispute a TNSP's application to either the dispute resolution panel and eventually to the Commission, but only if the augmentation is not a reliability augmentation. The risk is that the appellants may not have the best interests of the market in mind when challenging an application.

The ACCC's third measure to increase certainty for investment and improve incentives for efficiency is to maintain the benchmarked WACC parameters such as the market risk premium, the equity beta and the risk-free rate. The ACCC has selected WACC values that it believes provide a fair and reasonable rate of return. However, the ACCC will continue to monitor the market in relation to these values.

Finally, the ACCC's fourth measure is introducing an efficiency carry-over mechanism for operating and maintenance expenditure (opex). This mechanism rewards the TNSP with higher profits when the firm manages to lower its controllable costs.

The fundamental cornerstone to the ACCC's approach to regulation is an incentive-based regime within a CPI-X framework. The aim is to provide TNSPs with the incentives to operate more efficiently and undertake needed investment. If the TNSP can outperform its benchmark costs it can keep the excess revenue and vice versa. If the TNSP can gain additional revenue by beating the benchmark costs and the ACCC considers that revenue to be efficient it will carry over that extra revenue into the next regulatory period.

It is important that the Commission recognises that the TNSP's environment might change, for example because of changes in available technology or expanding network sizes. Therefore, in setting the opex target for the future period, the ACCC will take into account the expenditure levels that have been achieved, but will retain the discretion to consider arguments by TNSPs and other interested parties on why the future level of opex will be different to the past.

The ACCC will release the draft decision of the revised regulatory principles by early August and the final decision by the end of 2004.



Regulatory test

The regulatory test provides a better planning tool for TNSPs and regulator assessment of new investment proposals. It's a test that simply compares costs and benefits of feasible options, including transmission and generation options and chooses the one that maximises the net benefits. In comparing alternative options the regulatory test can, however, help determine issues such as the use of transmission versus local generation, and the timing and scale of projects.

The regulatory test has resulted in strong investment and is well understood by TNSPs. However, it does not explicitly take into account competition benefit outcomes. Much debate has surrounded the issue of whether the impact of increased transmission capacity on competition between generators should be taken into account when conducting a regulatory test. The idea is that there is limited competition between generators in some regions and that transmission investment can bring competition from interstate generators.

The review of the regulatory test has aimed to address this concern by including a competition benefits test. Competition benefits are defined as efficiency gains to the market from greater competition between generators.

I have a couple of comments to make on competition benefits. The first is that investment is high now so it is not clear that competition benefits are warranted. The second is that even if we accept the case for a competition benefits test there are some practical hurdles to address. We don't want to put an existing proven test at risk, so any competition benefits test should supplement rather than replace the existing test.

The ACCC has tried to model the effect of transmission investment on competition between generators. It engaged Frontier Economics to help develop the framework for calculating competition benefits using market simulation techniques on designated projects such as QNI 200MW and SNOVIC 400 upgrade.

The Commission will continue its work on competition benefits after releasing the revised regulatory test. However, we don't see our further work affecting the definition of competition benefit. Rather, it will provide further guidance to the market on how competition benefits should be measured.

The ACCC aims to release the final decision of the regulatory test by late July.

Service standard guidelines

Service standards are an essential part of the package in providing incentives to improve service standards for a given level of costs. Currently, the guidelines use a TNSP's own historical performance to set a performance benchmark such as the number of outages and constraints.

The ACCC is aiming to develop an incentive regime which is primarily focused on outages and constraints that have a major market impact. If the ACCC does not take such an approach the service standards regime would become irrelevant.

The ACCC recognises that most transmission outages don't affect the market and that the existing guidelines do not deal with the market impact of transmission networks.

The ACCC proposes that the first step in developing this regime is to identify the market impact of transmission networks and how to quantify that impact before we even consider the financial incentives that should be put in place.

The ACCC proposes to release the draft decision in mid July and a final decision in September. The draft decision will outline what information the ACCC intends to publish about market impacts and transmission constraints. This decision does not propose yet to set financial incentives on TNSPs.



Telecommunications

ACCC continues to regulate mobile termination services

The ACCC issued a new declaration in June 2004, continuing the regulation of the mobile termination service. The declaration, resulting from a wide-ranging ACCC review of Australian mobile services, involved extensive consultation with the telecommunications industry.

The mobile termination service allows a mobile subscriber to receive incoming calls from a network other than their own service provider. The ACCC found that all mobile operators have market power when it comes to terminating calls to their subscribers, as no other provider can terminate these calls.

The declaration involves a new approach to regulating the price of the mobile termination service. New price-related terms and conditions indicate that the price should fall to 12 cents per minute by January 2007—commencing with an immediate reduction to 21 cents per minute on 1 July 2004 and continuing with three further reductions of three cents per minute on 1 January in each of the three following years.

The ACCC believes the new pricing principles will generate a closer association between prices and costs for the mobile termination service. The price of 12 cents is based on the accounting information provided by the Australian mobile operators and benchmarking against cost estimates from around the world.

ACCC stops regulating mobile originating access service

The ACCC stopped regulating the wholesale mobile originating access service on 30 June 2004—a decision that also resulted from the ACCC review of mobile telecommunications services.

The regulation of this service was previously limited to a small sub-group of telephone calls made from mobile phones to 13/1300 and 1800 numbers. The direct impact of the decision is therefore limited to network owners involved in delivering these calls.

The ACCC found that, while individual carriers appear to have control over access to calls originating on their network, there has been little if any evidence of them taking advantage of this control to either deny access to their network altogether, or to set excessively high charges for access. In the course of the review, no party provided substantial evidence that ongoing regulation is required to promote the long-term interests of end-users of telecommunications services.

ACCC proposes charge of \$7–\$8 for Telstra's line sharing service

The ACCC proposed a monthly access charge for Telstra's line sharing service (LSS) of around \$7–\$8 per service in June 2004. This recommendation was in the ACCC's draft report in which it proposed to reject Telstra's LSS undertaking.

The LSS is a service that enables two carriers to provide separate services over a single metallic pair or 'line'. It allows Telstra to supply basic telephone services to a consumer while also enabling its competitors to provide high-speed broadband services, such as ADSL, to the customer on the same line.

The ACCC believes that the LSS undertaking should be rejected, largely because Telstra's proposed monthly access charge of \$15 per service is well above what would be justified by the cost of supplying the service. Such a price will not promote competition because it is unlikely to encourage service providers to invest in their own facilities to promote broadband services. It is also unlikely to encourage Telstra to invest in infrastructure and use it efficiently.

ACCC reports tabled in parliament

In June 2004 the ACCC's three annual telecommunications reports were tabled in parliament by the Minister for Communications, Information Technology and the Arts.

The reports, covering the 2002–03 financial year, analysed competitive safeguards and price changes for telecommunications services and reported on Telstra's compliance with price control arrangements.

In its assessment of **competitive safeguards**, the ACCC argued that competition in the telecommunications industry has not developed to the extent expected when the industry was substantially deregulated in 1997. Of the carriers to emerge since, many either operate solely at the retail level and have relatively few directly connected customers or operate in niche markets only.

While access or service-based competition is certainly beneficial and can help companies build a retail base, the ACCC believes that in the longer term, facilities-based competition is required to continue to drive efficiency, wider choice of services and price competition.

The ACCC's analysis of **changes in prices** revealed that, overall, the average price paid by consumers increased by 1 per cent in 2002–03. This is the first increase since the ACCC began monitoring price changes in 1996–97 and is underpinned by increases in the average price paid for both PSTN and mobile services.

The other notable feature of the prices report is the widening gap between price movements in the residential market and certain segments of the business market. Large business customers enjoyed a substantial fall in the price of PSTN services in 2002–03, whereas residential customers experienced a price increase. This trend was also evident in fixed-to-mobile calls.

In its **price control report**, the ACCC was satisfied that Telstra had adequately complied with all price control arrangements established by the government.



ACCC commences review of Telstra price control arrangements

In April 2004 the Minister for Communications, Information Technology and the Arts directed the ACCC to review the price control arrangements that should apply to Telstra from 30 June 2005. The ACCC began its review with the release of a discussion paper in June 2004. The review is to be completed by 31 January 2005.

ACCC secures refunds for Optus mobile customers

Following ACCC action Optus Mobile has undertaken to refund consumers and publish corrective advertising about the promotion of the Nokia 7250 mobile phone handset.

In May 2003 Optus Mobile advertised a Nokia 7250 camera phone on a \$55 per month plan in a national advertising campaign. Optus Mobile advertised the offer was available for all of May 2003. The ACCC's investigations showed that Optus Mobile did not have enough stock to meet the consumer demand for the 7250 handsets for the entire promotion.

In June 2004 Optus provided court enforceable undertakings that it would, among other things,

- refund those customers who paid more for the phone in the month after the promotion ended
- run a corrective advertising campaign on television, in newspapers, in store and on the Optus website.

ACCC issues second accounting separation reports

The ACCC issued its second round of reports on the accounting separation of Telstra in April and May 2004.

These reports are intended to provide greater transparency of Telstra's operations to ensure that it does not unfairly discriminate between access seekers using its network services and its own retail operations.

The reports issued were:

- current cost financial reports for 'core' telecommunications access services
- imputation analysis comparing Telstra's retail prices with the prices of the core telecommunications services provided to access seekers
- key performance indicators on non-price terms and conditions that compare service

performance between Telstra's retail and wholesale supplied basic access services.

The ACCC noted that there was little difference between the results in these reports and those of the previous reporting period. The information supplied by Telstra does not reveal any major concerns with how it is providing the specific services covered to access seekers to enable them to compete in retail markets.

ACCC reduces regulation of telecommunications transmission services

The ACCC issued a new declaration for the transmission capacity service in April 2004. This is a wholesale high bandwidth service (greater than 2 Mbps) used for transmitting voice, data or other communications between points located throughout Australia.

The major change from the previous declaration is the exclusion of the following 14 capital-regional transmission routes:

NSW	Victoria
Sydney—Albury	Melbourne—Ballarat
Sydney—Lismore	Melbourne—Bendigo
Sydney—Newcastle	Melbourne—Geelong
Sydney—Grafton	Melbourne—Shepparton
Sydney—Wollongong	
Sydney—Taree	
Sydney—Dubbo	
QLD	SA
Brisbane—Toowoomba	Adelaide—Murray Bridge
Brisbane—Gold Coast	

These are routes which currently have at least three carriers supplying, or readily capable of supplying, transmission capacity services.

Inter-capital transmission continued to remain outside the declaration. The ACCC has also discontinued its inter-capital transmission monitoring program because there is now sustained competition on all inter-capital routes.

ACCC accepts analogue pay TV access undertakings of Foxtel/Telstra multimedia

The ACCC accepted new Telstra Multimedia (TMM) and Foxtel access undertakings for analogue pay TV services in March 2004. The decision cleared the way for third party access seekers to access TMM's cable and Foxtel's set top units, as the undertakings

govern terms and conditions of access in the absence of any other commercial agreement.

The ACCC had previously rejected earlier undertakings submitted in late 2002, which were defective in a number of terms and conditions of access. These were rectified in the new undertakings. The undertakings reflect a fair balance between the rights of access seekers to use the service and the legitimate commercial interests of TMM and Foxtel.

The new access undertakings have had implications for the resolution of the long standing pay TV disputes between TMM and Foxtel and TARBS and C7, which the ACCC has been arbitrating. These arbitrations were put on hold pending the ACCC's assessment of the undertakings. The dispute notifications have now been withdrawn.

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Electricity

Authorisations

Amendments to NEC—inter-regional settlements agreements

(See *Network 16* for more background.)

On 16 December 2003 the ACCC received applications from NECA for authorisation of amendments to the code relating to provisions facilitating inter-regional transfers.

The ACCC received no submissions and released its draft determination on 3 March 2004. Subsequently, a pre-determination was not called and no further issues were raised. The ACCC made its final determination on 25 March 2004 granting authorisation without conditions.

Amendments to NEC—despatching the market

(See *Network 16* for more background.)

On 16 December 2003 the ACCC received applications for authorisation of a derogation to the code relating to the management of network limitations and constraint formulation in the NEM. The derogation has a sunset clause which means it will cease to have effect at the end of December 2004.

The ACCC received one submission on this matter and released its final determination on 28 April 2004.



Amendments to NEC—Hydro Tasmania metering

(See *Network 16* for more background.)

On 16 December 2003 the ACCC received applications by NECA on behalf of Hydro Tasmania for authorisation of a derogation to the code.

As part of its public consultation process the ACCC called for submissions. None were received, and the ACCC released its draft determination on 10 March 2004. Once again, submissions were called for. The ACCC did not receive any submissions on this matter and a pre-determination conference was not called.

The final determination was released on 7 April 2004, outlining the ACCC's views and analysis. The determination grants authorisation without conditions for a maximum of 12 months after Tasmania enters the NEM.

Amendments to NEC—Victorian derogations

On 18 March 2004 the ACCC received applications for authorisation (Nos A90909, A90910, A90911) of amendments to the Victorian derogations in chapter 9 of the code. The applications were lodged on behalf of the Victorian Minister for Energy Industries and Resources.

The purpose of the amendments is to clarify the application of the existing Victorian derogations, which enable VENCORP, Victoria's transmission planning body and provider of transmission network services, to fully recover its costs at the end of the regulatory period. In particular the derogations seek to clarify that VENCORP can fully recover its costs within a regulatory period. The ACCC consulted interested parties on NECA's application, receiving one submission from TransGrid.

On 29 March 2004 the Victorian Minister for Energy Industries and Resources asked the ACCC to grant interim authorisation to the derogations. The minister requested this primarily as a result of the decision to extend the *Land Tax Act 1958* (Vic) to SPI PowerNet's transmission easements and the requirement that transmission companies publish their transmission charges each year by 15 May 2004. The ACCC granted interim authorisation on 14 April 2004 and released its draft determination on 22 April.

A pre-determination conference was not called and no submissions were received. The ACCC made its final determination on 19 May 2004 authorising the amendments without conditions. It considered that there is minimal anti-competitive detriment

associated with the proposed amendments and that this is outweighed by the benefits, in particular clarification of VENCORP's ability to recover costs during a regulatory period.

Amendments to NEC—Victorian derogations—metering

On 6 April 2004 the ACCC received applications for authorisations (A90915, A90916, A90917) of amendments to the Victorian derogations. They were lodged by the National Electricity Code Administrator (NECA) on behalf of the Victorian Minister for Energy Industries and Resources.

The stated purpose of the applications was to extend the existing Victorian derogations contained in chapter 9 of the code. The existing derogations relate to chapter 7 of the code and grant exclusivity to distribution businesses in Victoria to provide metering services.

The ACCC has considered this request and has decided, under subsection 91(2) of the *Trade Practices Act 1974*, to grant interim authorisation to the application. Because the current derogations expired on 30 June 2004, interim authorisation became effective on 17 June 2004 and will lapse when the ACCC's final determination comes into force. Under subsection 91(2) of the Act the ACCC may revoke an interim authorisation at any time.

The ACCC has not formed a view on the public benefits of Victoria's application. It will consider this aspect more fully in its draft determination.

Minor variations to the authorisation of the NEC—NSW derogations—transmission pricing

On 18 June 2004 the ACCC received applications under section 91A of the Act for minor variations to the existing authorisations of the code (Nos A40074, A40075, A40076, as amended). NECA lodged the applications on behalf of the NSW Minister for Energy and Utilities. A request for interim authorisation was made at the time of lodgment of the application.

The applications relate to derogations governing the network pricing arrangements to apply in NSW. The derogations are designed to mitigate risks that may arise from the timing of the ACCC's revenue cap decisions for TransGrid and EnergyAustralia. The proposed derogations replace similar derogations put in place at the time of the ACCC's first revenue cap decisions for TransGrid and EnergyAustralia.

The ACCC has considered this request and has decided, under subsection 91(2)(e) of the *Trade Practices Act*, to grant interim authorisation to the

derogations as submitted on 18 June 2004. This comes into force on 23 June 2004 and will lapse when the ACCC's final determination for each application comes into force, unless revoked before this date.

Final decision—variation to NEM Access Code

On 16 September 1998 the ACCC, under s. 44ZZAA of the *Trade Practices Act*, accepted as an industry access code chapters 1, 2, 4–10 of version 2.3 of the code, referred to as the NEM Access Code. The ACCC accepted variations to it on 20 January 1999.

Since then there have been a number of code changes which the ACCC has authorised under Part VII of the Act. Those changes also vary components of the code which comprise the NEM Access Code or affect it.

On 10 May 2002 the ACCC received a further NECA application to vary the access code. NECA sought to have all provisions of the code included, incorporating any amendments as of 10 May 2002. This would have included chapter 3 of the code in the NEM Access Code for the first time.

Under s. 44ZZAA(6) of the Act, the ACCC agreed to NECA's application to vary the access code except the proposal to include chapter 3. However, when appropriate, the ACCC may consent to an application by NECA to vary the NEM Access Code to include such provisions in chapter 3 as, from time to time, are necessary or incidental to the operation of the other chapters that form the access code.

SPI PowerNet application for pass through of a change in taxes event and VENCORP application for adjustment to its MAAR

The *Land Tax (Amendment) Act 2004* (Vic) will extend Victoria's land tax regime to easements held by electricity transmission companies in Victoria. The new tax will apply to transmission easements from 1 July 2004.

As a result of these amendments SPI PowerNet submitted a pass-through application to the ACCC on 7 April 2004. It sought to obtain pass through for the 2004–05 tax liability and associated administration costs as a 'changes in tax' event under the pass-through rules contained in its 2002 revenue cap decision. SPI sought annual pass-through approval for the rest of its regulatory period.

On 16 April 2004 VENCORP submitted an application to adjust its maximum allowable aggregate revenue (MAAR) for the rest of its regulatory period. The estimated revenue requirements in VENCORP's application depend on the ACCC's approval of SPI's



pass-through application. VENCORP's application includes adjustments to reflect the impact of the extension of the land tax regime to SPI's easements, payments of prescribed service charges to Murraylink as a result of its conversion to regulated status and annual charges relating to approved augmentations identified during the Murraylink conversion process.

The ACCC has consulted with interested parties on the applications and has taken their comments into consideration in making its decision. It has approved SPI's application for pass through and VENCORP's application for adjustment to its MAAR on 28 April and wrote to both companies on 30 April advising of its decision. These letters are published on the ACCC website.

Current regulatory reviews

TransGrid and EnergyAustralia

From 1 July 2004 the ACCC, in accordance with its responsibilities under the National Electricity Code, will reset the maximum allowable revenue for TransGrid and EnergyAustralia for the 2004 to 2009 regulatory period.

TransGrid

On 26 September 2003 TransGrid submitted its application to reset its revenue cap under clause 6.2.4(b) of the code, for the period 1 July 2004 to 30 June 2009. The ACCC engaged a consultant to assist it in determining the revenue cap for TransGrid, publishing the consultant's report and calling for public submissions.

On 4 May 2004 the ACCC issued its draft decision on the revenue cap for TransGrid, the transmission network service provider in the NSW and ACT region of the National Electricity Market. The ACCC has adjusted TransGrid's past capex and opex applications to arrive at an efficient level of spending for the next five years. The ACCC has used TransGrid's forward capex application, slightly adjusted, as an interim figure for the next 12 months until the final decision is released.

On 18 June 2004 the ACCC held a public forum on its draft decision relating to TransGrid's revenue cap for the period 2004–09. ACCC commissioner, Mr John Martin, chaired the forum and emphasised that it was an opportunity for participants to comment on the draft decision and that the ACCC would take their comments into consideration. Several speakers introduced new arguments in their presentations and foreshadowed additional data in written submissions.

It was noted in the draft decision that the ACCC is developing a new capital expenditure framework which will be applied in the final decision. Therefore, TransGrid is to resubmit its forecast capital expenditure program by late October 2004 consistent with this new capital expenditure framework. The ACCC will review this application and release a supplementary draft decision on forecast capital expenditure by mid-February 2005.

The final decision will be released in April 2005.

EnergyAustralia

On 23 September 2003 EnergyAustralia submitted its application to the ACCC. However, its application failed to provide enough information and the ACCC asked EnergyAustralia to submit extra information to substantiate its claims, which it did so in October and November 2003.

The ACCC invited interested parties to comment on the issues raised in the application by 30 January 2004 and received four submissions.

The ACCC then engaged a consultant to help determine the revenue cap for EnergyAustralia, publishing the consultant's reports and calling for submissions on 29 March 2004. The ACCC received three submissions.

On 4 May 2004 the ACCC released its draft decision for public consultation and submissions were due by 2 July 2004. The ACCC held a public forum in Sydney on 18 June 2004 and will take issues raised in submissions and at the forum into consideration in finalising its revenue cap decision.

As noted in the draft decision, the ACCC is developing a new capital expenditure framework which will be applied in the final decision. Therefore, EnergyAustralia is to resubmit its forecast capital expenditure program by late October 2004 consistent with this new capital expenditure framework. The ACCC will review this application and release a supplementary draft decision on forecast capital expenditure by mid-February 2005.

The final decision will be released in April 2005.

Directlink

On 6 May 2004 the ACCC received an application from the Directlink Joint Venture (DJV), requesting that the ACCC determine that:

- the network service provided by Directlink is a prescribed service for the purposes of the National Electricity Code

- for the provision of this prescribed service, DJV be eligible (subject to the performance incentive scheme proposed in section 6.5 of the application) to receive the maximum allowable revenue (MAR) from transmission customers (through coordinating network service providers) for a regulatory control period from the date of effect of the ACCC's final decision on the application to 31 December 2014.

As part of the inquiry, a review of DJV's application of the regulatory test is required. The ACCC intends to engage two separate consultants. The first will establish a suite of feasible alternatives. A second, which the ACCC is currently engaging, will assess the market benefit of each alternative identified.

After selecting the alternative that maximises the net market benefits, the ACCC will use that alternative to establish the value of the regulated asset base, operating expenditure, capital expenditure and to calculate the MAR.

The ACCC invited interested parties to comment on the issues raised in DJV's application by 4 June 2004, receiving five submissions. It expects to receive a report from the first consultancy assessing the alternatives. The ACCC is proposing to release a draft decision at the end of 2004.

Statement of principles for the regulation of transmission revenues—regulatory principles review

The ACCC released its statement of principles for the regulation of transmission revenues (draft regulatory principles) in May 1999. Since then there have been several developments in the approach to the regulation of network industries. Given the time since their release and subsequent developments, the ACCC is currently reviewing its draft regulatory principles. In August 2003 the ACCC released a discussion paper outlining a number of key issues for review and called for submissions.

The ACCC held a workshop on 2 April to discuss the key issues of the review. After taking into account discussions at these workshops and issues raised in submissions, the ACCC will release a revised version of the regulatory principles mid-2004. The ACCC plans to release the final document by the end of 2004.



Statement of principles for the regulation of transmission revenues—service standards working group

The ACCC released its service standards guidelines on 12 November 2003. Subsequently, the ACCC formed a working group of relevant industry participants to provide input into a sound and practical market-based performance incentive scheme by developing market impact measures to the guidelines.

The working group has met four times and suggestions have been put forward for various ways of measuring a TNSP's impact on the market. The ACCC is considering whether these measures are appropriate for a financial incentive. As part of this longer term consideration the ACCC intends to develop a framework to collect information only for transparency in the first instance. The draft proposal for a transparency measure is expected to be released in July 2004.

Review of the regulatory test

The ACCC has finalised its review of the regulatory test, a test that all transmission and distribution network investment must satisfy if it is to receive regulated status.

On 30 June 2004 the ACCC released its final decision which was based on a number of options identified in its draft decision.

The ACCC amended the regulatory test recognising amendments to the code including replacing the distinction between inter and intra-regional augmentations with new large and new small network augmentations in the code.

The ACCC also included definitions into the regulatory test which are largely based on the findings of the National Electricity Tribunal and the Victorian Supreme Court on the SNI regulatory test application. In defining elements of the regulatory test the ACCC has been mindful of the differences between options required to meet necessary code and licence obligations and economic augmentations. The ACCC has also rearranged the ordering of the regulatory test to aid clarity.

The most contentious issue has been the ACCC amending the test to explicitly recognise competition benefits. Competition benefits are those efficiency benefits arising from modelling actual bidding behaviour in the market.

The ACCC engaged Frontier Economics to assist it in its consideration of a methodology to calculate competition benefits. The aim of Frontier Economics' work is to provide guidance to the market on how competition benefits might be measured.

The ACCC proposes to continue this work after releasing its final decision. However, it does not see its further work affecting the definition of competition benefits. The work is likely to include sensitivity testing of assumptions and the more difficult dynamic analysis of generator entry decisions.

National energy market reforms

Legislation to implement energy sector reforms agreed by the Ministerial Council on Energy (MCE) has passed through Federal Parliament.

The *Trade Practices Amendment (Australian Energy Market) Act 2004* gives effect to the MCE's commitment to establish the Australian Energy Regulator (AER), which will be responsible for economic regulation of electricity transmission in the National Electricity Market jurisdictions. The AER will also enforce the National Electricity Code. It will also be responsible for economic regulation of gas transmission pipelines in all jurisdictions, except Western Australia, from 1 July 2005. During 2006 the AER will become responsible for regulating energy distribution and retailing (other than retail pricing), and may carry out retail pricing functions by agreement with jurisdictions.

The Australian Energy Market Act establishes the AER as a separate legal entity and a constituent part of the ACCC under Part IIIAA of the *Trade Practices Act 1974*. The AER will comprise three members who will be statutory appointments, including a full-time chair. Two members will be part-time. Part IIIAA of the Act provides that one of the members of the AER will be an ACCC commissioner.

The Australian Energy Market Act also facilitates a new streamlined process for amending the electricity and gas codes, allowing the ACCC to rely on consultations by the Australian Energy Market Commission (AEMC) when carrying out ACCC access functions. The amendments also facilitate a streamlined authorisation process for the National Electricity Code, allowing the ACCC to rely on consultations that the AEMC has undertaken separately in a code change process. Arrangements for consultation and cooperation between the new bodies and the ACCC will be set out in a memorandum of understanding.

The AER headquarters will be in Melbourne but it will also be located in other states.

The Australian Energy Market Act gives effect to the MCE's commitment to establish a national legislative framework for energy market regulation to be agreed between the Commonwealth, states and territories. This Act will apply the National Electricity Law and the National Electricity Code as Commonwealth law in offshore areas. It also enables regulations to prescribe further state and territory energy laws to be applied in the offshore areas.

The *Australian Energy Market Commission Establishment Act 2004* will be presented to the South Australian Parliament later this year. The Act will establish the AEMC, which will be responsible for rule making (through gas and electricity code changes) and market development in the energy sector.

The AEMC and the AER will start operations in 2004. The ACCC is working with jurisdictions to facilitate a smooth transition to the new regulatory arrangements. The ACCC will retain responsibility for competition regulation under the *Trade Practices Act 1974* and for industry access code approvals under Part IIIA of the Act.

The MCE has held public consultation on aspects of its work program, including the proposed streamlined process for amending the electricity and gas codes, and cooperative arrangements between the ACCC, the AER and the AEMC. It has also consulted on the application of an industry levy to fund the AER and AEMC, a review of regional boundaries in the NEM, the establishment of a new transmission planning process, and measures to enhance user participation in the energy market. In April 2004 the MCE expanded its gas work program to accelerate development of a competitive natural gas market. The MCE will meet again in August 2004.

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Tribunal determinations

Moomba to Sydney pipeline system—final approval

The ACCC issued its final approval for the terms and conditions of gas transportation services for the Moomba to Sydney pipeline (MSP) on 8 December 2003.

On 19 December 2003 EAPL lodged an application with the Australian Competition Tribunal for review of the ACCC's decision to draft and approve its own access arrangement. The tribunal's hearing concluded on 22 April 2004. The issues to be determined by the tribunal are:

- the initial capital base for the whole of the MSP
- the benchmark credit rating to be applied when determining the WACC.

Coverage of the Moomba to Sydney pipeline system

On 19 November 2003 the Minister for Industry, Tourism and Resources, the Hon. Ian Macfarlane, released his decision on EAPL's application for revocation of coverage under the gas code of the Moomba to Wilton mainline and Canberra lateral.

The minister decided that coverage should be revoked between Moomba and Marsden (which accounts for over 70 per cent of the pipeline), but would remain between Marsden and Wilton and also on the Canberra lateral.

On 5 December 2003 five parties—Orica IC Assets Ltd, Endeavour Coal Pty Ltd, Amcor Limited, Energy Users Association of Australia Inc. and Energy Action Group Inc.—lodged with the tribunal an application for review of the minister's decision.

The review process was terminated on 20 April following the withdrawal of the last of the applicants (Orica). The minister's decision now applies and the ACCC no longer has the authority to regulate the terms and conditions of access, including reference tariffs, between Moomba and Marsden.

Productivity Commission review of gas access regime

On 19 March 2004 the ACCC provided a further submission to the Productivity Commission in response to its draft report of the review of the gas access regime. The submission addresses the PC's key finding that the current regime requires significant adjustment.

The ACCC's submission reviews the conceptual arguments and anecdotal evidence relied upon by the PC. The submission also provides empirical evidence that the current gas framework has the potential to increase Australia's GDP by up to \$1.1 billion over the next decade.

The ACCC concludes that a cautious and measured approach to reforming the gas code is needed. The PC is due to release its final report in June 2004.

Moomba to Sydney pipeline: approval of tariffs for 2004–05

The Moomba to Sydney access arrangement approved by the ACCC in December 2003 set an initial mainline tariff for the period 1 January to 30 June 2004. This tariff consisted of:

- capacity charge .03605 cents/GJ/km
- throughput charge .00226 cents/GJ/km.

After June 2004 tariffs are to be adjusted by a CPI–X formula, to the end of the access arrangement period (July 2008).

In considering Eastern Australia Pipeline Limited's (EAPL) proposal to adjust tariffs the ACCC notes that the access arrangement is currently the subject of an application for review to the Australia Competition Tribunal, and therefore remains in operation. As such EAPL's proposal to adjust tariffs was submitted and accepted by the ACCC without prejudice.

The proposed tariff adjustment is according to the CPI–X formula and is approved exclusive of GST. A new mainline tariff will consist of:

- capacity charge .03618 cents/GJ/km
- throughput charge .00227 cents/GJ/km.

This tariff will be effective from the 1 July 2004 to 30 June 2005.

Release of draft dispute resolution guideline

The ACCC has released a draft guideline, *Resolution of transmission pipeline access disputes under the gas code*, for public comment. It has been prepared following consideration of responses to a consultation paper circulated in November 2003.

The draft guideline describes processes for dispute notification, handling of confidentiality claims, format and content of experts' reports, the holding of joint hearings and publication of arbitration determinations. It also proposes to introduce case management teams for arbitrations, and emphasises the use of alternative means of dispute resolution, such as third party mediation and referring particular issues to expert determination. The guideline is based on the processes set out in the Gas Pipelines Access Law and the gas code.

Parties were invited to comment on the draft guideline by 18 June 2004. It is available from the ACCC website.

Interim authorisation of retail market rules for WA and SA

The Retail Energy Market Company (REMCo) has been established by industry participants as the gas retail market administrator for both Western Australia and South Australia. Working with industry participants, REMCo has developed retail market rules (RMR). They will facilitate the implementation of full retail competition in the natural gas markets by providing efficient arrangements for customer transfers between retailers and metering and balancing.

REMCo has applied for authorisation of chapters 5 and 6 of the RMR. Western Australia had a market start date of 31 May 2004, and South Australia 28 June 2004.

The ACCC has granted an interim authorisation to take effect from 31 May 2004 while it continues to assess REMCo's application. This application and the interim authorisation are available from the ACCC website.

Approval of VENCORP's proposed budget and tariffs for 2004–05

On 23 April 2004 Victorian Energy Networks Corporation (VENCORP) submitted its annual gas budget and tariffs for 2004–05 to the ACCC for approval.

VENCorp is a Victorian Government statutory authority responsible for operating Victoria's gas transmission network, and its wholesale gas spot market.

VENCorp's access arrangement obliges it to submit an annual statement to the ACCC that sets out forecasts of its total annual costs and market fees for the forthcoming financial year.

The ACCC is required to assess this statement to ensure it complies with the terms of the access arrangement, and the provisions of the gas code.

The ACCC has approved VENCorp's proposed budget and tariffs for 2004–05.

Competitive tender for the proposed Central Ranges pipeline

On 19 May 2004, under section 3.32(a) of the gas code, the ACCC approved the final approval request submitted by the Central Ranges Natural Gas & Telecommunications Association Inc. The association had earlier conducted a competitive tender to select a person to develop the proposed Central Ranges pipeline and associated distribution system that would transport natural gas from Dubbo to Tamworth and other centres in the Central Ranges region of NSW.

The Europacific Consortium was the only party to lodge a conforming tender and was selected as the successful tenderer.

Draft regulatory reporting guidelines for gas pipeline service providers

On 21 May 2004 the ACCC released for comment its draft regulatory reporting guidelines for gas pipeline service providers. They set out the ACCC's procedures for service providers to establish accounting guidelines for compliance with the code's ring fencing obligations.

Parties were invited to comment on the draft guidelines by 18 June 2004. They are available from the ACCC website.

Following feedback from service providers and other interested parties, the ACCC proposes to release the initial version of the guidelines for implementation in 2005.

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Transport and prices oversight

Airservices Australia proposed pricing at Ayres Rock airport

In May 2003 the Civil Aviation Safety Authority introduced new regulations stating that once an airport has reached 350 000 passengers per year, an ARFF (aviation rescue and fire-fighting) service should be established within 12 months. Over 350 000 passengers per year have used Ayers Rock airport since 1996–97. Therefore, an ARFF service now needs to be established.

Airservices Australia (the monopoly provider of en-route air navigation, terminal navigation and ARFF services) proposed a temporary price of \$13.09 per tonne landed for aircraft with a maximum take off weight (MTOW) of 2.5 tonnes or greater to cover the cost of providing an ARFF service at Ayers Rock airport. Aircraft with a MTOW of less than 2.5 tonnes will not be charged for this service.

In May 2004 the ACCC consulted with interested parties and then issued a final decision not to object to Airservices levying a price to fund a new ARFF service at Ayres Rock airport as it will provide better safety for air travellers visiting the area. This price will operate for an interim period pending the ACCC's consideration of Airservices' expected long-term pricing proposal, which will cover all of Airservices' regulated activities at all Australian airports.

A copy of the ACCC's decision is available on its website.

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National Competition Council (NCC)

There are two current applications for declaration under Part IIIA of the Trade Practices Act, one current application for review of the minister's decision under Part IIIA of the Act by the Australian Competition Tribunal and one outstanding application for revocation under the national gas code.

Part IIIA matters

Pilbara rail services

On 15 June 2004 the NCC received an application under Part IIIA of the Trade Practices Act from Fortescue Metals Group Ltd for declaration of a service provided through the use of a facility.

The service the application seeks to have declared is described as the use of the facility, being:

- that part of the Mt Newman Railway line which runs from a rail siding that will be constructed near Mindy Mindy in the Pilbara to port facilities at Nelson Point in Port Hedland, and is approximately 295 kilometres long
- that part of the Goldsworthy Railway line that runs from where it crosses the Mt Newman Railway line to port facilities at Finucane Island in Port Hedland, and is approximately 17 kilometres long.

The service provider is identified as BHP Billiton Minerals Pty Ltd, Mitsui-Itouchu Iron Pty Ltd and CI Minerals Australia Pty Ltd, trading as joint ventures, and BHP Billiton Iron Ore Pty Ltd.

The NCC will consider the application through a public process, due to commence soon.

The decision maker for this application is the relevant Australian Government minister, the Parliamentary Secretary to the Treasurer.

The application is available on the NCC web page.

Sydney sewerage services

On 3 March 2004 the NCC received an application under Part IIIA of the Trade Practices Act from Services Sydney Pty Ltd to declare the following services currently provided by Sydney Water:

- a service for transmitting sewage via Sydney Water's Sydney Sewage Reticulation Network from the customer collection points to the interconnection points
- a service for connecting new trunk main sewers owned and operated by Services Sydney to the existing Sydney Sewage Reticulation Network at the interconnection points.

The NCC received 12 submissions in response to its issues paper and is currently preparing a draft recommendation for publication in late August.

Copies of the submissions and other relevant materials are available on the NCC web page.



Sydney domestic airport services

On 18 February 2004 Virgin Blue applied to the Australian Competition Tribunal for review of the decision of the Parliamentary Secretary to the Treasurer (the relevant minister) not to declare certain services at Sydney airport under Part IIIA.

The minister's decision followed the NCC's final recommendation that the services not be declared.

The matter is listed for hearing in October 2004.

National gas code

Moomba to Sydney pipeline

See story on p. 9.

Goldfield gas pipeline

In November 2003 the NCC released its final recommendation on the application from Goldfields Gas Transmission Pty Ltd to revoke coverage of the

Goldfield gas pipeline. The final recommendation is that coverage under the gas code of the pipeline should not be revoked as the NCC was satisfied that all four of the criteria in section 1.9 of the gas code are met for the whole of the pipeline.

On 2 July 2004 the Minister, the Hon. Eric Ripper, decided not to revoke coverage of the pipeline.

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state developments

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

Victoria

Essential Services Commission (ESC)

Energy

2006–10 Electricity distribution price review

In March 2004 the ESC began a review of the price controls applying to electricity distribution tariffs. The current price controls are due to expire on 31 December 2005 and a new set of price controls must be developed for the regulatory period starting 1 January 2006.

To begin the review process, the ESC released consultation paper no. 1. It sets out the principal issues that need to be addressed during the distribution price review and covers the ESC's preliminary thinking on the regulatory framework and approach it proposes to adopt in conducting the review. It also describes the ESC's proposed consultation process for the review.

The ESC subsequently released consultation papers nos. 2 and 3. No. 2 identified issues that had arisen about service reliability targets and incentive mechanisms during the current period and proposed for comment options to improve the regulatory approach to those issues in the next regulatory period. Consultation paper no. 3 sets out options for the future regulation of non-contestable excluded service charges.

The ESC also released further papers on the treatment of metering and issues to be addressed within the pricing arrangements.

On 30 June 2004 the ESC released its final framework and approach. This consisted of two documents: volume 1 provides guidance on the ESC's final framework and approach to issues in making its determination; volume 2 sets out the information the ESC will require from the distributors to support their price-service proposals.

Information on the review's progress and the consultation process is on the website the ESC has created for the price review at www.esc.vic.gov.au/electricity699.html.

To indicate your interest in the review, please contact the ESC at edpr@esc.vic.gov.au.

Energy FRC effectiveness review

On 8 December 2003 the Minister for Energy Industries directed the ESC to review the effectiveness of retail competition in both the gas and electricity markets. The terms of reference, published in the Victorian Government Gazette, also direct the ESC to consider measures which could enhance the effectiveness of retail competition; and to consider the need for consumer safety net arrangements in the gas and electricity retail markets after 31 December 2004, or as recommended by the ESC.

The ESC released an issues paper on 22 December 2003 and a public draft report on 30 March 2004. Following extensive consultation and consideration of submissions the ESC provided a final report to the Minister for Energy Industries and Resources in June 2004. The issues paper, public draft report and submissions can be viewed on the ESC website, www.esc.vic.gov.au.

Electricity transmission augmentation and land access guideline

On 19 March 2004 the ESC released its issues paper, 'Access to land held by a transmission company for augmentation of the electricity transmission system' and received six detailed submissions.

The issues paper was released following amendments to the *Electricity Industry Act 2000* that established the statutory framework for the resolution of land access for transmission augmentation, according to the guidelines to be prepared and published by the ESC. The ESC has also proposed to combine the land access guideline with another covering contestability for transmission works, about which an issues paper was released by the ESC on July 2003.

The ESC met with stakeholders throughout June 2004 to canvas providing a guideline in two parts and to settle the issues and approach for a combined guideline. In late July 2004 the ESC intends to release its draft combined guideline



for comment by stakeholders structured in two complementary parts: (1) contestability for augmentation of transmission works and (2) access to land held by transmission companies for the purposes of augmenting the transmission system.

The ESC intends completing this project by the end of September 2004.

Review of electricity and gas customer protection framework for full retail competition

The ESC published its final decision on the Energy Retail Code in May 2004. At the same time it released a draft Energy Retail Code which strengthens a number of safeguards for Victorian electricity and gas consumers while aligning it more closely to the requirements of competition in the retail energy markets.

In its final decision, the ESC determined that the Energy Retail Code will permit retailers to charge late payment fees to those customers who have the financial capacity to pay their accounts on time but choose not to. This was the most contentious decision with many consumer advocacy groups continuing to object on the grounds that low-income and vulnerable customers would be most disadvantaged.

The ESC will require retailers to exempt from late payment fees customers who are having genuine difficulty paying their accounts. It will also require retailers to establish arrangements, including implementing best practice hardship policies and procedures, to ensure that the best outcome for consumers is achieved. Additional criteria will need to be met before retailers can charge late payment fees.

The ESC's revised code was scheduled to be published in early July 2004.

Retail performance monitoring and reporting

The final audit report of AGL and TXU for 2002, which overall demonstrates a high degree of compliance with the licence obligations, was published in April. The Origin Energy re-audit was received in June and the ESC is currently discussing the outcomes with Origin Energy. A final report will be published in July.

The calendar year 2003 comparative performance report for retailers is being drafted for publication in July. It will provide information on all retailers selling to customers in Victoria.

The ESC recently agreed revised performance indicators to better monitor whether customers who do not have the capacity to pay their accounts are being disconnected by retailers. These indicators will take effect from 1 January 2005, and the ESC is consulting with other jurisdictions about their national implementation.

National consistency and market monitoring

The ESC continues to consult with other jurisdictions to develop consistency in its customer protection regulatory instruments and convenes the Steering Committee on Retail Consistency under the auspices of the Utility Regulators' Forum.

At its quarterly meeting in July 2004 the forum will consider how the outcomes of this committee can be closely aligned to the objectives of the Ministerial Council of Energy project on the national framework for electricity and gas distribution and retail regulation.

In July the ESC will launch its independent website facility to increase customers' access to comparative information in the competitive market, and finalise its approach to regulating information to accompany market offers. Market testing will assist this decision. Both these approaches are consistent with those implemented by ESCOSA.

Reliability of gas retail supply

Late in 2003 the ESC concluded a project on the development of a reliability of retail supply policy consistent with the head of power provided in section 33 of the *Gas Industry Act 2001*. The project included a general review of the section 33 provision (in consultation with VENCORP) within the context of the current contestable retail market for gas. A recommendation was forwarded to government in January 2004.

The reliability of retail supply provision was subsequently repealed as part of the Energy Legislation (Regulatory Reform) Bill which received Royal Assent on 25 May 2004.

Electricity ring fencing

The ESC released a draft decision paper in March 2004 that contains the ring fencing measures it proposes to implement in the Victorian electricity industry. A draft electricity ring fencing guideline, reflecting the ESC's draft decisions, was also attached. As stated in the draft guideline, the ESC's objective is to reinforce the effectiveness of the regulatory processes by limiting the ability of distributors to exercise vertical market power in the competitive areas of the electricity industry.

The ESC is currently considering the submissions received in response to the draft decision and the draft guideline. It intends to finalise the electricity ring fencing requirements by releasing a final decision and a final guideline by August 2004.

Energy retailer of last resort

The ESC has previously released a number of consultation and decision papers about the development of retailer of last resort (RoLR) schemes for the Victorian electricity and gas markets. It is currently finalising an issues paper that will draw together the outcome of those separate electricity and gas consultation processes and confirm the decisions already made, ultimately to develop a single energy RoLR scheme for the electricity and gas markets. The paper will focus on developing a pricing proposal for the scheme.

Natural gas extensions

The Victorian Government has committed \$70 million under the Regional Infrastructure Development Fund to help provide reticulated natural gas to towns in rural and regional Victoria through its Natural Gas Extension Program. Most program funds are being allocated to developers through a centralised competitive tender process, administered by Regional Development Victoria (RDV). The ESC helped RDV in providing advice and information on the proposed regulatory treatment of projects conducted through the program.

The ESC received applications from Envestra for the provision of natural gas to the East Gippsland towns of Bairnsdale and Paynesville. The government and Envestra agreed to fast track these projects and therefore bypass the centralised tender process. Envestra sought the ESC's ex ante approval under section 8.21 of the national gas code that the forecast New Facilities Investment to reticulate Bairnsdale and Paynesville meet the requirements of section 8.16(a) of the code. The ESC released its final decision on Envestra's Bairnsdale proposal on 12 May 2004 and anticipated releasing its draft decision on the Paynesville proposal late in June 2004.

Interval meter rollout

The ESC is currently preparing its final decision on the mandatory rollout of interval meters for electricity customers in Victoria. The final decision takes into account further consultation following the ESC's draft decision in March 2004. The draft decision set out the ESC's proposal to require the



installation of interval meters for all electricity customers, over time. The decision is based on its assessment that the benefits of interval meters exceed the costs of the meters and that there is a role for regulatory intervention, given market barriers to introducing interval metering. The final decision was planned to be released in early July 2004.

Joint jurisdictional review of metrology processes

The state energy regulators who participate in the National Electricity Market are currently finalising their report on the review of metrology procedures. This follows the energy regulators' release of their draft report in December 2003. In it they recommended to harmonise metrology arrangements across the NEM and to remove some current uncertainties. The final report is due for release in mid July.

See *Network 16* for more background information.

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Western Australia

Economic Regulation Authority (ERA)

All ERA decisions, determinations, reports, discussion papers and public submissions are available on the ERA web site (www.era.wa.gov.au).

Water

Inquiry on water and wastewater pricing

On 16 June 2004 the WA Government announced that the ERA would conduct an independent inquiry into WA water and wastewater pricing.

The inquiry will investigate the pricing structures and tariff levels of the Water Corporation's urban water and wastewater services, and the Bunbury and Busselton water boards' water services.

The inquiry will establish whether water prices are justified and comply with national competition policy. This is the first independent evaluation of water prices within the state, and an important step in ensuring transparency and accountability in water pricing—a key obligation under the Council of Australian Government water reform agreement.

The inquiry will advise government on the level and structure of water prices after the 2006–07 financial year (prices for the Water Corporation, Bunbury Water Board and Busselton Water Board are set by the Minister for the Environment). The Treasurer has asked the ERA to consider:

- the efficient cost of providing water and sewerage services
- the standards of service that apply, including standards of quality, reliability and safety
- the need to encourage investment in the water industry
- water supply demand management
- the protection and development of future water sources
- ecologically sustainable development
- the social impact of the recommendations.

Under the terms of reference, the ERA released an issues paper in July 2004 calling for submissions from interested parties. A draft report will be published by 18 March 2005 and will include a further call for submissions. The final report will be submitted by 12 August 2005 to the Treasurer who will have 28 days to lay it before each House of Parliament.

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Operational audit planned for Water Corporation

A tender has recently been called for the Water Corporation's next operational audit. The Water Corporation is Western Australia's largest water service provider, holding 97 per cent of the market.

An operational audit is conducted every two years under s. 37(1) of the *Water Services Licensing Act 1995*. It is a performance audit of the effectiveness of measures taken by the licensee to maintain any quality and performance standards referred to in the licence.

The 2004 audit scope is significantly different from previous audit scopes because it incorporates a risk management approach. It focuses audit resources on those risks which are most likely to cause problems for customers, the community and the state.

The auditor, chosen by a panel of representatives of the ERA and the Water Corporation, must be approved by the ERA and present their final report by 31 October 2004.

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Transfer of licence for Williams to the Water Corporation

In June 2004 the ERA approved the Water Corporation's operating licence to include responsibility for wastewater in Williams, at the same time revoking the shire's operating licence.

This decision followed Cabinet approval on 29 March 2004 of a decision by the Shire of Williams to hand over its wastewater scheme to the Water Corporation from 1 July 2004.

Charges for sewerage services will increase, with the council already having raised sewerage rates in anticipation of the handover. In 2001/02, sewerage rates were 6.34 cents per dollar of GRV. This rose to 9 cents for 2002/03, with a further anticipated rise to 12 cents in 2003/04. This 12 cent rate is the same as that being levied by the corporation in other country town sewerage schemes.

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Release of performance information

The ERA recently released a water performance information report which examined water services in 32 major Western Australian cities and towns between 1999 and 2003.

The report identified that water restrictions contributed to a 16 per cent decline in the total volume of water consumed in Western Australian towns between 1999–2001 and 2001–03. This decline constituted a 'saving' of 73 611 megalitres of water, or about 51 litres per person per day over the two year period.

The key information for 2002–03 included:

- On average, Western Australian residents consumed around 291 litres of water per day (Perth residents consumed around 276 litres per day while regional residents consumed around 353 litres per day).
- Due to reduced dam storage, there has been a greater need to extract water from groundwater sources. Sixty-five per cent of all water is now extracted from groundwater.
- The number of water quality complaints and leaks and bursts have remained relatively stable over comparable reporting periods for both metropolitan and regional areas (19 complaints per 1000 properties in Perth, 7 complaints per 1000 properties in the average WA town, and 12 leaks and bursts per 100 kilometres of water mains for all towns).

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Gas

Dampier to Bunbury natural gas pipeline

After the regulator approved his own access arrangement on 30 December 2004, several appeals were lodged with the WA Gas Review Board. On 10 February 2004 Mr Robert Edel was appointed as the presiding member of the WA Gas Review Board to hear and determine these applications. Dr Frank Harman and Mr Max Kimber were appointed to the board on 12 March 2004.

Subsequently, Mr Kimber resigned and on 4 June 2004 Mr Edel announced the appointment of Mr Ted Woodley to replace Mr Kimber, thus ensuring that the determination schedule for the appeals process will not be affected. The appeals have been programmed through to hearing dates in October and November 2004.

Epic Energy was required to lodge revisions to the approved access arrangement for the Dampier to Bunbury natural gas pipeline by 1 April 2004, but the ERA received a request for an extension of time from Epic Energy. This was initially granted until 1 July 2004 and Epic Energy has subsequently requested a further extension which has now been granted until 1 December 2004. The revisions' start date has also been extended until 1 July 2005.

Goldfields gas pipeline

See *Network 16* for more background information.

On 18 March 2004 the Supreme Court handed down declaratory orders on this matter which stated that:

On the proper construction of the State Agreement ratified by the *Goldfields Gas Pipelines Agreement Act 1994* and on the proper construction of that Act, s. 3 of the *Government Agreement Act 1979* and the *Gas Pipelines Access (Western Australia) Act 1998*, the Regulator is required to perform his functions under the Code without regard to cl. 21(3) of the State Agreement.

An application by the owners of the Goldfields gas pipeline (GGP) for revocation of the pipeline from the regulatory regime in March 2003 was reviewed by the National Competition Council who recommended that coverage should not be revoked. The minister approved this decision on 2 July 2004.

The ERA expects to issue its amended draft decision shortly.

Mid-west and south-west gas distribution systems

The review of the approved access arrangement for the AlintaGas mid-west and south-west gas distribution systems commenced as scheduled on 31 March 2004 with AlintaGas Networks lodging its proposed revisions to the approved access arrangement. An issues paper to assist with submissions was published on 17 April 2004. Four public submissions were received by the closing date of 14 May 2004. On 22 June 2004, AlintaGas Networks responded to public submissions suggesting that the interconnection service with the Parmelia pipeline be treated as a reference service, rather than a non-reference service. The Parmelia pipeline is the smaller transmission pipeline connected to the distribution network.

The assessment of the access arrangement is progressing and a draft decision is expected to be issued by September 2004.

Rate of return methodologies and practices

A discussion paper on the review of rate of return methodologies and practices, prepared by the Institute for Research into International Competitiveness at the Curtin University of Technology, was released on 31 December 2003 for comment.

Seven submissions were received commenting on various matters arising from the discussion paper—a response has been prepared and will be issued shortly.

See *Network 16* for more background information.

Incentive mechanisms under section 8 of the gas code

A discussion paper prepared for the ERA by Farrant Consultancy Pty Ltd on 'Incentive mechanisms for code regulated gas pipeline systems' was released on 17 May 2004 for comment.

The paper explores issues related to the design of incentive mechanisms appropriate for inclusion in access arrangements under the National Third Party Access Code for Natural Gas Pipeline Systems. The discussion paper limits its scope specifically to the provisions of the code.

Incentives may be included in an access arrangement to encourage the operator to improve efficiency and promote efficient growth of the gas market. The discussion paper focuses on the

incentive created through the price path approach that is relevant to such an access arrangement. It also comments on the sharing of efficiency gains and losses between the operator of a regulated pipeline and users of the regulated services of that pipeline.

Five submissions have been received commenting on various matters arising from the discussion paper and a response will be made public as soon as possible.

Rail

Since the last *Network* issue, the ERA has completed its review of the floor and ceiling costs for four grain route sections in the freight network and the ceiling costs for seven terminal route sections of the south-west main line. The two determinations have been submitted to the governing body for consideration and approval. The review of floor and ceiling costs for five route sections of the suburban rail network is progressing and the determination is expected to be completed in the first quarter of the next financial year.

The floor and ceiling cost determinations are a requirement of the Railways (Access) Code 2000, which establishes the appropriate bands in which the track owner and access seekers can negotiate prices for access.

The ERA has also finalised the report into its review of the estimation of a CPI-X value for the WA rail industry, after considering the comments received from the public consultation process. The X factor calculated in the final report (available on the ERA website) will not be used in place of the 0.25 of CPI that the regulator previously determined. The ERA will continue to monitor the development of CPI-X regulation in Australia and overseas, discuss the proposed methodology with stakeholders and other state regulators and reassess the applicability of the proposed methodology when the gross replacement value of the WestNet Rail and Public Transport ERA railway infrastructure is formally reset in 2006–07.

The ERA is required by the Railways (Access) Code 2000 to calculate a weighted average cost of capital (WACC) on 30 June each year that would apply to the freight network and the urban passenger network for the coming financial year.

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South Australia

Essential Services Commission of South Australia (ESCOSA)

Corporate

SA Parliament select committee—inquiry into the electricity industry in South Australia

The SA Parliament has established a select committee to inquire into and report on the electricity industry in South Australia with a view to reducing the price for households and small businesses. The committee must have reference to:

- (a) the effect of the National Electricity Market on retail prices
- (b) the effect of the lease of the electricity assets on the retail price, in particular the effect of distribution and network charges
- (c) the nature of cross-subsidies within the market
- (d) non-disclosure of standing contract prices committed to by retailers for the purchase of their electricity
- (e) the effectiveness of the *Essential Services Commission Act 2002*, including the interaction between the minister and the commissioner
- (f) options for the future, including increasing supply and managing demand
- (g) service standards, including electricity supply and reliability
- (h) any other related matters.

The committee is scheduled to report by 7 July 2004.

The ESCOSA made an initial submission to the committee on 17 March 2004, and has subsequently reappeared before it on 14 April and 8 June 2004.

Inquiries about the inquiry should be directed to the secretary of the committee Mr C. Schwarz on (08) 8237 9308.

ESCOSA corporate strategy

In February 2004 ESCOSA released a discussion document on its corporate strategies for the period 2004 to 2006. The document also included ESCOSA's preliminary views on the work program for 2004–05. Comments were sought from stakeholders with submissions received from six organisations. In March 2004 staff participated in a workshop to develop the strategic plan for 2004–2006. This document has now been finalised

by ESCOSA and submitted to the Treasurer for approval, in accordance with s. 23 of the *Essential Services Commission Act 2002*.

Three part-time commissioners appointed

The Governor has appointed three part-time commissioners to the Essential Services Commission of South Australia.

Hon. Stephen Baker—an economist and a former Deputy Premier and Treasurer of South Australia. Other portfolios held during 1994–97 included Mines and Energy, Information Technology, Police, State Services, Urban Planning and Housing. Stephen was a member of the SA Parliament from 1982–97. He served three years as Australia's Alternate Director to the Asian Development Bank based in Manila and has been advising locally and overseas on finance, corporate restructuring, public sector reform and outsourcing. Currently Stephen serves on the board of the SA Housing Trust and is involved in numerous volunteer organisations including Rotary.

Emeritus Professor Richard Blandy—Executive Director of AustralAsia Economics Pty Ltd and Director of the Centre for Innovation and Development at the University of South Australia. Professor Blandy is an economist and holds a PhD from Columbia University. He was formerly chairman of the South Australian Energy Consumers' Council.

Professor Sue Richardson—Director of the National Institute of Labour Studies at Flinders University and the President of the Academy of the Social Sciences in Australia. Professor Richardson is an economist with considerable experience in public finance and energy. She has previously been involved in research on energy poverty in South Australia and was a member of the South Australian Energy Council. In addition, for 10 years she was a director of The Pipeline Authority—the Commonwealth Government agency that ran the Moomba to Sydney natural gas pipeline until it was sold to AGL.

The part-time commissioners are appointed on a three-year term ending 26 March 2007.

ESCOSA charter of consultation and regulatory practice

ESCOSA has developed and published a charter of consultation and regulatory practice, including guidelines relating to processes for making price determinations or codes or rules, and conducting inquiries.

The charter fulfils a legislative imperative, found in s. 9 of the *Essential Services Commission Act 2002*, that ESCOSA develop such a charter. It outlines ESCOSA's general approach to consultation and regulatory practice within the constraints of these formal requirements.

Energy

Energy industry codes

ESCOSA has made three energy industry codes under s. 28(1) of the *Essential Services Commission Act 2002*:

Energy Retail Code:

regulates some of the terms on which a retailer sells electricity or sells and supplies gas (referred to collectively as energy) to an energy customer at a supply address under a customer sale contract. The code also regulates some of the terms on which a retailer with the standing offer obligation under the *Gas Act 1997* sells and supplies gas to prescribed customers.

Energy Customer Transfer and Consent Code:

applies to each distributor as a condition of its distribution licence granted under the *Electricity Act 1996* or *Gas Act 1997* and each retailer as a condition of its retail licence granted under the *Electricity Act* and/or the *Gas Act* and deals with issues relating to the transfer of customers and requirements for consent to transfer.

Energy Marketing Code:

deals with issues relating to the marketing of energy offers to consumers.

The energy industry codes apply to the electricity supply industry, regulated under the *Electricity Act 1996*, and the gas supply industry, regulated under the *Gas Act 1997*.

Energy guideline no. 2: energy regulatory information requirements—retailers

ESCOSA has released a draft *Energy guideline no. 2* (Energy regulatory information, Energy Retail Code Retailer, Energy guideline no. 2), accompanied by a discussion paper (Energy retailer information requirements, draft Energy guideline no. 2, discussion paper). It combines the electricity and gas information requirements into one guideline.



Energy industry guideline no. 4: compliance systems and reporting

ESCOSA has released a draft *Energy industry guideline no. 4—compliance systems and reporting*, accompanied by a discussion paper to apply to both electricity and gas licence holders. The discussion paper develops arguments for the application of the electricity industry compliance framework—established under *Electricity industry guideline no. 4* in June 2000—to the gas industry. The paper also refers to minor changes to the application of the guideline to electricity licensees.

Electricity supply industry

Kangaroo Island electricity supply reliability

ESCOSA has been concerned with the matter of reliability of electricity supply to Kangaroo Island. ESCOSA has proposed amending the Electricity Distribution Code to provide for a specific reliability service standard for the island which would place an obligation on ETSA Utilities to initiate measures to meet such a standard. Following public consultation when ESCOSA received nine submissions to the discussion paper, ESCOSA has issued a draft final determination on this matter.

A further consultation period is now underway, with submissions sought on the matters covered in the draft final determination. After considering such submissions, ESCOSA will make its final determination in July 2004.

Chapter 3, Electricity Distribution Code: treatment of developments

On 1 February 2004 amendments to chapter 3 of the Electricity Distribution Code (connections requiring network extension and/or augmentation) took effect. The amendments introduce a new clause 3.11 that clarifies the position of developments (i.e. residential, commercial and industrial developments) in relation to chapter 3. In particular, the developer is to be treated as a customer for the purposes of chapter 3. Clause 3.11(c) provides that the distributor, i.e. ETSA Utilities, will comply with detailed arrangements approved by ESCOSA from time to time relating to specific types of developments.

Under clause 3.11, ESCOSA has approved detailed arrangements for various types of developments. These will continue until 30 June 2005 or until ESCOSA has approved different arrangements under clause 3.11, and are consistent with the arrangements outlined in the final determination of ESCOSA on the review of chapter 3.

Price information disclosure in the competitive electricity market: draft code

Under s. 24(2)(d) of the *Electricity Act 1996*, ESCOSA is required to create an industry code to regulate retailers providing price information to small customers, enabling them to compare competing electricity offers with greater ease. ESCOSA is required to have the code in place by 1 July 2004.

ESCOSA released a draft decision entitled 'Price information disclosure in the competitive electricity market' and a proposed Electricity Price Disclosure Code for a brief period of consultation. A final decision was to be made by the end of June.

Compliance audit framework for the electricity sector

ESCOSA released a discussion paper, 'Compliance audit framework for the electricity sector', to provide a basis for consulting with stakeholders on the introduction of a framework that complements the existing compliance reporting framework established by the *Electricity industry guideline no. 4—compliance systems and reporting*.

The paper proposes an approach to the conduct of compliance audits involving consideration of the audit scope, appointment of the auditor, conduct of the audit and the reporting of the audit results. It also discusses several possible areas of application of the proposed audit framework.

Embedded generation

In November 2003 ESCOSA released an issues paper, and a discussion paper prepared by Charles River Associates (Asia Pacific) Pty Ltd, on the potential barriers to greater use of embedded generation (i.e. generation connected to a distribution network) in South Australia. ESCOSA received 11 submissions in response to its call for public comments and has now developed a working conclusions paper which summarises the submissions received and sets out ESCOSA's conclusions on the various issues raised in the papers released in November 2003.

ESCOSA has proposed establishing an industry working group to consider all of the submissions to the working conclusions paper and contribute to the development of the draft embedded generation guideline. ESCOSA will chair the working group and it will include representatives from ETSA Utilities, an electricity retailer and the Office of the Technical Regulator, as well as organisations promoting the greater use of embedded generation. It is anticipated the working group will begin its work by July 2004 and will prepare a program for the

development of and consultation on the proposed embedded generation guideline. Once developed, this program will be provided to all parties that made a submission to the working conclusions paper and will be published on ESCOSA's website.

Amendment to Electricity industry guideline no. 1—information requirements from ETSA Utilities

Electricity industry guideline no. 1 has been amended to reflect revised targets for the 40 feeders included in the 'other' category of the performance incentive (PI) scheme for the year commencing 1 April 2004.

The changes to the baseline targets for the 'other' category are as follows:

- minutes off supply—reduced from 370 to 330 mins (margin unchanged at +/- 50 mins)
- average supply restoration time—reduced from 100 to 90 mins (margin unchanged at +/- 10 mins)
- time to restore supply to not less than 80% of interrupted customers—reduced from 150 to 130 mins (margin unchanged at +/- 15 mins).

The above amendment follows approval of the list of 40 feeders based on the ranking, by SAIFI, of all feeders in the ETSA Utilities' distribution network for the two-year period ending 30 June 2003. SAIFI is a measure of the number of supply interruptions experienced by each customer when averaged across all customers on the network, or specified part of the network. The 40 selected feeders exhibited the highest average frequency of interruptions of all feeders in the network when measured over the above two-year period. The PI scheme is designed, in part, to provide an incentive for ETSA Utilities to improve the reliability of these poorly performing feeders.

A more detailed report on this scheme, including a list of the 40 selected feeders, is provided each year by ESCOSA in its annual performance report for regulated electricity businesses in South Australia.

Consumer issues with electricity prepayment meters

A report prepared for the Consumer Advisory Committee by KPMG suggests a range of options and issues which ESCOSA might take into account in considering a potential role for prepayment electricity meters for residential customers in South Australia and in addressing issues relating to consumer protection, monitoring and reporting.



The Consumer Advisory Committee and ESCOSA have invited comment on the matters covered by the KPMG report and other matters which may be relevant to the potential role of prepayment meters in South Australia.

Monitoring the development of electricity retail competition in SA—statistical report

ESCOSA has released the fourth in a regular series of reports on the development of full retail contestability (FRC) in the South Australian electricity market. The report is consistent with ESCOSA's previous view on the reporting of the development of electricity retail competition in South Australia, as contained in the position paper released in August 2003.

The report released in May 2004 contains some analysis on the development of retail competition in South Australia, along with an update of the regular indicators, and in summary shows:

- There are currently 11 electricity retailers licensed to operate in South Australia.
- Five retailers are currently marketing and selling electricity to small customers in South Australia.
- As of 31 March 2004 just over 38 000 small electricity customer transfers were completed in South Australia, representing around 5% of the small customer base of around 740 000 customers. A further 20 000 (or 2.7%) transfers were in progress.
- At this stage of its development, the South Australian retail electricity market appears to be developing well in the Australian context, particularly if the extent of transfers experienced in the first quarter of 2004 can be maintained.
- Retailers continue to offer cheaper prices compared to the standing contract rates and so an incentive for customers to switch exists.
- The price comparison services sponsored by ESCOSA are being well patronised.
- There is likely to be a further boost to competitive activity in July, with the expected start of competition in the gas market for small consumers, enabling all retailers to compete for dual-fuel accounts.

Inquiry into retail electricity price path

On 26 May 2004 ESCOSA received a notice of reference under Part 7 of the *Essential Services Commission Act 2002* from the Minister for Energy, the Hon. P Conlon.

The notice requires ESCOSA to undertake an inquiry into electricity standing contract prices for AGL SA Pty Ltd from 2005, for a period of at least three years.

ESCOSA was required to release an issues paper by 26 June and a draft report and determination by 30 November 2004 (including a final determination for a bridging price up to 30 June 2005).

The proposal to establish a price path for standing contract electricity prices was a recommendation of the report on ESCOSA's electricity pricing methodology prepared for the SA Government by the NSW Independent Pricing and Regulatory Tribunal (IPART) in March 2004.

Consumer Advisory Committee Working Group established to help ESCOSA assess ETSA Utilities expenditure proposal

On 14 May 2004 ETSA Utilities submitted its proposed capital and operating expenditures for the next regulatory period (July 2005 to June 2010).

Consultants (PB Associates) have been engaged to help ESCOSA review the reasonableness of these proposed expenditures. A final decision on approved expenditure must be completed by late October, to allow the preparation of a draft price determination for ESCOSA's consideration in November.

While ETSA Utilities has been required to submit its proposed expenditure at this time, a number of projects are still underway which will affect the final approved numbers. ESCOSA needs to make decisions about several matters which will have capital and operating cost implications, and will require adjustments to the base numbers provided by ETSA Utilities in its submission.

Specifically, these matters are:

- augmentations and other capital contributions by consumers (review of chapter 3 of the distribution code)
- interval meters policy
- demand management policy
- pre-payment meters policy
- embedded generation policy.

To involve the Consumer Advisory Committee (CAC) in its deliberations on each of these matters, ESCOSA has set up a working group (CACWG) of interested members. The CACWG is made up of the commissioners, ESCOSA staff, CAC members, and government and Energy Supply Industry Planning Council representatives. A number of consultants have been appointed to provide expert assistance.

The working group will meet on 2 June, 7 July, 4 August, 1 September, 6 October and 3 November 2004.

ETSA Utilities' capex/opex submission

ESCOSA is in the process of making a price determination for the electricity distribution business in South Australia—ETSA Utilities—which will apply from 1 July 2005 to 30 June 2010. Setting the appropriate level of capital and operating expenditure over that period is a critical step in making the determination.

ETSA Utilities has submitted its forecast of the capital and operating expenditure it requires in operating its business. ESCOSA has prepared an issues paper to highlight some of the key issues that should be considered.

Licensing

Issue of new electricity licence to Wattle Point Wind Farm

On 14 April 2004 ESCOSA issued an electricity licence to Wattle Point Wind Farm Pty Ltd (ACN 101 023 447) to generate electricity in South Australia. The entity will operate a wind farm with a total installed capacity of approximately 103MW located on the Yorke Peninsula, approximately 15 kms south of Yorketown. The wind farm will be connected to the ElectraNet Dalrymple 132kV substation. Wattle Point Wind Farm Pty Ltd is wholly owned by Meridian Energy Ltd (a New Zealand company and state-owned enterprise).

Issue of a new electricity retail licence to Aurora Energy

On 5 May 2004 ESCOSA issued an electricity licence to Aurora Energy Pty Ltd (ABN 85 082 464 622) authorising the retailing of electricity in South Australia. Aurora Energy is a Tasmanian Government-owned distribution and retail company established in 1998. It plans to market and sell electricity to all classes of South Australian customers.

Issue of a new electricity retail licence to International Power (Retail)

On 25 May 2004 ESCOSA issued an electricity retail licence to International Power (Retail) Pty Ltd (ACN 107 548 854) authorising the retailing of electricity in South Australia. International Power (Retail) is a wholly owned subsidiary of the UK-based International Power PLC. It plans to market and sell electricity to all classes of South Australian customers.



Surrender of electricity retail licence: ActewAGL Retail Limited

By written notice received on 29 March 2004, ActewAGL Retail Limited (ABN 23 074 371 207) advised ESCOSA of its intention to surrender its South Australian electricity retail licence and requested a reduction in the minimum six-month period of notice. Under subsection 29(3) of the *Electricity Act 1996 (SA)*, ESCOSA agreed for this licence surrender to take effect on 1 May 2004.

Surrender of electricity retail licence: Tarong Energy Corporation Limited

By written notice received on 23 April 2004 Tarong Energy Corporation Limited (ACN 078 848 736) advised ESCOSA of its intention to surrender its South Australian electricity retail licence and requested a reduction in the minimum six-month period of notice. Under subsection 29(3) of the *Electricity Act 1996 (SA)*, ESCOSA agreed for this licence surrender to take effect on 31 May 2004.

Gas supply industry

Gas industry codes

ESCOSA has made two gas industry codes under s. 28(1) of the *Essential Services Commission Act 2002*:

Gas Distribution Code:

applies to the distributor as a condition of licence.

Gas Metering Code:

applies to the distributor as a condition of licence and deals specifically with metering issues.

The gas industry codes apply to the gas supply industry, a regulated industry under the *Gas Act 1997* and took effect from 8 March 2004.

Draft gas price determination for the gas retail market administrator

ESCOSA licenses REMCo to act as the gas retail market administrator in South Australia. REMCo is responsible for developing and administering the retail market rules that will apply in the South Australian gas market. These rules set certain obligations that market participants must adhere to in operating in the competitive market.

The Gas Act states that ESCOSA may make a price determination to regulate the prices charged by the retail market administrator. In March 2004 ESCOSA issued a draft price determination for REMCo, which included setting out ESCOSA's decision on the form of regulation that it intends

to apply to REMCo and the final prices that will be charged to market participants. Following the release of that paper ESCOSA received a notice from the Minister for Energy under the Gas Act, requiring ESCOSA to consider certain factors in making its price determination, in particular, that a proportion of REMCo's prudent costs might be met by a government appropriation. As a consequence, ESCOSA re-issued its draft price determination taking this into account.

In June 2004 ESCOSA made its final price determination under section 33(1)(b) of the Gas Act, fixing maximum prices that Envestra can charge gas retailers for services provided in accordance with applicable gas retail market rules and in relation to certain other costs specified by the minister in a notice to ESCOSA.

Gas full retail competition

ESCOSA has been advised that 28 July 2004 has now been set as the date from which full retail competition (FRC) in the South Australian gas market will commence. From that date, the FRC systems used by REMCo (the retail market administrator), Envestra (the SA gas distributor) and gas retailers will be operational to enable the transfer of customers to their retailer of choice.

In anticipation of gas full retail competition, ESCOSA has released a suite of energy industry codes, which took effect on 8 March 2004. These codes, in combination with the licences issued to retailers, provide consumer protections for small gas and electricity customers.

ESCOSA has recently been involved in a review of the costs which may be recovered by REMCo and Envestra as a result of building their FRC systems (it is not, however, dealing with retail gas prices at this stage). Decisions on each of those cost recovery processes are expected to be made by the end of June 2004. However, the government's recent announcement of an assistance package of up to \$64.5 million may have a major impact on these decisions.

ESCOSA understands that REMCo has submitted its retail market rules (governing the customer transfer process and the operations of the gas market) for approval by the Minister for Energy. A decision on whether those rules will be approved is expected in the next two months. After the start of gas full retail competition, ESCOSA will become the body responsible for approving any changes to the initial set of rules.

2004–05 gas distribution tariffs

According to the reference tariff policy in the gas access arrangement, ESCOSA is required to review an annual application from Envestra to vary its gas distribution reference tariffs from 1 July 2004.

ESCOSA received such an application from Envestra on 10 May 2004. It included the annual variation to the reference tariffs according to the price path set out in the access arrangement and an adjustment to reflect a change in impost. Following a detailed review of the application ESCOSA approved the following changes to the gas distribution reference tariffs to take effect from 1 July 2004:

- each component of the domestic and commercial reference tariffs to be increased by 1.68 per cent (CPI-X adjustment)
- each tariff component of the demand reference tariffs to be increased by 1.48 per cent (CPI-X adjustment)
- the tariff components for the southern and central demand reference tariffs to be reduced, on average by 4.7 per cent and 3.6 per cent respectively to reflect the allocation of the transitional adjustments for gas customers in the southern and central zones
- all other reference tariff components, aside from fixed charges, to be increased by 0.2 per cent as a result of the transitional adjustment.

Gas industry guideline no. 1: gas regulatory information requirements—distributor

ESCOSA has released for public consultation a draft *Gas industry guideline no. 1 (Gas regulatory information requirements—distribution system—gas industry guideline no. 1)*. The guideline addresses ESCOSA's information requirements from distributors holding a licence under the Gas Act to operate a distribution system. It covers both operational (non-financial) and financial information requirements.

Price determination of prudent full retail contestability costs for Envestra

The Gas Act provides a scheme whereby ESCOSA may make a price determination for services provided by a gas distributor to gas retailers in accordance with the retail market rules (RMR). The RMR sets out the obligations of market participants once full retail contestability (FRC) starts in South Australia, which is scheduled for 28 July 2004.

ESCOSA began its process of making this price determination in May 2003. Envestra put forward its submission on the costs that it considers prudent



in meeting its FRC obligations in February 2004. ESCOSA engaged PB Associates and Energy Reform Consulting to assist it to assess the reasonableness of Envestra's submission. In its deliberations, ESCOSA applied the factors and principles as required by relevant legislation. This included the objectives and factors set out in the Gas Act; the factors set out in the price determination provisions of the ESC Act; the general factors given to ESCOSA under s. 6 of the ESC Act; and matters to which the Minister for Energy has directed ESCOSA to have regard under the Gas Act.

The final price determination was made under s. 33(1)(b) of the Gas Act and was issued in June 2004.

Licensing

Issue of new gas retail licence to EnergyAustralia

On 30 March 2004 ESCOSA issued a gas retail licence to EnergyAustralia (ABN 67 505 337 385) to retail gas to customers in South Australia.

Proposed variation to Origin Energy Retail Ltd's gas retail licence

On 11 June 2004 under s. 29(1) of the Gas Act, ESCOSA varied the gas retail licence held by Origin Energy Retail Ltd to impose a regulatory obligation to offer to sell and supply gas.

The variation inserts a new clause 4A into Origin's licence, requiring it from 28 July 2004 to offer to sell and supply gas to small customers at the price fixed under the Gas Act and on the terms and conditions set out in Part C of the Energy Retail Code.

The variation requires Origin to publish the Part C terms and conditions under s. 34 of the Gas Act on or before 28 June 2004.

ESCOSA understands that legislation has been introduced into parliament which, when enacted, will impose a legislative obligation to offer. Once those provisions commence, ESCOSA will repeal clause 4A (notice will be given on ESCOSA's website of that repeal).

Rail

ESCOSA appointed intrastate railways regulator

On 18 March 2004 ESCOSA was proclaimed to be the regulator for South Australia's intrastate rail access regime, as set out in the *Railways (Operations and Access) Act 1997* (the ROA Act). This role had been previously assigned to the Executive Director, Transport SA.

The intrastate rail access regime applies to railway services as defined under the ROA Act.

ESCOSA will review existing procedures established under the ROA Act to determine whether any changes are required for its administration of the regime. At a minimum ESCOSA expects to release an information paper describing the regime and its processes.

Darwin railway access regime: regulatory information guideline

ESCOSA has finalised and issued a guideline under the AustralAsia Railway (Third Party Access) Code. It is the *Regulatory information requirements guideline*, which sets out the information that an access provider must supply to ESCOSA, and the timing and assurance attached to that information. The guideline takes effect immediately.

South Australian intrastate rail access regime: information kit

ESCOSA has released an information kit setting out the features, pricing principles and reporting requirements for the South Australian rail access regime. ESCOSA is reviewing the administrative procedures and principles in the kit and may issue a revised kit (and associated documents) in due course.

Ports

Ports access review

ESCOSA has concluded its ports access review and released its final report. ESCOSA has recommended that the ports access regime should continue for a further three years. The effect of this recommendation is to allow the regime to continue from 1 November 2004 up to and including 31 October 2007. However, continuation requires that the South Australian Government make a regulation extending its operation accordingly. ESCOSA has also identified some ancillary adjustments that the government may wish to make to the regime.

The release of this report ends ESCOSA's current round of ports reviews. ESCOSA will now implement the changes proposed in both the ports price review (the move to price monitoring) and this ports access review, to take effect from 1 November 2004.

The Minister for Infrastructure, the Hon. Patrick Conlon MP, has advised that he supports ESCOSA's recommendation about the ports access regime. Other aspects of the review, such as the conferral of compliance responsibilities on ESCOSA, are also supported.

Once the government has made the necessary regulation extending the ports access regime, ESCOSA will also be able to make a new price determination implementing price monitoring of Essential Maritime Services.

Ports annual CPI adjustment

ESCOSA has approved applications from Flinders Ports Pty Ltd and AusBulk Ltd for price cap adjustments at the following ports:

- Port Adelaide
- Port Giles
- Wallaroo
- Port Pirie
- Port Lincoln
- Thevenard
- Ardrossan.

Price caps for Essential Maritime Services are adjusted by the Adelaide CPI (year to March quarter). The CPI for the year to March 2004 was 2.1 per cent. The change takes effect on 1 July 2004. The cargo services charge for grain does not change.

Water

Inquiry into 2004–05 urban water pricing processes: final report

Under s. 35(1) of the *Essential Services Commission Act 2002* the Treasurer referred to ESCOSA an inquiry into 2004–05 urban water pricing processes. In undertaking the inquiry, ESCOSA considered a document, 'Transparency statement—urban water prices in South Australia 2004–05', dated January 2004.

On 7 April 2004 ESCOSA forwarded to the Treasurer the *Final report—inquiry into 2004–2005 urban water pricing process*. As required by the Act, it was tabled in both Houses of Parliament on 1 June 2004.

Contact: Lew Owens
(08) 8463 4450

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) expired on 30 June 2004.

A final report was released on 11 June, with price changes becoming effective 1 July 2004. The final report and determination are available on IPART's website.

More information is available in *Network 16*.

2004 review of regulated retail tariffs

IPART's current determination of regulated retail tariffs expires on 30 June 2004.

IPART released a final report on 11 June, which is available on IPART's website.

More information is available in *Network 16*.

Gas

2004 review of retail voluntary pricing principles

IPART has begun a review of the gas voluntary pricing principles in conjunction with its review of electricity default tariffs. Public submissions were due on 2 February 2004. The tribunal has agreed voluntary pricing transitional arrangements (VPTAs) with AGLRE, ActewAGL and Country Energy covering their default customers. The VPTAs are available on IPART's website.

2004 review of access arrangements

The next review of the access arrangement of AGL Gas Networks (AGLGN) will occur in 2004. AGLGN lodged its reviews just before Christmas 2003. AGLGN made a public presentation on its proposal on 19 February 2004, which is available on IPART's website.

The next review of the access arrangement of Country Energy Gas (CEG) will also occur in 2004. Its proposed revised access arrangement is also on the IPART website.

Transport

IPART will assess the real, pre-tax rate of return to be applied to the opening and closing regulatory asset base and the remaining mine life of the Hunter Valley coal mines as required under the NSW rail access regime.

IPART will review maximum fares that can be charged on some NSW government-owned public services. This includes Sydney's State Transit Authority buses in Sydney and Newcastle, and Sydney Ferries Corporation's ferries. The most likely date for fare changes will be early November 2004.

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. The most likely dates of any fare changes will be early July 2004 for taxis and early November for buses and ferries.

Water pricing

Metropolitan water

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.

IPART engaged the Centre for International Economics to undertake economic analysis and provide advice. It expects to release the final report before 30 July 2004.

IPART anticipates commencing its next periodic pricing review for the metropolitan water agencies with the release of an issues paper in July 2004. The review will set prices for water, wastewater and stormwater services provided by Sydney Water Corporation, Hunter Water Corporation, Gosford City Council and Wyong Shire Council, as well as the Sydney Catchment Authority. The determination will set prices from 1 July 2005.

More information is available in *Network 16*.

Bulk water

IPART has previously set bulk water prices for services provided by the former Department of Land and Water Conservation (DLWC). These services included the river operations activities and water resource management (WRM) activities. The river operations activities were provided by State Water which was a business unit of the former DLWC.

IPART last set bulk water prices in October 2001. Since then, the government has restructured the former DLWC which resulted in:

- establishing State Water as a separate corporatised entity—the *State Water Corporatisation Bill 2004* is currently before parliament
- the WRM activities and other functions being incorporated into the newly formed Department of Infrastructure, Planning and Natural Resources (DIPNR).

When the corporatisation legislation is passed, IPART will be required to set prices for two separate services, State Water's river operations activities and the WRM activities of DIPNR. IPART anticipates setting prices to apply from 1 July 2005.

Water licensing

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


After releasing an issues paper on the licences and another on the water supply and the demand balance, IPART held a public workshop in April 2004 and an additional workshop for the water supply demand balance is anticipated in December 2004.

Household survey

IPART commissioned Taverner Research Company to undertake a survey of over 2600 households to collect income and household characteristic data matched with water, electricity and gas billing information.

The first of two reports detailing the results of the survey focused on the water data. Key findings of the report included:

- Households who do not directly pay their water usage charge use an average of 19 per cent more water compared to households who do.
- The number of people residing in a household has a large impact on water use.
- High water-consuming households (using more than 500 kL) tended to be living in a house rather than a unit, have an average four people residing in the premises and are more likely to be a couple with children.



The second report on the energy-related data is expected to be released in August 2004.

Greenhouse gas abatement scheme

The Greenhouse Gas Abatement Scheme began on 1 January 2003 and remains in force until 2012.

More information about the scheme is available in *Network 16*.

The administrative processes supporting the scheme were fully implemented by August 2003. Since then IPART has accredited 15 abatement certificate providers, which have collectively registered over 6.7 million abatement certificates.

Details of accredited abatement certificate providers and the certificates they have registered are available at www.ggas-registry.nsw.gov.au.

Full details of the scheme, including application forms, guides to applying and other documents are available from the scheme website at www.greenhousegas.nsw.gov.au. IPART has published case studies of an initial group of trial accreditations. These explain how each applicant was accredited, the costs of auditing their application and the ongoing conditions of accreditation to which they are subject. Further case studies will be published in coming months.

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

Other reviews

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

- A review of the gaming machine central monitoring fee paid by clubs and hotels to the TAB.
- A review of rental charges for waterfront tenancies on Crown land in NSW, at the request of the Minister of Transport Services and the Minister assisting the Minister for Natural Resources. An issues paper was released in October 2003 and submissions closed in December 2003. The final report was released in April 2004.
- A review of the methodology used by the Essential Services Commission of South Australia (ESCOSA) in its recent decision on the electricity standing contact price. The review will focus on

the methodology and did not consider the levels of prices set by ESCOSA. The report was finalised in March 2004.

- A review of gaming harm minimisation measures at the request of the Minister for Gaming and Racing. This review commenced in September 2003, and the report was released in July 2004.

ACT

Independent Competition and Regulatory Commission (ICRC)

Utility price reviews

Electricity network price review

The ICRC released its issues paper for the review of electricity distribution network charges in July 2003 and the draft report on 7 November 2003. The draft report generated a high level of interest in the ACT community, the ICRC receiving submissions from businesses, community organisations and ActewAGL. In addition to the written submissions, the ICRC held a public hearing on 5 February 2004 and released its final decision on 22 March, to apply in the period from 1 July 2004 to 30 June 2009.

This is the second price direction issued by the ICRC for electricity network prices, the first being in 1999 for a period of five years. The ICRC has maintained the price path for electricity at five years to provide the certainty that the market participants have called for. In the initial direction the ICRC gave attention to the matters in the electricity code, although the inquiry was conducted under a reference referring to its powers in the then *Independent Pricing and Regulatory Commission Act 1997*. The 2004 review was conducted under the code, with the ICRC dealing with the form of regulation under part E of the code in June 2002 and addressing the principles in part D of the code during the review.

Prices in the direction aimed to achieve the objectives of regulatory efficiency, revenue sufficiency and equity.

In its decision the ICRC rolled forward the regulatory asset base (RAB) established in 1999, adjusted for connection assets missed in the original direction as a result of system inadequacies existing at the time. The decision requires ActewAGL to reduce its network prices by 6.8 per cent in the first year and thereafter to increase these prices by no more than

CPI. Although the ICRC did not specify general side constraints it has reserved the right to disallow proposed price increases of greater than 5 per cent in real terms as part of any tariff restructuring.

Water and wastewater pricing

The ICRC released its issues paper on water and wastewater services pricing on 23 July 2003, with a draft report issued on 3 December 2003. It released the final report on water and wastewater pricing on 31 March 2004. The review was conducted under the *Independent Competition and Regulatory Commission Act 1997*. The 2004 price direction will have effect from 1 July 2004 until 30 June 2008. In the period since the last review of water prices a number of changes have occurred in the water environment in the ACT that had a substantial bearing on the ICRC's consideration:

- the advent of the joint venture arrangement between ACTEW Corporation and AGL
- a period of sustained drought from 2002
- the bushfires in January 2003 and their ongoing impact on the Cotter catchment area.

The ICRC determined a price for water to encourage efficient water use and significantly increase the cost of water as consumption outstrips an amount sufficient to meet the general internal domestic needs of consumers. In an attempt to implement strong pricing signals to discourage excessive water consumption while still recognising the need for access to water for basic cooking, health and hygiene, the ICRC has lowered the fixed charge component of the water tariff and introduced a two-step variable tariff. The tariff is structured as follows:

- fixed supply charge to \$75 per annum
- \$0.50 per kilolitre for the first 100 kilolitres consumed per annum
- \$1.00 per kilolitre for the next 200 kilolitres consumed per annum (i.e. up to 300 kilolitres)
- \$1.35 per kilolitre for each kilolitre consumed above 300 kilolitres.

This is designed to increase the average cost of water for each kilolitre consumed beyond certain minimum requirements. The tariff path itself will be adjusted by an average revenue adjustment of CPI plus 2.5 per cent for water services and CPI plus 1 per cent for wastewater services. The impact on the average water billed paid by consumers is estimated to range between a decrease of up to 7.6 per cent for those consumers who use below



a standard level of 320 kilolitres per year to an increase of up to 26.8 per cent for those who consume above this average level. The average household in the first year will face an increase of around 1 per cent to 1.5 per cent in its combined water and sewerage bills.

The new price path for water and wastewater in the ACT forms part of a larger program to encourage greater water conservation. While price will form part of the incentive mechanism to reduce average water consumption, the government has also introduced other measures to reduce demand, including water restrictions that are likely to become a permanent arrangement, and a water abstraction charge that attempts to value the environmental impact of water abstraction, and the scarcity value of water.

Incentives mechanisms, service quality measures and other work

Among a range of matters that the ICRC noted for future work after the price direction came into effect is the need to start work on providing for an incentives mechanism and service quality arrangements for future price directions. Issues papers on these two matters are expected in August 2004.

Also, in the course of its water services inquiries, the ICRC considered several matters that will be subject to further development:

- *proposed introduction of daily pricing*—the ICRC reserved judgment on this issue pending further information being available from ACTEW on the customer impacts and the benefits in water savings resulting from introduction of daily pricing
- *proposed introduction of pro-rata billing*—the ICRC has agreed to the introduction of pro-rata billing to remove the current anomalies arising from the customers billing anniversary dates and the transition from one financial year to another
- *standardisation of meter reading anniversary dates*—the ICRC agreed to introduce standardisation as a complementary reform to pro-rata billing and daily pricing
- *arrangements for un-metered properties*—the ICRC recommended that ACTEW investigate the required changes to effectively move from deemed to actual consumption in its billing systems. The ICRC also required that ACTEW bring forward a pricing proposal for affected customers based on consumption within unit complexes rather than the current deemed

approach by 1 May 2004. The changes will commence from the next regulatory period.

Gas access arrangement review

The ICRC received a revision application from ActewAGL for the gas access arrangement that was agreed by the ICRC in January 2001, and which came into effect in February 2001. This arrangement was due to expire on 30 June 2004. However, the ICRC agreed to ActewAGL's application to extend the expiry date to 31 December 2004, pending the outcome of the review being undertaken by the Productivity Commission and other uncertainties in the ACT market at the time.

The ICRC released its issues paper on the revisions decision on 27 February 2004. The draft decision is due for release on July 19. Submissions are due by 13 August 2004, with the final decision to be released on 15 October 2004 and final approval by 19 November. The period of the new arrangements is anticipated to extend from 1 January 2005 to 30 June 2010.

Electricity retail tariffs

The ACT Government agreed to introduce full retail contestability for electricity in the territory from 1 July 2003, subject to a three-year transitional period during which time the ICRC set a transitional electricity retail tariff. The transitional period provides headroom within which new entrants can compete for customers. The ICRC endorsed ActewAGL's proposed pricing approach for 2004, in which transitional tariffs would not rise in aggregate by more than CPI.

Gas retail prices

The ICRC has not rebalanced prices for gas supply in the territory for 2004. A reference tariff was in force until 30 June 2003, to facilitate full retail contestability in gas supply. While churn has been very low in the ACT there are a number of licensed gas suppliers and there are no other impediments to future competition for customers. From 1 July 2004 the ICRC will no longer set tariffs for gas supply, and the market is expected to be sufficiently robust to ensure consumers receive efficient prices.

Water abstraction charge

The ICRC is not responsible for setting the water abstraction charge (WAC), but rather the government determines it in the Budget process. However, in 1999 and again in 2003 the government has sought the ICRC's advice on the

sustainability of the charge proposed for 2004–05 and going forward. In the 2004 Budget the WAC increased for the first time since 1999, from a flat \$0.10 per kilolitre consumed to \$0.20 per kilolitre effective from 1 January 2004. From 1 July 2005 the government intends increasing the charge by a further \$0.05 per kilolitre.

In its advice, the ICRC agreed that the initial tranche of the WAC was supported by increases in the costs of catching and storing water and the costs of managing the environment in the catchment areas. The ICRC also considered again the scarcity value of water, by reference to the price of water paid by users downstream of the territory. Having considered the issues and the legal basis for levying the fee, the ICRC advised the government that its proposal for the fee for 2004–05 was sustainable, arriving at its advice after wide consultation with community and environmental groups.

Taxi service pricing

On 31 May 2004 the ICRC issued its final report on pricing of taxi services for the period commencing 1 July 2004. It allowed an increase in the cost of taxi services, with an average fare to rise by 3.16 per cent or about \$0.50 for an average weekday daytime fare from 1 July 2004.

In reaching its determination the ICRC used a revised methodology, replacing the previous fare determination method that relied on a basket of weighted actual cost factors with an approach that makes greater use of published prices indices. These indices are commonly available national indicators published by the Australian Bureau of Statistics that capture price movements from year to year in a number of key cost areas for the industry, such as wages, insurance, motor vehicle costs, fuel costs etc. The new approach is simple to apply, transparent and easily understood. It will provide certainty and predictability to the determination of tariffs in future and indicates where re-weighting of the key cost drivers is necessary. Future determinations are expected to be quicker to make and less contentious than in the past.

The new model and the determination will remain in force until 30 June 2007, with opportunities to re-weight the key indices occurring annually.



Competition and compliance issues

Electricity infrastructure review

The ICRC received a reference on 1 July 2003 to provide advice on the costs and benefits of introducing contestability to greenfields electricity infrastructure developments in the ACT. ActewAGL provides such developments now as a monopoly service. The ICRC released a draft report in December 2003 and its final report in April 2004, recommending that the government initiate action to remove the current restrictions on competition in electricity infrastructure works subject to a range of conditions that maintained ActewAGL's involvement in the approval of designs for works, while removing ActewAGL's powers as a quasi regulator. The report also recommended introducing amendments to the regulatory framework that would support the development of independent technical and safety regulation. While the report has been tabled in the Legislative Assembly, the government has yet to respond to the ICRC's recommendations.

Compliance reporting for electricity, gas and water services

The ICRC's initial compliance and performance report for electricity, gas and water services, including network and supply services, in the ACT was released in 2003 for 2000–01. The reporting requirements for compliance and performance reporting have been reviewed for 2002–03, including using, for the first time, the nationally consistent distribution financial and retail and distribution service quality framework developed for the electricity network and supply sectors by state and territory regulators through the Utility Regulators Forum. The framework developed for electricity distribution and supply by the steering committee on the nationally aligned regulatory reporting requirements (SCONRRR) has been applied in the ACT for electricity and wherever possible for gas and water services. The ICRC has collected data for 2002–03 in the required format, together with information on compliance with the licence conditions for distribution and retail businesses, and will publish the report in August.

The ICRC has now reviewed the compliance guidelines for reporting for 2003–04 and will be issuing revised templates for the reporting due by 1 October 2004. These templates have been subject to industry and community consultation through various consumer forums. The 2003–04 templates will again draw on information that is commonly available to networks and suppliers,

and will subject those reports to comparative analysis for the performance reports and internal analysis for compliance reporting purposes. The form of the reports in 2004 will change to increase accessibility and to focus more sharply on key issues for compliance and performance. The changes in format will also bring information to consumers and other regulators more quickly than in the past. The compliance report and a snapshot view of performance, looking at internal references, will be due by December in each year with a lengthier performance comparison due later in the financial year.

In general, the ICRC continues to participate in other Utility Regulators Forum and national issues including:

- the joint jurisdictional review of metrology procedures and types 5 and 6 meters, due for release in late July 2004
- the development of a joint jurisdictional working group on water regulatory issues
- contribution, together with other regulators, to the development of the national regulatory framework for energy.

The ICRC is also engaged in 2004–05 with a review of its ring fencing arrangements, consumer and other industry codes under the *Utilities Act 2000* and implementing an audit program to support both the compliance and price determination processes. In early 2004–05 the ICRC will be finalising its licence fees for utility services provided under the Utilities Act.

ICRC appointments

In June 2004 the government reappointed the senior commissioner of the ICRC, Paul Baxter, for another five-year term.

Tasmania

Office of the Tasmanian Energy Regulator (OTTER)

Natural gas distribution and retail

Construction of stage 1 of the gas distribution network continues at a number of locations around Tasmania. Networks at Longford and Bell Bay have been commissioned with Westbury to be commissioned shortly.

The OTTER will issue a draft Customer Transfer and Reconciliation Code for the Tasmanian natural gas industry soon.

The code sets out arrangements for:

- the identification of metering installations
- the transfer of customers between retailers
- the provision and testing of meters
- meter reading and the application of metering data
- the allocation and reconciliation of gas quantities between retailers, including audit and dispute resolution.

Powerco Tasmania Pty Ltd has published both long (for use by retailers) and short (for use by directly supplied customers) use-of-system agreements. Powerco's development of a ring fencing policy for the separation of its retail and distribution activities is continuing.

Gas and electricity licences

In May 2004 the Hydro-Electric Corporation applied for a generation licence for its Tasmanian mainland operations. The OTTER consulted on the application but did not receive any submissions. The OTTER will determine the application shortly and the report will be available on the website www.energyregulator.tas.gov.au. Other licensing activities include:

- renewal of the Green Pacific Energy Bell Bay Pty Ltd (GPEBB) electricity generation licence. This licence relates to a proposed 20 MW green-waste fired generator situated at George Town.
- amendment of the Tasmanian gas pipeline (TGP) licences to reflect the change of name of the licensee company, consequent upon the sale of Duke Energy's Australian assets, including the TGP, to Alinta Ltd. The licensee is now Alinta DTH Pty Ltd.
- variation of the Powerco Tasmania Pty Ltd Stage 1 construction licence for additional distribution networks in June 2004.



Aurora pay as you go (APAYG) review

The OTTER has begun a review of the Aurora pay as you go (pre-payment meter) service, releasing an issues paper to obtain feedback from the public and interested parties. The issues paper elaborates on the issues that were detailed in the OTTER's terms of reference. The following key matters have been discussed in the paper:

- Given the differences between the pricing structures of APAYG (time of use) and standard tariffs (declining block), it is difficult for customers to draw cost comparisons between standard tariffs and APAYG. Therefore it is possible that a customer's decision to take the APAYG option may not be based on adequate knowledge of the likely cost outcome of electricity consumption under each scenario.
- The OTTER's analysis suggests that customers with average consumption and matching a typical time-of-use profile are likely to pay only marginally more (about \$15–\$20) during a summer quarter and pay less (\$20–\$25) during a winter quarter using APAYG than if they had remained on the standard tariff 31 (light and power) and tariff 41 (hot water supply).
- Aurora Energy's research indicates that 2 per cent of APAYG customers had self-disconnected in 2002 for financial reasons. The research does not correlate the duration of disconnection with the cause.
- There are already considerable consumer protection mechanisms in place for customers using APAYG. However, the issues paper does identify deficiencies in the current regime and the following options are identified as a means to strengthen the regulation of consumer protection:
 - amending the Tariff Customers Regulations and the Tasmanian Electricity Code to make the requirements more appropriate to pre-payment meters with current technology
 - incorporating APAYG into the current suite of tariffs subject to the Regulations
 - issuing guidelines or directions
 - retaining the current model, i.e. regulating through monitoring, but putting in place a more robust and transparent reporting regime.

Aurora Energy has provided a submission to the OTTER to assist with the review. The issues paper and Aurora's submission are available at the OTTER's website www.energyregulator.tas.gov.au. Following receipt of public submissions and

additional public consultation, the OTTER intends to release a final report including decisions regarding future regulatory options for APAYG.

Reliability and network planning panel (RNPP) update

Guidelines for power system directions by the system controller

The RNPP is established by the OTTER under the Tasmanian Electricity Code. The RNPP is required to determine, and annually review, guidelines governing the exercise of the system controller's power to issue directions to maintain or re-establish the power system in a reliable state. The objectives of the annual review are to assess the adequacy of the guidelines and to determine whether directions issued by the system controller are truly operating as a safety net for a safe, secure and reliable power system.

The RNPP recently completed its 2004 review of the guidelines, taking account of two directions issued during 2003. After the consultation process, the RNPP concluded that no changes were warranted to the guidelines.

Frequency operating standards and capacity reserve standards

The RNPP is also required to determine on the advice of the system controller, and annually review, power system security and reliability standards.

Accordingly, the RNPP reviews the standards for contingency capacity reserves (including guidelines for assessing requirements and utilisation), short-term and medium-term capacity reserves, and frequency operating standards. In conducting its reviews, the RNPP considers the performance of the Tasmanian power system against the current standards and determines what changes, if any, are required, both in light of experience and forthcoming entry into the National Electricity Market (NEM).

The RNPP has issued two consultation papers for comment and expects to publish its determinations for both standards at the end of September 2004.

The consultation papers are available on the OTTER's website www.energyregulator.tas.gov.au.

Transmission network security and planning criteria

The OTTER will shortly issue terms of reference for the RNPP to determine network security and planning criteria for the Tasmanian power system.

The RNPP expects to release a consultation paper in August 2004.

Government Prices Oversight Commission

Urban water and wastewater

The minister has released the review report by the Government Prices Oversight Commission (GPOC) on Tasmanian councils' compliance with urban water pricing guidelines. The review found that:

- there was a generally high level of compliance by the councils in both water and wastewater revenue recovery
- only a small number of councils are reporting community service obligations or own-use, which gives rise to the potential for cross-subsidies
- the volumetric charges of most councils are set well above their volumetric costs
- in terms of free water allowance, most councils using two-part tariffs are structuring them in a way that is consistent with the relevant guidelines.

The review report is available on GPOC's website www.gpoc.tas.gov.au.

Bulk water investigation

The GPOC has released its draft report on the review of the pricing policies of the three bulk water authorities, Hobart Regional Water Authorities, Cradle Coast Water and Esk Water Authority.

The draft report sets out, among other things, the GPOC's draft recommendations for the appropriate maximum prices to be charged by each of the three bulk water authorities for the next regulatory period.

The draft recommendations include pricing policies for maximum volumetric rates and the allocation of fixed costs to customers. It also reports on the progress made in implementing previous recommendations and on initiatives taken for management of demand.

The draft report is available on the GPOC's website www.gpoc.tas.gov.au.

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Queensland

Queensland Competition Authority

Electricity

The Queensland Competition Authority (QCA) has made significant progress on the key issues of asset valuation, capital and operating expenditure forecasts and demand growth forecasts for the next regulatory period starting 1 July 2005. Consultants' reports on these issues are nearly finalised. The QCA intends to release drafts, starting in July 2004, to facilitate public input on these matters. The final reports will be critical inputs into the QCA's 2005 draft determination on the regulation of electricity distribution in Queensland, due to be released in November 2004.

In the QCA's previous determination (May 2001), it valued easements at historical cost but undertook to investigate this issue further during the current regulatory period. After consulting on the appropriate valuation method for easements, the QCA released its final decision in March 2004 to adopt an indexed historic cost approach to the future valuation of easements, with indexation determined by the CPI.

In February 2004 the QCA released a draft decision on a service quality incentive scheme to apply to both distribution network service providers (DNSPs) for the next regulatory period. The scheme outlined in the draft decision was based on a regulatory contract to be agreed as part of (and tied to) the regulatory arrangements to apply from 1 July 2005. After considering submissions, the QCA released a final decision in April 2004, which confirmed the adoption of the approach outlined in the draft decision. The details of the scheme will be settled during the regulatory review process. Stakeholders will have an opportunity to comment on the scheme when responding to the 2005 draft determination.

Also in February 2004, the Queensland Government announced its intention to lower the threshold of retail contestability for electricity customers from 200MWh to 100MWh from 1 July 2004. As a result, the initial metrology procedure for metering installation types 5, 6 and 7 required some minor amendments. After following the code consultation procedures, the QCA released a revised metrology procedure in June 2004.

In March 2004 the QCA released a report on the financial and service quality performance of Energex and Ergon Energy in 2003–04 based on regulatory accounting data and annual and quarterly service quality reports submitted to the QCA. This was the first combined financial and service quality performance report to be produced by the QCA. The DNSPs' December quarter 2003 service quality reports, along with an accompanying brief overview from the QCA, were also posted on the QCA website in May 2004.

In April 2004 the QCA approved minor revisions to the DNSPs' pricing principle statements and subsequently approved distribution prices to apply for 2004–05.

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Gas

In April 2004 Allgas and Envestra submitted revised reference tariff schedules to the QCA for approval, in accordance with their approved access arrangements.

In May 2004 the QCA approved cost pass-through applications received from Allgas and Envestra for pass through of the QCA levy and government fees for distribution authority holders. The QCA also approved Allgas' application for pass through of costs associated with the introduction of the gas retail market business rules. These costs were incorporated in the revised 2004–05 tariff schedules submitted by the service providers. The QCA was satisfied that these revised tariffs were consistent with the price paths and side constraints of the approved access arrangements. The revised tariffs become effective on 1 July 2004 and are available on the QCA's website (www.qca.org.au).

Final assessments of Allgas' and Envestra's 2002–03 ring fencing compliance reports were prepared in February and May 2004 respectively. The QCA concluded that Envestra had demonstrated full compliance with its ring fencing obligations. While Allgas did not achieve full compliance, the QCA noted that it had made significant further progress towards achieving full compliance, which should be achieved in future years.

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Water

Gladstone Area Water Board—investigation of pricing practices

In April 2004 the Premier and the Treasurer directed the QCA to investigate the pricing practices of the Gladstone Area Water Board (GAWB). The QCA was also directed to investigate the appropriate framework for monitoring pricing practices (including prices and contractual arrangements) relating to the declared activities.

To initiate the review, the QCA released an issues paper, 'Gladstone Area Water Board: 2004 investigation of pricing practices' in April 2004. Key issues for comment include the impact of the revised safe yield of Awoonga Dam and changes in demand projections following the recent drought.

A copy of the paper is available from the QCA or can be downloaded from its website at www.qca.org.au.

The current investigation is to be completed by March 2005.

Extraordinary circumstances

In May 2003 the ministers directed the QCA to identify the general pricing principles which should underpin the treatment on infrastructure investments made in response to extraordinary circumstances across all regulated industries. The direction arose as a result of severe drought conditions which affected the Gladstone Area Water Board.

The QCA released an issues paper in August 2003. Submissions received in response to this paper were considered in the preparation of the draft report, *General pricing principles for infrastructure investments made in response to extraordinary circumstances*, which was released for further consultation in March 2004. Key issues included appropriate governance arrangements, approaches to regulation and implications for the asset base, return on capital and other elements of pricing.

The QCA's final report was provided to ministers in June 2004.

A copy of the draft report is available from the QCA or can be downloaded from its website at www.qca.org.au.

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Local government

The QCA's recommendations for payments to 117 Queensland councils, granted a one-year extension for progress in implementing competition reforms, were submitted to the Premier and the Treasurer in February 2004. They were approved on 21 May 2004.

In total, more than \$124.1 million of the base allocation of \$141.5 million has been paid to Queensland councils since the Local Government Financial Incentives Scheme began in 1998.

The next report on councils' progress, with a particular focus on the implementation of COAG water reforms by certain councils, is due to be submitted to ministers by February 2005.

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Rail

QR's draft 2005 access undertaking

On 30 April 2004 Queensland Rail (QR) submitted a draft access undertaking in accordance with an initial undertaking notice issued by the QCA in November 2003. The draft access undertaking is for the period 2005–10, and will replace QR's existing access undertaking which expires on 30 June 2005. The QCA is currently conducting an investigation, in accordance with Part 6 of the QCA Act, into the draft access undertaking. The QCA will release a paper calling for comment, with submissions due by 30 September 2004. It expects to make a decision on the draft access undertaking by the end of this year.

The draft access undertaking remains relatively unchanged from the existing one. QR has proposed price declines of between 1 per cent and 14 per cent for network access charges for coal-carrying train services in the central Queensland coal region. These price declines are the result of a number of counteracting forces, for example, a forecast 30 per cent increase in average annual net tonnes (including significant contributions to common costs for new mines) which are partially offset by a 50 per cent increase in QR's cost base.

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Factors contributing to the proposed increase in the cost base (from \$270 million to \$410 million per annum) include: an increase in the post tax nominal WACC from 8.68 per cent to 9.78 per cent; a partial re-DORC of the asset base for increased civil

and earthworks replacement costs; a capital expenditure program of around \$56 million per year; the inclusion of a new asset for intellectual property (\$30 million); and an increase in the allowance for insurable risk from \$3 million to \$10 million per year.

QR has also included coal reference tariffs for the Western System in the draft access undertaking. The Western System consists of three clusters (West Moreton, Surat and Swanbank), and involves transporting coal from the Moreton basin coal mines to the Port of Brisbane and to the Swanbank power station. QR has not submitted any reference tariffs for non-coal traffics.

Other notable changes include the inclusion of a common cost contributions matrix for new mines, a revised volume trigger price review mechanism, and the establishment of an advisory group of interested parties to consider capital expenditure for new rail infrastructure.

Draft amending access undertakings and endorsement of QCA levy

On 13 May 2004 the QCA approved QR's application to incorporate train services for the new Moorvale mine into the existing North Goonyella Cluster, and endorsed a revision to the QCA levy component of existing reference tariffs and access charges for 2004–05 to recover the QCA's regulatory service fee.

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Ports

Draft access undertaking

The Dalrymple Bay Coal Terminal (DBCT) has been declared by the Queensland Government for the purposes of third party access under Part 5 of the QCA Act. A draft access undertaking was submitted to the QCA in June 2003. The QCA is currently conducting an investigation, in accordance with Part 6 of the QCA Act, into the draft undertaking.

DBCT Holdings (a government corporation) is the owner of the facility which is operated by Prime Infrastructure under a 50-year lease (with an option to extend this by an additional 49 years). A separate company (DBCT P/L) conducts the day-to-day operation of the terminal, in accordance with an operations and maintenance contract with Prime. DBCT P/L is jointly owned by the mines that export coal from the terminal. These ownership and leasing arrangements have raised some issues about the enforceability of the undertaking which the QCA is considering as part of its assessment.

The draft access undertaking focuses on capacity provision and pricing arrangements to apply at the terminal, both of which are key issues for stakeholders. The QCA's investigation is addressing these issues as well as non-price issues relevant to providing access such as the scope of the undertaking, review triggers, the negotiation framework and the terminal regulations.

As part of its investigation, the QCA has commissioned Dr Martin Lally of Victoria University (New Zealand) to assess the various cost-of-capital assumptions and parameters proposed by Prime and stakeholders. This assessment is part of a wider review to develop a comprehensive and internally consistent framework for determining the cost of capital across all industries regulated by the QCA. This report was released for public consultation in March 2004 and 16 submissions were received. The QCA also commissioned Maunsell to undertake the DBCT asset valuation.

The QCA intends to publish position papers on the asset valuation and WACC in the near future. The QCA expects to publish its decision on the draft access undertaking in September 2004.

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Northern Territory

Utilities Commission of the Northern Territory

Review of asset valuation methodology

In April 2004 the Utilities Commission published its final determination on the 2004 electricity networks pricing reset. In view of asset valuation difficulties unresolved during the 2004 reset, the final determination included an asset valuation 'off-ramp' to apply if, before 31 March 2005, the Utilities Commission is satisfied that the valuation underlying the 2004 reset (the initial asset base at 30 June 2000 and/or the asset amounts rolled-forward during the first regulatory control period) involved a 'material error'.

The Utilities Commission is in the process of appointing consultants to assist it in determining, including through a public consultation process, the extent to which the depreciated optimised replacement cost (DORC) valuation methodology needs to be modified or replaced when it comes to valuing utility assets for regulatory purposes in the Northern Territory context.



Network access tariffs

In April 2004 the Utilities Commission approved the reference tariffs and charges for standard network access services to apply during 2004–05.

The Utilities Commission approved these tariffs against the existing pricing principles statement (approved on 25 August 2000). The Utilities Commission considered this appropriate given Power and Water's stated intention to more fully consider changes to the structure of network tariffs over the coming 12 months, with revised pricing 'principles and methods' to be developed in conjunction with this process. The Utilities Commission will only approve a revised statement that provides a rigorous and transparent basis for any rebalancing associated with the move to the price cap form of price control.

Capital contribution principles and methods statement

In May 2004 the Utilities Commission approved—for use during the second regulatory control period from 1 July 2004 to 30 June 2009—the capital contributions principles and methods statement submitted by Power and Water under clause 81(3) of the NT's Network Access Code. The Utilities Commission considered the statement to be consistent with both the principles laid down in clause 80 of the code and requirements elsewhere in the code.

Network loss factors

In June 2004 the Utilities Commission provided to the parties involved its revised findings on the compliance review, in the light of further analysis by its technical advisers of additional data handed over by Power and Water in response to the Utilities Commission's earlier draft findings. The Utilities Commission expects to publish its findings during August 2004.

Regulation of service quality

The Utilities Commission is finalising an issues paper dealing with the monitoring and regulation of service quality in the NT's electricity market. The paper is mainly concerned with what form the monitoring and regulation of service quality should eventually take in the NT context. Once this paper is published (targeted for August 2004), the Utilities Commission envisages public consultation processes that lead initially to implementation of monitoring arrangements, to be followed by the identification of minimum standards and then the evaluation of

alternative incentive mechanisms, all with a view to an appropriate incentive mechanism being put in place from the start of the third regulatory control period (1 July 2009).

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International

Commerce Commission, New Zealand

Telecommunications

The Commerce Commission completed its preparatory work for the TSLRIC pricing regime after the release of a principles paper on TSLRIC in February. Following the release of this paper, the interconnection pricing review has begun.

In April the Commerce Commission announced it would undertake an investigation into whether or not mobile phone call termination rates should be regulated, after considering complaints that lack of competition in the mobile termination market meant charges for fixed-to-mobile calls in New Zealand were unreasonably high.

The Commerce Commission released its decision on resale of local call services in June. These services are now available for resale to TelstraClear.

The Commerce Commission will release its draft TSO determination for 2002–03 in June. The Commerce Commission is liaising with Telecom about improving the existing compliance monitoring, and about new reporting requirements for 2003–04.

Electricity lines

On 31 March 2004 the Commerce Commission set thresholds as part of the targeted control regime relating to large electricity distribution businesses. These thresholds apply for a five-year regulatory period beginning 1 April 2004.

Earlier in March four distribution businesses issued proceedings in the Wellington High Court seeking judicial review of the Commerce Commission's final decisions on the thresholds for the declaration of control that will apply to lines businesses from 2004. The plaintiffs claim that the Commerce Commission's consultation process was flawed and that the thresholds decisions were unreasonable. The plaintiffs are seeking orders to have the decisions set aside.

Under the initial thresholds set by the Commerce Commission on 6 June 2003 all lines businesses were required to provide their self-assessments against the price path threshold as at 6 September 2003. The reviews to the end of March identified 13 as not breaching the price path threshold, four breaching for 'technical' reasons (timing of transmission charges), three breaching because budgeted increases in transmission were not passed through and six where there is a need to provide further information or the information is under review. The Commerce Commission has now commenced post-breach inquiries into the performances of three electricity lines businesses—Unison Networks Limited, Marlborough Lines Limited and Buller Electricity Limited.

The Commerce Commission released its final *Electricity Information Disclosure Requirements 2004* and the companion *Disclosure Handbook* at the end of March. The Commerce Commission has indicated that it will undertake a full consultative review of the information disclosure regime under Part 4A during 2004–05.

Gas pipelines inquiry

The Commerce Commission released its draft report relating to its current gas pipelines inquiry in May, with a draft recommendation that control be imposed on two gas transmission businesses and three gas distribution businesses.

The Commerce Commission's preliminary view is that NGC Transmission, Maui Development Limited, NGC Distribution, Powerco Limited and Vector Limited all face limited competition in the gas pipeline services they provide and that there are likely to be net benefits to acquirers from the introduction of control.

In relation to Wanganui Gas Limited, the Commerce Commission's preliminary view is that it is not necessary or desirable, in the interests of acquirers for the gas pipeline services supplied by Wanganui Gas to be controlled. In relation to Nova Gas Limited, the Commerce Commission's assessment to date has found that Nova Gas faces workable or effective competition in the market where it provides gas services and has therefore not recommended control in its draft report.

The Commerce Commission's established process includes releasing a draft report, which is followed by a public submission process and conference before the Commerce Commission makes its final recommendations to the Minister of Energy.

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