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# network

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## How should we measure the quality of service provided by electricity transmission companies?

Dr Darryl Biggar, consulting economist, ACCC

Consumers care not just about the prices they pay for natural monopoly services, but also about the quality of the service they receive. For this reason, developing to improve or maintain the quality of a regulated service lies at the heart of the task of the natural monopoly regulator. Quality of service incentives are particularly important when the regulator seeks to use high-powered incentives on the regulated firm to reduce its expenditure—in the absence of quality incentives, incentives to cut costs might induce the firm to cut costs at the cost of long-term service quality.<sup>1</sup> The possibility that expenditure cuts might cause the ‘lights to go out’ is a nightmare scenario for electricity regulators with significant political repercussions, as the recent experience in Queensland attests.<sup>2</sup>

The ACCC is responsible for regulating electricity transmission companies. Some market participants have complained that transmission companies currently have relatively weak incentives to maintain or improve the quality of service (i.e. minimising the risk of outages, ensuring failed network

elements are returned to service as quickly as possible, carrying out maintenance when it is likely to cause the least disruption to the market, or installing technology maximising the physical capacity of the network). The ACCC would like to improve the quality of these incentives by offering financial rewards or penalties to regulated transmission companies for changes in the quality of service.

But if the ACCC is to offer financial rewards to the regulated firm for maintaining or improving service quality, it must be able to measure service quality in some way. Ideally, this measure would meet certain criteria:

- it should be relatively easy to measure in an objective, verifiable way (if a firm’s bottom line is riding on the outcome, the measure must be robust enough to withstand scrutiny in court)
- it should reflect, as much as possible, the effort of the firm towards improving service quality and not be influenced by factors outside the control of the firm—in short, the measure should have a high ratio of ‘signal to noise’ (the noisier the signal of service quality adopted by the regulator the greater the risk imposed on the regulated firm and the lower the power of the incentives the regulator can use)
- it should, as much as possible, reflect the true economic harm or benefit of a change in service quality (imposing large financial penalties or rewards for perceived changes in service quality makes little sense when those changes in service quality have little economic impact).

<sup>1</sup> Quality of service incentives are also more important where the regulatory regime fixes a ‘revenue cap’ rather than a ‘price cap’. Under a price cap a reduction in quality leads to a reduction in demand and therefore a reduction in quantity. Even this limited incentive to maintain quality is absent under a revenue cap.

<sup>2</sup> Following power cuts in Queensland an independent panel chaired by Mr Darryl Somerville found that distributors had focused on improving financial results and had neglected service quality. The political repercussions involving Queensland Premier Peter Beattie have made newspaper headlines for the last few months.



For electricity distribution businesses, measuring service quality is primarily a matter of measuring reliability of supply. For some customers, the extent to which the electricity supply voltage or frequency is maintained within a narrow range is important, but for most distribution customers, 'quality of supply' relates primarily to the frequency, timing and duration of interruptions to the electricity supply. Most electricity distribution regulators measure quality of service using indicators of the frequency and duration of service outages, such as the well-known SAIDI and SAIFI measures.<sup>3,4</sup>

SAIDI and SAIFI are relatively easy to measure in an objective and verifiable way, so they score well on the first criteria above. Although service interruptions are sometimes caused by external factors, such as weather, they are largely within the control of the distribution business, so they also score well on the second criteria. But SAIDI and SAIFI are not so good at reflecting the true economic impact of a service interruption—as they fail to distinguish between outages at different times, or affecting different consumers. A consumer may be willing to pay more to avoid a power cut at 4 pm (when they are rushing to complete a key document before the end of the business day) than at 4 am (when the supply interruption might be hardly noticeable). Although it may be possible to guess the true economic harm by breaking down the SAIDI and SAIFI figures by time of day or type

of customer, ideally we would like a measure of service quality which somehow directly measures the economic effect of a service outage on different customers.

How might we go about measuring service quality on the high-voltage transmission network? Measures of the frequency or duration of service interruptions are not much use at the transmission level because transmission network outages rarely lead to an interruption in supply to end-users. Transmission networks are conventionally built with a reasonably high level of redundancy—the network is designed and operated so that, even after the failure of any one piece of equipment (whether a generator, a large load, or a piece of the transmission network itself) the power flows over the remaining network will not exceed the capability of that network. Measures of service quality based on supply interruption are not very useful for measuring service quality in transmission networks.

An analogy with road networks can help explain the difference between transmission and distribution networks. The transmission network is like a multi-lane inter-city freeway network, while the distribution network could be compared to the smaller local roads. The closure of one lane on a freeway may have relatively little impact on traffic flows—indeed, if traffic flows are light enough the closure of a single lane will not disrupt traffic at all. The closure of a single lane on a small road may interrupt traffic flows entirely.

But whether an outage or a closure of part of a road is deliberate (e.g. for maintenance) or the result of an accident (such as a landslide) the outage reduces the overall capacity of the network in some way. Instead of using measures of the duration and frequency of *supply interruptions*, perhaps we could use measures of the duration and frequency of *reductions in the capacity* of a given transmission service.

The ACCC's current 'service standards guidelines' are broadly based on this principle.<sup>5</sup> The guidelines set out five measures of transmission network performance, based on, for example, the percentage of hours that transmission circuits are available, and the average duration of outages. The ACCC is in the process of introducing an incentive scheme based on these measures into the revenue caps for transmission companies as the existing revenue cap decisions come up for renewal.

The drawback of this approach is that, to an even greater extent than the problem with the SAIDI and SAIFI measures noted above, a reduction in system capacity is not very well correlated with economic harm. A reduction in transmission capacity, like closing a single lane on a multi-lane freeway, need not have any impact at all on the remaining traffic flows, especially when traffic on the network is light.

What we would like therefore is a measure of how much a reduction in system capacity affects economic outcomes. Like closing a single lane on a multi-lane freeway, a reduction in transmission capacity only has an impact on economic outcomes when flows on the network are high and the capacity constraints on the transmission network are 'binding'. When capacity constraints are binding the network is said to be 'congested'. What we need then, is a measure of the economic harm caused by transmission network congestion.

But what is the harm caused by congestion on the transmission network? It turns out that the economic harm from congestion on a transmission network primarily relates to the increase in generating costs resulting from the congestion.

Let's imagine first a network without any binding transmission constraints. In such a network, the cheapest way to produce sufficient power to meet total demand is to place all the generators in order, from the lowest marginal cost to the highest, (this is known as the 'merit order') and then to dispatch generators in turn up the list to the point where the total amount of electricity produced is equal to the total amount desired by consumers at that point in time.<sup>6</sup>

When a transmission constraint binds, the system operator can no longer dispatch generation precisely according to the merit order. Instead, some more expensive generation must be turned on. Simultaneously some lower cost generation must be turned off. The total cost of generating enough electricity to meet demand rises. (See box 1).

Again, the road analogy may help to illustrate this concept further. Suppose a firm uses widgets as an input into its just-in-time production system. The firm can source widgets from a distant city via a multi-lane freeway at a cost of \$10 per widget or from a local producer at a cost of \$20 per widget. Let's suppose that for some reason the highway maintenance company decides to close one lane of the highway. If the flow on the highway is small

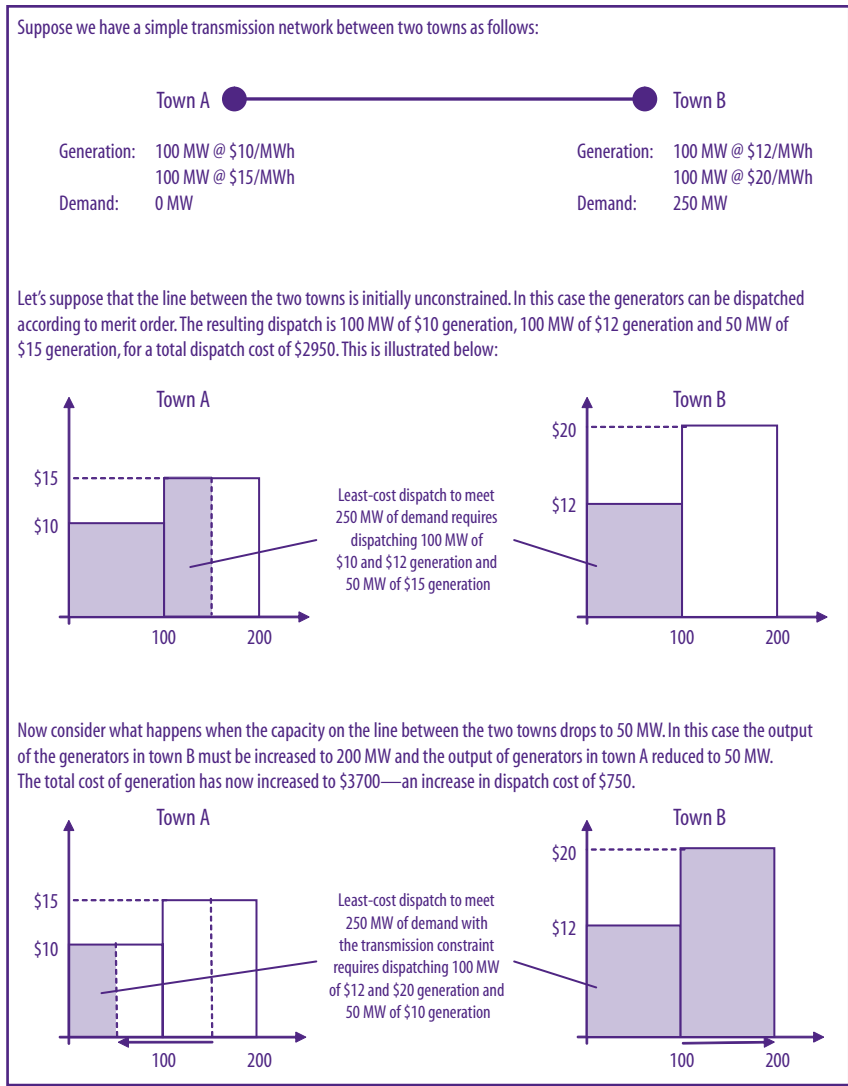
<sup>3</sup> SAIDI and SAIFI are among the set of distribution system reliability indicators defined by the IEEE in the document IEEE 1366 *Guide for Electric Power Distribution Reliability Indices*. SAIDI is System Average Interruption Duration Index (equal to the total number of minutes off supply divided by the number of customers); SAIFI is System Average Interruption Frequency Index (equal to the total number of interruptions divided by the number of customers); other measures of reliability that are used include CAIDI—Customer Average Interruption Duration Index (equal to the total number of minutes off supply divided by the total number of customers interrupted), CAIFI—Customer Average Interruption Frequency Index (equal to the total number of interruptions divided by the total number of customers interrupted) and MAIFI—Momentary Interruption Frequency Index. These measures form part of the standard information agreed to be collected and reported by the Utility Regulator's Forum. See *National Regulatory Reporting for Electricity Distribution and Retailing Businesses*, March 2002, [www.ipart.nsw.gov.au/pdf/SCNRRR\\_final.pdf](http://www.ipart.nsw.gov.au/pdf/SCNRRR_final.pdf).

<sup>4</sup> See, for example, *Providing Incentives for Service Quality in NSW Electricity Distribution: An Issues Paper*, IPART, May 2003, [www.ipart.nsw.gov.au/pdf/DP63.pdf](http://www.ipart.nsw.gov.au/pdf/DP63.pdf). Other measures of service quality that are sometimes used are call-centre performance and number of customer complaints.

<sup>5</sup> See the ACCC document 'Statement of principles for the regulation of transmission revenues: service standards guidelines', 12 November 2003.

<sup>6</sup> For simplicity, I am ignoring here the problem of transmission line losses and the problems caused by generator 'start-up costs'.

### Box 1: Illustration of the effects of transmission constraints on generation costs



enough, the traffic can travel on the remaining lanes with no delays—the firm can continue to source widgets from the distant supplier. However, if the flow is large enough the highway will become congested and delays will occur. The firm will not be able to source enough widgets from the distant supplier and will have to substitute higher cost widgets locally. The total economic cost of the reduction in capacity on the highway for this firm is equal to the difference in the price of widgets (\$10) times the quantity which the firm had to source locally.

This argument suggests we can use the change in the total cost of generation as an indicator of the economic harm arising from a reduction in the service capacity of a transmission network. However, we should not forget the demand side of the market. A reduction in the service capacity of the network could affect the electricity prices faced by consumers which would be expected to change the amount they consume. In practice, since the elasticity of demand for electricity is very low in the short run, this effect is very small.

More importantly, a reduction in the service capacity of the network might actually lead to some consumers' electricity supply being cut off. Even if this event is rare, if consumers place a high marginal value on electricity, the resulting loss in consumers' surplus could be large and should be included in the total economic harm.<sup>7</sup>

To summarise, our proposed measure of service quality would therefore be based on the difference in the cost of generation and the value of any load shedding under (a) the actual or out-turn network capacity and (b) under a hypothetical or counter-factual network with some higher level of service capacity.

So much for the theory. The question is whether this can be put into practice to develop a useable measure of the quality of service of a transmission network.

<sup>7</sup> Ofgem in the UK is currently consulting on proposals to include the value of unsupplied electricity in its performance incentives on NGC. See 'Electricity transmission network reliability incentive schemes: initial proposals', October 2004, 240/04.

To calculate the economic harm from a given observed service reduction in a transmission network we need to make judgments on how we will determine three key inputs:

- (a) the cost function for each generator in the network
- (b) the hypothetical 'counter-factual' network against which we are comparing the service reduction
- (c) the level of dispatch that would have arisen for each generator in that counter-factual network

How might we obtain cost functions for each generator? In most markets information on firm-level supply curves is simply unavailable. However, in the context of electricity markets there remains at least a glimmer of hope. Economic theory shows that in a competitive electricity market, generators have an incentive to bid an offer curve which is close to the generator's marginal cost, at least in a small region around the price and quantity combination which the generator expects to see realised in the market. As a result, the offer curves submitted by generators should reveal at least some information about their true economic supply curve.<sup>8</sup>

In any case, even if generator offer curves prove to be an unreliable source of information, generation technology is fairly standard around the world. It is often possible to obtain a rough estimate of the marginal cost curve of a generator from information about its production process, fuel source, fuel cost and nominal capacity. Commercial models of the NEM regularly make use of such estimates of generators' cost functions. We are hopeful that at least one of these approaches will prove to be a workable source of objective information about generators' costs.

What about the choice of the counter-factual network? Should we compare the actual or out-turn network with a network in which all of the elements are operating 'normally' (i.e. at their standard or rated capacity)? Or should we compare the actual or out-turn network with a hypothetical network in which there are no network capacity constraints at all? Both approaches are, in principle, feasible. One problem with attempting to use a 'normal' network as the benchmark is that the 'normal' ratings on transmission equipment are not easily observed, but are determined by the transmission companies themselves. A measure of service quality based on a comparison with a 'normal' network would create incentives for transmission companies to lower the definition of 'normal' capacity rather than

<sup>8</sup> To make matters worse, it is known that in the NEM at present certain generators (namely, remote intra-regional generators who are constrained on or off due to intra-regional congestion) do not have an incentive to bid in a way which truthfully represents their costs.



reduce the frequency or duration of reductions from this normal level. This incentive is eliminated by comparing the actual or out-turn network with a hypothetical network in which there is no congestion at all. Furthermore, under this approach, transmission companies retain an incentive to reduce all congestion even when it arises under 'normal' network conditions.<sup>9, 10</sup>

A final issue is how to determine what the dispatch of generators would have been in the hypothetical network. If the electricity market is sufficiently competitive the answer to this question is straightforward. Since, in a competitive market, generators would bid their marginal cost curve, once the cost function of each generator has been determined this can be used as an input into a model of the NEM dispatch engine to determine the optimal dispatch under the new hypothetical network.

The situation is a little more complicated if generators have market power. In this case, their bidding behaviour may well change when faced with a different network with higher transmission capacity. It is, in principle, possible to use computer models to simulate the effects of generator market power. But these models inevitably make a large number of assumptions, not all of which are immediately transparent. Using these models might improve the accuracy of the outcome, but at the expense of reduced transparency and verifiability.

**Box 2: Key policy decisions in measuring cost of congestion**

Measurement of the economic harm arising from transmission congestion requires decisions on a number of different key inputs. The main decisions that must be made and the most likely choices are summarised below:

Key modelling decision	Primary choices	
	Cost functions for generators	Based on generator offer curves
Counter-factual network	Hypothetical network with no congestion	Hypothetical network with all network elements operating at 'normal' or 'rated' capacity
Generator dispatch	Competitive, based on cost function	Non-competitive, based on explicit modelling of generator market power

<sup>9</sup> A disadvantage in using a hypothetical network in which all constraints are removed is that, for some generators, the resulting dispatch might end up being a 'long way' from the generator's dispatch under the existing network—as a result, we are no longer in the region for which the generator's offer curve is a true reflection of its costs.

<sup>10</sup> Yet another alternative is to compare the generation costs under the out-turn network with a network in which the constraints are relaxed by very small amount. This gives an indication of how much each constraint is binding 'at the margin'. This could be a useful indicator for very small potential improvements in service quality. At this stage we have not yet determined a reliable way of calculating this measure.

Box 2 summarises these issues facing the ACCC as it explores the scope for developing a measure of the quality of service of transmission networks, based on a measure of the economic harm from transmission congestion. The ACCC has set out its proposals in a draft decision on 'Market impact transparency measures'.<sup>11, 12</sup>

As a first attempt at this problem we have sought to obtain a measure of economic harm from congestion which is robust and verifiable by relying primarily on public information and established processes. Specifically, as a first attempt we have sought to obtain a measure of the economic harm from congestion using (a) generator offer curves as a proxy for their marginal cost; (b) assuming competitive behaviour by generators and (c) using as a benchmark a hypothetical network with no congestion as a comparison (i.e. the first column in the table above).

Ideally, the total cost of generation would be calculated in a model which replicates as closely as possible the actual dispatch engine used by NEMMCO, the system operator. The ACCC has been working with NEMMCO to explore if it would be possible to re-run 'NEMDE' (the computer software used by NEMMCO to determine the dispatch of generators) for a hypothetical network with no network constraints. There are still a number of issues to be resolved. In the interim, the ACCC has calculated the cost of generation in a simplified model which calculates optimal dispatch on the

<sup>11</sup> ACCC, 'Draft decision: statement of principles for the regulation of transmission revenue: market impact transparency measures', 28 July 2004 at [www.accc.gov.au](http://www.accc.gov.au).

<sup>12</sup> Several submissions to the ACCC raised the question of the link between the proposed measure of service quality and the regulatory test. At the level of principle there is a very close link between a measure of the economic harm arising from congestion and the 'market benefits' calculated as part of the regulatory test. Both are calculations of exactly the same economic concept. Differences may arise in the details—in particular, the proposed measure of service quality is intended to be calculated primarily on the basis of historic market outcomes, whereas the regulatory test is inherently forward-looking, because of predicted or forecast market outcomes. Furthermore, the proposed measure of service quality is intended primarily as a short-term measure, for which demand-side response can be ignored. In the longer-term, such as for the purposes of measuring the market benefits for the regulatory test, it would be inappropriate to ignore the demand side of the market. In addition, at present the ACCC is not yet exploring the possibility of non-competitive bidding behaviour in the measure of the economic harm from congestion—yet this possibility could be (and possibly should be) taken into account in an application of the regulatory test. Despite these differences, the underlying principles of the two measures remain essentially the same.

basis of generator bids but ignores intra-regional congestion. This model is useful for obtaining a feel for the likely magnitude of inter-regional congestion in the NEM. Some of the results are summarised in box 3 on page 5.

At this stage, this exploration represents little more than a few tentative steps. There are several potential problems which may yet prove this approach unviable. It may be that it is not possible to obtain a reasonable measure of the economic harm from congestion without a number of subjective assumptions (such as assumptions regarding the cost curves of generators or of generator bidding behaviour in the presence of market power). Such assumptions reduce the objectivity and verifiability of the result.

More importantly, it may turn out that a measure of the economic cost of congestion may be very strongly affected by extraneous factors or 'noise'. It is likely, for example, that the economic cost of a given reduction in capacity will be significantly affected by a number of factors over which the transmission company has little or no influence, such as the level of demand (which depends, in turn, on the weather), the number and location of generation outages, outages on other parts of the transmission network and so on. Averaging over an extended period (such as a year) may help reduce this 'noise'—but experience shows that one or two incidents of relatively short duration (i.e. a few hours) can have a significant effect on prices and the total cost of dispatch over the course of a year. It may yet turn out that this noise reduces the usefulness of such a measure as the basis for a service quality incentive.<sup>13</sup>

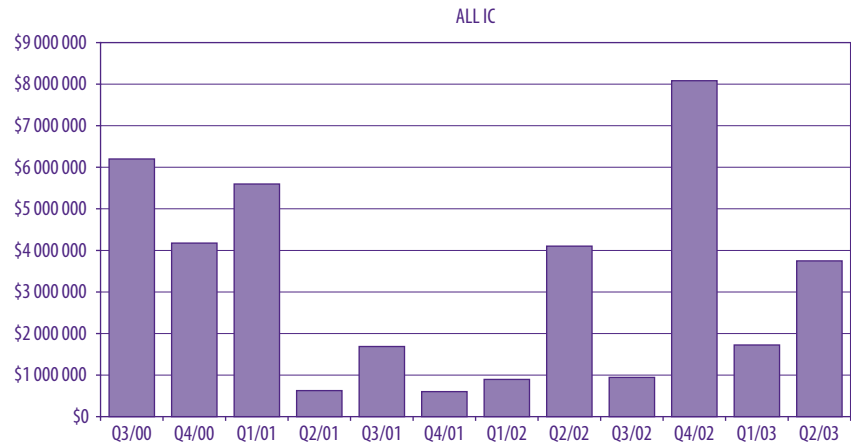
If it turns out that obtaining a measure of the economic harm from congestion proves unworkable, there are other approaches to explore—such as direct measures of the availability and capacity of transmission lines, as discussed earlier. At this stage, however, there still seems to be merit in attempting to measure the economic harm arising from congestion. The ACCC hopes to publish a final decision on its 'market impact transparency measures' in the next few months.

An effective measure of service quality would be a boon for the ACCC, and indeed, for any regulator. We expect that transmission companies will be able

<sup>13</sup> In addition, even if the total cost of congestion can be reliably calculated, there remains the question of how this measure should be used in context where there are five transmission network owners, and the actions of each may exacerbate or mitigate the harm caused by a reduction in capacity in a neighbouring network.

to improve the capacity of the existing networks somewhat without major new capital investment. In addition, an effective measure of service quality would allow the ACCC to consider using higher powered incentives to reduce overall expenditure. Measures of service quality thus yield the potential for a 'double-dividend'—higher service quality coupled with both lower opex and lower capex. But there is much work to be done before we can achieve this nirvana.

**Box 3 Summary of the estimated cost of inter-regional constraints in the NEM by quarter**



# national developments

## Telecommunications

### Digital third line force notifications

In July 2004 the ACCC decided to allow Telstra Pay TV Limited to continue to sell Foxtel and Austar's new digital pay TV services on condition that customers also acquire telecommunications services from Telstra Corporation Limited. The decision followed 2003 notifications from Telstra and Telstra Pay TV seeking immunity from prosecution under the third line forcing provisions of the *Trade Practices Act 1974*.

The ACCC had previously allowed immunity to stand in respect of similar conduct relating to Telstra Pay TV's resale of Foxtel's analogue pay TV service in 2002 and Austar's previous supply of digital services in 2003.

The ACCC's assessment involved determining whether the public benefits associated with the incorporation of pay TV services into Telstra's existing bundles of telecommunications services would outweigh any public detriments resulting from the conduct. The primary public benefits are the discounts or bonus telecommunications services Telstra will provide some consumers.

On balance, the ACCC decided that not revoking immunity in relation to the notifications would be in the public interest.

### Federal Court finds Telstra's \$0 advertising misleading

In July 2004 the Federal Court delivered its judgment on the use of \$0 mobile phone advertising by Telstra. The court held that parts of Telstra's advertising amounted to false representations and misleading and deceptive conduct in contravention of ss. 53(e) and 52 of the *Trade Practices Act 1974*.

The ACCC instituted proceedings in August 2003, alleging that certain \$0 mobile phone representations made in Telstra advertisements were misleading as customers who signed up to Telstra's '\$0 phone option' did not receive call credits available to other customers on Telstra's monthly member plans, and that customers had to commit to a longer minimum contract term involving early termination charges.

The ACCC also alleged that Telstra had engaged in misleading and deceptive conduct in relation to the use of statements that mobile phone handsets were available for '\$0 upfront' on Telstra's monthly member plans, where the cost of the phone over the minimum contract period of 18 to 24 months is paid not as part of, but in addition to, Telstra's monthly member plan requirements.

The court upheld some of the ACCC's concerns and found that the use of \$0 by Telstra was misleading in some respects as Telstra effectively charged more for \$0 phone packages than it did for other items in the package without the handset.

### Telstra cooperates with ACCC over advertising concerns

The ACCC accepted a proposal from Telstra to resolve concerns over 'T-Time Rewards Options' advertising in August 2004. The ACCC was concerned by representations made in Telstra's initial television advertisement as it believed the commercial did not disclose material conditions or contain sufficient information about the offer.

Telstra began running the commercial on 1 May 2004. The ACCC raised its concerns with Telstra two weeks later, and by 18 May 2004, Telstra responded by ceasing broadcasts of the advertisement. Telstra has also agreed to:

- run a commercial clarifying the features, terms and conditions of the offer
- contact customers who called the number in the commercial and signed up.

Telstra agreed to take these steps without admitting that its conduct was likely to mislead or deceive.



## Electricity

### ACCC proposes enhanced rules under Telstra accounting separation regime

The ACCC issued three draft enhanced record keeping rules under the accounting separation regime for Telstra in August and September 2004. The regime is intended to provide greater transparency of Telstra's operations to ensure it does not unfairly discriminate between access seekers using its network services and its own retail operations.

The first draft rule includes additional key performance indicators for Telstra's ADSL services and recurring faults for basic access services. The inclusion of ADSL performance measures is intended to provide greater transparency of the way Telstra supplies these services to its retail and wholesale customers. Reports on recurring faults are considered necessary to provide an indication of the quality of Telstra's fault rectification activities and are intended to supplement the existing metric on how long it takes Telstra to rectify reported faults.

The second draft rule specifies the requirements on Telstra to fully implement the current cost accounting framework and reflects changes to asset valuation and report preparation methodologies.

The third draft rule relates to imputation testing on retail services using Telstra's core wholesale services. Imputation testing is used to help detect an anti-competitive price squeeze in a retail market. A price squeeze could occur when Telstra reduces the margin between retail and wholesale prices to a level that inhibits competition. The draft rule updated an 'initial' rule issued last year by the ACCC.

### ACCC proposes line sharing service 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 August 2004. The recommendation was part of the ACCC's final decision to reject Telstra's LSS undertaking.

The LSS allows 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's final view was that the LSS undertaking should be rejected, largely because the proposed monthly access charge of \$15 per service is well above what would be justified by the efficient costs of supplying the service.

### ACCC issues final pricing principles for transmission capacity service

In September 2004 the ACCC issued its final report on the pricing principles to be used in assessing arbitrations and undertakings for the transmission capacity service.

Transmission capacity is a generic service than can be used to carry voice, data or other communications using wideband or broadband carriage. The minimum bandwidth in the current declaration is 2 megabits per second.

The ACCC considered industry views and decided not to vary its draft pricing principles, issued in June 2004. It considered that transmission capacity services should be based on the total services long run incremental cost of providing these services as these are the prices that would be charged if the access provider faced effective competition. This approach is consistent with pricing principles developed for a number of other declared services. It is also consistent with the ACCC pricing principles issued in 1997.

### ACCC issues ISDN and digital data access service review discussion paper

The ACCC began a public inquiry reviewing the existing ISDN and digital data access (DDAS) declarations in September 2004.

The ISDN service is used to carry information such as voice, data, high quality sound, text, still images and video over the public switched telephone network (PSTN). It is a digital communications service which uses the same copper wires used for standard telephone services. The service was declared in 1998.

The DDAS is an access service for the domestic carriage of data. The service can combine the use of a customer access line with management to ensure high quality data transmission. The service was declared in 1997.

The ISDN and DDAS service declarations expire in June 2005 and, under the Trade Practices Act, the ACCC is required to complete its review before this date. The ACCC expects to issue a draft report with its preliminary findings in early 2005.

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## Authorisations

### Amendments to NSW derogations—transmission pricing

On 18 June 2004 the ACCC received applications under s. 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.

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 implemented at the time of the ACCC's first revenue cap decisions for TransGrid and EnergyAustralia.

The ACCC has considered the minor variations and has decided, under subsection 91(2)(e) of the Act, to amend the existing authorisations of the code to encompass these minor variations. This determination was made on 4 August 2004 and expires on 31 December 2010.

### Minor variation to the authorisation of the National Electricity Code


#### Site specific loss factors

On 29 September 2004 NECA lodged an application for authorisation of National Electricity Code changes relating to site-specific loss factors for smaller generators to be treated as a minor variation.

Smaller generators are currently restricted to receiving an average loss factor. The proposed change allows generators below 10MW or 40GWhr a year capacity to receive a site-specific loss factor provided the smaller generator meets the reasonable costs of the network service provider in performing the calculation of necessary specific factors.

The change may also provide a fairer and more accurate outcome for some smaller generators, without resulting in extra costs or workload for distributors.

Based on the application from NECA, the ACCC is satisfied that the variation sought is minor, in that it does not involve a material change in the effect of the authorisation. However the ACCC has sought submissions on this issue and will revisit this finding



if there are grounds to do so. The closing date for submissions was Friday, 5 November.

## Current regulatory reviews

### Directlink's application for conversion to regulated interconnection

On 6 May 2004 the ACCC received the Directlink Joint Venturers' (DJV) application for conversion from a market network service to a prescribed service and a maximum allowable revenue (MAR) for 2005–14.

In light of the proposed augmentations in south-eastern Queensland, DJV advised the ACCC of its intention to provide a supplementary submission which takes this information into account.

On 30 August 2004 the ACCC asked the DJV to submit a complete revised application package to facilitate the assessment by the ACCC, its consultants and interested parties.

On 22 September 2004 DJV submitted a revised application for conversion from a market network service to a prescribed service and a MAR to 30 June 2015.

As part of the inquiry, a review of DJV's application of the regulatory test is required. The ACCC has engaged two separate consultancies to help consider the DJV application. The first will undertake a review to establish a suite of feasible alternatives. The second will assess the market benefits 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 and calculate the MAR.

Interested parties were invited to comment on any issues relating to Directlink's conversion to a prescribed service and the determination of an appropriate MAR for its network service by 15 October 2004. The ACCC expects to receive reports from the consultants by the end of this year and proposes to release a draft decision in the first quarter of 2005.

### SPI ring fencing waiver application

On 6 October 2004 the ACCC received a letter from SPI PowerNet Pty Ltd (SPI) applying for a waiver from the ACCC's transmission ring fencing guidelines, issued by the ACCC on 15 August 2002.

The guidelines require a transmission network service provider (TNSP) to ensure legal and operational separation of their transmission business from other related businesses (i.e. electricity generators, distributors or retail suppliers). SPI has applied for a

permanent waiver from clause 7.1 of the guidelines, which provides that a TNSP that supplies ring fenced services must not carry on a related business. SPI proposes to carry on its transmission and distribution business within a single legal entity.

Under clause 11 of the guidelines, the ACCC may, by notice to the TNSP, waive any of the TNSP's obligations under clause 7, provided that the ACCC is satisfied that the benefit, or likely benefit, to the public is outweighed by the administrative cost to the TNSP and its associates of complying with the obligation. SPI submits that the potential synergies of an integrated business will ultimately result in cost savings and benefits to consumers.

The ACCC will follow a code consultation process in accordance with clauses 6.20.2(a) and (e). The closing date for submissions was 16 November 2004.

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

The ACCC has released its revised draft statement of principles for the regulation of electricity transmission revenues (DRP). The DRP is a guide for the regulation of electricity transmission business revenues.

The review focused on improving the climate for investment through greater certainty, improving incentives for efficiency, and providing greater transparency about transmission network performance.

The ACCC has taken measures to increase certainty of investment for transmission networks through its decisions on the value of the asset base, the capital expenditure (capex) framework and weighted average cost of capital (WACC).

The DRP is part of a package which aims to improve investment outcomes in the NEM. Other elements of the package include:

- the regulatory test
- new service standards measures
- the electricity regulatory report for 2002–03

The ACCC invited interested parties to comment on the issues raised by the DRP by 22 October. It expects to issue the final statement of regulatory principles document early next year.

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

The ACCC released its service standards guidelines on 12 November 2003 and afterwards formed a working group made up of relevant industry

participants. The group will provide input for a sound and practical market based performance-incentive scheme by developing market impact measures to the service standards guidelines.

On 6 August 2004 the ACCC released its draft decision outlining market impact transparency measures. These include publishing information on the market impact of transmission constraints in the NEM. This is seen as a first step towards possibly developing an incentive regime, if it is feasible.

### Review of the regulatory test

On 11 August 2004 the ACCC finalised its review of the regulatory test, a test all transmission and distribution network investment must satisfy if it is to receive regulated status.

The amended test recognises amendments made to the National Electricity Code including replacing the distinction between inter and intra-regional augmentations with new large and small network augmentations.

The ACCC also included new definitions and amended some previous definitions in the test. The amendments 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 license obligations and economic augmentations. The regulatory test has also been reordered to aid clarity.

The most contentious issue dealt with by the ACCC related to competition benefits. The regulatory test now explicitly recognises competition benefits (i.e. benefits arising from greater competition between generators across the NEM from freer flowing interconnectors).

Frontier Economics was engaged to help consider a methodology for calculating competition benefits.

The ACCC proposes to continue its work on competition benefits after the release of its final decision; however, it does not see this affecting the definition of competition benefits.

### Electricity regulatory report for 2002–03

In August 2004, the ACCC released its first electricity regulatory report covering transmission networks in the National Electricity Market. The report reviews the performance of Powerlink (Queensland), TransGrid (New South Wales), SPI PowerNet and VENCORP (Victoria), and ElectraNet (South Australia)



for the 2002–03 reporting year. It is based on information provided to the ACCC annually under its information requirements guidelines and service standards guidelines, and presents comparative data on the financial and service performance of the networks.

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## Gas

### Authorisations

#### Allgas Energy withdraws its authorisation applications

In 1999 Allgas Energy applied to the ACCC for authorisation and interim authorisation under Part VII of the Trade Practices Act.

The applications related to contracts between Allgas and a number of potential users on the terms of supply and acquisition of gas. They also provided for Comalco's involvement in Allgas' negotiation of the terms on which it would be prepared to acquire gas from the PNG gas project.

After public consultation, the ACCC granted interim authorisation in June 1999 to Allgas.

The applications have not been progressed to a draft or final decision for a number of reasons, including delays in the PNG gas project itself.

In view of these delays the ACCC has approached the applicants about the status of the applications. After consideration, Allgas advised the ACCC that it would withdraw the applications from 30 September 2004.

Accordingly, the ACCC revoked the interim authorisation with effect from 30 September 2004.

#### Authorisation of retail market rules in SA and WA

On 20 February 2004 the Retail Energy Market Company (REMCo) applied to the ACCC for authorisation of only chapter 5 (allocation, reconciliation and swing) and chapter 6 (disputes) of its retail market rules (RMR), and associated ancillary deeds under Part VII of the Trade Practices Act.

The RMR are designed to facilitate the implementation of full retail competition in South Australia and Western Australia natural gas markets. They provide efficient arrangements for customer transfers between retailers and metering and balancing.

REMCo sought interim authorisation, which was granted by the ACCC on 19 May 2004. The ACCC issued a draft determination on 2 June 2004 proposing to grant authorisation for the RMR for a five-year period.

The ACCC issued a final determination on 28 July 2004 granting authorisation. The ACCC is satisfied that there are net public benefits from the rules which are essential for the implementation of full retail competition in gas markets in SA and WA.

The final determination came into effect on 19 August 2004 and will remain in force until 31 May 2009.

### Access arrangements

#### Revisions to the access arrangement for the GasNet system

On 24 August 2004 GasNet Australia (Operations) Pty Ltd (GasNet) submitted proposed revisions to its access arrangement and access arrangement information for the GasNet System. The system mainly transports natural gas through Victoria. The access arrangement and access arrangement information describe the terms and conditions on which GasNet makes access to its pipeline system available to third parties.

GasNet has proposed revisions to:

- its price control formula
- the structure of its refill tariff at the Iona underground storage facility
- the weather standard included in its demand forecasts for 2004 to 2007.

GasNet states that the revisions will resolve anomalies to the access arrangement as approved by the ACCC on 17 January 2003 and varied by the Australian Competition Tribunal on 23 December 2003. GasNet believes the scope of the current review should be limited to the proposed revisions.

The ACCC has received a number of submissions on the proposed revisions and after considering these it will issue its draft decision.

#### Revisions to the access arrangement for the Ballera to Wallumbilla pipeline

On 9 July 2004 Epic Energy Queensland Pty Ltd (Epic) submitted proposed revisions to its access arrangement and access arrangement information for the Ballera to Wallumbilla Pipeline (also known as the south west Queensland pipeline or SWQP). The access arrangement and access arrangement

information describe the terms and conditions on which Epic will make access to its pipeline available to third parties.

The current review relates to 'AFT services' only that is, services other than full forward haul services. A review relating to the primary reference service in the access arrangement is not scheduled until 2016 in accordance with legislative exemptions contained in the Queensland Gas Pipelines Access Law. This means the reference tariff policy for the forward haul service will not be reviewed by the ACCC at this time.

The ACCC issued its draft decision on 6 October 2004 that it proposes not to approve the revisions in their current form and proposed two amendments. It will issue its final decision after considering further submissions.

### Regulatory guidelines

On 21 May 2004 the ACCC released for comment its draft dispute resolution and regulatory reporting guidelines for gas pipeline service providers. The draft dispute resolution guideline sets out procedures the ACCC would follow in settling an access dispute. The draft regulatory reporting guidelines set out procedures for service providers to establish accounting guidelines.

On 23 September 2004 the ACCC conducted a seminar for service providers and other interested parties as part of its consultation process on the draft guidelines. The ACCC will consider further submissions before issuing the guidelines.

### Tribunal determinations

#### Moomba to Sydney pipeline system— appeal of tribunal decision to the Federal Court

On 19 December 2003 East Australian Pipeline Ltd (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 of this matter concluded on 22 April 2004 and it handed down its decision on 8 July 2004. The issues determined by the tribunal were the:

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

The tribunal decided that the value of the initial capital base should be set at the depreciated optimised replacement cost (DORC) of the pipeline.





The optimised replacement cost will include a 7.5 per cent contingency factor. This was despite submissions by both the ACCC and EAPL that the value of the ICB should not be set at DORC on this occasion.

The tribunal rejected, however, the traditional straight line approach for deriving the DORC from the optimised replacement cost (ORC) in favour of a new approach. Under this new approach DORC is the net present value (NPV) of the difference in future costs between the existing pipeline and a hypothetical new pipeline.

The tribunal did not calculate a value for DORC using this approach, but referred the matter back to the ACCC.

The tribunal decided that a benchmark credit rating of BBB, instead of the BBB+ applied by the ACCC, was the appropriate rating to use to calculate the debt margin. This will result in a small increase in EAPL's weighted average cost of capital.

The tribunal will resume its hearing of the matter on 13 December 2004 when it will consider a submission on the practical application of the NPV cost based DORC methodology to the Moomba to Sydney pipeline system.

On 4 August 2004 the ACCC lodged an application with the Federal Court of Australia seeking judicial review of the tribunal's decision on the Moomba to Sydney pipeline (MSP) access arrangement. The ACCC has subsequently been advised that the matter will now be heard by the full bench of the Federal Court.

The ACCC application is confined to the tribunal's application of the law, consideration of evidence and reasonableness of its propositions relating to the methodology to be applied when establishing the initial capital base of the pipeline under the national gas code. The matter is expected to be heard in the new year.

## Submissions to inquiries

### The Productivity Commission review of national competition policy arrangements

The ACCC provided a submission to the Productivity Commission (PC) review of national competition policy arrangements on 16 July 2004.

The submission highlights that national competition policy and other competition-based reforms have helped to improve Australia's economic performance leading to both sustained productivity and higher economic growth combined with rising living standards.

A key theme of the submission is that after a decade of reform it is now time to reinvigorate and refine the current competition framework. The reforms have exposed most sectors of the economy to the rigours of competition, but competition in some industries is held back by legislation or the structure of the industry. These barriers to competition cannot be addressed by the Trade Practices Act and require policy responses from governments.

Despite the introduction of full competition in 1997, the telecommunications sector remains highly concentrated. Further, regulations currently restrict competition within the broadcasting sector. Consideration should be given to the costs and benefits of removing these barriers to competition.

Reforms to the electricity and gas industries have introduced competition into the parts of those industries that can be opened to competition and regulation to the natural monopoly parts. However, the ACCC is concerned by recent mergers within the electricity industry and sees merit in the policy objectives of the Parer Review of national energy markets.

Finally, transport is an industry that has received significant attention over the last decade. However, these reforms have lacked an integrated and national focus. A review of the reforms from an industry-wide perspective is likely to identify inconsistent pricing of road and rail infrastructure and bottlenecks as areas that require a policy response.

A copy of the ACCC's submission can be obtained from the ACCC and Productivity Commission websites.

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## Transport and prices oversight

### Shipping

Part X of the Trade Practices Act allows exemptions from some of the prohibitions on anti-competitive conduct to international cargo shipping lines. The ACCC has an investigation function under Part X to ensure that Australian shippers have access to efficient liner shipping services at internationally competitive rates. In October 2003 the ACCC began investigating significant price increases implemented by members of the Asia Australia Discussion Agreement—a group of shipping lines operating between North East Asia and Australia. In its June 2004 report, the ACCC found that it

could not be established that the anti-competitive detriment associated with AADA's price increases outweighed any public benefit provided by the AADA's exemption from price fixing prohibitions during the period investigated. It therefore recommended that the AADA's exemption from the price fixing provisions of the Act not be revoked.

In its submission to the Productivity Commission's current review of Part X, the ACCC calls for Part X to be repealed. The authorisation provisions contained in Part VII of the Act would then apply together with transition arrangements in situations where liner shipping conferences wish to maintain their exemption from Part IV of the Act.

### Post

On 29 September 2004 the ACCC released its final decision not to oppose prices proposed for a new Australia Post service—Impact Mail—which will allow bulk quantities of irregular shaped (non-rectangular) mail to be posted.

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## National Competition Council (NCC)

There are two current applications for declaration under Part IIIA of the Trade Practices Act—for review of the minister's decision under Part IIIA of the Act by the Australian Competition Tribunal—and one for review of the minister's decision on 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 Act from Fortescue Metals Group Ltd (FMG) 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:

- the 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
- the 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.

In September 2004 the NCC published an issues paper seeking submissions on a threshold issue—whether the service to which FMG seeks access is a service for the purposes of Part IIIA. The service provider has argued that the service is part of a production process and exempt from Part IIIA of the Act.

The NCC is considering the information provided. All submissions are available on the NCC web site.

### Sydney sewerage services

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

- a service for the transmission of sewage through Sydney Water's Sydney Sewage Reticulation Network from the customer collection points to the interconnection points

- a service for the connection of new trunk main sewers owned and operated by Services Sydney to the existing Sydney Sewage Reticulation Network at the interconnection points.

The NCC published a draft recommendation in August 2004 recommending declaration of the services and seeking further submissions. Submissions close in November 2004.

Copies of the submissions and other relevant materials are available at [www.ncc.gov.au](http://www.ncc.gov.au).

### 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 not to declare certain services at Sydney airport under Part IIIA.

The decision followed the final recommendation of the NCC that the services not be declared.

The matter is listed for hearing in October 2004.

## National gas code

### Goldfield gas pipeline

In November 2003 the NCC released its final recommendation on the application from Goldfields Gas Transmission Pty Ltd (GGT) to revoke coverage of the Goldfield gas pipeline (GGP). The final recommendation is that coverage under the gas code of the GGP should not be revoked as the NCC was satisfied that all four of the criteria in section 1.9 of the code are met for the whole of the GGP.

In July 2004 the minister accepted the NCC recommendation and determined not to revoke coverage. GGT applied to the Western Australian Gas Appeals Board for a review of the minister's decision. A date for hearing the matter has not been set.

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# state developments

## Victoria

### Essential Services Commission (ESC)

#### Energy

#### 2006–10 Electricity distribution price review

In March 2004 the Essential Services Commission of Victoria (ESC) formally began establishing a new set of price controls for Victorian electricity distribution businesses for the period beginning 1 January 2006. The new controls will apply until 31 December 2010.

The review began with the release by the ESC of 'Consultation paper no. 1: framework and approach' which set out the framework and approach that the ESC would use to decide on the new price controls. Further consultation papers on the service incentive arrangements and on the future regulation of excluded service charges were released, as well as

a paper seeking comment from stakeholders on issues related to metering services.

In June 2004 the ESC released the final framework and approach papers, volumes 1 and 2. Volume 1 sets out the ESC's preferred framework and approach for deciding on the price controls and guidance to distributors on preparing their price-service proposals. Volume 2 sets out information templates that distributors were required to fill out in support of their price-service proposals. Distributors' proposals were due to be submitted to the ESC by 21 October 2004.

During the review, these proposals will be used as a basis for analysis and discussion between the ESC, distributors and other stakeholders until the draft decision is released in June 2005. Consultations will also be held with distributors and stakeholders to reach an outcome that best meets the long-term interests of Victorian electricity customers, while having regard to, among other things, the continued financial viability of the distribution businesses.

Formal consultations will commence with the distributors presenting the content of their price-service proposals to interested stakeholders at a series of public forums. All five distributors will present their price-service proposals in the ESC's Melbourne office (L2/35 Spring St) on 15 November 2004. The two regional distributors, Powercor and SPI, are also presenting their proposals at a number of regional locations within their distribution areas.

The ESC will follow these sessions with the release of an issues paper on 13 December 2004, identifying key issues for public comment arising from the ESC's preliminary analysis of the proposals. From 14–20 December 2004, the ESC will hold public information sessions on the issues paper in Melbourne and various regional centres.

Information on the progress of the review and the consultation process can be found at [www.esc.vic.gov.au](http://www.esc.vic.gov.au).



To indicate your interest in the review please contact the ESC at [edpr@esc.vic.gov.au](mailto:edpr@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 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, in accordance with guidelines to be prepared and published by the ESC. The ESC has also proposed to combine the land access guideline with a guideline accommodating contestability for transmission works. An issues paper concerning this last matter was released by the ESC on July 2003.

The ESC has been meeting with stakeholders to canvass providing a guideline in two parts and to settle the issues and approach for the combined guideline. The ESC intends to release its draft combined guideline, for comment by stakeholders, in two parts: contestability for augmentation of transmission works; and access to land held by transmission companies to augment the transmission system.

The draft guideline will be released for comment in November 2004.

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

The ESC published its Energy Retail Code in August 2004, 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. The code will take effect from 1 January 2005.

### **Retail performance monitoring and reporting**

Audits were done on all local energy retailers in 2003–04 and the results published. The ESC further audited these retailers in November 2004 on the obligations in the retail codes on disconnections and capacity to pay. Results will be published in early 2005.

The 2003 *Comparative performance report and January–June 2004 disconnections report for retailers* has been completed and published. This report provides information on all retailers selling to customers in Victoria.

In October 2004 the ESC published a comprehensive *Disconnections and capacity to pay report on energy retailers’ performance*. It presents data on gas and electricity disconnections and reconnections in the same name for the period 1985–2004, and other performance indicators since 1995, as well as describing the ESC’s auditing and performance monitoring regime. It concludes by identifying some of the limitations in the current performance data for monitoring disconnections for customers in hardship, and summarises the future work program to strengthen customer protections for customers in vulnerable circumstances.

In early 2004 the ESC also revised the 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 regarding their national implementation.

### **Price disclosure and comparison**

In September 2004 the Energy Comparator was launched. The comparator is an on-line tool allowing consumers to compare an offer made by an energy retailer against their current gas and/or electricity arrangements to help them make an informed choice about whether to pursue the offer. The comparator— modelled on ESCOSA’s Estimator—can be accessed at the ESC’s website.

The ESC is also looking at making retailers publish fact sheets with each offer. The fact sheets would be similar to those used in overseas jurisdictions and those recently implemented by ESCOSA. The ESC will make a decision on the fact sheets in early 2005.

### **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 Energy Retail Consistency (SCERC) under the auspices of the Utility Regulators’ Forum.

At its quarterly meeting in July 2004 the forum clarified the SCERC terms of reference to ensure the joint objectives of progressing national consistency in the current regulatory instruments and contributing to the Ministerial Council of Energy project on the National Framework for Electricity and Gas Distribution and Retail Regulation can be achieved. Following the October meeting, SCERC prepared a paper for the forum’s November meeting on specific tasks arising from these objectives.

### **Electricity ring fencing**

The ESC released a draft decision paper in March 2004 containing ring fencing measures it proposed to implement in the Victorian electricity industry. A draft electricity ring fencing guideline, reflecting the ESC’s draft decisions, was also attached. The ESC’s objective in developing the guideline 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 considered submissions received in response to the draft decision and draft guideline and issued its final decision proposing operational separation in October 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. The ESC released an issues paper on 14 October that seeks to draw together the outcome of those separate electricity and gas consultation processes and confirm the decisions already made, with a view to developing a single energy RoLR scheme to apply in the electricity and gas markets. In particular, the paper focuses on the development of a pricing proposal for the energy RoLR scheme. Submissions on the issues paper will be accepted until 10 December 2004.

### **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 provided RDV with advice and information on the proposed regulatory treatment of projects conducted through the program.

The ESC received applications to provide natural gas to the East Gippsland towns of Bairnsdale and Paynesville from Envestra. The government and Envestra agreed to ‘fast track’ these projects, bypassing 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 on the Paynesville proposal on 30 July 2004.



### **Interval meter rollout**

In July 2004 the ESC released its final decision on the mandatory rollout of interval meters for electricity customers in Victoria. The decision takes into account further consultation after the release of the ESC's draft decision in March 2004. It is based on ESC's 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 the introduction of interval metering. The mandatory rollout will commence in 2006, with the timetable based on customer size and meter type. For customers with the simplest meter, interval meters will be installed on a new and replacement basis.

### **Joint jurisdictional review of metrology processes**

The jurisdictional regulators have published the final report of their review of metrology procedures for the National Electricity Market (NEM) as required by the National Electricity Code.

The report makes a number of recommendations that will help meet the objective of promoting a nationally consistent approach to regulation of metering and metrology. The recommendations are expected to significantly improve national consistency of metrology regulation in the NEM, reduce its complexity and cost, and promote more effective competition in the electricity retail market.

Recommendations include that the current state-based metering and metrology instruments be replaced by a single national instrument under the code and that NEMMCO be made responsible for administering this element of the code which would retain, where necessary, specific jurisdictional policy discretions to apply during the development phase of electricity retail markets. It is also recommended that electricity distributors remain responsible for small customer metering.

The report recognises that further work and consultation is needed to draft the code changes required to give effect to the recommendations and to obtain approval for the changes. It is recommended that NEMMCO be given primary responsibility for undertaking this work and consultation.

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## **Western Australia**

### **Economic Regulation Authority (ERA)**

All ERA decisions, determinations, reports, discussion papers and public submissions are available at [www.era.wa.gov.au](http://www.era.wa.gov.au).

#### **Water**

#### ***Inquiry on urban water and wastewater pricing***

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

The inquiry is investigating 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 ERA released an issues paper in July 2004 calling for submissions from interested parties. Thirty submissions were received and have been posted on the ERA website.

A paper has been released describing the methodology the ERA will use to arrive at its pricing recommendations. The document also sets out information that Aqwest, Busselton Water and the Water Corporation are asked to provide in their pricing submissions by 26 November 2004. Members of the public and stakeholders will be invited to comment on the submissions.

A draft report will be published by 18 March 2005 and will include a further call for submissions from interested parties. The final report will be submitted by 12 August 2005 to the State Treasurer who will have 28 days to table it in each House of Parliament.

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#### ***Operational audits and asset management reviews underway or completed***

The Water Corporation recently completed its fourth operational audit. The corporation is the largest water service provider in the state with over 95 per cent of the market.

Operational audits are conducted every two years under s. 37 (1) of the *Water Services Licensing Act 1995*. They are a performance audit of the effectiveness of measures taken by the licensee to meet the licensee's quality and performance standards.

The 2004 audit scope was significantly different from previous audit scopes because it incorporated a risk management approach, which aimed to focus audit resources on risks most likely to cause problems for customers, the community and/or the state.

The audit, undertaken by Deloitte Touche Tohmatsu, concluded that the corporation was compliant with all auditable areas. This is the first time that the corporation has achieved 100 per cent compliance in the operational audit.

The Bunbury and Busselton Water Boards are now seeking quotes from possible auditors.

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#### ***Application guide for a water services operating licence***

The ERA released a guide on applying for a water services operating licence in August.

The guide is for organisations and people wanting to apply for a licence to provide a water supply, sewerage, irrigation or drainage services in Western Australia. An application form and detailed checklist of the type of information required to support the application are included.

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#### ***New draft performance reporting framework***

The Essential Services Commission in Victoria (ESC) has proposed a draft set of performance indicators (PIs) that regulators could adopt on a national level. The proposed national PIs are a subset of the ESC PIs, established in July 2004 following extensive consultation with service providers, the Water Services Association of Australia (WSSA), VicWater and various key Victorian Government Departments such as the Environment Protection Authority, the Department of Sustainability and Environment and the Department of Human Services.

The ERA will consult with Western Australian water service providers to develop a new set of PIs to move toward this national performance reporting framework. Subsequently, the ERA is in the process of establishing a project team consisting of representatives of the Department of Environment, the Department of Health and water service providers including Aqwest, Busselton Water Board and local governments. These representatives will help develop the performance indicator set for water service providers in Western Australia.

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## Gas

### ***Dampier to Bunbury natural gas pipeline (DBNGP)***

See *Network 17* for more background information.

After the regulator approved its access arrangement on 30 December 2004, several appeals were lodged with the WA Gas Review Board (GRB). The appeals hearings commenced on 11 October 2004, however, following the sale of DBNGP to a consortium including Diversified Utility and Energy Trusts, Alinta Ltd and Alcoa, the appeals by Epic energy and North West Shelf Gas Pty Ltd have been discontinued and the application for review brought by Western Power was adjourned for directions on 29 November 2004.

Epic Energy is required to lodge revisions to the approved access arrangement for the DBNGP by 1 December 2004. The ERA has received a request from DBNGP (WA) Transmission Pty Ltd, formerly Epic Energy (WA) Transmission Pty Ltd, for an extension of time to submit its revisions to the approved access arrangement until 31 January 2005 and extending the revisions commencement date to 1 September 2005. The ERA has sought public comments before deciding whether to grant the extension of time (details are on the ERA website).

### ***Goldfields gas pipeline (GGP)***

See *Network 17* for more background information.

An application by the owners of the GGP for revocation of the pipeline from the regulatory regime in March 2003 was reviewed by the National Competition Council which recommended that coverage should not be revoked. On 2 July 2004 the minister accepted the NCC recommendation and determined not to revoke coverage. The owners of the GGP have lodged an appeal against this decision and a gas review board panel has been established to hear the matter.

The ERA issued the amended draft decision for the proposed access arrangement for the GGP on 29 July 2004. The date for submissions on the amended draft decision closed on 10 September 2004, although the ERA agreed to accept a number of late submissions. The final decision is expected to be issued early in 2005.

### ***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 on 31 March 2004

with AlintaGas Networks (AGN) 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 on the paper.

On 22 June 2004 AGN responded to public submissions suggesting that the interconnection service with the Parmelia pipeline be treated as a non-reference service, rather than a reference service. The Parmelia pipeline is the smaller transmission pipeline connected to the distribution network. On 5 July 2004 the government, through the Office of Energy, made a submission in support of greater network interconnection. Epic Energy, the owner of the other transmission pipeline (DBNGP) made a submission on interconnection issues on 5 August 2004. All submissions are available at [www.era.wa.gov.au](http://www.era.wa.gov.au).

Gas full retail contestability (FRC) commenced in May 2004, with the initial retail market rules approved by the minister at that time. The access arrangement is being assessed and a draft decision is expected to be issued during December 2004.

### ***Incentive mechanisms under section 8 of the gas code***

A discussion paper prepared for the ERA by Farrant Consultancy Pty Ltd—'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. It limits its scope 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 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 were released in July and the ERA is considering a public response.

### ***Licensing—standard form contracts***

On 31 May 2004 practical full retail contestability commenced for the Western Australian gas market. Gas retail licensees can now sell gas to residential and small business customers under either standard form contracts or non-standard contracts.

Standard form contracts are designed to facilitate providing services to residential and small business customers and to ensure the rights of these customers are readily understood and protected. Proposed standard form contracts must be approved by the ERA where they comply with the Energy Coordination (Customer Contracts) Regulations 2004.

Standard form contracts have been submitted by each of the three holders of gas trading licences: AlintaGas Sales Pty Ltd, Wesfarmers Kleenheat Gas Pty Ltd and Burns and Roe Worley Power Generation (Esperance). The ERA is currently reviewing these.

### ***Licensing—performance audits and asset management plan reviews***

Under s. 11ZA of the *Energy Coordination Act 1994*, every gas trading and distribution licensee must provide the ERA with a performance audit conducted by an independent expert at least once every 24 months. In addition, s. 11Y of the *Energy Coordination Act* requires every distribution licensee to provide the ERA, at least once every 24 months, with a report on the effectiveness of its asset management system.

Existing gas trading and distribution licensees AlintaGas Sales Pty Ltd, AlintaGas Networks Pty Ltd and Wesfarmers Kleenheat Gas Pty Ltd are preparing their reports for submission to the ERA by the end of the year.

## Electricity

With the proclamation of parts of the *Electricity Industry Act 2004*, the ERA will shortly assume significant new functions for the regulation of the WA electricity industry.

The ERA will be responsible for:

- access regulation of 'covered' transmission and distribution networks in WA under the new Electricity Networks Access Code 2004
- granting, amending, administering, monitoring and enforcing licences to participate in the electricity industry. From the start of the new licensing regime, licences will be required for generation, transmission, distribution, retail and 'integrated regional' activities
- establishing and enforcing a new customer protection framework for 'small use' electricity consumers (160 MWh or less)
- monitoring the operation of the new Wholesale Electricity Market (from 2006).



It is likely that the ERA's new role in regulating access to electricity networks will begin before the end of 2004 and new licensing and customer protection functions will begin in early 2005.

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## Rail

The ERA monitors and enforces compliance by railway owners with the *Railways (Access) Act 1998* and the code. To this end the ERA has agreed with WestNet Rail (WNR) and the Public Transport Authority (PTA) on the reporting of certain general rail information and key performance indicators (KPIs) covering issues such as:

- segregation arrangements
- operational requirements
- overpayments and breaches of ceiling costs
- quality of service
- safety.

The 2003–04 financial year was the first year in which WNR has been reported to the ERA on the agreed KPIs. Agreement on KPI reporting was reached with the PTA in early 2004 and so only six months of information has been collected to date. The ERA has produced a summary of general network information and KPIs for WNR and PTA. A copy of the report is available at [www.era.wa.gov.au](http://www.era.wa.gov.au).

The 2003–04 compliance audit for WNR and PTA and overpayment audit for WNR were completed by independent auditors with no major issues found. Copies of these reports are available at [www.era.gov.au](http://www.era.gov.au)

Under the Act, a review of the code must be carried out after the third anniversary of the regime's commencement and every five years thereafter. Work is currently underway for the review and the final report is expected to be completed by September 2005.

The authority will establish a working group shortly to review methodologies for allocating common costs to rail routes. The current methodology has created anomalies on rail lines with relatively short routes that carry heavy traffic. The working group will consist of representatives from principal stakeholders. A recommendation report will be provided to the ERA's Governing Body by June 2005 on a methodology that would be equitable to the railway owner and rail network users.

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## South Australia

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

#### Energy

##### *Energy industry guidelines and codes*

ESCOSA finalised and approved the issue of two energy industry guidelines: Energy industry guideline no. 2: energy regulatory information requirements—retailers; and Energy industry guideline no. 4: compliancy systems and reporting.

Guideline 2 addresses ESCOSA's information requirements from retailers selling electricity and/or selling and supplying gas to small customers. The guideline replaces Electricity industry guideline no. 2 and applies to all reporting periods from and including September quarter 2004.

Guideline 4 outlines ESCOSA's approach to compliance systems and the reporting of compliance matters in the South Australian electricity and gas industries. It replaces Electricity industry guideline no. 4 and applies to all licensed electricity and gas entities operating in South Australia, with a start date of 30 September 2004.

##### *EnergyChoice—electricity and gas price comparison telephone service*

ESCOSA upgraded its price comparison service to include gas and dual fuel comparisons in addition to electricity comparisons. This service allows residential electricity and gas consumers to compare retail market contracts and determine which might be the best for them.

The upgraded 'Energy Choice' price comparison service started operating on 20 September 2004. It provides a comparison of the estimated annual energy cost under generally available electricity, gas and dual fuel retail contracts, based on the consumer's own historical energy use. Consumers can compare the price of retail market contracts so they can make more informed decisions about them.

##### *Monitoring the development of energy retail competition in South Australia*

ESCOSA released its final decision on monitoring the development of energy retail competition in South Australia, which set out the detailed framework for the assessment of energy retail competition in South Australia.

Seven key indicators in the energy industry will be monitored, covering aspects such as the level of retailer activity, extent of customer awareness and switching, extent and nature of offerings made by retailers and barriers to entry faced by retailers.

ESCOSA also released the *Monitoring the development of energy retail competition in South Australia—September 2004 statistical report*, which is the first that reviews the development of both the gas and electricity retail markets in South Australia.

The next report in this series is due to be released in March 2005.

#### Electricity

##### *Electricity Price Disclosure Code*

ESCOSA has released an Electricity Price Disclosure Code to help customers compare competing market offers. It was required by legislation introduced in July 2004.

##### *Review of augmentation charges*

Chapter 3 of the Electricity Distribution Code outlines procedures for establishing new connections, or modifying existing connections, that require extension and/or augmentation of the distribution network.

In December 2003 ESCOSA released a final determination following an extensive review of chapter 3. It dealt with a number of issues, including procedures to be followed by ETSA Utilities in handling connection enquiries from customers, the manner in which developments (e.g. industrial estates) would be covered under chapter 3, and issues of charging customers for network augmentation brought forward as a result of a new or upgraded connection. Amendments to chapter 3 to implement certain aspects of the final determination on the review of chapter 3 took effect on 1 February 2004.

However, the final determination did not make any specific recommendations for code changes in relation to augmentation charges. Rather, it expressed a general commitment to the continued application of augmentation charges as an expression of cost reflective pricing, and outlined a framework for the development of new augmentation charging arrangements.

ESCOSA has now prepared a draft supplementary determination outlining its conclusions on the nature of the augmentation charging regime that is proposed to take effect from 1 July 2005 and proposing further amendments to chapter 3 to implement this regime. The augmentation charging



provisions in chapter 3 will be restricted to high level matters, and it has thus been necessary to develop an associated guideline to specify more detailed arrangements with which ETSA Utilities must comply. The draft guideline also deals with the application of chapter 3 to specific types of developments.

### **Electricity distribution price review**

Following the receipt of forecast capital and operating expenditure by ETSA Utilities, ESCOSA released an issues paper to facilitate stakeholder input and highlight some of the key issues that should be considered in assessing the forecast expenditure submission. ESCOSA is now drafting its determination which is to be completed in November.

### **Demand management**

#### *Air-conditioning ownership and use survey*

As part of its consideration of demand-side issues for the Electricity distribution price review, a survey of incidence and use of air-conditioning in South Australia was conducted by ESCOSA. The survey compared the incidence, type and usage patterns of air-conditioners in the general population and low-income households. Key findings were that: air-conditioning penetration for both groups in South Australia is about 90 per cent; there are many similarities in the air-conditioning usage patterns of the general population and low-income households; and low-income households tend to have older air-conditioning units and were identified as having more specific cooling needs due to age, disability, illness or other reasons.

#### *Demand management and interval metering*

ESCOSA released a draft decision paper outlining proposals to make provision for demand management initiatives in the 2005–10 electricity distribution price determination for ETSA Utilities. The draft decision drew conclusions about the types of demand management initiatives to be funded in the regulatory period and made recommendations about the way these initiatives should be implemented. It also discussed other strategies ESCOSA might adopt to facilitate the introduction of demand management programs within the distribution sector.

The provision will require ETSA Utilities to implement certain demand management strategies during the 2005–10 regulatory period with a view to reducing peak demand on its distribution network, which will defer the need for, and costs of, upgrades to the network.

One of the inputs into ESCOSA's draft decision was a report prepared by independent experts Charles River Associates (Asia Pacific) Pty Ltd assessing various demand management and interval metering options for ETSA Utilities' distribution network.

Funding associated with the demand management initiatives will be incorporated into ESCOSA's November 2004 draft determination concerning revenue requirements for ETSA Utilities in the next regulatory period.

### **Inquiry into retail electricity price path**

Under Part 7 of the *Essential Services Commission Act 2002*, the Minister for Energy issued a notice of inquiry to ESCOSA on 26 May 2004. The inquiry relates to the assessment of AGL's standing contract prices for a period no shorter than three years.

On 25 June 2004 ESCOSA released an issues paper relating to the inquiry. Section 6.1 of the paper sets out the information AGL SA was required to provide to ESCOSA. On 20 August 2004 AGL SA submitted its proposal and its justification for the standing contract prices for January 2005–June 2008.

ESCOSA released a discussion paper in early September, together with studies commissioned from the Electricity Supply Industry Planning Council (ESIPC) and the Allen Consulting Group, as part of the inquiry process.

The studies:

- assessed the long run marginal cost of electricity supply to AGL SA's standing contract customers
- assessed AGL SA's existing contracts for the review period and modelled the prudent costs of purchasing the unhedged proportion of the small customer load for which AGL SA has legal responsibility for the review period (2005–08).

Submissions were invited from stakeholders and interested parties by 15 October 2004 on matters addressed in AGL SA's three-year retail electricity price path proposal and the discussion paper. Parties will present their submissions on the paper to ESCOSA at a public hearing on 20 October 2004.

### **Electricity compliance audit framework**

ESCOSA has released a final decision paper—'Electricity compliance audit framework'—relating to the implementation of a compliance audit framework in the electricity sector that complements the existing compliance reporting framework established by the Energy industry guideline no. 4—'compliance systems and reporting'.

### **Kangaroo Island electricity reliability service standards**

In July ESCOSA made a final determination about the reliability of electricity supply to Kangaroo Island. ESCOSA determined that a best endeavours SAIDI (System Average Interruption Duration Index) standard of 450 minutes per annum should apply for the Kangaroo Island network. This amendment places an obligation on ETSA Utilities to initiate measures designed to meet such a standard.

The amendments became effective on 1 August 2004 and compliance with the new reliability standard will be required by July 2005.

#### *Pass through for Kangaroo Island back up generation system*

On 20 August 2004 ESCOSA received an application from ETSA Utilities for a pass through under the electricity pricing order of certain costs associated with implementing its preferred option to meet a new reliability standard set by ESCOSA in the Electricity Distribution Code for the Kangaroo Island distribution network.

ESCOSA received a number of submissions on this matter urging ESCOSA to ensure that any future electricity generation system for Kangaroo Island is based, at least in part, on renewable energy (e.g. wind or biomass).

ESCOSA therefore determined that it would not seek to enforce compliance by ETSA Utilities with the reliability standard for Kangaroo Island until 1 January 2006, to provide time for further evaluation of renewable options.

### **Licensing**

#### *Electricity generation licence application: Pacific Hydro Clements Gap Pty Ltd (PHCG)*

ESCOSA received an application from PHCG for the issue of a electricity generation licence for the Clements Gap wind farm, which has a total installed capacity of approximately 57.8MW. The farm would be located on a 10km stretch of the Barunga Ranges in the Port Pirie region, some 15km north-west of Redhill and 15km south-west of Crystal Brook. It would be connected to a substation which in turn is connected to ElectraNet's 132kV transmission line that runs from Port Pirie to Hummocks. The applicant is a wholly owned subsidiary of Energy Pacific (Vic) Pty Ltd, which in turn is a wholly owned subsidiary of Pacific Hydro Limited.



*Electricity generation and retail licences application: SF Energy Services Pty Ltd (SFES)*

In February 2004 ESCOSA received an application from SFES for the issue of retail and generation licences, pursuant to Part 3 of the *Electricity Act 1996*, in relation to the operation of a cogeneration plant by SFES at the Snuggery site of Southern Food Group (SFG) and the sale of a portion of the electrical output of that plant to SFG.

Following an initial review of the application, ESCOSA believed it more appropriate to consider the merits of exempting SFES, under s.80 of the Act, from the licensing requirements of the Act. Such an exemption would be subject to ministerial approval and certain conditions.

ESCOSA issued a discussion paper setting out the reasons for exempting SFES from the licensing requirements of the Act. This was finalised in October.

*Issue of electricity generation licence to Mt Millar Wind Farm*

On 23 September 2004 ESCOSA issued an electricity licence to Mt Millar Wind Farm Pty Ltd (ACN 107 673 361) to generate electricity in South Australia. The entity will operate a wind farm with a capacity of 60MW, situated at Mangalo, approximately 20 kms west of Cowell on the Eyre Peninsula. The wind farm will be connected by a dedicated 132kV transmission line to the ElectraNet substation at Yadrarie. Mt Millar Wind Farm Pty Ltd is a subsidiary of Tarong Energy, a Queensland Government owned corporation established in 1997 that already holds a generation licence authorising operations for the Starfish Hill wind farm near Cape Jervis.

*Transmission licence application withdrawn*

Transgrid, the NSW Government owned electricity transmission business, advised ESCOSA that it wished to withdraw its application to hold a transmission licence in South Australia for the SNI Project. SNI was the name of the South Australia–New South Wales interconnector project between Robertstown in South Australia and Buronga in NSW.

Transgrid has advised ESCOSA:

Following recent developments in the National Electricity Market, Transgrid has reviewed its options in relation to its SNI Project and has decided not to proceed ... Transgrid has no objection to ElectraNet SA proceeding with a new Development Application for the Robertstown–Monash 275kV transmission line.

**Gas**

***Gas retail market administrator (REMCo): final price determination***

ESCOSA released a final price determination for REMCo operating as a gas retail market administrator in South Australia. This included the form of regulation that will apply to REMCo and the maximum prices that REMCo can charge market participants to recover its costs.

***Change in gas access arrangement revision submission date***

On 24 February 2004 Envestra wrote to ESCOSA seeking to amend its access arrangement. The amendment was to change the date for submitting to ESCOSA revisions on its access arrangement from 1 January 2005 to 1 October 2005. ESCOSA has accepted this request for extension, subject to certain conditions.

Envestra accepted ESCOSA's conditions for extension of the revisions submission date in a letter dated 11 March 2004. ESCOSA later requested that Envestra revise its access arrangement to reflect these changes.

***Gas access arrangement review: information paper***

ESCOSA has released an information paper canvassing the legal framework facing ESCOSA for its review of Envestra's access arrangement as well as the key issues to be addressed and the main phases of work to be undertaken. This is the first in a series of papers to be released by ESCOSA for the gas access arrangement review. ESCOSA plans to release the issues paper in December 2004.

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

ESCOCA has issued gas industry guideline no.1— 'Gas regulatory information requirements— distribution system'. It addresses ESCOSA's information requirements for distributors holding a licence under the *Gas Act 1997* to operate a distribution system and covers both operational (non-financial) and financial information requirements.

**Rail**

***Tarcoola–Darwin Railway DORC valuation***

A DORC (depreciated optimised replacement cost) valuation of the Tarcoola–Darwin railway is required for regulatory purposes under the AustralAsia Railway (Third Party Access) Code, and as set out by ESCOSA in its Rail industry (Tarcoola–Darwin) guideline no. 2.

In practice there is a requirement for two DORCs— one for ceiling price purposes (to include government contributed assets and financial assistance)— and one for determining arbitrated prices where no sustainable competitive price exists (to include capital invested by the access provider, but excluding government contributed assets and financial assistance).

The railway operator, Asia Pacific Transport (APT) has submitted a draft DORC valuation to ESCOSA for consideration. The estimated ceiling DORC is \$1,885 million, and the estimated arbitration DORC is \$862.9 million.

ESCOCA considered the draft valuation and has determined some amendments will be required for it to accept the valuation for regulatory purposes.

ESCOSA invited comment from interested parties on these amendments by 11 August 2004. Following this date, ESCOSA wrote to APT to advise it of its final requirements for the DORC valuation for regulatory purposes.

***Darwin–Tarcoola Railway annual report 2003–04***

Clause 7 of the AustralAsia Railway (Third Party Access) Code requires ESCOSA, on or before 30 September each year, to forward to the responsible South Australian and Northern Territory ministers a report of the work carried out under the code during the preceding financial year. ESCOSA has prepared and submitted the annual report as required.

***Intrastate Rail annual report 2003–04***

Section 9(4) of the *Railways (Operations & Access) Act 1997* establishes a similar obligation for the South Australian (Intra-State) Rail Access Regime. ESCOSA has prepared and submitted this annual report as required.

**Water**

***Inquiry into wastewater pricing processes***

Under s.35(1) of the *Essential Services Commission Act, 2002*, the Treasurer referred an inquiry into wastewater pricing processes to ESCOSA. Under the terms of reference ESCOSA is required to provide a final report to the Treasurer and to the Minister for Administrative Services by 14 October 2004.

ESCOSA published a notice of inquiry in the Advertiser on Friday 27 August 2004 and an issues paper was made available on the ESCOSA website shortly thereafter. Written submissions were sought on the issues paper by Friday 10 September 2004.



## General

ESCOSA's 2003–04 annual report has been submitted to the minister.

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## New South Wales

### Independent Pricing and Regulatory Tribunal (IPART)

#### Electricity

##### *2004 review of distribution network prices*

IPART's review of electricity distribution network pricing to apply from 2004–05 to 2008–09 was completed in June 2004, and came into effect on 1 July 2004. IPART is currently undertaking work to implement the determination and to verify compliance. Current areas of work include:

- demand management—IPART has set up a Demand Management Consultation Group with stakeholders, which is currently working to produce a set of guidelines aimed at increasing understanding of the tribunal's determination on demand management. The guidelines will provide assistance with the calculation of inputs to the tribunal's 'D-Factor' (demand management incentive mechanism)—including calculation of avoided distribution costs and foregone revenue. The group is also examining DNSP network planning processes (in relation to demand management), and will consider potential methods for assessing the value of loss management investments
- network strategy statements and excluded services information provision—the determination requires DNSPs to publish Network Strategy Statements, setting out how they expect prices, demand, costs and service quality to change over the coming regulatory period, and explaining how they plan to address issues such as network constraints. DNSPs are also required to publish information setting out their charges for excluded services. The tribunal is currently reviewing these submissions for compliance with the determination
- ring fencing waiver applications—three of the NSW DNSPs (EnergyAustralia, Country Energy and Integral Energy), have submitted applications for a waiver to certain clauses of the tribunal's ring fencing guidelines—the tribunal is currently considering these applications.

##### *2004 review of regulated retail tariffs*

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

IPART released an issues paper on 3 October 2003. Public submissions were due on 2 February 2004. IPART released a final report on 11 June. It is available at [www.ipart.nsw.gov.au](http://www.ipart.nsw.gov.au).

#### Gas

##### *2004 review of retail voluntary pricing principles*

IPART has commenced 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. IPART has agreed voluntary pricing transitional arrangements (VPTAs) with AGLRE, ActewAGL, Origin Energy and Country Energy covering their default customers. A copy of the VPTAs is available on IPART's website. Public forums on demand and total costs have been held. A draft report is scheduled for release in November/December 2004.

##### *2004 review of access arrangements*

The next review of the access arrangement of AGL Gas networks (AGLGN) will occur in 2004. AGLGN lodged their reviews just before Christmas 2003. AGLGN made a public presentation on their proposal on 19 February 2004. A copy of the slides is at [www.ipart.nsw.gov.au](http://www.ipart.nsw.gov.au).

The next review of the access arrangement of Country Energy Gas (CEG) will also occur in 2004. Country Energy's proposed revised access arrangement is also on the IPART website. Public forums on demand and total costs have been held and a draft report is scheduled for release in November/December 2004.

#### Transport

IPART is currently assessing 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. Both reviews are required by the NSW rail access undertaking (formerly regime).

IPART is currently reviewing 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 for ferries (including recommendations for private ferry fares to the minister) and 1 January 2005 for buses (including recommendations for private bus fares to the minister).

IPART has a five-year standing reference to recommend fare changes for private transport operators. It has reviewed fares in the taxi industry and submitted its report, with fare recommendations, to the minister on 10 June 2004.

#### Water pricing

##### *Metropolitan water*

On 30 July 2004 IPART released its report into the use of pricing structures to reduce demand for water in the Sydney Basin. This investigation considered a range of issues, such as:

- the use of a step in the wholesale water price paid by Sydney Water Corporation to Sydney Catchment Authority for extractions above the estimated sustainable yield
- the establishment of pricing principles and a framework that might be adopted for moving from current retail tariff structures to alternative tariff structures, including inclining block tariffs
- the affordability and equity impacts of alternative pricing structures including inclining block tariffs.

IPART has begun its review of prices charged by Sydney Water, Sydney Catchment Authority, Hunter Water, Gosford Council and Wyong Council. For each agency, it will set the maximum prices to apply from 1 July 2005 for water, wastewater and stormwater services, taking into account costs the agency will incur to provide appropriate levels of service. IPART has released an issues paper calling for submissions to the review. Submissions from the general public are due on 10 December 2004. Public hearings will be held in February and March 2005.

##### *Bulk water*

IPART has begun a review of the charges to apply from 1 July 2005 for the extraction of bulk water by farmers, industrial users and town water suppliers from water sources managed by DIPNR (under the Water Administration Ministerial Corporation) and State Water.

It released an issues paper for this review on 17 September 2004. Public submissions are due by 17 December 2004, and a public workshop will be held in March 2005.

## Water licensing

### Metropolitan water

IPART is currently reviewing the operating licences for Sydney Water Corporation and Sydney Catchment Authority. The current licences will expire on 31 December 2004. IPART is required to review these licences and recommend to the ministers responsible the terms of new operating licences.

An issues paper on the licences was released in October 2003 and a second paper on the water supply and the demand balance was released in January 2004.

IPART has received a submission from SCA and was expecting a submission from Sydney Water by the end of October 2004. Public submissions to the reviews were due by 15 November. A public workshop will be held on 16 December in Sydney.

### Bulk water

IPART has begun a review to recommend terms and conditions for inclusion in State Water's Initial (3-year) Operating Licence, which will take effect from 1 July 2005. (State Water currently has an interim licence). Key issues to be considered include appropriate system performance standards and indicators for State Water, and other requirements relating to customer service, community engagement and environment protection.

IPART released an issues paper for this review in early September. State Water's submissions were due on 15 October 2004 and public submissions by 12 November 2004. A public workshop is scheduled to be held in Sydney on 10 December 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 115 abatement certificate providers, which have collectively registered over 8.2 million abatement certificates.

Details of accredited abatement certificate providers and the certificates they have registered are available at [www.ggas-registry.nsw.gov.au](http://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](http://www.greenhousegas.nsw.gov.au). IPART has published a

number of case studies of successful applications. These explain how each applicant was accredited, the costs of auditing their application and the ongoing conditions of accreditation to which they are subject.

In June 2004 IPART reported to the Minister for Energy on benchmark participants' compliance with their 2003 greenhouse gas benchmarks and on the overall performance of the scheme. There were 31 benchmark participants in 2003 (22 of these were compulsory participants). All electricity retailers and other benchmark participants have reduced their emissions to their benchmark levels or have carried forward a small shortfall, within the permitted 10 per cent buffer. For the 2003 compliance year, benchmark participants have surrendered 1 167 392 certificates. No benchmark participant incurred a penalty. IPART accredited 113 projects that were eligible to create certificates for abatement activity in 2003. A total of 6 662 994 abatement certificates have been registered as a result of abatement activity in 2003. As a result there has been a surplus of certificates created to those needed to meet the obligations of the participants for compliance in 2003. However, abatement certificates are bankable enabling those registered early in the scheme to be used for compliance in future years. The number of certificates required for participants to meet the benchmark levels in future years will be significantly higher. This should provide an incentive for the development of more abatement projects in both the short and medium term.

## 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.
- The tribunal's report *Gambling: promoting a culture of responsibility*, released in July 2004.
- A review into the Infrastructure Services Strategy for the Perisher Range Resorts, including developing pricing principles and recommending prices and charges. An issues paper and call for submissions was released on 13 September 2004, with submissions due on 25 October 2004. The report is expected to be finalised by March 2005.
- A review of rentals for Crown Land Communication Tower Sites. An issues paper was released on 27 September 2004 with submissions due on 5 November 2004. The report is due in February 2005.

- A review into competitive neutrality complaints against the State Valuation Office. The final investigation report was released on 8 October 2004.

## Tasmania

### Office of the Tasmanian Energy Regulator (OTTER)

#### Gas and electricity licences

In July 2004 the Regulator varied the gas distribution network construction licence of Powerco Tasmania Pty Ltd to include additional networks to service residential and smaller commercial customers in Longford.

Powerco Tasmania Pty Ltd also made applications for variation of the stage 1 construction licence for the proposed construction of additional distribution networks at Wynyard, Burnie and Devonport and in the greater Hobart and Launceston areas to service smaller business and residential customers.

In August 2004 the Regulator varied the distribution network operations licence of Powerco Tasmania Pty Ltd to remove the requirement for the licensee to provide the Regulator with 'as constructed' information before the introduction of gas into the system. The licence now provides that the licensee may operate any systems constructed in accordance with a construction licence and in relation to which the Director of Gas Safety has given permission for the introduction of gas.

In September 2004 Marshall Resources International Pty Ltd applied for an electricity generation licence for a facility comprising two 0.6 MW hydro-electric turbines and three 1.1 MW wind-powered turbines at Cumberland Lake in the vicinity of Trial Harbour.

In anticipation of Tasmania's entry into the National Electricity Market, the Regulator is undertaking a review of licences issued under the *Electricity Supply Industry Act 1995*. An issues paper incorporating proposed licence documents will shortly be circulated for public comment.

#### Reliability and Network Planning Panel (RNPP) update

#### Frequency operating standards and capacity reserve standards

The RNPP is required to determine and annually review, on the advice of the system controller, the 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 capacity reserves, 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 the light of experience and forthcoming entry into the National Electricity Market (NEM).

In its consultation paper, the RNPP had proposed that the current frequency operating standards were appropriate and standards for islanded subsystems were not necessary. NEMMCO submitted that the RNPP should determine standards for electrical islands within the Tasmanian power system.

The RNPP accepted NEMMCO's position and decided to set standards for islanding. Accordingly, the RNPP published a draft determination taking islanding into account and sought comments on a draft determination. The RNPP intends to consider any submissions at its November meeting and finalise the review before the end of November 2004.

### **Transmission network security and planning criteria**

The regulator issued terms of reference to the RNPP to make recommendations on network security and planning criteria for the Tasmanian power system. The RNPP is currently developing a position paper and expects to start consultation before the end of 2004.

### **2004 reliability review**

The RNPP has commenced its 2004 review of the reliability of the Tasmanian power system in accordance with the terms of reference issued by the Regulator. An issues paper will be published shortly seeking comments from code participants and interested parties. A workshop is planned for the second week of December to discuss issues pertinent to the review. The RNPP expects to publish a draft report in January 2005 giving interested parties opportunity to comment on its findings. A hearing is scheduled for March 2005 with the final report expected to be published before the end of April 2005.

### **Recommended capital projects**

Transend Networks Pty Ltd submitted a proposal to the RNPP for the installation and commissioning of one 30 MVAR capacitor bank on the 110kV side at the New Norfolk Substation at a total cost of \$1.8 million. In July 2004, the RNPP recommended this network augmentation to the Regulator.

### **Aurora Pay As You Go (APAYG) review**

The Regulator released an issues paper in July 2004 for the review of APAYG, calling for public submissions. Nine submissions were received and all were supportive of APAYG as a retail product providing that current customer protections were maintained and reinforced through regulations or guidelines. The key issues raised in submissions were:

- evidence that APAYG is a good tool for maintaining control of electricity budgeting
- a need to increase the number of point of sale agents in the state
- the difficulty in comparing costs under standard tariffs and APAYG
- the limited payment options available
- the three-month reversion period being insufficient for customers to fully assess the impact of APAYG
- disconnection times not providing as much protection as those for standard tariff customers.

The Electricity Ombudsman also commented on the relatively low number of complaints regarding the product, with no systemic issues raised to date.

The Regulator also requested a submission from the government and a response from Aurora to matters raised in the submissions. These will be considered prior to publication of the final report on future regulation of APAYG.

The issues paper, Aurora's initial submission and the submissions received in response to the issues paper are available at [www.energyregulator.tas.gov.au](http://www.energyregulator.tas.gov.au).

### **Functional ring fencing**

In anticipation of the National Electricity Law applying in Tasmania, s. 6(5) of the *Electricity Supply Industry Act 1995* allows the Regulator (before that law applies in Tasmania) to do anything necessary or expedient to give full effect to the National Electricity Code (NEC) in Tasmania after the National Electricity Law is applied there.

The Regulator issued a discussion paper and draft functional ring fencing guideline for comment in July 2004. After considering submissions, the Regulator issued his decision and guideline under part G of chapter 6 of the NEC on October 2004.

This guideline will apply to Aurora Energy Pty Ltd as the only supplier of electricity distribution services in Tasmania. The operation date for the guideline has been set for 29 May 2005 to coincide with the date of Tasmania's entry to the NEM.

Aurora Energy also undertakes a number of contestable or potentially contestable activities in the electricity supply industry, for example, the provision of network construction, maintenance and repair services and metering services. Further, other retailers will participate in the Tasmanian market as competition in retail supply is progressively introduced.

The objective of ring fencing is to promote competition in the industry and to protect the interests of consumers of electricity. Because of its role in providing regulated distribution services Aurora may be in a position to gain an advantage in providing contestable services. The guideline provides a mechanism to prevent this by ensuring operational separation of the regulated distribution services from the contestable electrical services provided by Aurora or by related businesses. Contestable electrical services undertaken within Aurora, include:

- electricity retail services and related contestable activities
- network extensions and augmentations and related contestable activities.

Contestable electrical services are also undertaken by businesses related to Aurora.

In summary the guideline will require the distributor:

- to disclose to the regulator all related businesses and the ultimate owners, and any directors, other officers and senior executives of those related businesses
- to provide information and access to services to all businesses and all customers on a non-discriminatory basis
- not to allow access by staff engaged in the provision of contestable electrical services to information that would provide a competitive advantage to one business over another
- to ensure that staff providing the regulated distribution services are not employed in other parts of the business, or in a related business that provides contestable electrical services
- to ensure that there is physical separation between the staff providing the regulated distribution services and those providing contestable electrical services
- in communicating with customers, do everything necessary to minimise any confusion as to which part of the business the customer is dealing with, including communication via websites
- to ensure that when it engages another person or body to provide services it would otherwise

provide, it retains its obligations to comply with these guidelines and that the other person or body also observes the guideline.

Aurora, as a distributor, will be able to apply for a waiver of any of the provisions in the guideline if it can demonstrate that the costs of implementing the provision outweigh the benefits or potential benefits to the customer. However, the onus of proof will rest with Aurora to make the case.

The guideline does not provide for any specific compliance requirements, rather compliance will be monitored through existing compliance mechanisms defined in Aurora's distribution licence and the Tasmanian Electricity Code. The Regulator will also monitor complaints made to Aurora and the Electricity Ombudsman and may investigate if he believes the complaint may be justified.

The Regulator's decision and submissions received in response to the discussion paper and draft guideline are available at [www.energyregulator.tas.gov.au](http://www.energyregulator.tas.gov.au).

### Review of the Tasmanian Electricity Code

On 3 September 2004 the minister notified the Regulator that he had amended the Tasmanian Electricity Code (code) in accordance with s. 49B(4) of the *Electricity Supply Industry Act 1995*.

The effective date for the amendment is 29 May 2005, the date that Tasmania is scheduled to join the National Electricity Market (NEM). The amendment ensures that, on NEM entry, the code will be consistent with the National Electricity Code (NEC).

These amendments, although largely procedural, can be summarised as follows:

- deletion of chapters and sections detailing arrangements for scheduling and dispatch of generation, power system security, network security, transmission and distribution network pricing, non-retail metering, generation pricing and ringfencing (these will be covered entirely by the NEC)
- removal of references to the system controller and the ACCC
- revision of the role of the reliability and Network Planning Panel, providing for a base set of responsibilities that are considered necessary for the continued monitoring of the performance of the Tasmanian electricity supply industry.

This leaves substantial Tasmanian content in the code, including such matters as vegetation management, commercial protection for franchise customers, distribution operations, and retail metering for non-contestable customers.

In anticipation of the NEC being applied in Tasmania, a further review of the code is being undertaken to ensure it deals appropriately with these remaining jurisdictional matters in the context of being a participating NEM jurisdiction. This review will bring the code up-to-date with current electricity supply industry and regulatory 'best practice', and build on experience with administration of the code over some years. The changes aim to deal only with those issues necessary for Tasmania to manage consistency between the NEC and the code.

This major code review was initiated by a submission from the Regulator to the Code Change Panel containing a substantial number of changes to the code. The panel has sought submissions from the public. Its recommendations on the changes will be made to the Regulator in November. Full details of the proposed changes and the submissions are available at [www.energyregulator.tas.gov.au](http://www.energyregulator.tas.gov.au).

### Government Prices Oversight Commission

#### Urban water and wastewater

On 14 October 2004 the minister issued terms of reference directing the Government Prices Oversight Commission (GPOC) to review compliance by councils with the urban water pricing guidelines.

GPOC will be required to look at whether councils are meeting requirements for cost recovery for their water and wastewater businesses. GPOC is also required to consider a number of other issues such as asset valuations, cost of asset consumption, cross subsidies, community service obligations, own-use transfers and, where relevant, the appropriateness of two-part pricing structures.

GPOC is required to submit a review report to the government by 1 February 2005.

#### Bulk water pricing policies investigation

The government has accepted the recommendations of GPOC's final report on the review of the pricing policies of the three bulk water authorities, Hobart Regional Water Authority, Cradle Coast Water and Esk Water Authority.

The report sets out, among other things, recommendations on appropriate maximum prices to be charged by the three authorities for the next regulatory period.

The recommendations include pricing policies on maximum volumetric rates and the allocation of fixed costs to customers. The report also details

progress made in implementing previous recommendations and management of demand initiatives.

Endorsing GPOC's recommendations on maximum prices, the minister issued a determination in September 2004 setting the maximum volumetric prices and maximum allowable revenues that may be charged by the three authorities for the next three years until 2006–07.

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

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## Queensland

### Queensland Competition Authority (QCA)

#### Electricity

The QCA has taken action on the key issues of asset valuation, capital and operating expenditure forecasts and demand growth forecasts for the next regulatory determination commencing 1 July 2005.


In July 2004 the QCA released a draft report on forecast demand for regulated distribution services provided by both Queensland distributors over a five-year period commencing 1 July 2005. The QCA received five submissions on the draft report, which were considered by the consultant in preparing its final report.

Other consultants' reports, to be finalised soon will be critical for the QCA's 2005 draft determination on the regulation of electricity distribution in Queensland, which is expected to be released around November/December 2004.

In September 2004 the QCA appointed a consultant to advise on the electricity specific cost of capital issues that will be required in setting the arrangements for the next regulatory period.

The QCA also released an amended version of its regulatory accounting and information guidelines for use by the distributors in constructing their 2003–04 regulatory accounting statements. The QCA approved the distributors' 2003–04 cost allocation guidelines, which set out the required method of cost allocation to be used in constructing the 2003–04 regulatory accounting statements.

The distributors' March quarter 2004 service quality reports, along with an overview from the QCA, were posted on the QCA's website in August 2004.



These revealed some weaknesses in the current reporting regime, particularly in reporting complaints and call centre performance. The QCA is currently considering possible amendments to the service quality reporting guidelines to address these issues.

The QCA has been participating with other jurisdictional regulators in the joint review of metrology procedures that have been implemented in each jurisdiction, as required under the National Electricity Code. A final report on this matter was issued in early October 2004.

The independent panel appointed by the Queensland Government to review electricity distribution and service delivery into the 21st century released its report, including 44 recommendations, in late July 2004. The government released its *Action Plan for Queensland Electricity Distribution* on 24 August 2004. The plan contains responses and responsibilities regarding the 44 recommendations made by the panel. The QCA has direct responsibility for considering the recommendations relating to the implementation of a service quality incentive scheme into the regulatory arrangements commencing on 1 July 2005. It is also responsible for applying a statistically-based normalisation approach for service quality reliability measures. Work on both recommendations commenced in September 2004.

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## Gas

The QCA released an issues paper on efficiency carryover mechanisms in September 2004. As a number of the QCA's determinations are currently due for review or due to be reviewed in the near future, one element to be considered in these reviews is whether any efficiency gains (or losses) have been achieved during the current regulatory period and whether any such gains (or losses) should be retained by the regulated business beyond the current regulatory period or passed on to consumers. Comments were sought on the paper by 22 October 2004.

The QCA has approved some relatively minor amendments to the general accounting guidelines for use by Queensland gas distribution network service providers in preparing their 2003–04 regulatory accounting statements. The revised guidelines can be downloaded from [www.qca.org.au](http://www.qca.org.au).

The QCA also approved the service providers' 2003–04 cost allocation guidelines at its September meeting. Unless otherwise approved by the QCA, service providers are required to allocate costs in

accordance with approved guidelines in preparing their regulatory accounting statements.

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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 undertake an investigation of 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. Issues raised for comment included the impact of the revised safe yield of Awoonga Dam and changes in demand projections following the recent drought.

A number of submissions were received from interested parties and are being considered by the QCA in the draft report expected to be released in December 2004. The key issues raised related to the form of regulation (price cap vs revenue cap) and the estimation of the equity beta.

A copy of the paper is available from the QCA or can be downloaded from the QCA's website at [www.qca.org.au](http://www.qca.org.au). Submissions received in response to the paper can also be viewed on the QCA's website.

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 (GAWB).

After reviewing submissions received in response to the draft report, 'General pricing principles for infrastructure investments made in response to extraordinary circumstances', released in March 2004, the QCA provided a final report to ministers in June 2004. Key issues included appropriate governance arrangements, approaches to regulation and implications for the asset base, return on capital and other elements of pricing.

A copy of the draft report is available from the QCA or can be downloaded from the QCA's website at [www.qca.org.au](http://www.qca.org.au).

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## Local government

On 9 August 2004 the QCA commenced a review of recent progress in implementing competition reforms by Queensland's 125 councils on 731 nominated business activities and 110 COAG water activities. This review covers competition reforms implemented to 30 June 2004. The review also covers COAG water reforms implemented to 30 September 2004 by 30 councils granted a time extension by the Minister for Local Government, Planning, Sport and Recreation.

A report will be submitted to the ministers by 28 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 to the QCA. 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 investigating, in accordance with Part 6 of the QCA Act, the draft access undertaking. The QCA released a request for comments paper and stakeholder submissions have been received. A right of reply has been offered to all parties to comment on other parties' submissions. Final submissions were due by 12 November 2004.

### *Amendment to costing manual*

QR's costing manual sets out the accounting policies and procedures in which QR is to identify its below rail financial information. The costing manual also sets out how QR will meet its obligations to publish audited financial statements for QR's below rail infrastructure. On 8 June 2004 the QCA received a request from QR to amend the percentage used to allocate a share of below rail network-wide costs to the central Queensland coal region. The QCA approved QR's amended costing manual on 9 September 2004 on the basis that the revised

allocator was calculated in accordance with the principles in the costing manual, and reflected the most recent financial data.

### **Ring fencing audit**

On 14 October 2004 the QCA released an external audit report on QR's management of confidential information and complaints handling arrangements for 2003–04. The audit sought to determine whether there have been any breaches of QR's obligations, including not disclosing confidential information held by Network Access to other QR business groups, and the nature and type of breaches, if any. Key areas assessed in the audit related to existing practices for transferring information, debriefing of staff transferring out of Network Access (and between business groups), and the overall awareness and commitment of QR staff to its ring fencing obligations. The major finding of the audit was that QR had complied with all material aspects of its confidential information and complaints handling arrangement obligations.

### **Moura volume review**

In September 2004 QR submitted to the QCA a request to reduce the Moura coal train reference tariff, because of a sustainable increase in volumes in the previous quarters. The QCA sought advice from Anglo Coal, the owner of the Moura mines, on likely future coal volumes. On 14 October 2004 the QCA approved QR's proposed tariff revision on the basis that it was consistent with the price review provisions of the undertaking.

### **Access dispute**

On 1 October 2004 the QCA received access dispute notices from Pacific National Pty Limited in relation to certain infrastructure, largely loading and unloading facilities, along the north coast line.

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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 investigating, in accordance with Part 6 of the QCA Act, the draft access undertaking.

On 15 October 2004 the QCA released its draft decision proposing not to approve the draft access undertaking. In reaching its decision, the QCA took into account information provided by DBCT Management, interested parties' comments, and the QCA's own analysis. Reasons for the decision and the way in which the QCA considers it appropriate to amend the draft access undertaking are contained in the QCA's draft decision.

In summary, the QCA's draft decision proposes the following apply at DBCT:

- a revenue cap arrangement
- an opening asset value of \$824m
- a nominal, post-tax WACC of 8.2 per cent
- an annual revenue allowance of around \$76m over the term of the undertaking
- a terminal infrastructure charge of \$1.53/tonne (based on DBCT Management's proposed approach), or an average of \$1.40/tonne (based on the QCA's proposed revenue cap arrangement)
- a continuation of the operating and maintenance cost pass through arrangement.

In terms of non-pricing access issues, the QCA has proposed that the term of the undertaking be five years or when there is a change in operator, whichever is earlier. The QCA considered the current arrangement, where the terminal is operated on a day to day basis by an entity which is owned by some of the users, DBCT P/L, is critical to establishing the right incentives to operate the terminal efficiently. This arrangement also fundamentally underpins arrangements proposed in the submitted undertaking, in particular, the operating and maintenance cost pass through. Accordingly, the QCA considered it appropriate that the term of the undertaking be linked to DBCT P/L remaining the operator.

The draft decision has been released for public comment, and may be downloaded from the QCA's website at [www.qca.org.au](http://www.qca.org.au). Submissions are due on 26 November 2004.

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## **Northern Territory (Utilities Commission of the Northern Territory)**

### **Network loss factors**

In August 2004 the Utilities Commission published its final conclusions with regard to the compliance review of Power and Water Networks' calculation of energy loss factors. The Utilities Commission found that, while Power and Water's initial methodology (applied in 2000–01) was in technical breach of Schedule 13 of the NT's Network Access Code, the adverse impact on NT Power was not significant in magnitude. Moreover, the Utilities Commission found no evidence that the breach involved bad faith on Power and Water's part.

The Utilities Commission also found that Power and Water's revised methodology (applied in 2001–02) did not involve a breach of Schedule 13 as it did not materially diverge from generally accepted electricity industry practice at the time.

### **Review of network asset valuation**

In July 2004 the Utilities Commission engaged the Allen Consulting Group to advise on the regulatory asset valuation methodology that may be most appropriate in the Northern Territory context (especially associated with high and growing CSO payments by government at the retail level due to government policies that result in below cost-reflective pricing to franchise customers). Based on Allen's final report, the Utilities Commission has indicated its in-principle acceptance of valuing Power and Water's regulated electricity network sunk assets at the lesser of DORC and a 'business sustainability' value (which would generate cash flows sufficient to achieve investment-grade financial benchmarks), with the value to be rolled forward thereafter strictly on the basis of actual (prudent) capital spending.

As a basis for a draft decision on regulatory asset values, and a consequential asset valuation off-ramp price cap adjustment, due by the end of January 2005, Power and Water has been asked to obtain three different valuations of its network assets as at 30 June 2004, namely: (a) written down book value; (b) DORC value; and (c) a business sustainability value.

## Retail electricity licence application

In June 2004 the Utilities Commission received an application for a retail electricity licence from Paladin Torrix Energy Corporation Pty Ltd (PTEC), a start-up Alice Springs-based company.

On 29 September 2004 the Utilities Commission advised PTEC of its decision to defer further consideration of the granting of an electricity retail licence to PTEC for no more than three months, to give PTEC sufficient time to provide specific assurances regarding PTEC's financial capacity to operate as a retailer.

In particular, the Utilities Commission is seeking documentary evidence that PTEC has arrangements in place that, for at least a period of two years and in addition to cash flows expected from customers, would ensure that PTEC is able to meet all (reasonable) financial obligations to the suppliers of wholesale electricity, network access services and metering services that are likely to arise from PTEC's purchases and resale of electricity were it to operate as a licensed retailer in the Northern Territory's electricity market. The assurances sought are similar to what is expected of retailers by licensing authorities in other states and territories in Australia.

If these assurances cannot be provided to the Utilities Commission's satisfaction by 31 December 2004, the commission has advised PTEC that it will have no option but to refuse to grant the licence.

## Regulation of service quality

In August 2004 the Utilities Commission released an issues paper on monitoring and regulation of service quality in the NT's electricity market. The paper is mostly concerned with what form the monitoring and regulation of service quality should eventually take in the NT.

A public consultation process is underway that is intended to lead initially to implementation of monitoring arrangements. This will be followed by the identification of minimum standards and the evaluation of alternative incentive mechanisms, all with a view to an appropriate incentive mechanism being in place from the start of the third regulatory control period (1 July 2009).

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## International

### Commerce Commission, New Zealand

#### Telecommunications

On 18 October 2004 the Commerce Commission released its draft report on mobile termination, provisionally recommending that the termination of voice calls on a cellular mobile telephone network should be regulated. The Commerce Commission has formed the preliminary view that limited competition in the market for mobile termination has resulted in mobile network operators setting mobile termination rates significantly above cost. Based on the information currently before it, the Commerce Commission considers that a regulated reduction in mobile termination rates is likely to lead to increased competition in the market for tolls and fixed-to-mobile calls.

The Commerce Commission held a four day conference in September on the Commission's draft telecommunications service obligation (TSO) determination for the 12 month period ending 30 June 2003. The Commission assessed the TSO cost at \$62.6 million.

The Commerce Commission is finalising its TSLRIC model to determine the final price for PSTN interconnection. The final decision is expected in early 2005.

#### Electricity lines

The Commerce Commission has completed its initial review of the second self assessments of the performance of all 28 electricity distribution businesses against the price path and quality thresholds set by the Commerce Commission under Part 4A of the Commerce Act. Six businesses were found to have complied with the thresholds, six were found in breach, and the Commerce Commission is requesting further information from the remaining 16 businesses to complete its assessments.

The Commerce Commission also moved forward in its review of the self assessments at the first assessment date (6 September 2003). The commission has not taken further action in one case, because the breach was caused by timing differences between movements in transmission costs and movements in average prices. Three businesses breaching are subject to ongoing post-breach inquiries and the Commerce

Commission is requesting further information from one other business.

On 19 October 2004 the Commerce Commission issued its *Assessment and inquiry guidelines*. The guidelines outline the commission's broad process and analytical framework for assessing threshold compliance by lines businesses and for undertaking post-breach inquiries where those thresholds are breached.

On 30 August the Commerce Commission issued its final optimised deprival valuation (ODV) handbook, which prescribes the methodology for valuing the system fixed assets of electricity lines businesses. The new ODV handbook came into effect on 31 August 2004.

#### Gas pipelines inquiry

The Commerce Commission released its draft report relating to its current Gas Pipelines Inquiry in May 2004, 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 has received a one month extension to complete its analysis for its final report on whether gas pipeline services should be controlled. The Commerce Commission requested and received the extension from the Minister of Energy, the Hon. Pete Hodgson, and will now report its final recommendations to the minister on 29 November 2004.

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

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