

Contents	1	ACCC regulatory conference 2006	7	Transport and Prices Oversight	15	Tasmania
	1	National developments	7	State developments	16	Queensland
	1	Telecommunications	7	Victoria	18	Northern Territory
	4	Australian Energy Regulator	9	South Australia	19	International
	6	ACCC activities in energy	10	Western Australia	20	Contacts
			12	ACT		
			13	New South Wales		



network

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

ACCC regulatory conference 2006: the international experience with regulation

The ACCC's regulatory conference, *The international experience with regulation*, was held in Queensland in July 2006. Proceedings of the conference can be viewed on the ACCC website (www.accc.gov.au/conference).

national developments

Telecommunications

Enforcement work

Telstra's Home Access and HomeLine Part line rental price increases

On 12 April 2006 the ACCC issued a Part A competition notice about Telstra's Home Access and HomeLine Part line rental price increases. The notice specifies the ACCC's 'reason to believe' that Telstra has engaged, and is engaging, in at least one instance of anti-competitive conduct of a kind described in the notice.

In December 2005 Telstra raised the price of its Home Access product, which Telstra's wholesale customers use to provide retail-level line rental and local call services to residential customers. Telstra also increased the retail price of its HomeLine Part, a local services product that permits residential customers at the retail level to acquire line rental and local call services from Telstra but to 'pre-select' other providers for any other fixed voice service (national long distance calls, fixed-to-mobile calls and international calls). HomeLine Part enables Telstra's competitors to supply these other fixed voice services to residential customers at the retail level on a pre-selection basis.

At the time of the line rental increases, Telstra did not increase the retail price for its local services and fixed voice services products offered to residential customers.

The ACCC considers the likely effect of Telstra's pricing conduct includes:

- preventing or hindering Telstra's retail competitors from competing for certain types of customers
- raising the costs of Telstra's retail competitors and reducing the incentives of Telstra's retail competitors to compete for new or existing customers
- increasing barriers to entry in the retail fixed voice services market.

The issue of a Part A competition notice activates third party rights, allowing third parties such as Telstra's wholesale customers to commence action for damages during the life of the notice.

The ACCC may also seek to recover pecuniary penalties from Telstra in the Federal Court of Australia.

Further action by the ACCC will depend on the outcome of the continuing investigation as well as any action taken by Telstra in response to the notice.

Telstra has challenged the validity of the ACCC's competition notice and consultation notice under the *Administrative Judicial Decision Review Act 1977*. The ACCC is defending this challenge. Hearing of the judicial review proceedings finished on 16 August 2006 with judgment being reserved. The ACCC can make no comment on when judgment can be expected.



Regulatory work

Release of tenth and eleventh Telstra accounting separation reports

On 10 April and 23 June 2006 the ACCC issued its tenth and eleventh imputation testing and non-price terms and conditions reports under the enhanced accounting separation regime for Telstra. The reports present data for the quarters ending 31 December 2005 and 31 March 2006.

Key performance indicators in the reports compare Telstra's customer service performance in meeting certain non-price terms and conditions for its wholesale and retail customers. Key performance indicators for fixed-line telephony and ADSL services are also reported. The reports include an imputation analysis comparing Telstra's retail prices to the prices of three core telecommunications access services (local carriage service, PSTN originating and terminating access service and unconditioned local loop service).

The analysis indicates whether the margins between Telstra's retail prices and the prices (plus related costs) it charges other service providers for using its core services allow efficient firms to compete at the retail level. It is not intended to detect all forms of potentially anti-competitive conduct.

Key results

December 2005 quarter

- Increased margins for fixed-to-mobile calls.
- Decline in margins for local services, international long distance services and the overall bundle of fixed-line voice services.
- Increased negative margins for residential local services because of an increase in the access price of Telstra's wholesale residential local services product, Home Access.
- Deterioration in results for services supplied over the unconditioned local loop core service, with imputed margins remaining negative except where the ULLS was used to supply a bundle of ADSL and voice services to business customers.

March 2006 quarter

- Increased margins for domestic and international long-distance calls.
- Decline in margins for residential local services, business fixed-to-mobile calls and the overall bundle of fixed-line voice services.
- Increase in the negative margin for residential local services (line rental and local calls) due to the full effect of the December 2005 increase in the access price of Telstra's Home Access service being felt.

- Improvement in results for services supplied over the ULLS, although imputed margins remain negative, except when the ULLS is used to supply a bundle of ADSL and voice services to business customers (consistent with the December 2005 results).

Release of sixth Telstra current cost accounting report

On 19 June 2006 the ACCC issued its sixth current cost accounting report on Telstra. The ACCC is required to make public current cost accounting information for 'core' telecommunications access services.

The report compares present-day valuations of Telstra assets with their original costs. On a current cost basis the aggregate values of assets for the core access services are higher than their historical asset valuations. The information does not represent the forward-looking cost of assets and was not calculated using a fully or substantially optimised network configuration.

Position paper on the regulation of fixed network services

On 20 June 2006 the ACCC issued a position paper on future regulation of key services delivered over fixed networks.

The paper focuses on whether to continue the declarations of the ULLS and the PSTN Originating and Terminating Access (PSTN OTA) services in light of emerging market, technological and network developments.

The ACCC's draft decision was to continue national regulation of the ULLS and PSTN OTA services for three years, with the expectation that the situation regarding emerging technologies and the take-up of alternatives to Telstra's wholesale services will become more certain during this time. The ACCC will monitor alternative infrastructure and other developments and the competitive pressure they place on Telstra's ULLS and PSTN OTA services.

The ACCC report considered whether a wholesale xDSL service to address market power concerns over the provision of such services should be declared, but found that a compelling case for such action had not yet been made.

The ACCC made a draft decision to revoke the declaration of the conditioned local loop service because this service provides few or no competitive benefits.

Submissions from interested parties were invited on the draft decisions regarding the declaration of the ULLS and PSTN OTA services, and on broader issues raised in the report.

Access disputes

The ACCC is able to arbitrate telecommunications access disputes and make final binding determinations to resolve disputes. Arbitration hearings are private; the ACCC generally does not make any public comment on disputes except to announce when a dispute has been notified.

Mobile terminating access service access charges disputes

The ACCC was notified of the following MTAS access disputes under Part XIC of the *Trade Practices Act 1974* for the period 1 April to 22 August 2006:

- Optus Networks Pty Limited and Optus Mobile Pty Limited with Hutchison Telecommunications (Australia) Ltd and Hutchison 3G Australia Pty Ltd.
- AAPT Limited with Hutchison Telecommunications (Australia) Ltd and Hutchison 3G Australia Pty Ltd.
- PowerTel Limited with Hutchison 3G Australia Pty Ltd.

The ACCC has commenced the arbitration processes for these access disputes.

ULLS monthly access charges disputes

On 6 June 2006 the ACCC indicated that Request Broadband Pty Limited and PowerTel Limited had notified three access disputes over fixed-line network services provided by Telstra:

- access dispute about various price terms of supply of the line sharing service (LSS) from Telstra to Request.
- access dispute about various price terms of ULLS supply from Telstra to Request.
- access dispute about various price terms of ULLS supply from Telstra to PowerTel.

The ACCC has commenced the arbitration process for these access disputes.

Interim determination

On 30 May 2006 the ACCC published an interim determination on arbitration between Chime Communications Pty Ltd, a subsidiary of iiNet Ltd, and Telstra on the terms and conditions of ULLS supply.

Access undertakings

Section 152BS of the Trade Practices Act allows a carrier or carriage service provider to give the ACCC a written access undertaking that it will comply with the terms and conditions of the standard access obligations applicable to that provider.



The ACCC is able to conduct arbitration and issue interim determinations while the undertaking process is under consideration.

Fixed line access undertakings

On 15 June the ACCC issued a draft decision to reject Telstra's ULLS monthly charges undertakings, which proposed an average monthly charge of \$30.

The ULLS, which allows access to the basic elements of Telstra's customer access network, is considered a key input into the development of facilities-based competition in Australian telecommunications.

Telstra proposed to average significantly different cost estimates for providing ULLS across all geographic regions into a single monthly charge of \$30. The ACCC rejected this proposal as not reasonable. The ACCC believes it is unlikely that this pricing structure would promote competition, and could heavily distort the use of, and investment in, telecommunications infrastructure.

Telstra's proposed method of cost recovery for ULLS-specific costs was rejected by the Australian Competition Tribunal following Telstra's appeal on its undertaking for the line sharing service.

The ACCC was concerned about Telstra's proposed network cost estimates for the service, which rely on its PIEII cost model; this concern was reinforced following expert scrutiny of the cost model during the assessment process. On the material available to the ACCC at the time, Telstra failed to establish that its proposed charges were based on efficient costs.

MTAS undertakings—final decisions

Vodafone MTAS access undertaking

On 3 April 2006 the ACCC announced its final decision on the Vodafone access undertaking to supply its mobile terminating access service on its second generation GSM network. The undertaking was rejected because its terms and conditions were not reasonable.

Vodafone's price terms proposed that the MTAS access price on its 2G network should trend toward a 'target' price of 16.15 cents per minute (cpm) from 2005 to 2007. These price terms were based on cost modelling undertaken by consultants on Vodafone's behalf.

Vodafone's methodology led the ACCC to conclude that Vodafone's proposed MTAS prices are likely to overstate significantly the efficient costs of providing the service in Australia.

Had the ACCC found the methodology appropriate, it would still not have accepted the undertaking. In addition to conceptual, methodological and empirical concerns, the ACCC was further concerned

about some of the specific requirements on fixed-network operators to pass-through changes in the MTAS price to end-users making fixed-to-mobile calls.

Hutchison Telecommunications and Hutchison 3G access undertaking

On 23 June 2006 the ACCC announced its decision to reject the access undertakings submitted by Hutchison Telecommunications (Australia) Limited and Hutchison 3G Australia Pty Ltd for the supply of an MTAS on their second generation CDMA and third generation GSM networks.

The undertakings were rejected because some of their terms and conditions were not reasonable. In its access undertakings Hutchison had proposed different prices for supply of an MTAS based on price conditions such as reciprocal pricing and transit traffic arrangements as well as the network on which a call originated.

The ACCC considered that in some circumstances, some prices proposed by Hutchison for the supply of an MTAS were likely to significantly overstate the efficient costs of providing the service in Australia. However, in one undertaking Hutchison's price proposal would have reduced an MTAS price to 12 cpm, consistent with the indicative price outlined in the ACCC's pricing determination for 1 January to 30 June 2007.

In its submission supporting the undertaking, Hutchison indicated that 12 cpm was an 'appropriate price' for the supply of an MTAS. Although the ACCC found Hutchison's offer of a 12 cpm MTAS would be attractive to access seekers, this undertaking was rejected because it included a condition that would override contractual terms in existing commercial agreements. The ACCC has no jurisdiction over these contractual terms unless they fall within the ambit of the Trade Practices Act.

Broadband snapshot—March and June 2006 quarters

On 4 April 2006 the ACCC released a broadband snapshot of the deployment of broadband services in Australia as at 31 December 2005. This snapshot showed that broadband take-up had reached 2 785 000.

On 23 June 2006 the ACCC released its latest broadband snapshot, which showed that at 31 March 2006 take-up of broadband services had passed the 3 million mark.

The report is based on data provided by major carriers of broadband services. It includes aggregated data on the availability of broadband services and gives estimated numbers of services in operation in respect

of cable, satellite, ADSL, other DSL and miscellaneous offerings. However, not all broadband providers are included in the ACCC's survey.

The main findings of the survey are:

- At 31 March 2006 total broadband take-up reached 3 161 600 connections.
- Broadband take-up increased by 1 384 800—or 78 per cent—over the March 2005 figure of 1 776 800.
- The take-up of ADSL services is now at 2 295 200.
- Total broadband growth was 13.5 per cent for the March 2006 quarter, marginally up from the December 2005 figure of 12.1 per cent.

Pricing of Telstra's line sharing service

On 2 June 2006 the Australian Competition Tribunal handed down its decision to reject Telstra's proposed price for the line sharing service.

Telstra had proposed a monthly price of \$9 per line in an access undertaking previously lodged with the ACCC, which had ruled that the price was not reasonable and the access undertaking should be rejected. Telstra then sought a decision from the Australian Competition Tribunal.

The tribunal's decision means that the access undertaking will not come into operation and the price specified in it will not become legally binding. The service access price will remain subject to agreement between Telstra and its customers and, where agreement is unable to be reached, by ACCC determination of a notified dispute.

In support of its proposed price, Telstra argued that its costs of supplying the line sharing service should be recovered solely from customers of that service. However, the tribunal found that this was not a reasonable approach to cost recovery. The tribunal also found that Telstra's proposal to recover its line sharing service costs from a price averaged over a four-year period was not reasonable.

The ACCC will carefully consider the implications of the tribunal's decision for the ACCC's ongoing regulatory functions.

Final decisions on regulation of fixed network services

The ACCC issued final decisions on the future of key fixed network telecommunication services, including:

- Re-declaration of the ULLS, public switched telephone network originating and terminating access (PSTN OTA) services, and local carriage service (LCS) for three years from 1 August 2006.



- Formalisation of the declaration of a wholesale line rental (WLR) service.

The ACCC found that regulated access to the ULLS, PSTN OTA, LCS and WLR will benefit end users because it will promote competition in a number of downstream markets. The declaration periods for all four services have been aligned to allow the declaration of these related services to be collectively reviewed in three years.

The ACCC also decided to revoke the declaration of the conditioned local loop service because it provides no or few competitive benefits.

Pricing principles and draft indicative prices

Under the Trade Practices Act the ACCC is required to make pricing principles and is permitted to propose indicative prices for declared services.

The ACCC has issued pricing principles and draft indicative prices for the ULLS, PSTN OTA, LCS and WLR services.

The ACCC proposes to continue the cost-based pricing approach for ULL and PSTN OTA services, and will seek to implement cost-based pricing for the LCS and WLR service once a robust cost model is available. In the interim, the retail minus pricing approach will continue for the LCS and WLR.

The ACCC has published draft indicative prices for the PSTN OTA, LCS and WLR services. These indicative prices will enable the industry to be certain of the ACCC view of appropriate prices for these services while it finalises its assessment of Telstra's undertakings for them.

As there are a number of pricing issues currently being resolved in arbitrations for the ULLS, the ACCC does not consider it appropriate to pre-empt this assessment at this time.

Annual assessment of telecommunications competition

Annual reports on telecommunications competition and price changes

The ACCC's 2004–05 annual reports on telecommunications competitive safeguards and the changes in prices paid for telecommunications services in Australia were tabled in the Australian Parliament on 21 June 2006.

- 4 The reports show the telecommunications industry has continued its progress toward a more competitive environment. However, in spite of the positive developments, the ACCC remains concerned that various threats to existing and future competition exist.

High-margin voice revenues across the industry declined in 2004–05, as substitution occurred between fixed and mobile segments and within the fixed-line segment; and broadband take-up grew substantially, with more than 100 per cent annual volume growth observed in four consecutive quarters of the financial year.

The report on prices paid for telecommunications services provides further insight into the state of competition in the telecommunications industry. The overall average price paid by consumers for telecommunications services fell in real terms by 6.6 per cent in 2004–05, in response to a 1.2 per cent fall in prices paid for PSTN services, while prices paid for mobile telephony services decreased by 13 per cent.

ACCC annual report on telecommunications market indicators

The market indicator report contains revenue, usage and market share information for fixed-line voice and mobile telephony services for 2004–05. For the first time, the report also provides aggregate data across carriers for internet services.

The report was compiled from information provided by Telstra, Optus, Primus, AAPT and Vodafone. It shows that total revenue from PSTN services fell for fixed-line services, while revenue from retail internet services increased for Telstra, Optus, Primus and AAPT.

Total revenue from retail mobile services and the number of services in operation continued to increase in 2004–05. While Telstra, Optus and Vodafone reported increases in revenue of between 6 per cent and 18 per cent in 2004–05, AAPT and Primus, who resell mobile services, reported a combined fall of 31 per cent in retail revenues from mobile services.

Telstra withdraws proposed fibre-to-the-node investment

On 7 August 2006 Telstra announced its decision to discontinue talks with the ACCC over its proposed fibre-to-the-node network (FTTN) upgrade.

The ACCC last received documentation from Telstra on a FTTN access service and its pricing in late June, and has been waiting for details about a transition plan for access seekers under current ULL arrangements. Although Telstra recently said that its discussions with the ACCC were '98 per cent' complete, it has now chosen to discontinue these discussions and to withdraw its proposed fibre roll-out. Until this discontinuation, the ACCC had expected that Telstra would release details of its proposal for public examination.

Telstra argued that the major stumbling block was the 'ACCC's unwillingness to recognise' the actual costs incurred by Telstra in providing its services. This is contrary to the ACCC's view—that from the beginning of its discussions with Telstra it had accepted that Telstra should be entitled to recover its actual costs arising from the FTTN upgrade and that Telstra would face significant risk that should be reflected in the cost of capital used to calculate access prices.

Telstra also claimed it could not reach agreement with the ACCC on the extent of cross-subsidies to be provided by urban consumers to finance the cost of its services to rural and remote Australia. However, the ACCC notes that at no stage in the discussions did Telstra propose that its FTTN network would be rolled out to rural and remote Australia.

The ACCC also disagrees with Telstra's claims that an irreconcilable conflict exists between government policy on universal services and the ACCC's approach to access prices. In the ACCC's view, both are compatible with ensuring that Telstra's investment achieves a commercial return.

Australian Energy Regulator

Distribution scoping paper

In March 2006 the Australian Energy Regulator (AER) released a scoping paper initiating public consultation on the development of regulatory guidelines for gas and electricity distribution businesses. This consultation was aimed at addressing issues unlikely to be affected by the changing legislative structure, or where a clear direction has been identified in the current reviews. The scoping paper is available on the AER website.

It is envisaged that two other papers will be released by the end of 2007, which will deal with the:

- PTRM and roll-forward model, and the incentive mechanisms and cost allocation methodology for opex
- connection and capital contribution, service standards, tariff setting and ring-fencing.

The AER has received a number of submissions following publication of the scoping paper. It has called for more submissions following a decision to delay the release of a final decision on issues raised in the scoping paper.

The timeframe for the release of the second and third discussion papers on the distribution guidelines has been changed following indications



by many industry participants that they would prefer a delay so that the AER can accommodate developments in the policy framework.

Electricity regulatory report

In April 2006 the AER published the *Transmission network service providers electricity regulatory report 2004–05*, which is available on the AER website.

The report covers the operational performances of eight transmission network service providers in the National Electricity Market (NEM) during the 2004–05 regulatory year. These businesses are ElectraNet SA, EnergyAustralia, Murraylink Transmission Company (Murraylink), Powerlink, SPI PowerNet (now part of the SP AusNet group), Transend, TransGrid and VENCORP.

Powerlink revenue reset

Under the National Electricity Rules, the AER is responsible for regulating revenues associated with the non-contestable elements of transmission services provided by Powerlink Queensland. The AER will set Powerlink's revenue cap for five years from 1 July 2007 to 30 June 2012.

The AER received Powerlink's revenue cap application on 3 April 2006; the application and supporting information can be viewed on the AER website.

On 3 May the AER began its formal consultation process, calling for submissions on the Powerlink application by 13 June 2006. The AER received five submissions and has engaged PB Associates to assist in reviewing elements of the application, including capital and operating expenditure and service standards.

The AER plans to release its draft decision on the application in November 2006, with a final decision planned for March 2007.

Service standards compliance reports for 2005

In February 2006 the AER received service standards compliance reports from TransGrid, SPI PowerNet (now part of the SP AusNet group), ElectraNet SA, Murraylink Transmission Company (Murraylink) and Transend. In April 2006 the AER advised these electricity transmission businesses of their financial reward or penalty for their respective annual revenue allowance.

Further information on the AER's 2005 service standards compliance review is available on the AER website

Energy distribution and retail regulation national framework

At its 19 May 2006 meeting, the Ministerial Council on Energy agreed to transfer economic regulation of distribution networks to the AER from 1 January 2007. The MCE also agreed that national distribution and retail functions should be implemented in new national rules by 1 January 2008.

The MCE also agreed on a process enabling the Australian Energy Market Commission (AEMC) to advise jurisdictions on the effectiveness of retail market competition.

Enabling legislation for the transfer of distribution economic regulation is scheduled for development by the end of 2006. The MCE also announced that it will shortly begin work on a legislative package for 2007 that will give effect to the transfer of distribution (non-economic) and retail (non-price) functions to the AER.

The MCE will convene a stakeholder reference group comprising industry, users and regulators to comment on recommendations made by the MCE Retail Policy Working Group on the national framework for distribution (non-economic) and retail functions. The reference group initially will comprise nominees from peak industry, user and consumer associations and representatives of existing energy regulators.

AER strategic plan and work program

On 23 May 2006 the AER issued its *Strategic plan 2006–08* and its *Work program 2006–07*, both of which are available on its website.

The strategic plan sets out the AER's goals and priorities. With the introduction of new laws and rules for gas and electricity over the coming year, the AER will focus on providing guidance to energy markets on the operation of the new regime.

The work program sets out key projects for 2006–07, outlining general timeframes to enable stakeholders to plan for, and participate in, regulatory processes.

The issue of the strategic plan and the work program coincides with the AER's first anniversary. The establishment of the AER was a key initiative of the Australian, state and territory governments to improve the operation of the gas and electricity markets. The AER will provide a one-stop-shop for the regulation of gas and electricity networks.

Indicators of the market impact of transmission congestion report

On 21 June 2006 the AER released *Indicators of the market impact of transmission congestion: decision* and *Indicators of the market impact of transmission congestion: report for 2003–2004*, both of which are available on the AER website.

The AER has decided to publish indicators on the market impact of transmission congestion to improve understanding about the issue. This decision resulted from work undertaken initially by the ACCC and then the AER, with input from many stakeholders.

In October the AER released data on 2004–05 indicators and intends to release results for 2005–06 by the end of 2006.

The AER cautions against drawing conclusions at this stage, but considers that reliable conclusions may be reached as more data is published and stakeholders provide feedback.

Confidentiality guidelines for dispute resolution

Under clause 8.2 of the National Electricity Rules, the AER must develop and issue guidelines for the confidentiality of information obtained, used and disclosed to resolve a dispute as part of the dispute resolution process established in chapter 8 of the NER.

To help the AER develop guidelines, interested parties were invited to comment on the consultation draft. On 7 July 2006 the AER released its final report, *Confidentiality guidelines for dispute resolution under clause 8.2 of the National Electricity Rules*, which is available on the AER website.

National Energy Market outcomes

The AER continues to publish weekly market analyses setting out the spot price for each 30-minute trading interval in each region of the National Electricity Market.

These reports highlight wholesale market prices more than three times the weekly average. They compare the demand and price forecasts published by NEMMCO four and 12 hours ahead of despatch with actual outcomes, and publish the most probable reasons for significant variations between actual and forecast prices. The reports are available on the AER website.

In June 2006 the AER issued draft guidelines and a draft report on the confidentiality of information obtained, used or disclosed for the purposes of resolving a dispute under the dispute resolution process established by chapter 8 of the NER.



National Energy Market investigations

Two separate price reports detailing the events of 2, 23 and 24 February 2006, when the 30-minute spot price exceeded \$5000/MWh, were published on 25 May and 30 May 2006 respectively. In June 2006 the AER published the results of its compliance monitoring and enforcement activities conducted during the March quarter.

ACCC activities in energy

GasNet Australia—new facilities investment at Corio Loop

On 23 December 2005 GasNet lodged an application under s. 8.21 of the gas code seeking the ACCC's agreement that forecast capital expenditure (new facilities investment) in constructing the Corio Loop will meet the requirements of s. 8.16(a) of the gas code for roll-in to GasNet's capital base.

Such an agreement would bind the ACCC's decision when it considers revisions to GasNet's access arrangement in 2007. This is the first application of this nature made to the ACCC.

GasNet is the owner-operator of the Victorian Principal Transmission System, the primary transmission system for gas delivery throughout Victoria. In its annual planning review VENCORP, the independent system operator of the PTS, identified a major system capacity constraint that will face the PTS in winter 2008. VENCORP recommended that GasNet undertake a major system augmentation to ensure that the PTS has sufficient useable system linepack to cover supply-demand imbalances at this time.

VENCORP identified a number of ways to achieve the required augmentation and, on the basis of cost-benefit analysis, has recommended extending the Southwest Pipeline from Lara to Brooklyn ('Corio Loop'). The proposed project will involve construction of a 57 km, 500 mm diameter pipeline, to run from the Brooklyn compressor station for 12km using an existing easement and then along a green fields route to meet the Southwest Pipeline in Lara. The total capital cost of the project is expected to be \$70.7 million.

Interested parties were invited to make submissions and provide supporting information on any issue relevant to the GasNet application by 10 February 2006. The ACCC released a draft decision on 5 April 2006, to which it invited submissions.

On 6 June 2006 the ACCC issued a final decision approving an amount of \$61.7 million and the

provision of an additional allowance for financing costs (under s. 8.16(a) of the gas code).

The GasNet application, the submissions and the ACCC's final decision are available on the AER website.

Roma to Brisbane pipeline—revised access arrangement

The ACCC received the proposed revised access arrangement and access arrangement information on 31 January 2006 for assessment under the gas code. The tariffs currently available under the access arrangement are the subject of Queensland Government derogation.

On 18 April 2006 the ACCC considered that APT Petroleum Pipelines Ltd had provided sufficient information to enable a considered assessment of its application, and accordingly called for submissions to be made on the application. Submissions were later received from Energex, TRU Energy, Origin, Queensland Gas Company and APTPPL.

The ACCC organised a roundtable discussion, held on 15 May 2006, with users and the service provider to discuss the proposed queuing and trading policies for the Roma to Brisbane pipeline.

After considering APTPPL's application, submissions and other relevant matters, the ACCC released its draft decision on the APTPPL application on 31 August 2006. The ACCC proposed not to approve the revised access arrangement in the form proposed by APTPPL and set out a number of amendments to be made including to the value of the initial capital base, the weighted average cost of capital, the allowance for non-capital costs and the reference tariff. The ACCC accepted APTPPL's proposal that the only reference service to be offered would be for firm forward haul and that it would only apply to the services provided using the existing capacity of the pipeline.

The ACCC called for submissions on its draft decision to be received by 25 September 2006. It also held a roundtable discussion with the service provider and interested parties on 5 September 2006 to discuss the draft decision. No submissions were received by the specified date. APTPPL subsequently made some submissions.

The ACCC expects to make its final decision in December 2006. The access arrangement will set APTPPL's tariffs for a five-year period.

Information on the proposed revised access arrangement is available on the AER website.

South West Queensland pipeline access arrangement revisions

On 21 September the ACCC released its draft decision on Epic Energy's proposed access arrangement revisions for the South West Queensland pipeline (SWQP) which were lodged on 3 July 2006. The SWQP supplies gas from the Cooper Basin in south-west Queensland to Wallumbilla.

The draft decision proposes to approve the revised access arrangement for the SWQP as the ACCC is satisfied that the revisions proposed by Epic are consistent with the provisions and principles of the national gas code.

The revisions relate to the supply of five transportation services currently available, other than the main forward haul service. Epic proposed minimal changes to its access arrangement and a two-year regulatory period reflecting uncertainty about the likely usage of the pipeline over the next few years. The review did not consider the tariffs for the main forward haul service as these tariffs were established by the Queensland Government. The main forward haul tariffs will be subject to regulatory review in 2016.

No submissions were received on the draft decision. The ACCC expects to make its final decision in November 2006.

Information on the proposed revised access arrangement is available on the AER website.

Annual tariff resets to gas transmission pipelines

On 28 April 2006 Australian Pipeline Trust submitted two notifications for annual reference tariff variations for the Moomba to Sydney pipeline and the Central West pipeline. Central Ranges Pipeline Pty Ltd submitted a notification for an annual tariff variation for the Central Ranges pipeline on 11 May 2006.

Under existing access arrangements, these service providers must submit a notification outlining the proposed tariff increase for the forthcoming financial year. In each instance, reference tariffs are designed to change on an annual basis in accord with escalation formulas set out in the access arrangements.

On 24 May 2006 the ACCC approved the annual tariff variations proposed for the Moomba to Sydney, Central West and Central Ranges pipelines. The annual tariff notifications are available on the AER website.



Gas ring-fencing compliance report program

In June 2006 the ACCC finalised its assessment of the ring-fencing compliance reports for 2004–05, which were submitted by service providers of the gas transmission pipelines under s. 4.13 of the gas code.

The ACCC found that the reports varied in the level and usefulness of the information they provide. Five service providers complied fully with the reporting requirements. The remaining service providers have been asked to provide further information in future reports if they are to meet their full reporting obligations. The ACCC has written to all service providers individually, identifying areas where better reporting appears warranted.

The ring-fencing compliance reports and the ACCC's report are available from the AER website.

Western Australian Wholesale Electricity Market Rules authorisation

On 22 September 2006 the ACCC released its draft determination on authorisation under Part VII of the *Trade Practices Act 1974* of the Western Australian Wholesale Electricity Market Rules (the market rules).

The ACCC proposes to grant authorisation to the market rules without conditions.

The ACCC invites interested parties to make written submissions to the ACCC on the draft determination. Submissions close on 30 October 2006.

The ACCC has also granted interim authorisation to the proposed conduct. The interim authorisation will expire at the date the final determination comes into effect.

The authorisation documents are available on the ACCC website.

Federal Court review of Moomba to Sydney pipeline decision

On 26 May 2005 the ACCC began proceedings in the Federal Court for a judicial review of the Australian Competition Tribunal's decision of 19 May 2005 to vary aspects of the ACCC's approved access arrangement for the Moomba to Sydney pipeline. The review was heard by the Full Federal Court in August 2005 and a decision was handed down on 2 June 2006, with supplementary reasons for judgment provided on 18 August. The court ordered that the tribunal's decision be set aside and the matter will now return to the tribunal for consideration, applying the court's interpretation of the gas code. On 14 September 2006 the service provider, East Australian Pipeline Limited, made an Application for Special Leave to Appeal to the High Court of Australia in regard to part of the judgment of the Full Federal Court.

Transport and Prices Oversight

ACCC submission to Senate petrol inquiry

In late July 2006 the ACCC provided the Senate Economics Legislation Committee inquiry into the price of petrol in Australia with a submission.

In the submission the ACCC noted that the overall level of petrol prices in Australia had been high over the year to June 2006 and that record high prices

had been recorded in many places. Furthermore, there had been significant volatility in daily petrol prices in the major metropolitan cities. These reflected the existence of regular price cycles.

The submission concluded that petrol prices in Australia are determined by a combination of two broad types of factors:

- **Underlying factors**—the key determinants of the overall level of petrol prices which are common across all locations. These include: the price of Singapore refined petrol, the Australian–US dollar exchange rate, Australian Government fuel standards, excise and the GST.
- **Locally specific factors**—those that vary in influence depending on the precise location. These include: state government subsidies, state government policies, price cycles and the level of competition in local markets (which is determined by a range of considerations).

Analysis in the submission indicated that the international price for refined petrol is the key determinant of the overall level of petrol prices in Australia. This price is determined by supply and demand factors outside the control of Australian regulators and governments.

The submission aimed to provide information on several issues in the petroleum industry to explain the recent movements in petrol prices, both at the overall level and as a result of price cycles in the major metropolitan cities. It also provided information on price increases before public holidays and the city–country price differential.

The submission is available from the ACCC website at: www.accc.gov.au/content/index.php/itemId/764980/fromItemId/655475.



state developments

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

Victoria

Essential Services Commission

Gas access arrangement review 2008–12

The major Victorian gas distribution pipeline networks—Multinet, SP AusNet and Envestra—are required to submit their proposed access arrangements for 1 January 2008 to 31 December 2012 to the ESC at the end of March 2007 for

approval. Envestra is also required to submit separate revisions to the access arrangement for its Albury network.

Once it has received the proposed access arrangement revisions, the ESC will conduct a formal review process, as set out in the National Third Party Access Code of Natural Gas Pipeline Systems (the code), and determine whether to approve the proposed access arrangements.

The ESC released an initial consultation paper in May 2006 to assist in an informed and focused consideration of issues likely to be significant in the formal stages of the access arrangement revisions process. The process is intended to help distributors develop access arrangement revisions reflecting the principles and requirements of the code. The ESC will then consider all aspects of the proposed revisions to determine whether they should be approved. This process should also help retailers and customers to better assess the proposed access arrangement revisions.



The ESC has received submissions on this consultation paper from key stakeholders, including the three distribution companies and retailer, consumer and industry representative groups. The ESC has released a second consultation paper, responding to these submissions.

The ESC plans to hold some meetings and/or workshops before the formal submission of the revised access arrangements in March 2007.

All material relating to the *Gas access arrangement review* is available on the ESC website.

Small-scale licensing framework

The ESC is responsible for licensing entities engaged in electricity generation or transmission, or distributing and/or selling gas or electricity to end-use customers. It does so under the *Essential Services Commission Act 2000*, s. 16 of the *Electricity Industry Act 2000* and s. 22 of the *Gas Industry Act 2001* (GIA 2001).

In 2002 the Victorian Government made an Order-in-Council exempting persons identified in the OIC from having to hold a licence under s. 16 of the Electricity Industry Act. This includes people distributing and supplying electricity in embedded networks and those selling metered electricity in embedded networks. The OIC and its schedule set out the terms, conditions and limitations with which those exempted by the OIC must comply.

No general exemption order applies to small-scale gas distributors and/or resellers. While some specific exemptions have been provided for in the OIC, all other small-scale gas distributors and resellers must hold a licence in accordance with s. 22 of the GIA 2001.

On 21 March 2006 the Minister for Energy Industries and Resources wrote to the ESC, noting that use of the exemptions process to facilitate small-scale distribution and selling activities was not consistent with the intent of the OIC. The minister also indicated that the government would prefer not to rely on the OIC as the primary regulatory instrument for embedded customer situations.

As a result, the minister has asked the ESC to provide advice on the energy licensing and exemptions framework and how it could better accommodate small-scale energy distribution and selling activities.

The ESC aimed to release a draft recommendations report in October 2006 following a public forum in September 2006 and the receipt of submissions from stakeholders in response to that forum.

However, the release of this report has now been delayed. The ESC has been advised by the Department of Infrastructure that it is considering a change in the metering requirements for embedded network arrangements. If implemented, this could have a significant impact on the small-scale licensing review, as it will be relevant to any conclusions that the ESC may reach on the case for regulation and the scope and scale of regulation applying to small-scale operators.

Accordingly, the ESC intends to delay the release of the draft report after receiving further advice from the Department of Infrastructure regarding the government's plans. The ESC will write to the minister, proposing a revised timetable for completing its final report (currently due in December), and will notify stakeholders when this has been confirmed.

Any questions about the change in metering requirements should be directed to the Department of Infrastructure.

Performance of electricity distributor call centres

In October 2006 the ESC completed its review into the performance of Victoria's electricity distribution call centres, following public consultation on its preliminary finding report published on 31 August. The final report will be released after review by the Victorian Minister for Energy Industries and Resources.

The review was requested in March 2006 by the minister after a series of major supply outages in late January 2006, when heatwave conditions, storms and bushfires caused widespread supply interruptions over a seven-day period. A total of more than 600 000 supply interruptions were recorded during the 20–26 January 2006 period.

During the period, customers made a total of 210 000 calls to the call centres to report outages and seek information. Two distributors' call centres received an average of about 16 000 calls a day from customers. There were reports that many people were unable to get through to the call centres during busy periods.

The ESC review focused on the performance of the call centres during widespread supply interruption situations and the potential implications for public safety.

As part of its review, the ESC sought input from the public and the five Victorian electricity distributors, as well as the Victorian Emergency Services Commissioner, Energy Safe Victoria, the Department of Human Services, and the Energy and Water Ombudsman (Victoria).

ESC to administer Victorian renewable energy target scheme

The *Victorian Renewable Energy Act 2006* received royal assent in September 2006. It established the Victorian renewable energy target scheme (VRET), which mandates that Victoria's consumption of electricity generated from renewable sources be increased to 10 per cent by 2016.

VRET involves the creation, acquisition and surrender of renewable energy certificates and will take effect on 1 January 2007.

The ESC will administer the *Victorian Renewable Energy Act 2006* and the Renewable Energy Rules to increase renewable electricity generation from Victoria's renewable energy sources by encouraging the generation of an additional 3274 gigawatt hours (GWh) of renewable energy per year by 2016.

The ESC is also appointed to ensure that the requirements of VRET are met, including the enforcement of the legislation through imposition of penalties and conducting audits.

Storm damage cuts electricity supply reliability

Victorian electricity customers in 2005 experienced the highest level of supply outages in five years, according to the ESC's annual *Electricity distribution comparative performance report*.

In 2005, the average Victorian electricity customer experienced 165 minutes off-supply, a 25 per cent increase on the 132 minutes off-supply recorded in 2004.

The report on the five Victorian electricity distribution businesses attributes the increased outage level to the impact of major storms in February and August 2005.

The February 2005 storm caused an average 33 unplanned minutes off-supply per customer across the state, while the August storm represented a further eight minutes off-supply per customer state-wide.

Excluding the two storms, the average total minutes off-supply would have been 124 minutes—an improvement on the 132 minutes off-supply recorded in 2004.

Generally, supply performance varied widely across the state, ranging from CBD areas recording on average less than total 60 minutes off-supply to remote rural and forest areas recording on average more than 600 total minutes off-supply.



South Australia

Essential Services Commission of South Australia

Energy

Small customer transfer statistics

The latest schedule of completed transfers to retail market contracts for South Australian electricity and gas small customers shows that at 31 May 2006:

- around 434 000 small customers had completed transfers to electricity market contracts since commencement of electricity FRC on 1 January 2003, equivalent to 58 per cent of the small customer base of 755 000
- around 195 000 small customers had completed transfers to gas market contracts since commencement of gas FRC on 28 July 2004, equivalent to 53 per cent of the small customer base of 370 000.

Electricity

ETSA Utilities network performance and customer response inquiry draft report

On 13 June 2006 the Essential Services Commission of South Australia (ESCOSA) released for public comment a draft report on its inquiry into the performance of ETSA Utilities during the heatwave experienced in the state between 19 and 22 January this year.

The Minister for Energy had referred a formal inquiry to ESCOSA under the *Essential Services Commission Act 2002* to investigate the performance of the ETSA Utilities distribution network, its operational performance and its customer service response during the heatwave.

Key draft findings of the ESCOSA report are that:

- Around 96 000 customers were affected by power outages during the heatwave, with approximately 84 000 customers being affected by outages on the high voltage network and approximately 12 000 customers being affected by outages on the low voltage network.
- Restoration times by ETSA Utilities for outages on the high voltage network were satisfactory, but customer service responses on the low voltage network were not.
- ETSA Utilities has already made over \$1 million in payments to customers affected by outages as a result of the heatwave, with \$640 000

being paid in compensation for damages suffered and \$450 000 paid in guaranteed service level payments.

- The maximum amount that should be paid by ETSA Utilities as a duration outage guaranteed service level payment should be increased from the present amount of \$160 for an outage of 18 hours to a new maximum of \$320 for an outage of more than 24 hours.

The draft inquiry report concluded that the measures taken by ETSA Utilities to prepare the distribution network for extreme weather events are generally appropriate, but that the company could improve its systems and processes to better:

- integrate weather forecast information into operational response and planning processes, and to take account of the likelihood of weather forecast errors
- balance the need to restore supply quickly for outages affecting large numbers of customers with the need to ensure that no outage is prolonged unnecessarily
- centralise and coordinate the management and oversight of power outage restorations
- ensure that South Australians are able to report outages and obtain accurate and up-to-date information from ETSA Utilities call centres or other sources.

New electricity industry guideline no. 1

A new version of ESCOSA's *Electricity regulatory information requirements—distribution: electricity industry guideline no. 1* was published on 14 June 2006. The new version incorporates changes to ETSA Utilities, financial reporting requirements, which were a necessary outcome of the implementation of ESCOSA's electricity distribution price determination for 2005–10. The guideline's financial reporting requirements have been reviewed and updated to ensure they support the administration of the EDPD throughout its five-year term and provide information for use by the relevant regulator at the time of ETSA Utilities' next price review.

Review of reliability standards—Electricity Transmission Code Clause 2.2.2—draft decision

At ESCOSA's request, during 2004–05 the Electricity Supply Industry Planning Council reviewed the transmission exit point reliability standards for ElectraNet, as specified in the Electricity Transmission Code.

Following consideration of the Planning Council's review, on 16 June ESCOSA released a draft decision

for public comment on the matter of transmission exit point reliability standards for ElectraNet. ESCOSA subsequently finalised the decision on 8 September, which will enable the revisions to the current reliability standards to be incorporated into ElectraNet's application to the AER concerning revenue requirements for the five-year period beginning in July 2008.

Pricing

AGL tariff approval—2006–07 electricity standing contract price adjustment

In December 2004 ESCOSA determined the price path to apply to electricity standing contract prices for small customers for the three-year period from January 2005.

On 10 May 2006, in accordance with s. 2.6.1 of the price determination, AGL South Australia submitted a statement to ESCOSA for the retailer component of the standing contract prices that would apply from 1 July 2006 to 30 June 2007. Following review, ESCOSA approved the prices as submitted by AGL SA.

Electricity reselling prices for 2006–07

In accordance with r. 6A of the Electricity (General) Regulations 1997, ESCOSA has adjusted the maximum electricity reselling prices that can be charged by inset network operators for 2006–07. Reselling of electricity occurs when an electricity customer (the inset network operator) buys electricity from a licensed electricity retailer and resells that electricity to other customers (inset customers). Inset customers are generally tenants of the operator.

Electricity compliance audits

During 2005–06 ESCOSA appointed an independent auditor to conduct regulatory compliance audits for certain electricity retailers in the following areas:

- targeted FRC-related obligations under selected industry codes
- operational performance reporting obligations under Energy Industry Guideline no. 2.

These audits were conducted in accordance with ESCOSA's Compliance Audit Framework (implemented in September 2004) and involved audits of the electricity retailers EnergyAustralia and Powerdirect.

ESCOSA has reviewed the auditor reports and has now released the *Report on the 2005/06 regulatory compliance audits for the electricity retail sector*, which provides an overview of the



regulatory regime administered by ESCOSA and the audit program implementation. It also provides a summary of all audit findings and conclusions arising from the above audits, as well as confirmation of future regulatory compliance audits.

Gas

Review of Envestra gas access arrangement

On 30 June 2006 ESCOSA issued its final decision on revisions proposed by Envestra Ltd to the access arrangement for its gas distribution system in South Australia for the period 1 July 2006 to 30 June 2011.

ESCOSA did not approve all the proposed revisions because they did not meet the requirements of the National Third Party Access Code for Natural Gas Pipeline Systems (the code). ESCOSA required Envestra to submit amended revisions to the access arrangement no later than Monday, 24 July 2006.

ESCOSA's decision allows haulage reference tariff increases of 0.064 per cent above the consumer price index per year from 1 July 2007, with a CPI-only increase from 1 July 2006.

In doing so, ESCOSA's decision includes a 70 per cent real increase in capital expenditure over that applying in the current regulatory period.

This capital expenditure includes provision for:

- 100 km of cast-iron and unprotected steel mains replacement in each year of the regulatory period
- improvements to security of supply in the gas distribution system (including improvements on the Le Fevre Peninsula, in Adelaide's northern suburbs, a new gate station for the SEA Gas pipeline and interconnection between the SEA Gas and Moomba to Adelaide pipelines)
- new reticulation to the townships of McLaren Vale and Tanunda, and the Monarto Industrial Estate
- recognition that the expenditures associated with specific major projects (the Eastern Ring Main, Southern Loop and CBD mains replacement) may be incorporated into total revenue if it is required that these projects actually be undertaken during the five-year period.

ESCOSA also included an 11.6 per cent real increase in operating expenditure, thus allowing for the ongoing operation of the gas distribution system in accordance with all regulatory requirements.

10 In reaching its final decision ESCOSA was required to assess various categories of costs and other matters, as set out in the code, thereby establishing a total revenue. However, ESCOSA is not determining the projects that Envestra must undertake or the actual

structures or arrangements that Envestra must adopt. Envestra is responsible for determining how it should arrange and conduct its own operations.

Review of gas regulatory instruments

In conjunction with the review of Envestra's proposed revisions to the gas access arrangement, ESCOSA has undertaken an associated review of the regulatory instruments relevant to gas distribution—namely, the gas distribution licence held by Envestra Ltd, the Gas Distribution Code and the Gas Metering Code.

ESCOSA's final decision on this matter, released 3 July 2006, is that no consequential changes are required to the regulatory instruments as a result of Envestra's proposed revisions to the access arrangement. However, a number of changes are required—in particular to the distribution licence—to remove obsolete provisions, to refine existing provisions and to obtain consistency. A number of minor editorial changes have also been identified.

The changes to Envestra's gas distribution licence, the Gas Distribution Code and the Gas Metering Code set out in ESCOSA's final decision took effect from 6 July 2006.

Pricing

Envestra 2006–07 reference tariffs

On 26 May 2006, in accordance with s. 8.3B of the gas code, Envestra sought approval from ESCOSA to increase its reference tariffs from 1 July 2006 by the annual change in the CPI. ESCOSA approved Envestra's application because it complies with all relevant requirements of the access arrangement.

Origin Energy tariff approval—2006–07 gas standing contract price adjustment

In June 2005 ESCOSA made a determination on the price path to apply to gas standing contract prices for residential and small business customers for the three-year period from July 2005.

On 12 May 2006, in accordance with s. 2.6.1 of the price determination, Origin Energy submitted a statement to ESCOSA for the retailer component of the standing contract prices to apply from 1 July 2006 to 30 June 2007. Following review, ESCOSA has approved the prices as submitted by Origin Energy.

Santos Direct Pty Ltd gas retail licence application

ESCOSA has received an application from Santos Direct Pty Ltd for the issue of a licence to retail gas to customers in South Australia. Santos Direct holds a gas retail licence in Victoria.

This application was lodged under Part 3 of the *Gas Act 1997* and will be assessed by ESCOSA against relevant criteria specified in that Act and in the *Essential Services Commission Act 2002*.

Transport

Review of the AustralAsia Railway (Third Party Access) Code

ESCOSA has completed its work on the ministerial review of the AustralAsia (Third Party Access) Code applying to the Tarcoola–Darwin railway, and has forwarded its final report to the relevant South Australian and Northern Territory ministers. The code now requires that the ministers report on the outcome of their review, which is likely to include ESCOSA's final report, with the report to be tabled in their respective parliaments within 12 sitting days of its completion (due 30 June 2006).

Western Australia

Economic Regulation Authority

Gas

Dampier to Bunbury natural gas pipeline stage 5 expansion

The Dampier to Bunbury pipeline (DBP) submitted a section 8.21 application on 22 February 2006, seeking approval from the Economic Regulation Authority (ERA) that its forecast capital cost of undertaking the stage 5 expansion of the DBNGP met certain requirements of the gas code and would be automatically rolled into the capital base of the DBNGP at the next access arrangement review. This is scheduled to start in 2010.

DBP said its preferred option was forecast to cost between \$1.457 million to \$1.521 million and would provide an additional full-haul capacity on the pipeline of 310 terajoules a day.

On 27 April 2006 the ERA issued a draft decision conditionally approving DBP's section 8.21 application on its proposed stage 5 expansion.

DBP subsequently issued a press release on 23 May 2006 outlining a change in the way it planned to proceed with its expansion. The new approach was to be a staged development of stage 5, with the first stage (stage 5A) expected to be about 110 terajoules per day (full haul) commencing in early 2007.



On 16 August 2006 DBP withdrew its section 8.21 application. The ERA subsequently issued a notice advising the public that DBP's application had been withdrawn.

DBP issued a press release on 1 September 2006 advising that it would proceed with the stage 5A expansion at a cost of about \$700 million. This expansion would increase capacity on the pipeline by about 100 terajoules per day (full haul) with the first part of this new capacity to be commissioned during the first quarter of 2008.

Contact: Peter Rixson on (08) 9213 1968

Rail

Review of WestNet Rail's floor and ceiling costs

The ERA has commenced a review of the floor and ceiling costs for certain rail lines in the WestNet Rail network. The floor and ceiling determinations will apply over a three-year period.

The rail lines included in the review are as follows:

- Kwinana to Bunbury Inner Harbour
- Forrestfield to Kalgoorlie
- Leonora to Kalgoorlie
- Kalgoorlie to Esperance
- Brunswick Junction to Collie
- Terminal ends of the Kwinana to Bunbury Inner Harbour
- Avon to Goomalling
- Katanning to Tambellup
- Kulin to Yilliminning

A public consultation process is underway on the floor and ceiling costs submitted by WestNet Rail for the above rail lines. The public submission period finishes in mid-November 2006.

A draft report is expected to be issued by the ERA in early 2007.

Contact: Mike Jansen on (08) 9213 1952

Licensing, monitoring and customer protection

Review of gas trading and distribution licences and best practice utility licensing publications

The ERA has commenced a review of the gas trading and distribution licences, many of which were issued by the Office of Energy before 2000. It is intended to amend the gas trading and distribution licences to align, where possible, with the electricity licences recently issued by the ERA.

Preliminary discussions have been held with licensees and other stakeholders. The issues paper, with in excess of 80 recommendations, including model draft licences, has been released for consultation until 16 November 2006.

Coinciding with the release of the gas licensing review recommendation report, the ERA has also released the *Best practice utility licensing draft*. In this paper the ERA's view of best practice licensing characteristics are outlined, including reference to other recent national publications on the same topic. This has been released for consultation until 23 November 2006.

Contact: Paul Kelly (08) 9213 1925.

Electricity Code Consultative Committee and code review

The ERA has appointed an Electricity Code Consultative Committee (ECCC) to advise it on industry issues and to review the Code of Conduct (for the Supply of Electricity to Small Use Customers).

The code regulates the conduct of electricity licensees and electricity marketing agents on the distribution and retail of electricity.

The object of the code is to define standards of conduct in the supply and marketing of electricity to customers, provide for compensation to be paid to customers when standards of conduct are not met and protect customers from undesirable marketing conduct.

The code deals with issues including electricity marketing, connection, billing, payment, payment difficulties, financial hardship, disconnection, reconnection and prepayment meters in remote communities.

The code has been in effect since January 2005. Under the *Electricity Industry Act 2004* a review of the code is required as soon as possible after the anniversary date and every two years from the date of its establishment.

The ERA has appointed three industry representatives, three consumer representatives and two government agencies to the ECCC.

The ECCC had its first meeting in September 2006 and will provide ample opportunity for public comment by inviting submissions on the draft report from those who are interested in or affected by it.

The ECCC will deliver the results of the review of the code to the ERA in mid-2007.

Further information is available on the ERA's website.

Contact: Lanie Chopping (08) 9213 1928

Water Corporation audits

The ERA has provided a performance report to the Minister for Water Resources summarising the operational audit of the Water Corporation. The auditor concluded that the Water Corporation has complied with its licence terms and conditions in all auditable areas. The audit report indicates the Water Corporation has invested significant time and resources to ensure that it fulfils its obligations under its water service licence. A copy of the Water Corporation's audit has been placed on the ERA's website.

The Water Corporation will conduct its asset management system review in October 2006 with a report due to be submitted to the ERA on or before 31 December 2006. Notably, this is the first report to be submitted to the ERA which will comply with the ERA's new audit guidelines.

The new audit guidelines are available on the ERA's website.

Contact: Adam Phillips (08) 9213 1912

Electricity

Networks access

Access arrangement for Western Power's South West Interconnected Network

The ERA published its draft decision on Western Power's proposed access arrangement for the South West Interconnected Network (SWIN) on 21 March 2006. Public submissions were invited and seven were received by 19 May 2006, including a revised proposed access arrangement from Western Power.



The ERA is currently assessing whether the revised proposed access arrangement has addressed the amendments required by the draft decision and is reviewing the issues raised in the public submissions.

Access code amendment

The Electricity Networks Access Code 2004 (code) allows for the Office of Energy to issue a notice that provides the ERA with an ability to suspend the deadline for a final decision on an access arrangement where an amendment to the code is proposed. On 4 September 2006, the ERA was issued with a formal notice by the Office of Energy advising that it intends to progress an amendment to the code.

As the code amendment being proposed directly impacts on Western Power's regulatory capital base, the ERA considered that this would materially affect its determination of the final decision and therefore, on 7 September 2006, decided to suspend the operation of the deadline for issuing its final decision.

Revised forecasts

Western Power has provided revised forecasts of its new facilities investment in response to a section 51 information request issued by the ERA on 22 August 2006. The revised forecasts, provided on 26 September 2006, will be considered by the ERA in its assessment and approval of the revised proposed access arrangement.

The ERA invited submissions from interested parties on Western Power's revised expenditure forecasts and its proposal to amend the operation of its proposed investment adjustment mechanism. The public consultation period finished on 26 October 2006.

The ERA will recommence its final decision process after the Office of Energy's code amendment has been gazetted or is otherwise finalised. It is anticipated that a final decision will be published in late December 2006 or early January 2007.

Information on the assessment of the revised proposed access arrangement, including the revised cost forecasts and supporting information provided by Western Power, are available on the ERA's website.

Contact: Alison Ovenden on (08) 9213 1961

Technical rules for Western Power's SWIN

Along with its proposed access arrangement, Western Power submitted technical rules which include network benchmarks and standards, procedures and planning criteria.

ERA published draft technical rules for Western Power's regulated electricity networks in the South West Interconnected System (SWIS) on 11 April 2006. In accordance with s. 12.11(c)(ii) of the access code, ERA published technical rules based on Western Power's proposed technical rules; these were amended only to the extent necessary to comply with chapter 12 of the access code and the code objective.

The draft technical rules were prepared following discussions with Western Power and using advice from the Technical Rules Committee, ERA technical advisers and PB Associates. Interested persons were invited to make submissions on the draft technical rules, and three submissions were received.

A final report from the Technical Rules Committee was received on 9 June 2006 and provides guidance to ERA in addressing issues raised in submissions.

The final technical rules must be published by the ERA at the same time as an access arrangement for Western Power's regulated electricity network in the SWIS is approved.

Contact: Nick Parkhurst on (08) 9213 1933

Metering

Metrology procedure and mandatory link criteria

On 11 September 2006, the ERA approved the mandatory link criteria submitted by Western Power and Horizon Power. Then, on 15 September 2006, the ERA also approved the metrology procedure submitted by Western Power and Horizon Power.

Contact: Nick Parkhurst on (08) 9213 1933

Wholesale Electricity Market

The WA Wholesale Electricity Market (WEM) commenced operation on 21 September 2006. Unlike the National Electricity Market, the WEM has a capacity market, a bilateral energy market and a Short Term Energy Market (STEM).

The ERA is responsible for monitoring the market to ensure that the wholesale market objectives are met. These objectives are:

- (a) to promote economically efficient and safe and reliable production and supply of electricity
- (b) to encourage competition among generators and retailers
- (c) to avoid discrimination in the market against a particular energy option and technologies
- (d) to minimise the long-term cost of electricity supply
- (e) to encourage the effective use of electricity.

The ERA has four main areas of responsibility in this market. They include:

- monitoring and reviewing behaviour or matters that lead to the market objectives not being met
- investigation of behaviour not meeting the market objectives
- reporting of market effectiveness to the minister
- approval of allowable revenues and price limits—these include:
 - allowable revenues of system management and the IMO
 - maximum reserve capacity price and energy price limits.

The ERA, together with the Independent Market Operator (the IMO), is actively monitoring market activities.

Since its commencement the STEM has been characterised by relatively high prices and low volumes. STEM offers are expected to reflect the short-run marginal cost of generating the relevant electricity under the market rules. The IMO has recently proposed a rule change to ensure that any ambiguity associated with the interpretation of this rule is removed.

The approval process of the maximum reserve capacity price has commenced. A proposal has been submitted by the IMO for public consultation. The consultation process is expected to conclude on 3 November 2006. The ERA is then expected to provide the approval by the end of January 2007.

The IMO is expected to publish a summary of available market information shortly.

Contact: Ignatius Chin on (08) 9213 1916

Australian Capital Territory

Independent Competition and Regulatory Commission

Electricity

Final report on retail prices for non-contestable electricity customers

In 2003 the ACT Government agreed to retail contestability for electricity supply in the territory, subject to transitional measures designed to provide a regulated tariff for customers. The three-year transitional arrangements were to cease on 1 July 2006, subject to a further review by the Independent Competition and Regulatory Commission (ICRC).



In its final report on the review the ICRC concluded that there was sufficient competitiveness in the ACT retail market to warrant removing the price control but that this was not sufficiently robust to be declared 'effectively competitive'. The ICRC recommended that the ACT Government extend the transitional arrangements for a further 12 months, to enable competition to develop further and to provide for the development of a deemed contract to replace the existing standard franchise customer contract. In addition, the ICRC recommended that a monitoring arrangement be put in place for the three years to 30 June 2010.

During the monitoring period, the ICRC would be able to re-intervene in the market if the expected competitive market characteristics sought by removing the price control do not emerge. The ICRC expects that within the three-year period to 2010 effective competition will have been demonstrated.

The ACT Government has agreed to extend the transitional arrangement for 12 months, and has noted that the price cap would be removed subject to ActewAGL adjusting the standard contract tariff rate to the CPI. The government is expected to make a further decision on the remaining recommendation by the end of 2006.

Prepayment meter system code

In late 2005 Aurora Energy submitted a draft prepayment meter code to the ICRC for approval under the *Utilities Act 2000*. The ICRC released an issues paper in February 2006 and a draft decision in April 2006. After extensive consultation, the ICRC agreed to the proposed code in July 2006. The code provides for a number of prepayment metering options, as well as the option proposed by Aurora. Prepayment meters have been used in Tasmania for some time and more recently have been introduced in South Australia. The ICRC understands that a number of suppliers are interested in offering prepayment products in the ACT.

Electricity network price reset

The ICRC approved the reset of network pricing for 2006 as consistent with the parameters in the current network pricing direction, based on ActewAGL's submission for the annual price reset for the distribution network in March.

Water

The ICRC made its final decision in May 2006 on the reset of water pricing for 2006-07, effective from 1 July 2006. The reset considered and agreed pass-through for drought-related costs, capital expenditure on water supply security, catchment remediation

costs in the Lower Cotter following the 2003 bushfires and operating costs for work associated with developing the Future Water Options project.

The ICRC is reviewing water and wastewater pricing for the period commencing 1 July 2008, having released an information paper on the matter in August this year. Reports on a range of more specific issues will be released during the balance of 2006 and early in 2007, including papers covering the main aspects of the pricing decision. A draft decision will be released in late 2007 and a final decision in early 2008. The ICRC has not yet engaged consultants for the prudential review of capital and operating expenditure and demand forecasts, but will consider those matters before December 2006.

Transport pricing

ACTION pricing

The ICRC completed a one-year price direction for ACTION services from 1 July 2006. The price direction provides for a 6 per cent increase in prices for 2006-07. The ACT Government changed ACTION's structure in the 2006-07 budget—ACTION ceased to be a statutory authority from 1 July 2006; and its board was removed, with administrative responsibility returned to the Department of Territory and Municipal Services (previously the Department of Urban Services). The government has removed the declaration of ACTION as a regulated industry, which effectively returns price setting for ACTION services to the Minister for Transport in the territory.

Taxi pricing

It is likely that a review of taxi prices will be referred to the ICRC before December this year. It is expected that the review will assess the effectiveness of the current pricing approach based on a weighted average index of a basket of costs. This approach has proven easier to manage than other methods, and has reduced conflict in the annual resetting of prices within the price direction. The complexity of the review may be affected by changes currently occurring in the ACT taxi industry (e.g. proposed changes to the delivery of wheelchair-accessible taxis, cost pressures and the possible establishment of a new network from within the existing industry).

Ambulance service pricing

The ICRC was been asked to investigate and make recommendations about the pricing policies of the ACT ambulance service. The ICRC has been specifically requested to consider the pricing approach made in a paper prepared by the Essential Services Authority on behalf of the ambulance service.

On other matters, ICRC's advice was sought on the effect of a review of ambulance services in New South Wales by IPART, and ways in which the ambulance service might better recover its costs. The ICRC released a draft report in April 2006, but has delayed releasing a final report pending decisions foreshadowed in the budget and an announcement about ambulance service pricing in New South Wales. It is likely that a final report will not be required.

New South Wales

Independent Pricing and Regulatory Tribunal

Electricity retail

On 30 June 2006 the Minister for Energy referred the determination of regulated retail tariffs and charges for each distribution area in New South Wales to the Independent Pricing and Regulatory Tribunal (IPART), for investigation and reporting from 1 July 2007 to 30 June 2010.

On 14 July 2006 IPART released an issues paper, in which it called for comment on the main matters for consideration and set out the review process. IPART will release a draft report and determination in April 2007, and a final report and determination by mid-June 2007.

Gas retail

On 30 June 2006 the Minister for Energy requested that IPART continue regulating default tariffs for small retail customers and ensure that either new voluntary pricing principles or a gas pricing order under the *Gas Supply Act 1996* operate until 30 June 2010. IPART will begin its review of gas tariffs shortly.

Transport

Taxi fares

IPART is currently reviewing maximum fares for taxi services. Submissions have been received and it is expected that IPART's report, in which it will set out its recommendations to the Minister for Transport, will be finalised in July.

Rail fares

On 16 June 2006 IPART released its annual determination on CityRail fares. An average increase of 2.9 per cent on CityRail fares and a reduction in the discount on off-peak fares were approved.



Rail access

IPART is currently reviewing the compliance of the Hunter Valley coal network infrastructure owners with the New South Wales rail undertaking for 2004–05.

Productivity

On 4 August 2006 IPART held an information session for transport stakeholders, addressing why and how IPART takes productivity changes into account when making recommendations.

Water pricing

Metropolitan water pricing

Central Coast pricing review

IPART has completed an investigation into the prices for water, sewerage and stormwater services charged by Gosford City Council and Wyong Shire Council for 1 July 2006 to 30 June 2009. These areas are suffering from protracted drought and the councils have developed augmentation options to secure future water supplies. These options have implications for prices.

Water usage charges in both areas are to increase by 18 per cent per year in real terms over the term of the price path. Water service charges for Gosford will increase by the change in the CPI, while in Wyong these charges will reduce slightly in 2006–07 and then increase by the change in the CPI in following years.

Sewerage service charges for Gosford Council will increase by 3.2 per cent in 2006–07 and thereafter by CPI changes. Sewerage service charges for Wyong Council will increase by 3.5 per cent in 2006–07 and by 5.5 per cent in real terms over the period to 2008–09.

Pricing arrangements for recycled water

On 12 July 2006 IPART released a draft report and determinations dealing with the pricing of recycled water services and sewer mining.

IPART made a draft pricing determination for recycled water prices at Rouse Hill, on the north-western outskirts of Sydney. Recycled water use at Rouse Hill has succeeded to the extent that potable water needs to be used to supplement supplies during high demand periods. IPART's draft determination is intended to assist the transition from the current low usage charge to a price that better reflects the costs of making recycled water available.

Under the draft determination, the recycled water usage charge will increase in each year of the determination, so that by 30 June 2009 it will be equal to 80 per cent of the potable water usage charge. The fixed charge will reduce each year of the

price path from the current level of \$25.32 per year to \$10.25 (\$ of 2006–07) by 2008–09.

Develop charges for recycled water scheme

Where property owners are obliged to connect to recycled water schemes due to government policy, IPART has developed pricing guidelines to assist water agencies to calculate prices. The variations between schemes, the formative stage of many schemes and the lack of reliable data mean that IPART is unable to determine specific prices for each scheme.

IPART also decided not to determine prices for 'voluntary' recycled water schemes where customers are able to choose to connect. Users of these schemes have available substitute water products such as reticulated potable water or river water. IPART's view is that prices for these types of recycled water services should be negotiated directly between the parties and has suggested principles to help guide these negotiations.

As IPART will not have a regulatory role in pricing arrangements for most recycled water customers, water agencies will be required to ring fence costs and revenues from their regulated businesses.

Bulk water pricing

IPART is reviewing charges to be applied for the extraction of bulk water by farmers, industrial users and town water suppliers from water resources managed by the Department of Natural Resources under the Water Administration Ministerial Corporation and State Water Corporation.

Agencies have submitted their proposals and public submissions have been received. IPART's draft determination was released in May 2006 and a number of submissions on it have been received. IPART expects to release its final determination in September 2006.

Water licensing

During 2006–07 IPART will conduct a review of the Hunter Water Corporation's operating licence. IPART expects to make its recommendations to the minister in April 2007, with the new licence commencing on 1 July 2007.

IPART will also review State Water's operating licence early in 2007, with the new licence applying from 1 July 2008.

Greenhouse gas abatement scheme

This greenhouse gas abatement scheme (GGAS) aims to reduce greenhouse gas emissions associated with the production and use of electricity. It achieves this by using project-based activities to offset the production of greenhouse gas emissions.

The scheme establishes annual state-wide greenhouse gas reduction targets, and then requires individual electricity retailers and certain other parties who buy or sell electricity in New South Wales to meet mandatory benchmarks based on the size of their share of the electricity market. If these parties, known as benchmark participants, fail to meet their benchmarks, then a penalty is assigned. IPART monitors the performance of benchmark participants.

At 30 June 2006 there were 35 benchmark participants, 24 of which were compulsory participants, as prescribed in the legislation. Recent legislative amendments will extend the range of acceptable corporate arrangements for elective benchmark participants. At 30 June 2006 IPART had accredited 168 projects that are eligible to create certificates. Close to 25 million abatement certificates have been registered in the scheme.

More certificates continue to be created than are needed for surrender by benchmark participants. However, abatement certificates are bankable—enabling those registered early in the scheme to be used for compliance in future years. The scheme has seen significant growth in projects involving the giving away of compact fluorescent lights and AAA-rated showerheads. The abatement from these types of projects is claimed at the time of the appliance being installed, discounted to take account of the distribution method. Nearly 1 million certificates have been registered from these types of projects.

In 2006 the method of calculating abatement was changed, with abatement certificate providers are now required to submit a performance improvement testing regime document to IPART for approval. IPART is now working with participants using this calculation methodology to finalise their Pitr documents.

Details of the scheme and abatement certificate providers can be found on the New South Wales greenhouse gas abatement scheme website (www.greenhousegas.nsw.gov.au).

Other reviews

IPART undertakes reviews outside the utility regulation functions at the request of the New South Wales Government and other entities. Recently completed and current reviews include:

- Review of burden of existing regulation

Purpose: to identify priority areas where regulatory reform could provide significant immediate gains to business and the community, and to develop recommendations



to improve the efficiency of government regulation. Further information on the review (including the draft report) can be found on the IPART website.

- Review of the skill base in NSW

Purpose: to conduct a review of the skills base in NSW and comment upon the future challenges for vocational education and training. A final report is expected to be released by the end of 2006.

Tasmania

Office of the Tasmanian Energy Regulator

Reviews

- Review of the economic implications of an interval meter rollout in Tasmania

The Tasmanian Energy Regulator conducted a review of the economic implications of a rollout of interval meters for electricity in Tasmania. The review involved a cost–benefit analysis of a range of meter rollout scenarios, including manually read interval meters and advanced (‘smart’) meters, on either a new and replacement or accelerated basis.

The draft report was published in August 2006, with submissions closing on 20 September 2006. The draft report and the only submission received are available online. The final report will go to the minister in October 2006 and will discharge Tasmania’s commitment to the Ministerial Council on Energy to investigate the benefits of an interval meter rollout. More information on the MCE’s principles on assessing interval meters is available online.

- Reliability review for 2006

The Reliability and Network Planning Panel has undertaken its annual assessment of the outlook for power system reliability in the medium term (the next two years) and submitted its *2005 Reliability report* to the regulator. The report precedes the commercial operation of the Basslink interconnector and is available online.

The reliability of the power system in the medium term is contingent on its performance once Basslink begins operation. Given current knowledge, the panel believes the reliability of the power system will not be significantly affected with Basslink fully operational.

The 2005 report noted that the underlying reliability of the power system (excluding the effects of severe storms, etc.) has improved since the first reliability review was published in 2002.

Although some significant issues still need to be addressed, it is clear that recent improvement works have benefited the reliability of the power system.

These documents and related material are available on the website of the Office of the Tasmanian Energy Regulator.

Gas Customer Transfer and Reconciliation Code

Certification of allocation agent

In June 2006 the Director of Gas certified Powerco Tasmania Pty Ltd as the allocation agent under the Gas Customer Transfer and Reconciliation Code.

The allocation agent is responsible for estimating and allocating gas quantities to retailers at a receipt point, on a daily and monthly basis, in the absence of actual known daily and monthly metered quantities of gas for all customers.

The allocation agent is subject to the terms of the certification, which can be viewed on the website of the Office of the Tasmanian Energy Regulator.

Gas conversion methodology

The Gas Customer Transfer and Reconciliation Code provides that gas is to be metered by quantity and converted to units of energy for billing purposes by using a methodology approved by the Director of Gas.

Powerco Tasmania, as the metering data provider, submitted a gas conversion methodology which was approved in June 2006 after consultation with interested parties.

More information on the determination and methodology can be viewed on the website of the Office of the Tasmanian Energy Regulator.

Tasmanian Electricity Code

Draft prepayment meter retail code

A draft report and recommendations on the inclusion of a prepayment meter retail code in the Tasmanian Electricity Code was released in September 2006. Submissions on the draft code close on 20 October 2006. The draft report can be viewed on the website of the Office of the Tasmanian Energy Regulator.

Electricity pricing

Electricity retail tariff determination of maximum prices

The current determination of retail tariffs for electricity customers will expire on 31 December 2006. The Tasmanian Government has amended the Electricity Supply Industry (Price Control) Regulations 2003 to allow the regulator to determine maximum prices for the period 1 January to 31 December 2007 without the need for an investigation. The extension will align the timing of retail and distribution price investigations.

The principles to be applied in making the 2007 determination are prescribed by the price control regulations. The current vesting contract between Hydro Tasmania and Aurora Energy Pty Ltd will expire on 31 March 2007, although the regulator is required to assume that the price of energy under the current vesting contract will apply for the whole of that calendar year. The regulator is also required to pass-through transmission and distribution and NEMMCO charges and renewable energy certificate costs. The retail margin to be applied is set at 3 per cent (the same as that applied by the regulator in setting the maximum retail tariffs in the 2003 determination), with the ‘cost to serve’ to be equal to that assumed in the 2003 determination with adjustment for CPI.

The regulator expects to make the final determination by the end of December 2006.

2007 electricity price investigation

The current determination of distribution prices made under the Electricity Supply Industry (Price Control) Regulations 2003 expires on 31 December 2007. The regulator will undertake an investigation into electricity distribution prices, in parallel with an investigation as to maximum retail tariffs on mainland Tasmania, during 2007.

The decision and statement of reasons about the form of regulation to be used in determining 2007 electricity distribution prices was released in March 2006 and can be viewed on the website of the Office of the Tasmanian Energy Regulator. The regulator decided that a revenue cap will apply to distribution services during the next regulatory period.

Further detailed papers on the regulator’s proposed approach to the review and the service incentive scheme to be applied will be published during the second half of 2006.



Development of distribution network performance standards

The regulator is required to establish and enforce proper standards of security and reliability in the electricity supply industry, including the distribution network. The process of establishing suitable levels of performance for the supply delivered to customers is closely tied to the regulator's pricing determination process, as part of defining an overall price-for-service package. With a new price determination due to come into effect in 2008, the regulator is working to establish the distribution network performance standards required throughout the period of the determination.

These standards will drive Aurora Energy's capital program, which will be considered in the 2007 investigation.

One of the primary aims of the project is to refocus the reliability standards framework towards the level of reliability experienced by customers. Current measures of performance at a state-wide average level or by feeder average may provide incentives to the distributor to improve averages while ignoring individual customers. The new framework will also better reflect the economic value of reliable supply, particularly within economic zones.

Stakeholder views will be sought on the proposed framework, with a final recommendation delivered by the end of October 2006.

Typical customers

Both Aurora Energy and the regulator are required to ascertain the effect of tariff price changes on customers. To ensure a consistent approach, the regulator released *Typical electricity customers*, an information paper setting out the regulator's preferred methodology. This methodology uses statistical techniques to capture not only the normal range of customers but also the relatively small but significant populations in outlier groups.

The paper also provides a practical example on the application of this methodology using consumption data provided by Aurora to establish a set of 'typical' customers. The information paper can be viewed on the website of the Office of the Tasmanian Energy Regulator.

Government Prices Oversight Commission pricing investigations

Metro Tasmania Pty Ltd

On 12 October 2005 the Minister for Finance directed the Government Prices Oversight Commission (GPOC) to investigate the pricing policies of Metro Tasmania Pty Ltd (Metro) for public transport services in Hobart, Launceston and Burnie

The GPOC's final report was provided to the Tasmania Government on 19 May 2006, recommending maximum revenues that may be earned by Metro from the fare box and the government contribution for 'efficient' costs of providing contracted services.

The GPOC recommended maximum adult fares of no more than 50 per cent (in real terms) above current levels and progression towards maximum distance based adult concession fares of 50 per cent of the full adult fare. These recommendations represent a cap that should apply in the absence of any government subsidies.

Copies of the draft and final reports, terms of reference and submissions are available on the GPOC website.

Motor Accidents Insurance Board

In February 2006 the Minister for Finance issued terms of reference for the fourth investigation into the Motor Accidents Insurance Board's pricing policies.

Under the terms of reference, the GPOC was required to investigate prices levied on motorists to fund the current provision of motor accident personal injury insurance for all persons injured in motor vehicle accidents involving Tasmanian-registered vehicles.

The GPOC's draft report was released in June 2006 and proposed that no change be made to average maximum premiums in 2006, with maximum premiums indexed with AWOTE thereafter. The GPOC made a number of recommendations to vary premium relativities and the definition of vehicle classes, including:

- increasing premiums for all motorcycles with an engine capacity greater than 125 cc by 12 per cent over three years increasing premiums for taxis and chauffeured hire cars by 21 per cent over three years
- increasing the threshold for small motorcycles from 100 cc to 125 cc, giving owners of the affected vehicles a decrease of 59 per cent on their premiums

- re-classifying non-self-propelled horse floats, giving their owners an effective decrease of 53 per cent on their premiums.

Copies of the draft and final reports, terms of reference and submissions are available on the GPOC website.

Queensland

Queensland Competition Authority

Electricity

The Queensland Competition Authority's *Final determination on the regulation of electricity distribution for 2005* sets out the regulatory arrangements that apply to Queensland's electricity distribution network service providers (DNSPs), Energex and Ergon Energy, for the four-year regulatory period that began on 1 July 2005. The determination is available online.

The final determination encouraged Energex and Ergon Energy to consider a number of medium-term pricing issues and required them to submit proposals to address these issues during 2005-06. The Queensland Competition Authority (QCA) engaged a consultant to review the proposals submitted by the distributors and to provide a broader perspective on contemporary network pricing issues. The resulting report was provided to the distributors to help them finalise their medium-term pricing strategies, which are to be published before the end of 2006.

The determination requires the distributors to produce price paths for customers with below-cost prices to move their prices to cost reflectivity by 2009-10. The QCA subsequently extended this period to 2014-15 for some Ergon Energy customers who would otherwise have experienced unacceptably large price increases in reaching cost reflectivity by 2009-10.

The QCA approved the revised pricing principles statements submitted by Energex and Ergon Energy in May 2006. Energex amended arrangements for its new capital contributions policy and noted its intention to introduce kVA prices in the medium term. Ergon Energy revised its TUOS pass-through method to provide greater price stability and consistency across customers.



The QCA approved distribution prices for 2006–07 after confirming that they were calculated using approved pricing principles and appropriately targeted each distributor's approved annual revenue requirement.

For the first time, the QCA required distributors to publish prices for non-contestable customers (from December 2005, in anticipation of the introduction of full retail contestability from 1 July 2006).

In April 2006 the QCA approved revised cost allocation methods and procedures, which distributors are required to follow when preparing the regulatory reporting statements for 2005–06. To avoid previous reporting problems, further changes to these methods and procedures will be allowed only in exceptional circumstances and with the QCA's before approval.

The QCA released the DSNP service quality reports for the 2006 March quarter in June 2006. More information is available on the QCA website.

Contact: Gary Henry on (07) 3222 0504

Gas

The approved access arrangements for the Allgas and Envestra gas distribution networks in Queensland expired on 30 June 2006.

Allgas and Envestra submitted revised access arrangements to the QCA on 30 September 2005. The QCA received numerous submissions on the revised access arrangements and on its draft decisions (released on 21 December 2005), including a further revised access arrangement from Allgas. The draft decisions are available for viewing on the QCA website.

The QCA released its final decisions on the revised access arrangements on 22 May 2006. In both cases, the final decision was not to approve the revised access arrangements. The QCA also required both Allgas and Envestra to amend their revised access arrangements by 5 June 2006 before approval would be granted.

Key features of the final decisions include:

- confirmation of acceptance of the rates of return proposed by the service providers (Allgas, 8.75 per cent; and Envestra, 8.80 per cent)
- forecast operating expenditure of \$57.7 million for Allgas and \$82.7 million for Envestra, compared to the \$59.6 million and \$93.9 million respectively proposed by them
- forecast capital expenditure of \$143.5 million for Allgas and \$73.3 million for Envestra compared to the \$162.1 million and \$102.4 million respectively proposed by them

- required amendments to a number of terms and conditions relating to, for example, network curtailment priorities, invoicing practices and capacity management.

The QCA calculated that Allgas and Envestra would require \$230 million and \$206.7 million respectively over the coming five-year regulatory period.

As a result, prices for Allgas' volume customers will vary on average by CPI each year, while prices for demand customers will vary by CPI 0.2 per cent each year. For Envestra, prices for volume customers will vary on an average of CPI + 1.1 per cent each year, while prices for demand customers will vary by CPI+1.6 per cent each year.

Prices for individual customers will vary depending on their particular circumstances. However, the QCA's final decisions require both service providers to limit any increase to individual volume customers to CPI+3 per cent, unless they can demonstrate that an increase above this limit will assist in moving tariffs to more cost-reflective levels.

Allgas adopted all amendments required by the QCA; Envestra adopted all but three of the required amendments. However, Envestra addressed the remaining three required amendments by proposing alternatives that the QCA accepted as satisfying the requirements of the code. As a result, the QCA accepted the final versions of the revised access arrangements submitted by the service providers and released its final approvals in late June 2006.

The 2006 review of access arrangements was completed within nine months, consistent with the timetable determined by the QCA in consultation with the service providers.

Contact: Gary Henry on (07) 3222 0555

Local government

The QCA completed its eighth and final review—under the local government financial incentive payments scheme—of the progress made by councils in implementing competition reforms.

The review covered compliance with scheme requirements by Queensland's 125 local councils as at 30 June 2005 in respect of 740 business activities and 110 COAG water activities.

The QCA's report and accompanying recommendations for the redistribution of funds remaining unspent at the end of the scheme have been submitted to the relevant ministers.

Contacts: Rick Stankiewicz on (07) 3222 0510
Sean Andrews on (07) 3222 0516

Water

Gladstone Area Water Board pricing practices

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

The QCA's final report on GAWB's pricing practices was provided in March 2005, with the Government accepting, with qualification, four of the QCA's recommendations, and accepting the remaining recommendations without qualification.

The QCA's recommendation that GAWB annually publicly report on service quality against contractual standards and submit the report to the QCA was accepted by government. The QCA is now awaiting submission of GAWB's first service quality report.

The QCA's final report of recommendations is available from the QCA or can be downloaded from the QCA website.

Contact: Rick Stankiewicz on (07) 3222 0510
George Passmore on (07) 3222 0545

Rail

Queensland Rail draft access undertaking

On 9 June 2006 Queensland Rail submitted a voluntary draft access undertaking for approval by the QCA. In doing so, QR withdrew its judicial review application relating to the QCA's December 2005 decision to reject an earlier QR draft access undertaking.

On 30 June 2006 the QCA approved QR's 2006 access undertaking.

The 2006 access undertaking replaces QR's 2001 access undertaking, and will expire on 30 June 2009. It sets out the terms and conditions under which QR will provide access to the parts of its rail infrastructure covered by the undertaking. It also addresses processes required for an access seeker to negotiate access to the infrastructure and to resolve any access disputes.

Key changes from the 2001 access undertaking include:

- reduced reference tariffs for coal-carrying train services—the central Queensland coal reference tariffs are, on average, 17 per cent below the prevailing tariffs and the Western System tariffs are, on average, 20 per cent below
- better definition of QR Network Access's roles and responsibilities—including more detailed



and robust ring-fencing obligations and requirements for QR Network Access to adopt clear decision-making processes

- a queuing mechanism that allows access seekers to reserve capacity during negotiations
- more streamlined and certain processes to establish new reference tariffs and standard access agreements and to keep line diagrams up-to-date
- a provision that in calculating coal reference tariffs or common-cost contributions, the distance taper will take account of the length of non-declared rail infrastructure as well as the length of declared rail infrastructure over which coal is transported
- a master planning process to provide robust and transparent management of the future development of the central Queensland coal network
- increased transparency through enhanced public and regulatory reporting provisions.

The 2006 access undertaking recognises that a number of matters remain unresolved, particularly measures to mitigate QR's exposure to coal volume fluctuations. The undertaking includes processes to resolve these matters during 2006–07.

The final approval and copies of supporting documentation are available on the QCA website.

Contact: Paul Bilyk on (07) 3222 0506

Ports

Dalrymple Bay Coal Terminal access undertaking

Since the release of the QCA's April 2005 decision to refuse to approve the initial Dalrymple Bay Coal Terminal (DBCT) draft access undertaking, Babcock and Brown Infrastructure (BBI), the terminal lessee, and terminal users have engaged in extensive negotiations to resolve outstanding matters relating to the draft undertaking and the standard access agreement (SAA).

On 4 January 2006 BBI formally submitted a revised draft access undertaking and related SAA for DBCT.

On 15 June 2006 the QCA published its decision to approve the access undertaking as it was broadly consistent with the principles underlying its April 2005 decision and was generally supported by terminal users. In approving the access undertaking, the QCA also took into account the interests of future access seekers who were not involved in the negotiations leading up to re-submission of the access undertaking.

The 2006 access undertaking provides for:

- allocation of terminal capacity among access seekers based on the dates on which they made binding commitments for additional capacity
- QCA assessment of capacity expansions during the regulatory period to reduce concerns regarding regulatory risk, with the QCA anticipating requests for approvals of expansions from the first quarter of 2006–07
- measures to allow BBI to manage the creditworthiness risk of terminal users
- the rights of terminal users to be protected in the event of changes to terminal regulations
- a detailed standard access agreement to provide BBI and access seekers with greater certainty about their rights and obligations
- public reporting of indicators on the terminal's operations and service quality.

The undertaking will expire on 31 December 2009 or when the operator (currently DBCT Pty Ltd) changes.

Copies of the QCA decision and the approved DBCT 2006 access undertaking are available on the QCA website.

Contact: Paul Bilyk on (07) 3222 0506

Northern Territory

Utilities Commission of the Northern Territory

Review of cost allocation practices and procedures

In June 2006, the Utilities Commission of the Northern Territory finalised a review of the Power and Water Corporation's allocation of costs—both operating and capital—between products and customer groupings. The Utilities Commission accepted the findings of the Allen Consulting Group, which were that Power and Water's cost allocation policies broadly comply with its legal and regulatory obligations but that documentation about the approved cost allocation procedures is deficient in certain respects and may result in an unreliable allocation of costs across regions and customer classes.

Power and Water has undertaken to address these issues within an agreed timeframe. The Utilities Commission will work with Power and Water over the coming year to ensure that financial information provided to the Utilities Commission is of an appropriate quality.

Community service obligation valuation

At the request of the Regulatory Minister the Utilities Commission updated its valuation of the uniform tariff and tranche for contestable customer community service obligations (CSOs) on Power and Water in May 2006.

While details of the Utilities Commission's recommendations are confidential, deficiencies were identified in the cost and asset data provided by Power and Water. Accordingly, the Utilities Commission issued an interim finding and recommended that a more comprehensive valuation of the CSOs be undertaken before the 2007–08 budget.

Energy Loss Factors Code

In April 2006 the Utilities Commission published its Energy Loss Factors Code, setting out the desired outcomes to be met by any methodology used in future by Power and Water networks to calculate energy losses in the Northern Territory context.

In July 2006 the Utilities Commission approved the energy loss factors calculation methodology submitted by Power and Water in accordance with the code for use from 1 July 2006.

Standards of Service Code

In July 2006 the Utilities Commission approved initial minimum standards of service benchmarks submitted by Power and Water, which will report its performance in 2005–06 against these standards for the first time by October 2006. The Utilities Commission will publish its assessment of Power and Water's 2005–06 standards of service performance before the end of 2006. The Utilities Commission's approval of the initial minimum standards of service benchmarks will continue until 30 June 2009, when consideration will be given to the possible adoption of associated incentive or penalty mechanisms.

Generation prices oversight

In June 2006 the Utilities Commission provided its second report on the generation component of electricity prices paid by contestable customers. The Utilities Commission found that there had been a significant increase in Power and Water's average generation revenues per kWh between 2003–04 and 2004–05, and that unit revenues recovered from contestable customers in 2004–05 are close to, or slightly above, the estimated range of efficient generation costs. The commission noted these findings were subject to data reliability concerns.



Distribution system extension area charges

In July 2006 the Utilities Commission approved the schedule of financial contributions set out in Power and Water's distribution system extension policy as complying with the provisions of s. 86(7) of the Electricity Reform Act. The approval was subject to the scheduled contributions in a particular case falling within a permissible range of the contribution calculated in accordance with the approved capital contributions policy.

Review of electricity regulation regime

The Northern Territory Government approved the undertaking of a review of possible reforms to the Territory's electricity regulation regime. These reforms might better achieve the legislative objectives; they include the possible transfer of regulatory functions to the Australian Energy Regulator and Australian Energy Market Commission. The review is being coordinated by Northern Territory Treasury.

Electricity Ring-Fencing Code

In May 2006 the Utilities Commission decided to postpone its review of the procedures under the Ring-Fencing Code until clearer priority can be given to developing nationally consistent regulatory instruments.

Network access tariffs

In May 2006 the Utilities Commission approved the standard network access service reference tariffs and charges that will apply during 2006–07. The tariffs were approved against the pricing principles statement issued in February 2006. The tariff rebalancing undertaken by Power and Water following the move to the tariff basket form of price control was not substantial.

Contact: Anne-Marie Hart on (08) 8999 6822

International

Commerce Commission/ New Zealand

Telecommunications

The Commerce Commission began investigating mobile termination rates in May 2004, following indications that a potential lack of competition could result in unreasonably high retail charges for fixed-to-mobile calls. In a June 2005 report to

the Minister of Communications, the Commerce Commission recommended mobile termination be a regulated service due to a lack of competition.

The minister requested that the Commerce Commission reconsider its recommendation in light of offers by both mobile services providers to reduce the mobile termination rates. The Commerce Commission's reconsideration report in April 2006 recommended that regulation would still provide greater benefits to consumers.

In January 2006 Vodafone applied to the Commerce Commission for interconnection with Telecom's fixed PSTN for calls from Vodafone's local access numbers. Vodafone is planning to launch a local access service using mobile handsets. The Commerce Commission decided to investigate the application and called for submissions from the parties.

Electricity

At the end of January 2006 the Commerce Commission published its reasons for its intention to declare control of the electricity transmission services supplied by Transpower New Zealand Limited, owner and operator of the national transmission grid.

After consulting with Transpower over information treated as confidential in the original paper, the Commerce Commission published an expanded version of its reasons in February. The Commerce Commission felt that this was in the public interest.

On 17 March 2006 the electricity distribution business Unison Networks told the Commerce Commission it would reverse its most recent price rises in Taupo and Rotorua from 1 April. The Commerce Commission had published its intention to declare control of Unison in September 2005, following breaches of the price and quality thresholds. The Commerce Commission's preliminary finding was that Unison was earning excess profits, with the greatest impact being felt by consumers in Rotorua and Taupo.

Unison's decision to reverse its distribution price rises was an interim measure that saw the Commerce Commission delay its decision on placing the company's distribution services under control. The delay has given Unison time to prepare an administrative settlement offer for the Commerce Commission.

On 31 March 2006 Transpower told the commission its customers would not pay a 19 per cent price rise planned for 1 April while it negotiated an administrative settlement with the Commerce

Commission. Although the price rise has gone ahead, customers are credited the same amount, effectively cancelling out the increase.

The Commerce Commission also published its *Asset management plans: revised information disclosure requirements and handbook decision paper*. This paper outlines the Commerce Commission's final decisions on revisions to the *Information disclosure requirements and handbook* to implement best practice for asset management plans; it also discusses other issues relating to AMP disclosure. The revisions will apply to disclosures made in 2006–07.

Given the importance of asset management planning to the efficient management of lines businesses assets, the Commerce Commission indicated it will continue its annual review of AMPs and will require forecast capital expenditures and variances explanations as part of AMP disclosures. This additional information will be used during consultation on the revised financial information requirements.

Gas pipelines

In January 2006 the Commerce Commission published its *Authorisation for the control of supply of natural gas distribution services by Vector Ltd and Powerco Ltd process paper*, which describes the commission's proposed approach for issuing the final determination. The Commerce Commission issued a provisional authorisation in August 2005.



Contributing to *Network*

If you are interested in publishing an article in *Network*, contact Katrina Huntington:

Tel: (03) 9290 1915
Fax: (03) 9663 3699
Email: katrina.huntington@acc.gov.au

To subscribe to *Network*, cancel your subscription or update your contact details, complete the form provided below and mail or fax it to:

Katrina Huntington
Network Coordinator
ACCC

GPO Box 520
Melbourne Vic 3001

Fax: (03) 9663 3699, or email your details to katrina.huntington@acc.gov.au

- Please add my name to the mailing list for *Network*.
- Please delete my name from the mailing list for *Network*.
- Please update my contact details.

Name:

Address:

Tel/Fax:

Email:

Utility regulator forum members

Australian Competition and Consumer Commission (ACCC)	www.accc.gov.au
Australian Energy Regulator (AER)	www.aer.gov.au
National Competition Council (NCC)	www.ncc.gov.au
Australian Energy Market Commission (AEMC)	www.aemc.gov.au
Independent Pricing and Regulatory Tribunal (IPART)	www.ipart.nsw.gov.au
Essential Services Commission (ESC)	www.esc.vic.gov.au
Government Prices Oversight Commission (GPOC)	www.gpoc.tas.gov.au
Office of the Tasmanian Energy Regulator (OTTER)	www.energyregulator.tas.gov.au
Queensland Competition Authority (QCA)	www.qca.org.au
Economic Regulation Authority (ERA)	www.era.wa.gov.au
Essential Services Commission of South Australia (ESCOSA)	www.escosa.sa.gov.au
Independent Competition and Regulatory Commission (ICRC)	www.icrc.act.gov.au
Utilities Commission, Northern Territory	www.utilicom.nt.gov.au
Commerce Commission, New Zealand	www.comcom.govt.nz