NETWORK

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Regulator in Profile

Dr Ken Michael AM

On 2 June 1999 Dr Ken Michael was appointed Independent Gas Pipelines Access Regulator for Western Australia for a three-year term.

In addition to his role as Regulator, Dr Michael is also the Chief Executive Officer of the Office of Gas Access Regulation and Accountable Officer under the *Financial Administration and Audit Act 1985*.

Previous positions include Chief Executive Officer of Main Roads Western Australia, Public Service Commissioner (1993–1994) and Commissioner of Main Roads (1991–1997).

Dr Michael holds a Bachelor of Engineering degree with first class honours from the University of Western Australia and a PhD from the University of London.

He was appointed a Member of the General Division of the Order of Australia at the 1996 Australia Day Honours and is a former Chairman of Commissioners of the City of Albany.

Dr Michael holds the positions of Pro-Chancellor of the University of Western Australia and Chairman of the Board of Trustees of the Western Australian Museum. He is a Fellow of the Australian Academy of Technology Sciences and Engineering, the Chartered Institute of Transport, Australia; the Australian Institute of Management and an Honorary Fellow of the Institution of Engineers, Australia.

The Office of Gas Access Regulation in Western Australia

The Office of Gas Access Regulation (*Off*GAR) was established on 23 February 1999. *Off*GAR's mission is to promote free and fair trade in gas by facilitating the effective and efficient regulation of access to gas pipelines wholly located in Western Australia at the lowest practicable regulatory cost, including transmission and distribution pipelines.

The regulatory framework

A uniform national framework for access to gas pipelines was initially agreed to by all Australian Governments on 25 February 1994.

In Western Australia the framework also applies to certain pipelines for the reticulation of gas other than natural gas.

The uniform national framework is enacted in Western Australia by the *Gas Pipelines Access (WA) Act 1998*. This Act implements the Gas Pipelines Access (Western Australian) Law comprising:

- legislative provisions set out in Schedule 1 of the Act; and
- the National Third Party Access Code for Natural Gas Pipeline Systems as set out in Schedule 2 of the Act.

The Gas Pipelines Access Law is supported by an intergovernmental agreement, The National Gas Pipelines Access Agreement, signed by all Australian Governments on 7 November 1997.

In Western Australia an Independent Gas Pipelines Access Regulator is responsible for the regulation of access to both gas transmission and distribution pipelines located within the boundaries of the State.

Owners of covered pipelines are required to lodge access arrangements with the Regulator within prescribed time limits.

Contents

National developments

Electricity

Following is a brief overview of the current work of the Australian Competition and Consumer Commission in the electricity sector.

Authorisations

Authorisation of the amended National Electricity Code

Applications for authorisation of the amended National Electricity Code (NEC) were submitted to the ACCC on 28 August 1998 and amended on 16 and 22 September; 2, 6, 20 and 26 October; 5 and 20 November 1998 and 7 June 1999. The ACCC granted interim authorisation on 7 October 1998 and subsequently on 25 November 1998, 6 January 1999 and 9 June 1999.

The existing NEC was authorised by the ACCC on 10 December 1997 and amendments to the NEC were authorised on 19 October 1998.

The ACCC's draft determination was released on 8 October 1999. It pertains to the NEC in its entirety, although much of the analysis has been limited to proposed amendments contained in the applications and any issues raised by interested parties.

The applications contain amendments to most chapters of the NEC, including code participation, market rules, power system security provisions, access arrangements and transitional arrangements.

A pre-determination conference in relation to the draft determination was held on 22 October 1999. The ACCC made its final determination on 22 December 1999 granting authorisation on condition that a number of amendments are made to the NEC.

National Electricity Code changes — Market network service providers

On 26 July 1999 National Electricity Code Administrator (NECA) submitted applications for authorisation of the code changes to allow market network service providers (MNSPs) to operate under the NEC. This application was subsequently amended on 18 August and on 27 September 1999.

These applications included a request for interim authorisation of the changes to chapters 2, 3, 4 and 7 dealing with the MNSP code changes. The ACCC granted interim authorisation on 6 October 1999.

Submissions on the MNSP code changes closed on 18 September 1999. The major issues raised in submissions to the ACCC's authorisation and access assessments were:

- whether market network services would deliver benefits to customers, such as lower prices, or whether the benefits would all be captured by the MNSP;
- whether market network services will deliver an optimal level of inter-connector capacity;
- whether system security obligations should be placed on MNSPs;
- to what extent should MNSPs be required to pay transmission use of system (TUOS);
- the appropriate form of undertakings for MNSPs.

The ACCC's draft determination on these code changes is due early in 2000.

National Electricity Code changes — network pricing

On 26 July 1999 NECA lodged an application to vary the national electricity market (NEM) access code to take account of changes arising from NECA's review of transmission and distribution pricing. The NECA subsequently amended the application to vary the access code on 18 August 1999. At the same time NECA applied for authorisation of the code changes (this was effected by varying the authorisation application relating to arrangements for MNSPs).

On 14 September 1999 the ACCC released an issues paper on the network pricing code changes. These code changes concern a range of matters relating to investment in, and the pricing of, the transmission and distribution networks in the NEM. These matters have been the subject of a lengthy review of transmission and distribution network pricing which was required of NECA under the NEC.

Submissions on the network pricing code changes closed on 30 September 1999.

The ACCC's draft determination on these code changes will be released at the same time as the MNSP code changes early in 2000.

National Electricity Code changes — capacity mechanisms, VoLL and price floor

On 27 September 1999 the NECA lodged applications for authorisation of amendments to the NEC resulting from:

- the NECA review of capacity mechanisms in the NEM;
- the reliability panel review of the value of lost load; and
- the NEC requirement that negative spot prices be allowed within twelve months of market commencement.

The ACCC has invited comment on the potential anti-competitive detriment and public benefit associated with the proposed amendments to the NEC. Submissions closed on 12 November 1999.

National Electricity Code changes — settlements residues auction

On 20 May 1999 the ACCC received applications for authorisation of amendments to the NEC to enable an auction of portions of the settlements residue to be undertaken by NEMMCO. Proposed amendments to the applications were received on 24 May 1999 and 22 June 1999.

The ACCC released its draft determination on these applications on 27 October 1999. It proposed granting authorisation subject to a number of amendments being made.

On 3 November 1999 Snowy Hydro Trading Pty Limited notified the ACCC that it wished to hold a pre-determination conference about the draft determination. This conference was held on 11 November 1999.

On 22 December 1999 the ACCC made a final determination granting authorisation subject to amendments.

National Electricity Code changes — market operations for Y2K, regulated inter-connectors and system security compensation

On 23 July 1999 the NECA lodged three applications with the ACCC for authorisation of changes to the NEC dealing with:

- market operations for Y2K;
- the regulatory test for new inter-connectors and network augmentations; and
- deferral of compensation payments for system security directions.

On 20 October 1999 the ACCC released its final determination granting conditional authorisation to these applications.

On 22 December 1999 the ACCC promulgated the regulatory test for network augmentations and new inter-connectors in accordance with the NEC changes.

South Australian vesting contracts

Vesting contracts between generators and retailers have been used in a number of States as part of the transition to the NEM.

In June 1999 the ACCC received applications for authorisation of the South Australian electricity vesting contracts. The applications were lodged jointly by the Treasurer of South Australia, the generators (Optima Energy, Flinders Power and Synergen) and the retailer (ETSA Power). Proposed amendments to the applications were received on 24 September 1999.

On 25 October 1999 the ACCC issued a draft determination proposing to grant authorisation to the arrangements. The Energy Users Group requested a pre-determination conference in relation to this draft determination. This conference was held in late November.

On 22 December 1999 the ACCC made a final determination which granted authorisation to the South Australian Vesting Contracts but subject to a number of conditions.

Regulatory work

Draft regulatory principles

Under the NEC the ACCC has assumed the responsibility for regulating transmission network revenues in the NEM on a progressive basis over the next three and a half years. As part of this role, the ACCC released its *Draft Statement of Principles for the Regulation of Transmission Revenues*.

The principles outline the approach the ACCC proposes to adopt as the economic regulator of transmission networks in the NEM. It draws on submissions the ACCC received in response to an issues paper released in 1998.

One of the ACCC's objectives in publishing the Draft Regulatory Principles was to provide an opportunity for customers, transmission companies and other stakeholders to participate in developing the regulatory framework. The ACCC presented information forums and invited submissions.

The ACCC expects to finalise the regulatory principles by mid-2000.

NSW and ACT transmission network revenue cap

The ACCC, in accordance with its responsibilities under the NEC, is conducting an inquiry into the appropriate revenue cap to apply to the NSW and ACT electricity transmission network for the forthcoming regulatory period.

The ACCC released a draft decision that outlines the maximum revenue that may be earned by TransGrid and EnergyAustralia, the main providers of transmission services in these jurisdictions. The review was conducted in conjunction with the Independent and Pricing and Regulatory Tribunal (IPART), the NSW State regulator.

For TransGrid the draft decision proposed an opening asset base of $1.8 billion. The draft decision also proposed a weighted average cost of capital of 7.25 per cent and a revenue cap of $305 million in 1999–2000, which rises to $317 million by 2003–2004.

The ACCC invited comment on the draft decision. The final decision is due for release shortly. Its release has been delayed as a result of the NSW derogations to postpone the start of the NEM transmission network regulatory arrangements until 1 February 2000.

Snowy Mountains Hydro–Electric Authority transmission network revenue cap

The ACCC has been requested to conduct an inquiry into the appropriate revenue cap to apply to the non-contestable elements of the Snowy Mountains Hydro–Electric Authority (SMHEA) transmission network services. The ACCC has

sought public comment on the matter and engaged a consultant to review the SMHEA transmission network asset base.

The ACCC anticipates releasing a draft decision on the SMHEA transmission network revenue cap shortly.

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Telecommunications

Local Telecommunications Services Inquiry

On 4 August 1999 the ACCC declared certain local telecommunication services under Part XIC of the *Trade Practices Act 1974*. The decision guarantees service providers access to certain services provided by customer access networks, that is, the lines that link customers to local telephone exchanges.

The ACCC made the decision after a public inquiry into whether to declare particular services which were initially described as 'local call' and 'local interconnection' services. Over the course of the inquiry the ACCC issued an initial discussion paper, held a public hearing, released papers on technical feasibility and pricing issues, and undertook market inquiries in order to assist its consideration of the issues. The final decision confirms the draft decision that was announced on 14 December 1998.

As a result of information received over the course of the inquiry, including submissions on the draft decision, the ACCC concluded that declaration of the services is likely to promote the long-term interests of end-users of carriage services, or of services provided by means of carriage services.

The services that the ACCC decided to declare are:

- an unconditional local loop service;
- local PSTN originating and terminating services; and
- a local carriage service.

Long distance telecommunications services

On 23 August 1999 the ACCC released the draft report for its inquiry into competition for long distance mobile telecommunications services. The purpose of this inquiry was to consider whether the ACCC should declare a service described as a 'long distance mobile originating service'. If declared, carriers supplying this service to themselves or others would be required to supply it to all service providers upon request. This would enable resellers of mobile services to unbundle the services currently purchased from carriers and separately arrange for the carriage and termination of long distance and international calls from mobile phones.

The ACCC regards the mobile services market as being highly concentrated at present, with three network operators — Telstra, Optus and Vodafone. The ACCC found that there are barriers to entry that inhibit the extent to which the threat of entry can constrain the behaviour of incumbents. However, new entry is being planned and is occurring in both capital cities and regional locations. Signs that competition is intensifying is becoming more evident with new entrants acquiring spectrum and starting to roll out their own mobile networks.

To date, it appears that price competition for mobile services has been focused on access and handset prices. There are, however, signs that competition for call charges is likely to intensify over the foreseeable future, particularly as market growth slows and as new entrants roll out their networks.

In light of these significant competitive developments, the ACCC found that declaration of this long-distance service is unlikely to lead to more vigorous competition and is therefore not satisfied that declaration will promote the long-term interests of end-users.

The ACCC is currently preparing its final report, taking into consideration the submissions received on the draft report.

Both reports can be found at the ACCC's website http://www.accc.gov.au under 'Telecommunications'.

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Gas

Access arrangements under consideration

Pursuant to the National Third Party Access Code for Natural Gas Pipeline Systems, the ACCC is currently assessing four access arrangements for gas transmission pipelines. The ACCC is also assessing proposed revisions to the existing access arrangement for the Victorian Principal Transmission System.

Central West Pipeline: AGLP

On 31 December 1998 AGL Pipelines (NSW) Pty Limited (AGLP) submitted a proposed access arrangement and access arrangement information for its Central West Pipeline (CWP). The pipeline extends from Marsden to Dubbo in NSW, and links part of the NSW gas distribution network of AGL Gas Networks Limited to the Moomba to Sydney Pipeline system (MSP). The CWP became operational in 1998.

The ACCC released its draft decision on the access arrangement on 10 September 1999.

The ACCC held a public forum on 6 October 1999 in Dubbo to help the local community comment on the

issues raised by the draft decision. The focus of participants was on future regional development. Comments were particularly directed to whether the decision satisfactorily addressed the incentive for investment to extend the pipeline to Tamworth and the development opportunities arising from the availability of gas to the region.

In preparing its final decision, the ACCC will take into consideration comments made at the public forum and further written submissions.

Moomba to Adelaide Pipeline: Epic Energy

As previously reported in *Network* on 1 April 1999, the ACCC received an application from Epic Energy South Australia Pty Ltd for approval of the proposed access arrangement for the Moomba to Adelaide Pipeline System. The time period for assessment of the access arrangement was extended to 1 December 1999 and subsequently to 1 February 2000.

Initial work on the draft decision is underway. Thirteen submissions have been received. Epic Energy met ACCC staff in November 1999 to discuss the next steps in the assessment process.

Moomba to Sydney Pipeline (MSP): EAPL

East Australian Pipeline Limited (EAPL) submitted its proposed access arrangement for the MSP on 5 May 1999. The ACCC has extended the time period for assessment of the proposed access arrangement by two months to 5 January 2000. The extension will provide interested parties with the opportunity to comment on supplementary access arrangement information released by EAPL before the ACCC release its draft decision.

Amadeus Basin to Darwin Pipeline: N.T. Gas

On 29 June 1999 N.T. Gas Pty Limited (N.T. Gas) lodged a proposed access arrangement for the Amadeus Basin to Darwin Pipeline (ABDP). The ACCC released an issues paper in September 1999 and several submissions have been received. A draft decision is currently being prepared.

Revisions to the Principal Transmission System (PTS) access arrangement: GPU GasNet

On 26 August 1999 GPU GasNet Pty Ltd (GPU GasNet) submitted proposed revisions to the access arrangement for the Victorian Principal Transmission System. GPU GasNet is seeking to incorporate assets associated with the interconnect pipeline linking the PTS with the MSP. GPU GasNet has proposed that a new Interconnect Zone would recover 8 per cent of associated costs with the balance recovered from users of the PTS as a whole. Submissions have been received and the draft decision is currently being prepared.

Other matters

NCC evaluation of the Queensland derogations

On 25 September 1998 the National Competition Council received an application from the Queensland Government to certify the effectiveness of the Queensland Third Party Access Regime for Natural Gas Pipelines (Queensland Regime).

For a period the Queensland Regime will derogate the application of the code's pricing principles (including the regulatory approval process) with respect to the following pipelines:

PPL2	Wallumbilla to Brisbane
PPL24	Ballera to Wallumbilla
PPL30	Wallumbilla to Rockhampton via Gladstone
PPL32	Gatton to Gympie
PPL41	Ballera to Mt Isa

The Council proposes to consider whether the regulatory processes for the derogated pipelines, including tariff outcomes, provide a reasonable proxy for the code and, if not, whether discrepancies are significant.

In view of its role as national gas transmission regulator and in order to process the Queensland application, the Council has sought advice from the ACCC as to:

- whether the Queensland Regime, as it applies to the five affected pipelines, is broadly consistent with the National Access Code; and
- the extent to which any differences are significant.

The ACCC's progress has been contingent on the availability of relevant documents.

Once the ACCC has reported to the Council, the Council will release an issues paper seeking public comment on Queensland's certification application. It is expected that the ACCC's assessment will be made public in that process.

Court action against Gasgo settled

On 18 October 1999 the ACCC and Gasgo Pty Ltd announced that they had settled Federal Court proceedings instituted by the ACCC. Under the settlement the ACCC accepted a court enforceable undertaking from Gasgo.

In May of this year the ACCC instituted proceedings against Gasgo, a Northern Territory Government company that buys natural gas and on-sells it, mostly to the Northern Territory Power and Water Authority (PAWA). PAWA uses the gas mainly for the generation of

electricity for sale to industrial, commercial and domestic consumers in the Darwin/Katherine area.

The ACCC alleged that in January 1999 Gasgo had given or threatened to give effect to a pre-emptive right clause in a 1985 gas purchase agreement between Gasgo and the Mereenie Producers in respect of natural gas sought from the Mereenie Producers by NT Power Generation Pty Ltd.

The Mereenie Producers are a group of companies that supply natural gas from the Mereenie gas field in the Amadeus Basin of the Northern Territory. NT Power is the owner of a gas-powered electricity generation plant located at Mount Todd in the Northern Territory. NT Power is a prospective supplier of electricity to consumers in the Darwin/Katherine area of the Northern Territory.

The pre-emptive right required that the Mereenie Producers had to first offer the gas to Gasgo at the same price and for the same quantity, before they could sell it to third parties. Gasgo had a limited time in which it could choose to accept or decline the offer, or waive its rights with respect to the gas, in which case the Mereenie Producers could then sell it to the third party.

The ACCC alleged that this conduct was in breach of s. 45 of the *Trade Practices Act 1974* which prohibits giving effect to a contract, arrangement or understanding that has the purpose, effect or likely effect of substantially lessening competition.

In settlement of the proceedings Gasgo agreed, by way of the undertaking, not to exercise its pre-emptive right in respect of gas sales by the Mereenie Producers to any third party wishing to use that gas for the commercial generation of electricity supply to customers in the Darwin/Katherine area.

The ACCC views the pre-emptive right as a significant barrier to entry for any potential new entrant into the commercial electricity generation market in the Northern Territory. This undertaking will ensure that any potential new entrant will be able to secure a supply of natural gas from the Mereenie Producers without Gasgo having a right of first refusal.

The ACCC acknowledges the cooperation of Gasgo and the Northern Territory Government in achieving this settlement.

Allgas/Energex interim authorisation

As reported in Issue 2 of *Network*, the ACCC granted an interim authorisation on 9 June 1999 to Allgas/Energex to negotiate sales of gas from the Papua New Guinea (PNG) gas project.

The ACCC understands that Allgas/Energex are currently negotiating gas purchase and sales contracts — all of which would be conditional upon authorisation. The ACCC expects that the final authorisation application will be made once the proposed contracts are finalised.

PNG gas project — authorisation

Chevron and other members of the joint PNG production venture submitted an interim authorisation application on 25 June 1998. Interim authorisation was granted on 5 August 1998 for agreements between the producers but only in respect of their negotiations with prospective customers.

Staff met representatives of the PNG producers in October 1999 to discuss possible modifications to the interim authorisation proposed by the producers. The ACCC is awaiting an application to modify the interim authorisation. It is anticipated that the key proposed changes will relate to modifying the reporting requirements of the current interim authorisation and amending the parties to the interim authorisation — removing two that have sold their interests and including a new participant, Santos. Public comment will be sought on the implications of the proposed changes.

Update on market and system operations rules (MSOR)

An application was made to the Australian Competition Tribunal by BHP Petroleum on 9 September 1999, for review of the ACCC's authorisation of the Victorian gas industry MSOR. On 4 October 1999, BHP withdrew its application. The ACCC's authorisation has therefore come into effect in place of the interim authorisation that had applied pending the outcome of the Tribunal's proceedings.

On 27 September 1999 a memorandum of understanding (MOU) was signed between the ACCC and VENCorp, designed to facilitate an agreed framework for mutual cooperation between the ACCC and VENCorp. The memorandum specifies the scope of VENCorp's market monitoring obligations and the ACCC's role under the MSOR.

VENCorp budget statement

Under the Victorian Gas Industry Tariff Order, VENCorp is obliged to give the ACCC an annual statement that sets out its total annual costs and market fees for the forthcoming financial year.

As stated in Issue 2 of *Network*, the ACCC decided not to approve the statement. The budget statement was resubmitted on 2 August 1999, when it was again rejected on 7 September. After further negotiations the budget statement was approved on 23 September 1999 subject to VENCorp reducing the system security charge.

The status of current work projects of the ACCC's Gas Group can be found at the ACCC website http://www.accc.gov.au under 'Gas'.

Contact: Mark Pearson, ACCC
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Airports

New passenger charges at Adelaide Airport

In October the ACCC released its decision to allow introduction of a passenger facility charge (PFC) of $4.09 per arriving and per departing domestic passenger at Adelaide Airport. Charges of $1.00 and $6.00 were determined for regional and international passengers respectively.

The ACCC's decision was in response to Adelaide Airport Limited's (AAL) proposal to build a new passenger terminal combining the airport's domestic and international passenger processing functions.

AAL applied to pass the aeronautical costs of the project through the price cap. The proposal would recover the costs through a charge on each arriving and departing passenger (PFC).

The regulatory framework that covers privatised core regulated airports provides that aeronautical charges are subject to a CPI-X price cap. The framework also provides that an airport operator may apply to the ACCC for increases in charges to fund 'necessary new investment'. In assessing the proposal the ACCC must take into account certain criteria. The criteria focus on the relationship of the proposed charges to costs and support from users for the proposals.

The total cost of the project is close to $200 million, with the aeronautical component amounting to around $150 million. The need for upgraded facilities is widely accepted by the industry and by airport users.

In its consideration of AAL's proposal the ACCC identified four main issues: the support of airport users, cost allocation, the rate of return on capital, and passenger forecasts.

ACCC airports review

Although it does not mark the commencement of the review, in response to increasing inquiries the ACCC has released details of its approach and guidelines for the five-year review of prices oversight arrangements at core regulated airports.

Background to the review

The Commonwealth Government granted long-term leases at Brisbane, Melbourne and Perth airports in July 1997, and at Adelaide, Alice Springs, Canberra, Coolangatta, Darwin, Hobart, Launceston and Townsville airports in May 1998. As part of this process the Government put in place an economic regulatory framework including prices oversight arrangements applying to the airports.

The Government's *Pricing Policy Paper,* released as part of the leasing process, requires the ACCC to conduct a review of prices oversight arrangements applying to the leased Federal airports before the end of the first five years post-leasing.

In response to an increasing number of inquiries from interested parties, the ACCC has recently released an information paper outlining the framework it will adopt to conduct the review.

The regulatory context for the review

The economic regulatory regime for the privatised airports comprises three major pieces of legislation; the *Airports Act 1996* (Airports Act), the *Prices Surveillance Act 1983* (PS Act) and the *Trade Practices Act 1974* (TPA). The Airports Act is the legal basis for much of the regulatory framework including the regulatory reporting requirements and quality of service monitoring. Pricing instruments issued pursuant to the PS Act provide a legal foundation for the price cap on aeronautical revenue and price monitoring arrangements for certain aeronautical related services. The TPA, in conjunction with the provisions in the Airports Act, is central to the access arrangements applying to core regulated airports.

In combination with the pricing declarations and directions, the *Pricing Policy Paper* articulates the Government's view of the regulatory framework and guides the ACCC in its implementation.

Framework for the review process

The ACCC has proposed a review, which will include the following stages:

- the development and release of one or more issues paper(s);
- submissions in response to issues paper(s)
- release of a draft report;
- submissions in response to the draft report; and
- release of a final report containing recommendations to Government.

Scope of the review

The ACCC has determined the scope of the review by reference to the guidelines from the *Pricing Policy Paper*.

In the guidelines and in the body of the paper, the review is described as a 'review of prices oversight arrangements'. The ACCC has interpreted these words as limiting the scope of the review to prices oversight rather than the full breadth of the regulatory framework.

In determining what issues relate to prices oversight, the ACCC will have to regard the prices oversight framework established by the pricing instruments and the paper. As noted above, the PS Act is the basis for price reglulation at core regulated airports, including Ministerial declarations and directions.

The ACCC will also consider the role of other legislation where it has implications for prices oversight.

Central issues

Although the guidelines from the *Pricing Policy Paper* raise a number of issues, the ACCC considers that there are two central issues for consideration prior to the commencement of the review. To that end, the ACCC has identified two central concepts as important introductory issues:

- the existence and level of market power associated with airport services; and
- appropriate mechanisms for dealing with any identified power.

Each of these issues is explained briefly in the ACCC's review framework paper and the guidelines from the Pricing Policy Paper considered relevant are also indicated.

Phase II airports

The ACCC's Airports Review paper also discusses the requirement to conduct a review for Phase II airports. Given that the airports were privatised at different times the ACCC will undertake separate reviews of Phase I and II airports. The ACCC will not be reviewing the economic regulation of Sydney Airports Corporation as part of either review process.

Copies of the *Airports Review*, can be obtained from the ACCC's airport regulation website at http://www.accc.gov.au.

Contact : Margaret Arblaster, ACCC, (03) 92901862.

State Developments

South Australia

South Australian Independent Pricing and Access Regulator (SAIPAR)

SAIPAR hosted a half-day public consultation session on Thursday, 14 October 1999. A transcript of proceedings is now available on SAIPAR's website at http://www.saipar.sa.gov.au.

Pursuant to s. 2.22 of the National Third Party Access Code for Natural Gas Pipeline Systems (the code), SAIPAR extended the period to deliver a final decision by two months to 22 December 1999. In accordance with s. 2.22 a notice to this effect was published in the *Financial Review* dated Monday, 18 October 1999.

SAIPAR is at various stages in the consideration of Envestra's Access Arrangement (under the code). A preliminary review in all areas has been completed, with all public submissions reviewed. The evaluation of the DORC calculation is near completion and more information is still being collected in relation to tariffs, revenue and operating and maintenance for final review. Responses to questions on policies and terms and conditions have been received from Envestra, and these are currently being evaluated.

The draft determination will be released by mid-December and a call for submissions by close of business 18 January 2000.

Contact: Gina Reardon, SAIPAR (08) 8226 5788

Electricity regulation framework

An update on the SA Government's electricity reform program was provided in Issue No. 2 of *Network* (pp14–15). This program includes restructuring of the industry, introduction of competition, regulatory reform and privatisation (through long-term lease) of the government-owned electricity businesses. This further update focuses on recent progress in the area of regulatory reform for the State's electricity supply industry.

In early August Parliament enacted the *Independent Industry Regulator Act 1999 and Electricity (Miscellaneous) Amendment Act 1999*, which together establish a new regulatory framework for the industry. That framework includes a general independent regulator, the SA Independent Industry Regulator, with specific regulatory powers in the electricity supply industry, including:

- issuing licences for electricity entities;
- making price determinations for network services and franchise customers;
- making codes and rules for electricity entities;
- monitoring and reporting on performance of these entities; and
- performing the role of SA jursdictional regulator for the purposes of the National Electricity Code.

The new regulatory framework commenced in full on 11 October 1999. Pursuant to s. 9 of the *Independent Industry Regulator Act 1999*, the Treasurer is acting in the office of the Industry Regulator until the commencement of the first appointment of a person to that office under the Act.

On 11 October 1999 licences were issued under the new regulatory framework to the government-owned electricity businesses and also to a number of contestable retailers.

Retail, distribution, transmission and metering codes were made by the Industry Regulator at the same time.

The retail code regulates the terms on which a retailer may sell electricity to non-contestable customers and certain contestable customers. The code also provides for a standard customer sale contract for these customers.

The distribution code regulates the terms on which a distributor may connect customers to its distribution network and supply electricity to them. The code also provides for a standard connection and supply contract. In addition, the code contains provisions relating to the connection of embedded generators, the augmentation and extension of the distribution network, and a performance incentive scheme that is based on service standards set out in the code.

The transmission code sets out the obligations that a transmission entity must comply with in operating and maintaining its transmission system as well as the service standards that must be met by the entity. The code provides for a performance incentive scheme based on service standards set out in the code.

The metering code regulates the installation, maintenance and testing of meters for first-tier customers, and contains additional provisions relating to second-tier customers (to supplement the National Electricity Code). The code also contains some provisions that relate to non-market generators.

On 11 October the Treasurer also issued an Electricity Pricing Order (EPO) pursuant to s. 35B of the *Electricity Act 1996*. The EPO applies in relation to transmission and distribution services until 31 December 2002 and 30 June 2005 respectively (or such later date as a new price determination for such services is made). It regulates the tariffs which may be charged for prescribed transmission and distribution services. The EPO also regulates charges for certain other transmission and distribution services referred to as excluded services. Finally, the EPO regulates retail tariffs that may be charged to non-contestable customers (all customers are scheduled to become contestable by 1 January 2003) and to customers that have become contestable but may elect to continue to be supplied at a regulated tariff until 30 June 2001.

An office of the SA Independent Industry Regulator (or SAIIR) has been established to support the Industry Regulator. Details of this office are as follows.

50 Pirie Street, Adelaide SA 5000

GPO Box 2605, Adelaide SA 5001

Telephone: (08) 8463 4444

Fax: (08) 8463 4449

Website: http://www.saiir.sa.gov.au

The website is under development, but already contains a range of details about the SAIIR office, licensing arrangements, and the documents issued on 11 October 1999.

On 28 October, pursuant to s. 8 of the Independent *Industry Regulator Act 1999*, the Governor appointed Lew Owens as Industry Regulator for a six-year term commencing 1 January 2000. Mr Owens is currently the Chief Executive of Funds SA, and is a former Chief Executive of WorkCover Corporation. During the 1980s he worked in a variety of public and private sector positions in the South Australian energy industry, with a focus on gas supply contracts, electricity planning issues, and electricity and gas pricing.

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Western Australia

Changes to conditions for water service licence holders

The Office of Water Regulation (OWR) has completed negotiations with licence holders over some of the key principles of the operating licences.

Key outcomes have been:

- agreement on longer licence terms;
- more closely defined sole-provider operating areas; and
- the provision of data for benchmarking purposes.

All licences issued by the OWR were previously issued for five-year terms and contained clauses specifying that they were 'non-exclusive', which meant that potential service providers could seek licences within licence holders' operating areas.

Licence holders wanted longer term licences and secure operating areas to give them greater security for infrastructure investment. The OWR sought disaggregated data, which would provide a better understanding of industry performance, and a review of operating areas and licence types to ensure changes did not have a negative impact on opportunities for competition.

As a result of these negotiations, it has been agreed to extend licence terms from 5 to 25 years and define operating areas as 'sole provider'. It was also agreed that the operating areas would be reduced in size to more closely equate with areas where services are being provided, that disaggregated reporting would be introduced, and a new classification of licence created (non-potable water supply).

The Water Corporation, Aqwest-Bunbury Water Board, Busselton Water Board and the South West Irrigation Management Cooperative have all committed to

participate in an ongoing benchmarking process. This process will see the Water Corporation providing information on 20 of its sewerage schemes and 30 of its water supply schemes.

The process will enable 'benchmark competition' to occur, where licensees provide reports on their performance which allow Government, customers and the service providers to assess their performance. Benchmark competition is aimed at preventing high prices and poor levels of service which could otherwise occur in a monopoly situation.

The OWR is presently reviewing all licensees' operating areas against a five-point criterion which will see the areas more closely matched to areas that can be served by existing infrastructure. Most of the current 'non-exclusive' areas included large areas that could not (and would not) be serviced.

So far, 23 of the Water Corporation's operating areas have been reviewed and added to the sole provider schedule of its operating licence.

Licensing policy paper

The regulatory framework for water services in Western Australia is the subject of a policy paper currently being prepared by the OWR.

The paper describes the role and objectives of the OWR licensing process, the office's relationship to other regulators, and gives current and potential service providers and their customers an understanding of the position that the office will take when licensing water utilities.

The licensing framework is shaped by the *Water Services Coordination Act 1995*. The water industry reform process, which led to the introduction of the Act, and its central clauses and objectives are covered by the paper.

Licence amendments and excisions, the application process and common licence terms and conditions are explained in the paper. The paper also explains how the office will deal with services in 'greenfield' areas where services are not presently provided.

Importantly, the paper seeks to define the water services that require an operating licence. Criteria proposed include:

- possession or management of water service infrastructure;
- water service provided for remuneration on a continuing basis; and
- a minimum number of services.

The paper is currently in draft form. Copies are available from Daniel Nevin on (08) 9213 0137.

Industry awards presentation

The awards presentation ceremony was held at a breakfast on Wednesday, 20 October 1999 at the Parmelia Hilton and attended by key industry representatives.

The awards were developed by the OWR to promote research and innovation in the Western Australian water industry.

The Minister for Water Resources, Dr Kim Hames, said that 'The awards provide an opportunity for industry and water service providers within the State of Western Australia to showcase innovation, initiative and high quality service provision. They also provide a stepping stone for local industry to expand, not only in the national market, but also into international markets.'

Awards were made in six categories:

- Innovation in Water Conservation (Sponsored by the Water and Rivers Commission) — *Plumbing and Painting Training Company*
- Innovation in Water Treatment or Reuse (Sponsored by Environmental Solutions International) — *Shire of Moora*
- Excellence in Customer Service (Sponsored by 6PR) — *Aqwest Bunbury Water Board*
- Innovative Plumbing Product or System — *Waterwise Australia Pty Ltd*.
- Special commendations: *Aqualoc WA and Doust Plumbing Services*
- Innovative Irrigation/Drainage Product or System — *Ascot Waters*
- Special commendation: *South West Irrigation*.
- Innovative Farm Water Supply System — *Jerramungup Seasonal Advisory Committee*
- Special commendation: *Jerdacuttup Dam Committee*.
- Minister for Water Resources Award for Excellence — *Ascot Waters*.

Contact: Dr Brian Martin, Office of Water Regulation WA, (08) 9213 0100

Office of Gas Access Regulation

Access arrangements — gas pipelines

The Office of Gas Access Regulation(*Off*GAR) in Western Australia has been very active since its establishment in February 1999.

The first access arrangement to be lodged with the Regulator was by CMS Gas Transmission on 7 May 1999 for the Parmelia Pipeline. After thorough examination of the access arrangement by the Regulator and going through the regulatory procedures involving public submissions, approvals, consultations and discussions, the draft decision was issued on Wednesday, 27 October 1999. A copy of this is available for viewing or downloading on the *Off*GAR website http://www.accc.gov.au.

The second access arrangement to be lodged with the Regulator was on 30 June 1999 by AlintaGas for the Mid-West and South-West Gas

Distribution Systems. This access arrangement is still being assessed.

A further four access arrangements are expected to be lodged before the end of this year.

WA Gas Disputes Arbitrator

On 10 September 1999 the Minister for Energy, the Hon. Colin Barnett MLA, announced the appointment of Mr Laurie James as the Western Australian Gas Disputes Arbitrator.

Mr James is a Supreme Court barrister and solicitor and is also Chairman of the Western Australian law firm, Kott Gunning.

Mr James has extensive background experience in arbitration through his position as Chairman of the WA Chapter of the Institute of Arbitrators and Mediators between 1990 and 1997.

Mr James was also a senior vice-president of the Law Society of WA from 1995 to 1996 and is currently convener of its Public Purposes Trust Review Committee and Alternative Dispute Resolution Committee and deputy convener of its Commercial Litigation sub-committee.

In the role of Gas Disputes Arbitrator, Mr James will have responsibility for resolving disputes between providers of gas pipeline services and other parties seeking access to gas pipelines covered by the National Third Party Access Code for National Gas Pipelines Systems.

The Arbitrator in Western Australia is independent of the Regulator and also has the function of Gas Referee under legislation that preceded the National Gas Pipelines Access Law. The Arbitrator is also responsible to provide any necessary administrative support to the WA Gas Review Board which is the local appeals body.

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Tasmania

Office of the Tasmanian Electricity Regulator

The regulatory structure for the electricity supply industry in Tasmania is modelled to a large extent on the NEM institutional arrangements. The Regulator has code administration and enforcement responsibilities as well as the responsibilities of a jurisdictional regulator for tariff customers, distribution and pricing.

The Tasmanian Electricity Code has institutional arrangements which support the Regulator through a Code Change Panel and a Reliability and Network Planning Panel.

Pricing

The Regulator published a draft Price Investigation Report in September 1999 and there has been a subsequent public hearing and submissions in response.

The three principles that guided the Regulator were:

- the outcomes should not be influenced by ownership of the companies;
- the regulatory scheme is a substitute for competition and the pricing outcomes should emulate those of a competitive market; and
- the outcomes balance the interests of consumers and the financial needs of the electricity companies.

The Regulator proposes to define maximum charges for tariff customers as average price paths for particular groups of customers. The indicative price paths in the draft report were:

- *High voltage tariff customers*: 7–10 per cent average reduction in real terms.
- *Low voltage business tariffs*: 4–6 per cent average reduction in real terms with a 2 per cent allowance for rebalancing for the same level of consumption.
- *Residential sector*: zero–2 per cent increase in real terms with an average increase of no more than 0.66 per cent in real terms per annum.
- *Generation for tariff customers*: the Regulator proposes an energy price of 3.8–4.1 cents per kWh to apply to electricity for business and residential tariff customers under the Vesting Contracts.

The Regulator also proposed prices and revenue structures for system control and ancillary, network and retail services.

The Regulator's assessments do not include the impact of GST.

The Regulator was also requested to consider the appropriate level of price protection for industrial customers taking supply under non-tariff contracts. At this stage no draft determination has been made.

The final report was released on 30 November 1999 and the pricing determination followed on 17 December 1999.

Tasmanian Electricity Code

There has been extensive activity in matters of code administration.

The Reliability Panel has published a consultation paper on Frequency Control Standards for Tasmania. The initial proposal concerns standards that vary from the NEM, but which close the existing gap somewhat so as to remove or reduce barriers to entry to other than hydro-generators.

The panel has also considered the Regulator's Draft Guideline for Assessment of Network Augmentation Proposals. The guideline largely reflects the 'market benefits' test proposed for the NEM. This was subject to consultation at the time of reporting.

The Regulator has issued Accounting Ring Fencing and Reporting

Guidelines for distribution/retail and transmission. System Control, being a division of the Hydro–Electric Corporation, is also subject to ringfencing and reporting principles supported by a guideline.

The Y2K readiness of the Tasmanian electricity supply industry has been reviewed for the Reliability Panel by way of a consultancy undertaken by PB Power. The report advises a high level of preparedness reflecting in part the high level of integration of the industry and the significant effort made by the industry which commenced its preparedness project in 1997. End-to-end testing in March 1999 disclosed no material issues and a high level of system stability. There remains some contingency planning and preparation, but these have been acknowledged by the industry and are in hand.

The Code Change Panel put some 19 code change proposals out to public consultation in October. Proponents and parties making comment have been directed to consider, inter alia, the desirability of maintaining consistency with the National Electricity Code.

Licences

The licences issued by the Regulator (and an interim agreement with the HEC instead of a licence) place an emphasis on the provision of management plans covering service standards, compliance, vegetation management and asset management. These plans contain reporting and review obligations. In some instances the Regulator has published guidelines to assist in the development of the management plans.

The first round of management plan reports have been received and were analysed for inclusion in the annual report of the Regulator to the Minister due on 31 November 1999.

Industry structure and ongoing reform

The Government has announced its intention to accelerate progress towards NEM entry and has established a major project team in the Department of Treasury and Finance. The project is predicated on the Government's decision to preserve the Hydro–Electric Corporation as a single entity. This necessitates the development of a regulatory structure which can accommodate a generator with substantial market power in Tasmania while providing for a Tasmanian pool as a NEM region and participation in the Victorian pool through Basslink.

The Government has received three proposals for Basslink development and will make a final selection in February 2000.

Government Prices Oversight Commission

Competitive neutrality

On 30 June 1999 notice of a second formal complaint was received. This complaint was about the non-application of full cost attribution by the Hobart City Council (HCC) to the services provided by the Tattersall's Hobart Aquatic Centre (THAC). Investigation of this complaint commenced in July 1999.

The complainant alleged that the non-application of full cost attribution (FCA) to the services and programs that the THAC offers to the general public provided a direct benefit to the private sector lessee at the THAC. The lessee benefited from this situation by enjoying a reduced rate for their members gaining access to the pool of the THAC. In addition, the complainant alleged that the corporate memberships and deals with other health clubs offered by the THAC management do not reflect the full cost of providing access to the THAC.

The HCC had recognised the THAC as a significant business activity (SBA) to which full cost attribution (FCA) should apply and was aware of its obligations. However, FCA had not been appropriately assessed and applied to the THAC. Further, the pricing decisions of the HCC in relation to the THAC had not been based on FCA principles.

Following consideration of the facts the Regulator recommended that:

- the HCC and THAC review their costing and pricing policies to correctly take account of the requirements under NCP and CNP, including the establishment of FCA for the THAC, and that all subsidies be made transparent; and
- the policy statements relating to application of competitive neutrality, namely the *Application of the National Competition Policy to Local Government* (application statement) and the *Full Cost Attribution Principles for Local Government* (FCA guidelines) be reviewed to provide additional guidance for setting of prices in a competitive environment.

The Regulator also recommended that the equivalent guidelines issued to State Government agencies also be reviewed to provide additional guidance for the setting of prices.

Monopoly pricing

On 15 October 1999 the Treasurer issued terms of reference for the review of Metro Tasmania pricing policies. The review has to be completed by 29 February 2000. Under the terms of reference, the Regulator is required to set fares for the three years from 1 July 2000 to 30 June 2003. Metro has engaged consultants to undertake benchmarking and patronage studies. These will be used to inform the Commissioner in undertaking this review.

Petrol pricing

In the 1999 Budget the Tasmanian Government made a commitment to establish petrol price monitoring and

reporting through the Government Prices Oversight Commission.

The purpose was to address community concerns about higher fuel prices paid by Tasmanians relative to mainland motorists. Monitoring of prices has been undertaken in the past by the ACCC. This has, however, been discontinued and regular monitoring by Government at any level has all but disappeared.

The Treasurer provided the ACCC with terms of reference specifying the task. In brief the ACCC is directed to:

- monitor and report monthly on wholesale and retail petrol prices, both in Tasmania and on the mainland; and
- focus the report on the margin between wholesale and retail prices — this will capture the wholesale, distribution and retail margins operating at all levels within the petrol market.

The ACCC should also report each month on any other developments or issues in relation to petrol that it considers appropriate.

There have been three reports to date. These have reported on monitoring and pricing as directed, but have also reviewed a wider range of petroleum supply industry issues providing a basis for informed public debate.

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Queensland

Queensland Rail draft undertaking

The Queensland Competition Authority (QCA) is continuing with its assessment of Queensland Rail's (QR's) draft undertaking covering certain services relating to the use of the rail transportation infrastructure QR owns.

Following the publication of its Request for Comments paper in April 1999, the QCA has published the following background papers to assist its consideration of a range of issues relating to the quantification of QR's 'below rail' charges:

- Asset valuation, depreciation and rate of return (May 1999);
- Treatment of past capital contributions (July 1999); and
- Reference tariffs, reference train services and rate regulation (October 1999).

The closing date for submissions in response to the reference tariffs paper is 26 November 1999. Consultation with QR and its stakeholders on significant issues raised by the draft undertaking is occurring on an ongoing basis.

Following consideration of the issues raised by QR and its stakeholders, the QCA intends publishing a draft decision outlining its position on the draft undertaking in March 2000. This timing is, however, dependent on receipt of data and a number of supplementary documents from QR. The draft decision will give QR and its stakeholders a further opportunity to provide comments to the QCA prior to the release of a final decision.

Copies of all papers released by the QCA with respect to its consideration of QR's draft undertaking, as well as public submissions received in response to the papers, are available on the QCA's website http://www.qca.org.au.

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Newsbriefs

Incentive Regulation and Overseas Developments conference

The ACCC, in conjunction with the University of Melbourne and the Australian National University, held a two-day Incentive Regulation and Overseas Developments conference on the 18 and 19 November in Sydney. It addressed regulation issues in the telecommunications, energy and transport industries. The conference was designed to bring together academics, regulators and industry representatives (with experience around the world) to discuss both general issues of incentive regulation and industry specific regulatory topics. The conference canvassed overseas and Australian regulatory approaches, as well as exploring specific industry issues.

Speakers included Ms Clare Spottiswoode from PA Consulting Group; Professor Sanford Berg, Public Utility Research Centre, University of Florida; Dr Jeff Makholm, NERA; and Dr Joseph Farrell, University of California, Berkeley, formerly Chief Economist, Federal Communications Commission.

Copies of the conference papers are available from John Rothwell, ACCC (02) 6243 1111.

Contact: Katrina Huntington, ACCC
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Papers

Reform of network industries — a post-Hilmer perspective

This is a summary of a paper repared by the ACCC based on a presentation by Professor Allan Fels, Chairman of the ACCC, to a Privatisation Forum in July 1999

Introduction

Australia has been one of the most active countries in reforming its public utility and other network industries. This paper reviews Australia's experience with the reforms over the past few years, providing a perspective on the outcomes. While the focus of the paper is on privatisation and structural reform, it also touches on the accompanying regulatory reforms.

The paper considers reform of network industries in the broader context of competition reform. The reforms recommended by the Hilmer Report and subsequently adopted by the Council of Australian Governments (COAG) in 1995 are particularly relevant. They deal with:

- structural reforms of state-owned enterprises;
- access to essential facilities;
- prices oversight of government business enterprises.

The first part of this paper provides an overview of recent developments, the second a review of outcomes.

Recent developments

The period since the COAG agreement has seen significant structural reform across a range of industries accompanied by considerable privatisation activity. Developments in the electricity, gas, telecommunications, aviation and rail sectors are summarised in Tables 1, 2 and 3.

In the electricity industry all generation, distribution and transmission assets have been privatised in Victoria. In South Australia electricity assets will soon be privatised through long-term leases.

The private sector has always played a major role in the gas industry. Following privatisation of distribution and transmission assets in Victoria these services are now primarily provided by the private sector in all states except Queensland and Western Australia.

In both industries privatisation has been accompanied by structural reform. In Victoria, for example, privatisation of electricity assets was carried out in conjunction with reforms which separated electricity transmission and distribution services from the contestable electricity generation market. Most other States have introduced similar reforms but have retained electricity assets as government-owned corporations.

State Governments together with the Federal Government have also introduced reforms designed to promote development of interstate markets in energy. A national electricity market is being established linking New South Wales, Victoria, Queensland and South Australia. Gas reforms have been introduced which should pave the way for a single market in Eastern Australia by removing legislative barriers to interstate trade in gas and establishing a third party access regime for gas transmission and distribution infrastructure.

In the telecommunications sector, the Federal Government sold one third of Telstra in 1997, and a further 16 per cent in 1999. In the lead up to privatisation, services were opened up to competition from providers other than Telstra. Initially one competitor was permitted, Optus. The market was opened to all providers from 1 July 1997. There are now over 20 licensed carriers.

In the aviation sector the Federal Government privatised all major airports except Sydney Airport in 1997 and 1998. At the same time it introduced some horizontal and vertical cross-ownership restrictions and comprehensive new regulatory arrangements.

In the rail industry New South Wales has introduced structural reforms which vertically separate track from 'above rail' services. In Victoria interstate services are also vertically separated. Following these reforms new 'above rail' freight operators have entered the market, such as Toll and SCT.

Privatisation in the rail industry has affected interstate and intrastate services. Intrastate country services have been privatised as vertically integrated entities in Victoria, and by the Federal Government in Tasmania and South Australia. The Federal Government has also sold interstate passenger 'above rail' businesses as vertically separated entities.

In all of these industries privatisation and structural reform has been accompanied by new regulatory arrangements covering essential facilities. The new measures include access arrangements and, in some cases, prices oversight and state based pricing arrangements.

Utilities reform — the experience to date

The developments of the past few years are beginning to provide the information needed to make an assessment about the impact of utilities reform. This section considers three issues:

- the impact of the changes on users;
- the privatisation processes undertaken; and

- the opportunities for service providers.

Based on this assessment the experience has been encouraging, though this varies from State to State.

Impact on users

The information available tends to support the case that utilities reforms have delivered lower prices. The experience over the past few years includes:

- reductions in real electricity prices in Victoria of 11.6 per cent, New South Wales at 23.4 per cent and Australia as a whole at 14.6 percent over four years from 1992–92 to 1996–97, with bigger reductions for commercial and industrial users (19.1 per cent);
- reductions in gas distribution and transmission prices in Victoria;
- reductions in phone charges, 30 per cent for international, 25 per cent for domestic and 23 per cent on average over five years to 1996–97; and
- reductions in aeronautical charges of 5–25 per cent (real terms) over the five-year period of the price cap.

(Sources: Electricity Prices in Australia 1998/99, Electricity Supply Association of Australia Limited, 1999. Office of the Regulator-General, see media release no. 8, 6 October 1998. Telstra submission to the Productivity Commission's Inquiry Impact of Competition, Policy Reforms on Rural and Regional Australia, Submission no. 137, Page 9, November 1997.)

At this stage, business users of these services have probably benefited more than consumers have.

The community benefits from these lower prices in two ways. One is

TABLE 1

Electricity

State	Industry structure	Private?	Regulation?
NSW	Generation separated from distribution: • 3 generation companies • 6 distribution companies • separate transmission company • retail contestability being phased in	*No* – government-owned corporations	• future ACCC regulation— transmission revenue • Independent Pricing and Regulatory Tribunal (IPART) regulates distribution and retail.
VIC	Separate generation distribution and retail companies: • 7 major generation companies • 5 distribution companies • separate transmission company • retail contestability being phased in	*Yes* – privatised 1992–1998	• future ACCC regulation — transmission revenue • Office of the Regulator-General (ORG) regulates distribution and retail
QLD	Generation separated from distribution: • 3 generation companies • 2 distribution companies • separate transmission company • retail contestability being phased in	*No* – government owned corporations	• future ACCC regulation — transmission revenue • Queensland Competition Authority (QCA) regulates distribution and retail
SA	Generation separated from distribution: • 3 generation companies • 1 distribution company • separate transmission company • retail contestability being phased in	*No* – government-owned corporation — privatisation in next year or two	• future ACCC regulation — transmission revenue • South Australian Independent Industry Regulator (SAIIR) to regulate distribution and retail
WA	Single vertically integrated entity	*No* – government-owned corporation	No
TAS	Separated generation from distribution. • 1 generation company • 1 distribution company	*No* — government-owned corporation	Regulation by the Tasmanian Government Prices Oversight Commission (GPOC)

TABLE 2

Gas

State	Industry structure	Private?	Regulation?
NSW	• 2 transmission pipelines • 2 distribution companies • retail contestability being phased in	*Yes*	• ACCC — transmission • Independent Pricing and Regulatory Tribunal (IPART) regulates distribution and retail
VIC	Transmission separate from distribution • 1 transmission company • 3 distribution companies • retail to become contestable	*Yes* — privatised 1999	• ACCC — transmission • Office of the Regulator-General (ORG) regulates distribution and retail
QLD	Transmission separate from distribution • 4 transmission companies • 2 distribution/retail companies • retail to become contestable	*Yes* — except for one of the distribution companies (Allgas)	• Transmission regulation role derogated • QCA regulates distribution and retail
SA	Transmission separate from distribution • 1 transmission company • 2 distribution/retail companies • retail contestability being phased in	*Yes*	• ACCC — transmission • The South Australian Independent Pricing and Access Regulator (SAIPAR) to regulate distribution and retail
WA	• 7 transmission companies • 1 distribution company Substantially vertically integrated	*Some* — Main transmission and distribution company a government corporation — privatisation planned	Regulation by the WA Office of Gas Regulation (*Off*GAR)
TAS	No transmission or distribution		

Telecomunications

State	Industry structure	Private?	Regulation?
Common-wealth jurisdiction	• Telstra vertically integrated • Over 20 licensed carriers	Telstra *partly privatised*	Yes — ACCC

Airports

State	Industry structure	Private?	Regulation?
Common-wealth jurisdiction	Horizontally and vertically separated • airline ownership capped at 5 per cent • some cross-airport ownership restrictions	All major airports except Sydney *privatised* in 1997 and 1998	Yes — ACCC

TABLE 3

Rail

State	Industry structure	Private?	Regulation?
NSW	Separation of track and train services	*No* — government-owned corporations	ACCC to regulate interstate track access
VIC	• interstate services vertically separated • intrastate vertically integrated • urban vertically integrated	*Part privatised* • intrastate services leased, urban being leased • interstate track government-owned	ACCC to regulate interstate track access
QLD	Vertically integrated	*No*	ACCC to regulate interstate track access
SA	• interstate services vertically separated • intrastate vertically integrated	*Partly privatised* • intrastate privatised in 1997 • interstate track government-owned	ACCC to regulate interstate track access
WA	Vertically integrated	*No* – • privatisation planned • rail services private in Pilbara	ACCC to regulate interstate track access
TAS	Vertically integrated	*Yes* – privatised 1997	No

directly through lower household bills. The other benefit is through economic growth. Reduced charges to commercial and industrial users contribute to economic growth by making industry more competitive in local and overseas markets.

There is also evidence that reforms are producing more efficient pricing. Examples include:

- peak and off-peak pricing differentials in the electricity sector;
- airport pricing: under government ownership aeronautical charges were levied on a network basis — the new regulatory arrangements will see charges move towards location-specific pricing;
- clearer identification of, and contribution towards, community service obligations in provision of telecommunications services.

On the quality side there is some evidence of improvement though it may be too early to judge. For example, quality monitoring of privatised airports undertaken by the ACCC indicates that the new operators are achieving high scores for their service standards. (See the ACCC's regulatory reports on privatised airports, *Brisbane Airport regulatory report 1997–98*, *Melbourne Airport regulatory report 1997–98* and *Perth Airport regulatory report 1997–98*.) Similarly, quality monitoring conducted by the Office of the Regulator-General (ORG) indicates improved outcomes in the electricity industry in Victoria. (See, for example, *Electricity distribution businesses — comparative performance for the calender year 1998*, Office of the Regulator-General, July 1999.)

The privatisation processes

Three things about the privatisations conducted to date have been particularly encouraging.

Structural reform

The public utility privatisation programs over the past few years have been accompanied by structural reforms. Generally the reforms have been pro-competitive.

As an example, the reforms in the electricity industry in Victoria promote competition in generation. Vertical separation of electricity transmission and distribution services from the contestable electricity generation market allows for new entry and the threat of entry. Horizontal separation and privatisation of generation has created competing entities.

Similarly, by liberalising the telecommunications industry in the lead up to the partial privatisation of Telstra, the Federal Government has promoted entry into the industry. New competitors to Telstra are making substantial inroads on the markets for long distance and mobile services.

Regulation

Many privatisations have occurred in circumstances where competition and regulatory issues do not arise, for example, the privatisation of Qantas and the Commonwealth Bank. Where such issues do arise, new regulatory arrangements have been introduced to limit the potential for monopoly pricing by the privatised entities. Some of the regulatory changes are directed to promoting competition. In the gas industry, for example, State Governments (as part of the 1994 COAG agreement on gas issues) agreed to, and implemented, removal of legislative barriers to interstate trade.

Most of the new regulatory arrangements cover prices, access and quality. They are more comprehensive than those in place prior to privatisation. As an example, the Federal Government introduced a CPI-X price cap for privatised airports, ensuring substantial real reductions in aeronautical charges over a five-year period. Similarly, it introduced Parts 11B and 11C of the Trade Practices Act providing new access arrangements for the telecommunications industry and stronger conduct provisions. In Victoria, the Government introduced price caps on electricity and gas distribution and transmission.

In practice, effectively regulating utilities is not straightforward. The challenge is to protect users and at the same time create the right incentives for new investment and innovation. The evidence so far suggests that the regulatory arrangements introduced have been reasonably effective, certainly on the pricing side.

Transparency

One of the strengths of the privatisation processes in Australia has been that the regulatory and price control arrangements have typically been set out in detail before completion of the sales processes. This gives prospective buyers the opportunity to make a reasonable assessment about the commercial potential of the assets being sold which in turn is likely to flow through to sales prices — less uncertainty is likely to yield higher sales prices, all things being equal, with generally more benefits for taxpayers and the community. It also reduces the likelihood of windfall gains and losses to the new owners' post-privatisation.

Implications for service providers

Utilities reforms offer opportunities for utility operators, whether privately or publicly owned, even if regulated. Many of the regulatory arrangements that have been introduced are incentive based. In the energy and aviation sectors they typically take the form of CPI-X price or revenue caps. To the extent that the regulatory frameworks in place are incentive based, new operators may be able to 'beat' the X-values in place. They could do this through greater efficiency improvements than factored in or by improving performance on the demand side, for example, by providing new or improved services.

Because many of the regulatory arrangements are incentive based it is not unreasonable to expect that some businesses will perform well. This should not necessarily be seen as regulatory failure. Incentive regulation means there may be winners. At the same time there may be losers — those businesses that cannot deliver the efficiency and other benefits expected. Where businesses have been privatised, sale prices were high in many cases. Regulators need to be vigilant about this — to get prices right, rather than underwrite the prices paid for assets.

One area emerging as an opportunity for utility businesses is cross utility mergers. The initial split between sectors is not necessarily the right one. There may be synergies. Companies may be able to share infrastructure. In the energy and communications sectors trenches or poles could be shared. Similarly, they may be able to cut costs through coordinated maintenance, marketing and billing functions. A further potential benefit from cross utility mergers is that they may expand the field of possible entrants into a market.

At the same time there may be risks that such mergers will reduce competition in the relevant markets. To the extent that the services provided are substitutes, mergers may create or strengthen market power. The ACCC assesses such issues under s. 50 of the TPA as they arise.

An example of a recent cross-utility merger is the merger of the Queensland Government-owned corporations of Energex (electricity distribution and retail) and Allgas (also distribution and retail). The merger did not raise competition concerns under s. 50 of the TPA.

The positive developments for users, business incentives and privatisation processes are particularly encouraging given the conflicting objectives for governments as regulator and owner or seller of assets. On the one hand governments have the objective of protecting the public interest, on the other hand of maximising profits of state-owned enterprises or if privatising, sales prices. The evidence to date suggests that governments have by and large focused on the public interest, first getting the structural and regulatory framework right, then selling. However, revenue considerations have had some effect in some cases in tempering the pricing rules applying both to privatised entities and publicly owned ones. This has occurred through starting point prices for the regulatory frameworks rather than the regulations themselves.

On the downside the progress of reform has varied between the States and in some cases has been slow. An area of potential concern is coordination between the States. It is important that they coordinate their approaches to reform, especially in the provision of network infrastructure such as electricity and gas transmission. There are two potential concerns. One is interconnection between the States. Development of such infrastructure is a prerequisite for effective competition. This is particularly important in the gas industry where upstream competition is limited in some States. A second issue is that the States have adopted different approaches to pricing and access. The risk is that a lack of consistency will impede effective interstate competition.

Conclusion

This paper provides an overview of recent developments in the electricity, gas, telecommunications, airports and rail sectors, considering the impact of utilities reforms introduced since the Hilmer Report. The changes since the early 1990s have been substantial with reform acitivity across all of the industries. Structural reforms have separated contestable from non-contestable elements in most States. The new regulatory arrangements introduced by the Federal and State Governments are more comprehensive than those in place before privatisation. A lot of businesses have been privatised.

The information needed to make an assessment about these developments is becoming available. The results tend to be positive, particularly on the pricing side. There is also evidence that the reforms are producing more efficient pricing and improvements in quality, though on the quality side it may be too early to judge the issue.

The negatives are less about the reforms introduced and more about slow progress in some of the States. Coordination between the States in the provision of network infrastructure, such as electricity and gas transmission, is one of the main areas of concern.

Overall the experience has been encouraging. The information now emerging indicates that consumers and the business sector have benefited from the reforms. So far the business sector seems to have benefited more. It is now important to extend the benefits of reform to households.

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Early lessons — a regulator's viewpoint

Introduction

In April 1995 the Commonwealth, States and Territories finalised their agreement to the framework for competition review and reforms arising from the Hilmer process. One aspect of that reform agenda involved acceptance of the need for access to essential or natural monopoly, facilities and services. This right of access was seen as vital to the development of competitive upstream and/or downstream markets.

The introduction of an access regime supported by legislation has created major challenges for both service providers and regulators. Coming to grips with the National Access Code, which underpins and guides the formulation and assessment of access arrangements, has meant we have all faced a very steep and long learning curve.

The ACCC is now well ensconced in its regulatory role, having released its Victorian decision following an extensive public assessment process. In addition, the ACCC Gas Group is currently assessing access arrangements for several other transmission systems, including the Moomba/Sydney, Moomba/Adelaide, Central West and Northern Territory pipelines.

It is therefore an opportune time to comment briefly on some of the challenges and issues that we as regulators have faced to date, and will undoubtedly face into the future. The commentary following is based on my personal experience and views and does not necessarily reflect the policy position of the ACCC.

Information

One of the major issues that has arisen, and would no doubt be of little surprise to those operating pipelines, is the provision of

information to the regulator. A great deal of concern has been expressed over the treatment of confidential information. The National Code and the Gas Pipelines Access Law provide the regulator with considerable power to request information in support of the access arrangements. Following consideration of the information in question, the regulator will make decisions concerning confidentiality and the degree to which such information is made publicly available.

The concern of service providers is that this process appears to provide little protection should the regulator and service provider disagree on confidentiality. While I can maintain from the regulatory perspective that information that could damage the service provider competitively would not be publicly disclosed, it is likely that many service providers will expect a higher degree of certainty. It is important for service providers to understand that the ACCC is unable to commit itself to granting requests for confidentiality until the information in question has been received and assessed.

However, service providers have argued that this leaves them vulnerable as the ACCC (or any other regulator) is in a position to disclose that information to the market without the service provider being able to object. For this reason it has been suggested that information that may attract confidential treatment be requested under s. 41 of the Gas Pipelines Access Law wherein the service provider may challenge a regulator's decision to submit the information to public appraisal.

To date, the Gas Group has been able to negotiate access to all necessary information, in some circumstances through the use of a s. 41 notice. Of concern to the ACCC has been the effect such negotiations may have on time lines as they have the potential to become drawn out with resulting delays to the approval process. It may be that the use of s. 41 notices, while giving the impression of an adversarial position being taken on the part of the regulator, is actually the best way of addressing industry concerns. At the same time it should allow sufficient information to be provided to the regulator in a timely fashion to allow an effective assessment within the prescribed time frames.

The ACCC works from a presumption of disclosure and transparency based on a desire to enhance and inform the public debate and to overcome the information asymmetry faced by users. In this regard it is concerned to ensure that sufficient information is available to provide comfort to the market as to the adequacy of the regulator's consideration and to satisfy users' legitimate needs, especially in regard to the service provider's tariff structure.

Regulatory accounts

Related to the information issue is that of the establishment of specific regulatory accounts for regulated entities. I understand that this is a controversial issue for some service providers but it is one that is likely to be of increasing importance as the regulatory framework develops. In terms of transparency, comparability and consistency there are strong arguments for the development of a set of regulatory accounts based on pro forma statements and schedules. I accept that service providers are concerned over the regulatory cost burden and I wish only to make the comment that I see this as an issue that is likely to elicit extensive debate in the future. This is also an issue being addressed by other regulators in their efforts to carry out statutory tariff filing, pricing and monitoring functions.

In considering this matter I would envision a weighing of the costs and administrative imposts against the more general objective of effective regulation. It is likely that compliance and administrative costs would be balanced with the ACCC's need to perform its functions, particularly the access and competition functions.

Cost of capital

Another major issue is the appropriate cost of capital and methodology used in determining that cost. I do not intend to go into this matter in any great depth as it has been the subject of wide ranging debate and discussion and is also dealt with extensively in the recent ACCC Draft Statement of Principles (DSP).

However, it is an issue of some importance in assessing any access arrangement and I would suggest that service providers and their advisers become familiar with the ACCC's analysis, as well as that of other regulatory agencies. The ACCC will look closely at the nature and extent of the risks confronting individual pipelines, particularly in light of the natural monopoly elements that characterise much of the transmission system. Issues such as the rate of technological change, risks to the customer base and the likely volatility of demand, and the regulatory regime are important aspects of the assessment. It is important in the preparation of an access arrangement that an open appraisal of the WACC and CAPM parameters, including the appropriate cost of equity and associated beta, is undertaken.

The ACCC, as do many regulators, considers that the income flows arising from a transparent and well understood regulatory framework, the stability of contracted demand, and the general lack of direct competition support the contention that these industries are lower risk than the overall market. The WACC is set on the basis of financial market benchmarks, taking into account the level of commercial risk involved in establishing and maintaining the transmission infrastructure. Aggressive risk assessments will need to be supported by substantive arguments and/or evidence.

The extensive debate and analysis surrounding the Victorian assessment identified several highly contentious issues, not the least of which is the post-tax nominal versus pre-tax real model and the problems associated with calculating a realistic tax liability. In its DSP the ACCC identified significant flaws associated with long term assessment of tax liabilities in the pre-tax real framework.

- The difficulty in calculating a long-term effective tax rate — errors of judgment in estimating the long-term effective tax rate can lead to over-compensation or under-compensation in the rate of return and create perceptions of risk.
- The fact that the WACC will be expressed in nominal post-tax terms, meaning that it will need to be converted to come up with pre-tax real figures — in a pre-tax real framework the conversion formula is complex, as no analytical formula exists to cover all service providers. Conversion is not conducive to a transparent regulatory framework.
- The S-bend problem — regulated businesses will receive cash advances before their actual tax liabilities eventuate, thus being over-rewarded in the early years but under-rewarded later on. Therefore, the regulated entity will not always receive the rate of return set by the regulator. This runs the risk of encouraging 'gold-plating' in early years and under-investment later on.

The post-tax nominal/pre-tax real issue has the potential to remain an area of considerable disagreement between regulators and service providers, especially in light of tax issues and the technical problems associated with an appropriate conversion formula. It is my intention to use cash flow modelling where service providers have brought forward a pre-tax real WACC to determine the proper cost from the nominal CAPM determination.

Finally, on this issue, I reiterate comments that we made at great length following the Victorian decision. That is, the real pre tax rate of return is not the headline figure that the business world and its advisers are used to dealing with. In fact the 7.75 per cent that received such a bucketing at the time translated into a nominal after-tax return on equity of 13.2 per cent, which is a very acceptable market return. The resulting sale prices would seem to suggest that the regulatory decision was not unduly tight in that case.

Incentive regulation

The National Access Gas Code provides that, where appropriate, reference tariff policies should contain incentive mechanisms. The issue of incentive regulation is quite vexing and, like the cost of capital, raises some complex theoretical and practical issues. I am aware that there has been concern expressed over the incentive structure that flows from what some see as the cost of service model inherent in the National Access Code. It is hardly possible to do justice to this issue in a couple of paragraphs, as it deserves a more considered and fulsome discussion. The editor of this journal has kindly invited me to follow up on this article at a later date with a more extensive discussion of incentive regulation. For now I would just like to make the following observations

While it is true that all regulatory regimes provide incentives of one type or another, we generally refer to incentive based regimes when we wish to differentiate from the more traditional rate of return type regulation. The question is not so much about the presence of incentives as it is what to do about the perverse incentives that infrastructure owners may be subject to. This raises the further question as to how these may be replaced by incentives that encourage and reward efficient operators committed to growing their markets and supplying quality services at least cost to users.

Under the rate of return cost of service model, service providers are allowed to simply recover costs and achieve a normal rate of return on investment. The provider has little if any incentive to achieve efficiencies in the provision of its services. In fact there may well be incentives acting to reduce efficiency. The amount of information required to support the rate case assessment can lead to an extremely intrusive, heavy-handed regulatory approach.

One of the great challenges facing regulators is the imbalance in information between the regulator and the service provider, the so-called asymmetric information problem. Another argument in favour of a more active incentive-based regulatory framework is that it should help to overcome this problem.

I believe that there is a valid role for incentive-based mechanisms within the regulatory process, but to achieve the best outcomes requires considerable thought and planning on the part of regulators, service providers and users. I also believe that the National Access Code allows service providers sufficient flexibility to bring forward alternative incentive-based access arrangements designed with the idiosyncrasies of the particular pipeline in question.

Most incentive mechanisms seek to avoid heavy-handed revenue control and to divorce the permitted charges for access from the reductions in costs or efficiency gains the service provider is able to achieve over and above those that were expected at the beginning of a review period. Hence above-normal profits are only restrained after the period under review has passed and the regulator looks forward to the next period.

I appreciate the concerns that this approach may encourage potential short-term decision making. I would,

however, reiterate my earlier point that the ACCC is quite open to discussing incentive mechanisms that may look further than the immediate regulatory period.

There is a wealth of analytical tools available to policymakers, regulators and stakeholders to shape or check on incentives to achieve a higher level of cost efficiency in the regulated firm. They can also be used to generate incentives for investment at levels that are consistent with allocative and dynamic efficiency in the industry, and to generate a sharing of the benefits of regulation between the firm, the customer and the community.

Key performance indicators/ benchmarks

The issue of key performance indicators (KPIs) and benchmarks is another that I see as of increasing importance. Service providers have consistently argued that there are very few appropriate benchmarks and performance indicators for Australian transmission owners. I accept the difficulties associated with establishing KPIs, but believe that it is essential for the industry to work with regulators to establish acceptable indicators.

KPIs and benchmarks become more important in regimes in which incentive mechanisms play an important role. These tools should become more useful in assisting in the measurement of performance, both financial and non-financial, as the regulatory regime matures and more relevant information becomes available.

Flexibility

Another matter that some operators have raised with the ACCC is the perception that the National Access Code is too prescriptive and fails to allow sufficient flexibility in the development of an access arrangement. I believe, on the contrary, that there is sufficient flexibility implicit in the code. I would encourage service providers to be innovative in their arrangements, particularly in bringing forward tariffs, terms and conditions that act to encourage market growth and look to provide new services to the markets they serve. I am concerned that access arrangements will continue to be based on traditional notions of service and rate of return regulatory philosophies. The opportunity to bring innovation and imagination to the provision and pricing of pipeline services may therefore be lost, or at least delayed.

Understanding the code

It is important for service providers and their advisers to have a good appreciation and understanding of the code and its provisions. Notwithstanding the degree of discretion allowed, the ACCC is required to follow the code in its assessment of an access arrangement, taking guidance from specific factors nominated in the various sections. Without an understanding of the code, it is difficult to anticipate the regulator's decision or to appreciate the many factors which go into that decision.

A proper and comprehensive understanding of the code will allow service providers to develop access arrangements that are not necessarily based on the more traditional cost of service model, which seems to be the current norm.

Conclusion

There are a number of other matters that we face in the future, including the long running debate over light versus heavy-handed regulation, the 'proper' allowances for depreciation, the regulatory approach to arbitration etc. However, I think it best to leave those issues for another day.

I would like to conclude with a few thoughts on the regulatory philosophy or principles that I see as the basis for effective and efficient regulation, and trust that these will be carried forward in the work of the Gas Group:

- effective communication and consultation should take place between the regulator and all stakeholders, so as to encourage transparent decision-making processes;
- the regulatory process should be predictable in order for regulated businesses to feel confident that consistent, well defined decision-making criteria will be adopted by the regulator;
- the regulatory process should be flexible to allow for the regulatory approach to evolve over time in response to new developments and innovations; and
- as the regulatory regime should be effective and efficient, it will need to assess the cost effectiveness of the proposed regime and alternative regulatory options.

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Publications

Access undertakings

Part IIIA of the *Trade Practices Act 1974* (TPA) established a legal regime to facilitate access to the services of certain facilities of national significance. The ACCC has a role in arbitration of disputes over access to facilities declared to be essential under the terms of the TPA and in the assessment of undertakings by owners/operators of facilities. In order to promote understanding about the new Part IIIA provisions, the ACCC developed a number of publications. Amongst these guides was the *Access undertakings: a draft guide to access undertakings under Part IIIA of the Trade Practices Act* which was first published in 1996 and reprinted with corrections in 1997. In September 1999 a new version of this guide entitled Access undertakings: *A guide to Part IIIA of the Trade Practices Act* was released. This new guide differs from the past draft access guide in that it embodies much of the experience that has been gained over the past few years since the original Access guide was released.

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Ring fencing

As part of the series of papers being released by the Regulators Forum, the ACCC has published a paper dealing with ring-fencing issues. The paper, *Information gathering for ring fencing and other regulatory purposes*, covers a number of issues concerned with the collection and use of information by regulators in the utility sector in Australia. The paper was prepared by the ACCC, ORG and IPART.

The paper's main focus is on information necessary for regulators to carry out their main functions such as financial/performance monitoring, the setting and/or oversight of retail prices (such as price cap regulation), the administration of access requirements and competitive safeguard responsibilities. As part of this process, the development of ring-fencing systems, such as accounting separation, is seen as particularly necessary for the regulation of vertically integrated entities which operate at both the wholesale or network layer as well as the retail layer. Such entities may have a greater incentive to engage in anti-competitive conduct.

Container stevedoring monitoring

In October 1999 the ACCC completed its first report on container stevedore monitoring.

On 20 January 1999, the Federal Treasurer directed the ACCC under the *Prices Surveillance Act 1983* to monitor prices, costs and profits of container stevedoring operators located in the ports of Adelaide, Brisbane, Burnie, Fremantle, Melbourne and Sydney. The aim of the ACCC's monitoring program is to help provide information to the wider community about the progress of waterfront reform at Australia's major container terminals. The monitoring program will also provide information to the community about the absorption of the stevedoring levy by the stevedores.

The commencement of the monitoring program coincided with the introduction of the stevedoring levy in February 1999. The monitoring program is expected to be in place over several years. The first monitoring report concerns the three major stevedoring companies, P&O Ports Ltd, Patrick the Australian Stevedore and Sea-Land (Australia) Terminals Ltd, and examines trends in prices, costs and profits from February to June 1999, with reference to a three-month base period from November 1998 to January 1999. Subsequent reports will be released annually and will report on six-monthly trends in prices, costs and profits.

Both publications are available from all ACCC offices for $10 a copy.

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Quality of service monitoring

The Regulators Forum has also released a discussion paper on the *Quality of service monitoring*. It outlines a framework for the monitoring of service quality by economic regulators; it is designed to assist regulators in fulfilling any responsibilities and exercising any powers they have in this area.

Quality of service monitoring is undertaken to complement price regulation of monopoly services. It involves the assessment of service providers' performances, usually based on prescribed indicators of quality and other information.

Both are available on the Utility Regulators Forum website *at* http://www.accc.gov.au. Alternatively copies be obtained for $5 a copy from Katrina Huntington, ACCC, on (03) 9290 1915.

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