

Infrastructure Access

Rod Sims, Chairman of the ACCC

Editor's Note

On 18 April 2013 ACCC Chairman, Rod Sims, addressed a Gilbert and Tobin Lawyers Competition Policy Workshop on Infrastructure Access. The workshop provided for a robust discussion as Rod Sims and panellists including Catherine Dermody, Henry Ergas, Stephen King, Brian Parmenter and John Snelling addressed the following question:

Does the Australian approach to access regulation provide the 'right' policy settings for addressing the infrastructure requirements of the contemporary Australian economy, including facilitating investment and expansion in facilities of national significance?

Rod's speech allowed him to expand on his overall argument that, in general, the Australian National Access Regime provides the right policy settings for addressing the infrastructure requirements of the contemporary Australian economy.

The timing of the workshop coincides with the Productivity Commission's (PC) review of the National Access Regime.

The PC was provided with the terms of reference for the review in October 2012 and on 30 November 2012 an Issues paper was released.

Numerous submissions have been provided to the PC review from individuals and organisations across the country including from the ACCC. A number of critical issues are emerging from the review process including the implications of the recent High Court decision on criterion (b) of the criteria for declaration in Part IIIA (*The Pilbara Infrastructure Pty Ltd & Ors v Australian Competition Tribunal & Ors* [2012] HCA 36).

A draft report from the PC is due at the end of May followed by public hearings with the final report due to Government in October 2013 (details of the review are available on the PC's website at <http://www.pc.gov.au/projects/inquiry/access-regime>).

Given current interests in access issues with the National Access Regime Inquiry, the speech by the ACCC chairman is reproduced below for this edition of *Network*.

Thank you for the invitation to speak at today's workshop.

The topic and question provided to us today, of course, recognises that the Productivity Commission (PC) is part-way through its review of Australia's National Access Regime. I have had a number of discussions on these issues with my colleagues at the PC.

Those discussions, and reading a range of material for today, reminds me yet again that these are indeed fascinating and fun issues.

Today I want to make the following points.

First, we need a common view on what is the Australian approach to access regulation if we are to address the broad question posed for us today.

Second, on the whole, the Australian approach to access regulation has worked well.

Third, there are important issues to address, and these are likely the specific subject of the PC's review.

Fourth, Australia faces more important issues concerning appropriate infrastructure investment levels than those associated with Part IIIA.

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1. Understanding the Australian approach to access regulation

To understand the Australian approach we need, of course, to go back to the Inquiry into National Competition Policy chaired by Professor Fred Hilmer in the early 1990s.

As part of the recommended national competition policy, the Hilmer Committee recommended the establishment of a general access regime potentially applicable to any sector of the economy.

In 1995 agreement was reached between the Commonwealth and States on a National Competition Policy based on the recommendations of the Hilmer Committee.

Importantly, industry specific microeconomic reforms were also initiated under the National Competition Policy; for example, in telecommunications, electricity and gas, and road and rail.

I believe these reforms together form the basis of “the Australian approach” to access regulation. Indeed, the general access regime gained important impetus from considering a specific access regime for telecommunications; it was not the other way round. I shall explain this a little later.

Further, the fundamental point that Fred and his team accepted was that Australia needed to deal with access issues via a market structure solution; that is, structural separation where appropriate and a legislated general access regime, rather by regulating conduct under Section 46.

The key objectives of such an approach were and remain efficiency and promoting competition in upstream or downstream markets.

When I travel overseas I hear some of my counterpart heads of competition agencies dealing with issues including access to infrastructure, under provisions broadly equivalent to our section 46. We largely do not have such cases because of the Australian approach to access regulation. For today’s purposes the Australian approach, to access regulation, in my view, covers the industry specific as well as the general Part IIIA regime.

2. On the whole the Australian approach to access regulation has worked well

Let me illustrate by giving some sector examples.

Telecommunications

As I said in a speech last week, the communications industry could have looked so different from what we have today.

In the late 1980s there was only one domestic telecommunications provider, and it was government-owned. Telecom provided voice services over its

copper network. The Overseas Telecommunications Commission (OTC) was the sole international player.

In telecommunications those of us involved in micro reform in the late 1980s and early 1990s lost some big debates. The most important debate was trying to separate Telecom’s copper network from its retail activities. We succeeded with structural separation in electricity, but failed in telecommunications.

Just imagine how different the communications industry would look today had we won that debate. Telstra would never have been vertically integrated and, I believe, our industry would be more competitive than it is today.

The second battle was over whether to fold OTC into Telecom, or whether it could form the basis of a new competitor. In a pivotal meeting in the Prime Minister’s office in around 1990, it was decided to fold OTC into Telecom.

Even though two crucial debates were lost, an important concession was gained: a new licence was to be issued, which was won by Optus in 1991, and the new competitor was to have the benefit of favourable access terms to Telstra’s network.

In the Department of Prime Minister and Cabinet we leveraged this concession by feeding the general idea into the Hilmer Review. Peter Harris, now Chairman of the Productivity Commission, played a key role in this.

Despite many refinements and frustrations, the telecommunications access regime has seen significant competition introduced and large consumer benefit. For example, real prices for fixed-line and mobile services have approximately halved since 1997-8.

Competition has also seen the introduction of new infrastructure and services. As but one example, back in 2006 it was companies like iinet and Internode that first developed ADSL2+, as Telstra was focused elsewhere. Telstra, of course, then quickly followed, and consumers have reaped the benefits with faster connection speeds and more data allowances.

Electricity

I will not say much on electricity at this point, but will return to it later.

Suffice to say, however, that access to the poles and wires has not constrained competition in this sector.

Wheat ports

After Australia’s wheat export market was liberalised around five years ago, there was concern that wheat port operators who also exported wheat would foreclose their ports to competitors.

In this sense there was a concern that the Australian Wheat Board would simply be replaced by three “regional monopolies”, undermining the policy intent of liberalising the Australian wheat export market.

Given this, Australian policy-makers decided that the vertically-integrated wheat port operators would be required to provide access to third parties to their wheat ports.

And the mechanism via which this would be done was to be an access undertaking provided to the ACCC.

The access undertakings accepted by us establish the processes by which access seekers and providers can negotiate terms and conditions of access and provide for ACCC oversight of capacity allocation systems. The obligations in the undertakings are backed up by the availability of arbitration by the ACCC if commercial negotiations are unsuccessful.

We now, as a result, have multiple wheat exporters in each market to the benefit of Australian farmers.

3. Some issues that need to be addressed

I will mention three such issues.

Using the general Part IIIA provisions

When we were putting all this in place 20 years ago we accepted there would be industry-specific regimes and a general access regime.

Many regulated firms, who did not like their industry-specific regimes, particularly given how effective they were, argued that they should be temporary, and that their industry should simply be regulated by the general Part IIIA regime.

This argument makes no sense.

The industry-specific communications regime has been steadily improved to the point where it now works well.

And why would we want the electricity poles and wires businesses to seek declaration under Part IIIA?

This issue raised its head, for example, when the wheat access regime I mentioned earlier came up for review. Some felt the industry-specific regime should be replaced by the general Part IIIA regime.

Our view, however, is that where there is a clear bottleneck to competition in upstream and downstream markets, as exists in wheat, it may be simpler and more cost-effective to continue industry-specific regulation.

Complexity & Delay

One of the key processes in the National Access Regime is “declaration”, whereby a service provided by a facility becomes “covered” by the National

Access Regime. The ability of a bottleneck infrastructure owner to seek declaration remains an important part of the incentive framework for access regulation.

Unfortunately, our view is that declaration has recently been a more costly, complex and time-consuming path to access than it needs to be. The length of time that the Pilbara railways matter has been unresolved is testament to this.

The declaration and arbitration processes potentially include 13 steps for an access seeker. It can take a long time, and often can only be successfully pursued by an applicant with substantial financial resources.

This lengthy declaration process has costs to the community, and can affect the perception and credibility of the National Access Regime to address market failure problems.

However, in recent years the Government has legislated for some streamlining of the declaration process.

These amendments limit a Competition Tribunal review of a declaration decision to material that was before the relevant Minister when making the decision, with provision to supplement that material as provided for in the legislation.

Furthermore, the High Court recently held that the Competition Tribunal's role is narrower than previously thought.

Given all this, it is to be hoped that future declaration decisions will be resolved in a more timely fashion.

Criterion (b) issue

One issue that we think clearly needs to be addressed in the National Access Regime is that of the interpretation of criterion (b) of the criteria for declaration in Part IIIA. This is:

That it would be uneconomical for anyone to develop another facility to provide the service.

As you would be aware, the High Court in its recent Pilbara decision found that a “privately profitable” test should apply against this criterion.

We consider that the “privately profitable” test has the potential to lead to adverse impacts on economy-wide efficiency and competition. For example, the restriction or foreclosure of competition in markets reliant on access to bottleneck infrastructure, or on the other hand, socially wasteful duplication of infrastructure facilities.

The ACCC's position is that the interpretation of criterion (b) should revert to a more appropriate test based on the economics of natural monopoly. Interpreting criterion (b) in this way would promote

economic efficiency and the welfare of the whole Australian community.

It is sometimes argued that prior to the High Court Fortescue decision there were two slightly different natural monopoly tests for criterion (b). One such test is a narrow natural monopoly test examining only the costs of production with and without duplication.

The other test, which was enunciated by the Competition Tribunal in the gas coverage case *Re Duke Eastern Gas Pipeline Pty Ltd* [2001] takes into account the costs and benefits to the community as a whole rather than just production costs.

The ACCC prefers this broader test for criterion (b), although I note that there would be unlikely to be a significant practical difference between the two tests in the majority of cases.

4. Australia faces more important issues concerning appropriate infrastructure investment levels than those associated with Part IIIA

Perhaps the best way to make this point is to provide some examples from the airports, road, rail and energy sectors.

Airports

Responsive high-performing airports are a critical element of a robust Australian economy. In the period since their privatisation we have seen one airport declared twice and those declarations subsequently cease. The ACCC has been given a monitoring role, and the airports have been subject to the general access provisions under Part IIIA.

The ACCC has raised questions about the performance of some Australian airports.

We see increasing prices for airports, while in some instances quality of service has fallen over a sustained period of time.

There are also increasing concerns over congestion. The long-running debates about capacity at Sydney and Brisbane airports are just two examples of this.

These observations raise concerns about whether or not certain airports are investing enough.

Monitoring, of course, does not restrict airports from exercising their market power. What the Virgin Blue and Sydney Airport dispute demonstrated is that a successful commercially negotiated settlement could be reached, when undertaken against the backdrop of possible arbitration under Part IIIA.

It cannot be said that the Part IIIA provisions are inhibiting investment. Indeed, it could at least be argued that an industry-specific access regime could well facilitate higher levels of investment.

Rail and road

I do not see how Part IIIA can be to blame for concerns over a lack of investment in road and rail.

The Australian Government is, for example, currently investigating the feasibility of pricing options for heavy vehicles such that charges better reflect cost drivers, and in which the revenues from these charges are better linked to road expenditure.

The outcomes of these road pricing reforms are intended to unlock more productivity from the road network and deliver more efficient pricing and investment.

There are definitely also challenges ahead in urban transport. While some urban traffic congestion is economically justifiable, the Bureau of Infrastructure, Transport and Regional Economics estimated that the economically unjustifiable costs of congestion in Sydney alone were around \$5.4 billion in 2012.¹

The issue of congestion pricing and other demand management measures is contentious but, I would argue, so is the issue of increasing traffic gridlock.

Closely related to this is the issue of how we pay for the urban transport infrastructure of the future. For example, the losses incurred on public infrastructure are now so large that some state treasuries are understandably resistant to expanding the public transport network. Ever more money cannot be the answer. Some combination of congestion pricing, appropriate relative pricing between urban transport modes and significantly increased efficiency, should be part of the mix.

Energy

The AER is responsible for regulating electricity network businesses, major gas distribution networks and five gas transmission pipelines.

In electricity, the regulatory framework to date has delivered significant network investment in the national energy market. Over the current five-year cycle, investment of \$7 billion in transmission networks and \$36 billion in distribution networks is forecast.

Much of this investment was necessary, driven by factors such as the need to replace ageing assets and meet peak demand. There has, however, been significant concern raised in the past couple of years that there has been overinvestment with the result that consumers are paying more than necessary for a safe and reliable supply.

One of the drivers of these unnecessary price increases was weaknesses in the regulatory framework; the rules which govern how revenues for network businesses are determined. If anything, the

industry-specific access regime has seen excessive investment rather than a lack of it.

Changes to the regulatory framework were finalised by the rule-making body, the AEMC, in November last year. The new rules give the AER the tools to rein in unnecessary investment in energy networks and shift the focus to efficient investment in the long-term interest of consumers.

In gas, there has also been significant network investment. In transmission, construction is underway on major pipelines in Queensland to transport gas to Gladstone, and on a capacity expansion of the Moomba to Sydney pipeline. Expansions to the South West Queensland pipeline and Roma to Brisbane pipeline have also recently been completed. Investment to augment and expand distribution networks is forecast at around \$2.6 billion in the current access arrangement periods.

5. Conclusion

In conclusion, I look forward to a robust debate today, and like many of you here I look forward to the draft findings from the PC on the National Access Regime. This evaluation will play a key role in ensuring that the regime continues to promote Australia's economic performance, and improve productivity and competition for the benefit of all Australians.

Endnote

1. Report prepared for Infrastructure NSW by ACIL Tasman and SMART Infrastructure Facility, University of Wollongong, *Pricing Congestion in Sydney; Discussion Paper*, April 2012, p. vi. (From Bureau of Transport and Regional Economics (BTRE): *Estimating Urban Traffic and Congestion Trends for Australian Cities*, Working Paper 71, BTRE, Canberra, ACT, 2007, p. 109.)

Critical Issues in Regulation – From the Journals

‘A Frontier Approach to Testing the Averch-Johnson Hypothesis’, Donald Vitaliano and Gregory Stella, *International Journal of the Economics of Business*, 16(3), 2009, pp. 347-63.

In this paper, the authors use ‘data envelopment analysis’ (DEA) techniques to evaluate the Averch-Johnson (AJ) hypothesis. While they find that the regulated businesses in their study fail to minimise costs and tend to overuse capital, nonetheless their empirical findings are inconsistent with the AJ hypothesis.

The AJ hypothesis makes a prediction about the mix of capital and labour for a business that is subject to rate-of-return regulation but which nonetheless maximises its profits subject to constraints. The hypothesis is that if a business’s allowed rate of return is in excess of its actual cost of capital – that is, if there is a ‘capital subsidy’ – then it will use an inefficiently high level of capital. Thus the business will display cost inefficiency. Moreover, the excessive level of capital stock will be a positive function of the gap between the allowed rate of return and the actual cost of capital.

The empirical literature on the AJ hypothesis focuses on the estimation of production, cost, profit or input demand functions for the firms. According to the authors, a problem with these studies is that they do not distinguish between inefficiency caused by the AJ effect and other forms of inefficiency. Such studies assume away the existence of inefficiencies other than those caused by inappropriate factor proportions. In order to separate out these different effects, the authors use DEA techniques. Such techniques can be used to estimate the magnitude of cost inefficiencies over and above those produced by the AJ effect.

The authors test the AJ hypothesis using a cross-sectional data set of 337 privately owned electricity utilities in the United States in 1970. This is a suitable point of time to test the hypothesis, the authors suggest, because rate-of-return regulation was common at that time. Their results imply that the plants in their study are not cost efficient: production costs could be lowered by an average of 22 per cent. The cost inefficiencies partly stem from inappropriate factor proportions – in particular, capital is overused. While overuse of capital is consistent with the AJ hypothesis, the authors nevertheless reject the AJ hypothesis, because the data do not support a central implication of the AJ hypothesis – that the surplus capital depends positively on the capital subsidy. They find that the capital subsidy does not have a statistically significant effect on the overuse of capital.

‘Political Price Cycles in Regulated Industries: Theory and Evidence’, Rodrigo Moita and Claudio Paiva, *American Economic Journal: Economic Policy*, 5(1), 2013, pp. 94-121.

One of the primary rationales for the establishment of independent regulatory authorities was to achieve depoliticisation of regulatory pricing decisions. If regulatory pricing was fully politicised, what sort of regulatory pricing outcomes would be expected? This paper presents a theoretical model of the behaviour of three parties involved in regulatory pricing decisions – a regulated industry, consumer-voters, and a politician-regulator. The politician-regulator sets the regulated price in a way which maximises the campaign contributions from the regulated industry over time, but which also provides a signal to voters during election periods as to its preference for pro-consumer outcomes. They find that the regulated price falls during election periods but increases in the post-election period to compensate the regulated industry. They refer to this effect as ‘political price cycles’.

The paper presents empirical evidence for political price cycles using monthly pricing data for gasoline and electricity in Brazil. Over the period from 1969 to 2008, real gasoline prices in Brazil declined by an average 0.6 per cent per month during election periods, but increased by 0.5 per cent per month on average in non-election periods. The effects are even stronger in the electricity market. Over the period from 1963 to 2009, real electricity prices declined by 1.2 per cent per month during election periods and remained essentially stable in non-election periods. Importantly, the paper shows that, following the creation of the independent regulatory agency in the electricity market (known as ANEEL), the political price cycle in the electricity industry seems to disappear.

This paper can be viewed as an extension of traditional static political-regulation models, where the politician-regulator, in selecting a price, makes a trade-off between different competing interests. Allowing for price changes over time permits the politician-regulator to serve different interests at different times. Any such dynamic model must address the following question: why do the consumers fail to realise that they are being bribed with lower prices in the short-run, which they will eventually pay for in the form of higher prices after the election? This paper answers the question by introducing information asymmetry. The politician-regulator is assumed to have time-varying preferences for favouring the interests of the regulated firm relative to consumers, and its

knowledge of these preferences is superior to that of consumers. In this context, setting lower prices in the election period can be a consistent and credible signal to consumers that the politician-regulator cares about consumer welfare.

‘Who Invented the Lerner Index? Luigi Amoroso, the Dominant Firm Model, and the Measurement of Market Power’, Nicola Giocoli, *Review of Industrial Organization*, 41, pp. 181-191.

In this paper, Nicola Giocoli from the University of Pisa explores the origins of some fundamental ideas of market power – in particular, the (as far as Giocoli is concerned, so-called) ‘Lerner Index’ of market power; the dominant-firm model; imperfect competition and monopolistic competition. Giocoli reviews the work of the Italian economist, Luigi Amoroso (1886-1965), whom he credits with major contributions to this area of analysis.

Amoroso was a follower of Vilfredo Pareto, after whom the central concepts of welfare economics – ‘Paretian efficiency’ and the ‘Pareto criterion’ – are named. Amoroso trained in mathematical economics and published regularly over the 1920s and 1930s. Amoroso’s work included his 1921 text, *Lezioni di Economia Matematica*; a paper in French that was published in *Econometrica* (then and now, one of the top few journals in economics) and another (‘The Static Supply Curve’) that was translated into English in an influential collection of non-English articles published in 1954. According to Giocoli, all this work only stopped because of the ‘outbreak of World War II’ (p. 189).

A well-known measure of market power relates the ratio of the difference between price (P) and marginal cost (MC) and price itself, viz: $(P - MC) / P$. This can be shown to be equal to the reciprocal of the own-price elasticity of demand. This measure will equal zero for perfect competition in long-run equilibrium, and will be greater the more inelastic the demand faced.

This measure of market power is normally attributed to Abba Lerner, who published on this in a 1934 paper in *The Review of Economic Studies*, titled ‘The Concept of Monopoly and the Measurement of Monopoly Power’. Following this paper, the measure of monopoly (or market) power became commonly known as the Lerner index. However, Giocoli shows that Amoroso had formulated these ideas prior to Lerner in a 1933 paper (published in Italian). In light of this antecedence, Giocoli proposes that the concept be renamed (he writes ‘christened’) the ‘Amoroso-Lerner index’ (p. 189).

Another important literature of the 1920s and 1930s analysed what happens in between perfect competition and pure monopoly; including the dominant-firm model; imperfect competition and

monopolistic competition. Contributors to this literature include many of the biggest names in economics at the time; such as E. H. Chamberlin; F. Y. Edgeworth; Joan Robinson; H. Stackelberg and G. Stigler. Giocoli places Amoroso firmly into this literature; including as providing the only ‘complete analysis’. Thus, Giocoli observes (p. 188):

[As] a matter of true historical reconstruction, the first author to establish the correct relation between the case of partial monopoly and the formula with the determinants of a leader’s market power was neither Stackelberg nor Stigler, but Amoroso in 1938.

The onset of the war meant that this work had ‘little international circulation’ (p. 189).

While readable and accessible, Giocoli’s paper also contains all of the relevant algebraic derivations and a comprehensive reference list.

‘Dynamic Pricing and the Peak Electricity Load’, Paul Simshauser and David Downer, *Australian Economic Papers*, 45, 3, 2012, pp. 305-324.

The authors, who are both employed by AGL Ltd. in Queensland, analyse the scope for introducing peak-load pricing of retail electricity in Australia. The article is long and detailed, including a review of some relevant literature; a useful reference list and simulated modelling results of dynamic pricing for a sample of 3,000 NEM customers equipped with digital (‘smart’) meters.

According to the authors, past reforms to Australia’s electricity market have met with remarkable success, but wholesale market gains have been largely exhausted. Above-trend growth in investment in energy infrastructure is leading to increased retail prices. According to the authors, this pressure should initiate the last piece of the reform puzzle – removing price regulation, installing smart meters and implementing dynamic pricing to halt the primary cause of the problem, rapidly rising peak demand. The authors find that such a change can lead to non-trivial reductions in household peak demand, with a sample load factor improving by nine percentage points.

The authors provide a lot of facts and figures about electricity consumption to illustrate the significance of the peak-load problem. According to the authors, the essence of the problem is (p. 306):

Household energy consumption in Australia ... represents about one-third of aggregate energy demand. But, the contribution of household peak demand is entirely out-of-step. Since 2005, peak demand growth has been running at twice the growth rate of underlying energy demand ... This has been driven by rising disposable incomes, larger household floor space and plunging appliance costs.

That peak demand is rising so fast is hardly surprising, given that households are equipped with century-old metering infrastructure which is unable to distinguish the time of use.

And then there is this (p. 321):

That \$900 million of capital has been invested in south-east Queensland's grid for use on 3.5 days per year would incense any macroeconomist from a national resource allocation perspective. Capital allocated to the grid and to generating equipment across the entire NEM for 'momentary use' must surely be a vast multiple of this.

The authors argue that the transformation from average-cost pricing to dynamic time-of-use tariff structures needs to be strategically orchestrated by policy-makers. An intensive consumer education program with substantial government input and resources is a prerequisite. The energy sector must also take greater responsibility to ensure that households better understand the component costs of electricity and the drivers of electricity consumption in households.

They argue that an 'ideal solution' would be to utilise the tax and-transfer systems available to governments so as to facilitate an appropriate package of policies, and specifically, financial compensation to vulnerable households. This would allow the widespread use of dynamic pricing as the default in the interests of an efficient allocation of resources nationally. Vulnerable households could face dynamic prices and choose either to hold their demand constant (and fund this by the compensation received) or to reduce their consumption and use the compensation in other ways. Crucially, the authors argue, a dynamic pricing program should not be initiated at the start of the peak summer period. If simultaneous compensation policies are not possible, the authors suggest that a dynamic pricing program could be initiated subject to a limited number of segment 'carve-outs', acknowledging that sending potentially 'punitive signals' to highly vulnerable households or consumers reliant on life-saving medical equipment is clearly more than a theoretical one. This would reduce participation rates and therefore some of the potential gains.

'The Redistribution Impact of Nonlinear Electricity Pricing', Severin Borenstein, *American Economic Journal: Economic Policy*, 4(3), 2012, pp. 56-90.

Since the 1980s, increasing-block pricing (IBP) of electricity has been used by economic regulators in a number of jurisdictions because, at least potentially, it allows low-income households to pay affordable prices for electricity and electricity businesses to raise adequate revenue. With rising electricity costs,

economic regulators have been under pressure to address the affordability issues.

The paper provides a case study of the IBP tariffs applied to residential electricity customers in California, with a focus on those serviced by Southern California Edison (SCE). After experiencing substantial financial losses during the 2000–2001 California electricity crisis, SCE introduced a steeply rising five-tier tariff structure replacing the previous two-tier IBP. In addition, some customers (e.g., about 25 per cent of resident customers in 2006) have been on the means-tested California Alternative Rates for Energy (CARE) program, under which discounted electricity rates are offered to eligible low-income customers.

The paper examines the efficiency and distributional effects of both the IBP system and the CARE program. By matching utility billing data for 2006 with household income data from the census, the author estimates aggregate changes in bill payments by income brackets under alternative methods that take account of income dispersion.

The author finds that IBP in California results in income redistribution, but incurs substantial efficiency costs relative to the transfers. The CARE program has a larger distributional impact but a smaller deadweight loss, as the prices closely reflect the marginal cost. However, the combined redistribution impact of the two programs is limited as the two programs are imperfect substitutes in redistributing income. The author concludes that, compared to IBP, the CARE program can be more effective under certain conditions.

The author further notes two limitations of the paper: first, horizontal inequity (i.e., energy prices/costs for households having similar income and electricity needs) is not considered; and second, whether the income distribution issue is better addressed through an economy-wide taxation policy is not addressed.

'Wholesale Energy Markets: Seeing the Right Framework for Price Responsive Demand', Amparo Nieto, *Electricity Journal*, 25(10), December 2012, pp. 7-23.

The author proposes that, by altering investment incentives in the energy market, price-responsive demand has the potential to increase dynamic and allocative efficiency in the market. The author argues that, with the increased availability of smart meters, the arguments against making energy prices more reflective of market prices are not compelling. By giving all electricity consumers a chance to see, respond to, and influence locational marginal prices on an hourly basis, energy markets will be able to reduce the overall costs of electricity services.

Nieto considers that the expansion of smart meters can greatly affect most, if not all, of the following regulatory elements: (1) price caps that serve to mitigate market power; (2) out-of-market mechanisms that provide compensation in exchange for addressing short-term system contingencies; (3) the prescribed manner in which utilities or load-serving entities must procure capacity for their customers, and (4) federal- or state-approved regional reliability targets, which currently may bear little or no relationship with the overall users' willingness to pay for electricity.

It is noted that, with price-responsive demand in place, the energy market will be more responsive to the supply and demand of energy, performing the intended price-discovery role. As a consequence, consumers will voluntarily shed load – in response to price spikes that are driven by short-notice transmission-line outages or other contingencies – to an extent that is dependent on their willingness to pay at that time. If demand is price-responsive, retail suppliers will be better able to hedge extreme high-cost events, and therefore to limit risk relating to price and volume, which is to be hedged through the financial market. Further, the frequency and magnitude of load-forecasting errors should decrease over time, with more customers on smart-meter rates and with users learning how to optimise usage.

Nieto argues that one potential benefit of real-time pricing is that such pricing may become a more attractive option for commercial buildings, universities, hospitals, manufacturers, and residential end-users if offered along with enabling technology, such as programmable communicating thermostats, energy-management systems or home-area networks. Price signals can be relayed to 'smart' home controllers on end-consumer devices like thermostats and washer-dryers. These price signals trigger a load response that has been previously programmed by the customer.

Given that regulators tend to be risk-averse, Nieto considers that it is uncertain whether the expansion of smart meters will effectively lead to removal of any prices caps in the US markets, or mandate reliability targets. However, to maximise the potential benefits of price-responsive demand, regulators should set up the right platform for efficiently integrating new forms of retail dynamic rate into the market, while ensuring a 'level-playing field' for all available forms of demand response.

'Merger Analysis in Wholesale Power Markets using the Equilibria-Band Methodology', Darryl Biggar and Mohammad Hesamzadeh, *IEEE Transactions on Power Systems*, forthcoming, 2013.

Wholesale electricity markets are prone to the exercise of market power. At certain times, generators are able to influence the wholesale spot price for electricity significantly. Competition regulators need to develop tools that enable them to predict the consequences of mergers in wholesale electricity markets. There are two broad approaches to assessing the competition implications of electricity mergers. One involves the computation of indicators of the potential for the exercise of market power. These approaches tend to be simple, easily replicated and transparent, but they typically fail to capture some real-world features of wholesale electricity markets, such as transmission congestion. The other approach is to model interactions in the wholesale electricity market as a game. This latter approach allows more features of the real-world market to be taken into account, but is less transparent.

Game-theoretic modelling of wholesale electricity markets has historically suffered from two further weaknesses. First, finding a Nash equilibrium tends to be very computationally intensive. If the market is modelled with even a moderate amount of complexity, it takes a long time to find each equilibrium. As a consequence, such models have been applied with highly simplified assumptions, such as severe limitations on the range of strategies available to each generator with market power. A second weakness of market modelling has been the proliferation of Nash equilibria at each demand level. Having more than one Nash equilibrium is a problem for the model. Should we focus on those equilibria which correspond to a high degree of market power or those which correspond to competitive outcomes? Theory provides no guidance.

This paper addresses both of these weaknesses. First, the model proposes a new, efficient method for computing the extreme Nash equilibria in a game-theoretic model (the extreme Nash equilibria are those with the highest and lowest social welfare outcomes respectively). The proposed approach converts the standard Nash equilibrium problem into a series of linear constraints using binary variables (which take the values of zero or one). The problem of finding the extreme Nash equilibria can then be expressed as a so-called mixed-integer linear programming problem which can be solved efficiently with off-the-shelf software. The improvement in solution time is considerable. Problems which would have previously taken days or months can be solved in seconds. This increase in processing speed

allows consideration of a much richer set of strategies for each generator, a wider range of scenarios and more extensive sensitivity testing.

The paper also addresses the problem of multiple Nash equilibria. It proposes focusing on how the range of Nash equilibria changes as a result of merger. For each demand level, it is possible, in principle, to compute the upper and lower bounds on prices or social welfare before and after the merger. The change in the range of prices or social welfare at each demand level provides a measure of the impact of the merger. It can be determined, for example, if the merger tends to increase prices mostly at high-demand times, or mostly at low-demand times. To illustrate how the proposed approach might work in practice, the paper applies the proposed approach to a hypothetical merger in the New South Wales region of the national electricity market, and a merger in the standardised network known as the 'IEEE 14-Bus Test System'. The authors suggest that 'such techniques may prove useful as part of the toolkit of competition and wholesale market regulators in the future'.

'Price Effects of Independent Transmission System Operators in the US Electricity Market', Theodore Kury, *Journal of Regulatory Economics*, 43, 2013, pp. 147-167.

Prior to 1996, the US electricity industry operated with a vertically-integrated monopoly structure. In 1996, the Federal Energy Regulatory Commission (FERC) embarked on a series of reforms which were designed to facilitate competition between generators and to bring 'more efficient, lower cost power to the nation's electricity consumers'. A key part of those reforms was taking control of the transmission network from existing vertically-integrated public utilities and placing it in the hands of a new organisation – a Regional Transmission Operator (RTO). The FERC argued that establishing an RTO had several potential benefits, including lowering the cost of generating electricity by optimising production decisions across a wider area; improving the coordination of long-term system planning; and allowing new lower-cost generation resources to access the network. On the other hand, the cost of the new arrangements included the cost of creating and operating an RTO together with compliance and other on-going costs incurred by market participants.

More than fifteen years later, it is timely to ask whether the benefits of these reforms exceeded the costs. A key purpose of the reforms was to 'ensure that electricity consumers pay the lowest price possible for reliable service'. Did real prices go down as a result of the establishment of RTOs? The US General Accounting Office asked the FERC to develop metrics to track the performance of RTO operations. In response, the FERC has proposed a

set of possible performance metrics for RTOs. In anticipation of more detailed work by the FERC, this paper by Kury asks the question: have prices gone down in states which established RTOs?

This question is difficult to answer because many states which established an RTO also simultaneously liberalised their electricity industry in other ways – such as by introducing a wholesale electricity market and/or retail competition for electricity customers. These other reforms often involved explicit settlement agreements between the states and the utility electricity providers. Those settlement agreements frequently involved a temporary rate freeze or a short-term drop in rates. The expiration of those rate-freeze agreements were associated with a substantial increase in rates, suggesting some of the short-term drop in prices was simply due to inter-temporal cost shifting.

To avoid this problem, Kury separates his sample into those states which have liberalised their electricity industry and those which have not. Using 18 years of panel data, he finds that across the whole sample, the formation of an RTO was associated with a price decline – of around five per cent. But excluding those states which have liberalised the industry, the formation of an RTO does not lead to a statistically discernible price decrease. There may be other benefits to customers, such as improved reliability of electricity service or better long-term resource planning, but Kury concludes that the creation of RTOs has not provided tangible benefits to consumers in the form of lower prices.

'Competition Enhancing Regulation and Diffusion of Innovation: The Case of Broadband Networks', Harald Gruber and Pantelis Koutroumpis, *Journal of Regulatory Economics*, 43, 2013, pp. 168-195.

This paper examines the impact on innovation of alternative forms of regulatory provisions in telecommunications. Focusing on broadband communications, the paper aims at identifying the factors affecting broadband adoption and providing some insights into the relevant policy debate.

Regulatory reform in telecommunications has produced some notable improvements in economic efficiency. The sector has experienced fast technological progress and has achieved rapid diffusion in innovation. However, there seems to be a substantial degree of heterogeneity in the progress of broadband technology adoption across industrialised countries. The literature of technology-diffusion studies suggests that there is a complex process of technology penetration, which is primarily driven by competition. The role of regulatory conditions and interventions is less clear.

Using data from broadband markets in 167 countries over the period from 2000 to 2010, this paper tests the impact of two forms of competition that are induced by access regulation; namely, inter-platform competition (i.e., facility-based competition by means of alternative technology platforms) and intra-platform competition through unbundling at varying degrees (e.g., local loop unbundling or retail access).

The paper finds that intra-platform competition and competition-enhancing regulation, particularly in the form of access unbundling, are most conducive for advancing innovation in telecommunications services. However, in contrast to the general findings of the previous literature, this study of a larger international sample concludes that inter-platform competition is an impediment to broadband adoption. The authors consider that platform competition requires duplicate networks, which could result in higher costs for providing services to consumers.

'Using the Economics of Platforms to Understand the Broadband-based Market Formation in the New Zealand Ultra-fast Broadband Network', Fernando Beltran, *Telecommunications Policy*, 36, 2012, pp. 724-735.

This paper presents a short history of New Zealand's Ultra-Fast Broadband project and applies recent advances in the theory of two-sided platforms to explain the rationale behind the regulatory decisions that have been made regarding this broadband project.

The New Zealand Government is currently building a nation-wide fibre-optics network known as Ultra-Fast Broadband (UFB) which, the author argues, has the capacity to fast-track innovation in network-based business models and new applications. Over ten years, the UFB project will achieve a coverage of 75 per cent of New Zealanders, and will cost NZD \$1.5 billion to the New Zealand government. As a result of the UFB project, a major overhaul of telecommunications is taking place in New Zealand. In 2011, the largest telecommunications company in the country, Telecom NZ, was split into a wholesaler, Chorus, and a retailer, Telecom, which has also kept the mobile business. Moreover, in 2011, four 'local fibre companies' (LFCs) – the largest being Chorus – were selected to build and operate wholesale services on the fibre-optics network. While Chorus will own 70 per cent of the UFB network, new business opportunities for existing operators will arise because the UFB network will forbid LFCs to provide retail services.

The author argues that an economic analysis of the new arrangements for telecommunications in New Zealand can benefit from modelling the network as an access two-sided platform. A two-sided platform exists where two groups of customers find that it is in

their best interest to interact with each other using a business platform. Examples of two-sided platforms include financial exchanges, software platforms, online auction sites, advertising-supported media, shopping malls, and real-estate brokers.

If there is a two-sided platform, the author observes, the price level is the sum of the prices charged to the two sides. The price structure is the allocation of the price level between consumers on the two sides of the market. The most commonly accepted feature of a two-sided platform is its ability to affect the total welfare through changes in the price level and the price structure. That is, a two-sided platform can affect the volume of transactions by increasing the charge to one side and reducing, by the same amount, the price charged to the other side.

The author analyses the UFB as a two-sided platform in which retail service providers and end-users interact. The platform offers connections for end-users and wholesale services for the service provider, thereby allowing providers to meet end-users who expect to purchase from them a range of communication services. The author argues that end-users benefit from the presence of service providers in such an open-access broadband platform. The benefit is larger the more companies sign up as retail service providers.

'Imputation Credits and Equity Returns', Paul Lajbcygier and Simon Wheatley, *Economic Record*, 88, December 2012, pp. 476-494.

This paper argues that, in determining regulatory prices, regulators should set gamma at zero. Using a multi-factor model of equity returns, the authors estimate that, for the Australian equity market, long-term investors assign no value to imputation credits. The authors also present criticisms of alternative approaches to estimating the value of imputation credits. One of the authors, Simon Wheatley, was – at the time the paper was published – a consultant for NERA.

The paper criticises methods for valuing credits that rely on dividend drop-off studies and also methods that rely on tax statistics. The criticism of dividend drop-off studies is that they may fail to capture the behaviour of representative investors. In particular, such studies may not reflect the behaviour of foreign investors, who place a zero value on imputation credits: 'If, for example, transaction costs discourage foreign investors from engaging in ex-day strategies more than they discourage domestic investors...then estimates of the value that investors place on imputation credits, derived from ex-day studies, can overestimate the value that a long-term investor places on credits' (p. 478).

The use of tax statistics to value imputation credits is flawed, according to the authors, if equity markets are

integrated. Using a general equilibrium model, the authors argue that '[i]f the domestic market is small relative to the foreign market, the impact of credits on the domestic equity premium is negligible – even though in the model all credits distributed are redeemed' (p. 494).

In their econometric modelling, the authors allow not only that the value of an imputation credit may differ from its face value, but also that the value of a dividend may deviate from the face value. They find that 'tests that use the Sharpe-Lintner and Fama-French models reject the null that a non-positive relation exists between equity returns and credit yields' (p. 487). This implies, of course, that they reject the null hypothesis that a negative relation obtains between the two variables. But to say that there is a negative relation between credit yields and equity returns is just to say that imputation credits have a positive value. Thus the authors conclude that imputation credits have a zero value: they 'find no evidence that the provision of credits lowers the returns that investors require on equity' (p. 491). Their explanation for this counter-intuitive result reiterates their criticism of the use of tax statistics to value credits: if equity markets are integrated, credits will have little impact on the equity premium, because foreign investors do not value credits.

'An Empirical Investigation of the Mergers Decision Process in Australia', Robert Breunig, Flavio Menezes and Kelvin Jui Keng Tan, *Economic Record*, 88, December 2012, pp. 459-475.

Breunig, Menezes and Tan examine merger decisions made by the Australian Competition and Consumer Commission (ACCC) in order to gain a better insight into the competition regulator's decision-making process. The purpose of the study is to establish the relationship between information provided by the regulator and the final regulatory decision. First, the study finds that the presence of entry barriers in the market in which the proposed merger would occur is highly correlated with the regulator's decision to scrutinise closely a merger proposal. Second, the study finds that decisions which refer to entry barriers or import competition are more likely to be opposed than decisions that do not mention these factors. The authors observe that antitrust regulation is constantly evolving, claiming that concerns in relation to vertical mergers and foreclosures have re-emerged in industries such as telecommunications and energy for various jurisdictions, including those in Australia and the USA. The authors suggest that this renewed interest follows advances in the understanding of firms' strategic reasons for pursuing vertical integration.

The study employs data from 553 ACCC merger decisions made between March 2004 and July 2008. The information was obtained from the ACCC public

register. This public register includes information about whether the proposed merger is opposed; reasons for the regulator's decision; the type of industry where the proposed merger was to occur; and the geographic dimension of the market affected. In this time period, the merger-approval process in Australia was informal. Unlike in the USA and the EU, there was no compulsory pre-merger notification requirement. Merger parties were provided with an informal view by the ACCC on whether a proposed merger was likely to breach competition provisions, and whether the ACCC would challenge the merger in the Federal Court. The ACCC would either (1) accept the proposed merger outright, (2) accept the proposed merger after public scrutiny and publication of a 'Public Competition Assessment', or (3) reject the proposed merger after public scrutiny.

Three econometric models are estimated: an ordered probit model in which the outcome variable is an indicator of which of the three decisions that regulator made; a multinomial logit model which treats the three possible decisions as unordered; and a probit model of the probability of public scrutiny. The ordered probit model controls for the reasons provided by the ACCC; the industry; the geographic nature of the market; the amount of merger activity in the month; and the factors relating to the merger, including deal size, deal structure, ownership concentration, entry costs and industry concentration. Eight decision-indicator variables are used: 'market power', 'competition', 'import-market', 'market-share', 'barriers-to-entry', 'substitutes', 'vertical-market power' and 'existence of an undertaking'.

The study finds that an ACCC decision to scrutinise closely a merger is correlated with references to entry barriers in the ACCC's reasons for that decision. References to entry barriers and import competition are further correlated with the decision to oppose a proposed merger. The study did not identify any other reasons that are statistically correlated with a decision to oppose a merger or to scrutinise closely a merger.

Regulatory Decisions in Australia and New Zealand

Australia

Australian Competition and Consumer Commission (ACCC)

ACCC Begins Consultation on Wheat Export Undertakings

On 30 April 2013 the ACCC invited submissions, by 21 May 2013, from interested parties within the wheat export industry on two access undertaking applications. [Read about the consultation](#)

Growth in Passenger Numbers Continuing to Drive Airport Profits and Need for New Investment

On 30 April 2013 the ACCC released its annual Airport Monitoring Report for 2011-12 calling for increased investment to avoid excessive congestion in the future. [Read the report](#)

ACCC Report On Cross-subsidy in Australia Post

On 24 April 2013 the ACCC issued its eighth report assessing cross-subsidy between the services provided by Australia Post. [Read the report](#)

Competition Tribunal Affirms ACCC Decision to Open WA Grain Supply Chain to Competition

On 19 April 2013 the Australian Competition Tribunal affirmed the Australian Competition and Consumer Commission's decision to revoke Co-operative Bulk Handling Limited's (CBH's) exclusive dealing notification, which allowed CBH to require Western Australian grain growers and marketers who use its 'up-country' storage facilities also to use its transport services to deliver grain to port for export. [Read more about decision](#)

ACCC Issues Decision on Southern Sydney Freight Line

On 11 April 2013 the ACCC issued a decision allowing the Australian Rail Track Corporation (ARTC) to include the Southern Sydney Freight Line in its Interstate Access Undertaking. [Read about the access undertaking](#)

Draft Decision on NBN Co Special Access Undertaking

On 4 April 2013 the ACCC released its draft decision on the revised Special Access Undertaking (SAU) lodged by NBN Co. If accepted, the SAU would be a key part of the framework that governs the price and

other terms upon which NBN Co will supply services to telecommunications service providers. Feedback was required by 2 May 2013. [Read the draft decision](#)

ACCC Allows Transferability of GrainCorp's Port Capacity

On 28 March 2013 the ACCC announced it will not object to GrainCorp Operations Limited's proposal to allow its East Coast bulk grain port customers to transfer booked capacity to other customers. [Read about port capacity](#)

ACCC Authorises Collective Bargaining for Central Queensland Coal Producers

On 14 March 2013 the ACCC granted authorisation to a group of coal producers to collectively bargain with Adani Mining for access to its new coal terminal at Dudgeon Point, and with Aurizon Network (previously QR Network) for access to below rail infrastructure to transport their coal to the terminal. [Read more about collective bargaining](#)

Cost-based Prices for Wholesale Broadband

On 12 March 2013 the ACCC released a draft report on making a final access determination (FAD) for the declared wholesale ADSL service used by retail telecommunications service providers to provide broadband internet products to consumers and businesses over Telstra's copper network. [Read about the draft report](#)

ACCC Telecommunications Reports Tabled

On 26 February 2013 the ACCC's Telecommunications Reports 2011-12 were tabled in Parliament. [Read about the ACCC Telecommunications Reports](#)

NBN Points of Interconnect

On 19 February 2013 the ACCC released a consultation paper inviting comment on the policies and procedures that relate to the identification of listed Points of Interconnection (POIs) to the National Broadband Network (NBN). [Read the consultation paper](#)

Amended NBN Migration Plan

On 7 February 2013, the ACCC directed Telstra to improve four processes that will support the migration of customers on to the National Broadband Network. [Read about the amended NBN Migration Plan](#)

Australian Energy Regulator (AER)

Amendment to Accounting Ring-fencing Guidelines applying to Aurora Energy

On 24 April 2013, the AER published its draft decision to waive the obligation for Aurora Energy's electricity distribution business to prepare regulatory accounts in accordance with the Office of the Tasmanian Economic Regulator's accounting ring-fencing guideline. Instead, Aurora Energy will be required to comply with the AER's annual reporting requirements. [Read the draft decision](#)

AER Decision on Cost Pass Through Framework for SP AusNet

On 19 April 2013, the AER released a decision regarding SP AusNet's 'insurance pass through event' framework. [Read the AER decision](#)

Envestra (NSW) Wagga Wagga – Annual Tariff Variation 2013-14

On 18 April 2013, Envestra (NSW) Ltd submitted to the AER an annual tariff variation notice for its NSW Wagga Wagga Gas Distribution System. The tariff variation notice seeks to increase 2013-14 network charges for Envestra's users from 1 July 2013. [Envestra's variation notice](#)

Envestra (Qld) – Annual Tariff Variation 2013-14

On 18 April 2013, Envestra (Qld) Ltd submitted to the AER an annual tariff variation notice for its Queensland Gas Distribution System. The tariff variation notice seeks to increase 2013-14 network charges for Envestra's users from 1 July 2013. [Envestra \(Qld\) variation notice](#)

Envestra (SA) – Annual Tariff Variation 2013-14

On 18 April 2013, Envestra (SA) Ltd submitted to the AER an annual tariff variation notice for its South Australia Gas Distribution System. The tariff variation notice seeks to increase 2013-14 network charges for Envestra's users from 1 July 2013. [Envestra \(SA\) variation notice](#)

Central Ranges Pipeline – Annual Tariff Variation 2013-14

On 17 April 2013, APA Group submitted to the AER an annual tariff variation notice for the Central Ranges Pipeline Gas Network (Tamworth distribution network). The tariff variation notice seeks to increase 2013-14 network charges for APA Group's users from 1 July 2013. [Central Ranges Pipeline variation notice](#)

Amadeus Gas Pipeline – Annual Tariff Variation for 2013–14

On 17 April 2013, APA Group submitted to the AER an annual tariff variation notice for the Amadeus Gas Pipeline. The tariff variation notice seeks to increase 2013-14 network charges for APA Group's users from 1 July 2013. [Amadeus Gas Pipeline variation notice](#)

Final Decisions for Gas Price Reviews

On 15 March 2013 the AER released its final decisions on the price reviews for the three Victorian gas distribution service providers SP AusNet, Envestra and Multinet and the gas transmission service provider, APA GasNet. The AER's decision will determine prices for use of the Victorian gas distribution and transmission networks, and the Albury distribution network, for the next five years. [Read more about the decisions](#)

Performance Report on Victorian Distribution Network Service Providers (DNSPs)

On 13 March 2013 the AER issued the 2009-2011 gas performance report for Victorian DNSPs. [Read the performance report](#)

Pass Through Events for Powerlink

On 8 March 2013 the AER made a decision to include certain cost pass through events in Powerlink's 2012–17 transmission determination. The AER made amendments, however, to the cost pass through events proposed by Powerlink to ensure those events better reflect the National Electricity Rules. [Read decision on Powerlink](#)

SP Ausnet's Smart Meter Allowances

On 11 February 2013 the AER released a revised decision on SP AusNet's smart meter expenditures for the 2012-2015 period, following a review requested by the Australian Competition Tribunal. [Read about smart meter expenditures](#)

National Energy Retail Law Commenced in South Australia

On 1 February 2013 the National Energy Retail Law commenced in South Australia. The Retail Law provides specific rules for energy retailers operating in South Australia, including requirements around how energy retailers market their offers, and responsibilities for retailers to help customers experiencing financial hardship. [Read about energy retailers in South Australia](#)

Tariff Pass Through Applications Approved

On 10 January 2013 the AER published three determinations relating to pass through applications received. These pass through applications reflect the

changing costs during 2011–12 as a result of feed-in payments made under solar bonus schemes. [Read about the pass through applications](#)

National Competition Council (NCC)

Proposed Gas Pipeline in Queensland

On 12 March 2013 the NCC received an application under section 151 of the National Gas Law from GLNG Operations Pty Ltd (GLNG) for a 15-year no-coverage determination for GLNG's proposed pipeline in Queensland. [Read about the proposed pipeline](#)

Recommendation to Not Cover the South Eastern Pipeline System (SEPS)

On 20 February 2013 the NCC published its draft recommendation that the relevant Minister decide not to cover the SEPS. The NCC received three submissions by the due date of 14 March 2013. [Read more about the SEPS](#)

Australian Energy Market Commission (AEMC)

AEMC Strategic Priorities Discussion Paper

On 15 April 2013 the AEMC released a discussion paper reviewing its strategic priorities for energy market development. The AEMC seeks written submissions by 27 May 2013 on three proposed priorities – a 'consumer priority', a 'gas priority' and a 'market priority'. [Read the discussion paper](#)

AEMC Publishes the Final Report of the Transmission Frameworks Review

On 11 April 2013 the AEMC published its three-year Transmission Frameworks Review identifying potential changes that will enhance the efficiency of future investment in both transmission and generation to minimise the long-term costs of the energy system for consumers. [Read the report](#)

Issues Paper Published on the Review of the National Framework for Transmission Reliability

On 28 March 2013 the AEMC published an Issues Paper for public consultation to commence the Review of the national framework for transmission reliability, following a request from the Standing Council on Energy and Resources (SCER). Feedback was required by 3 May 2013. [Read the Issues Paper](#)

Final Report Published on Annual Market Performance Review 2012

On 27 March 2013, the Reliability Panel (Panel) published its final report on the annual market

performance review which examined the performance of the National Electricity Market in the 2011-2012 financial year against the reliability and frequency standards, and other standards and guidelines determined by the Panel. [Read the report](#)

Household Electricity Price Trends

On 22 March 2013 the AEMC released its Electricity Price Trends Report, which looks at trends in household electricity prices and examines the drivers of those trends. [Read the report](#)

Retail Competition in NSW Energy Markets

On 28 February 2013 the AEMC released four consultant reports to inform its review of retail competition in NSW energy markets. [Read the consultant reports](#)

Inter-regional Transmission Charging

On 28 February 2013 the AEMC established a consistent national approach to reallocate the costs of using transmission assets across regions, by introducing an inter-regional transmission charge (previously consumers only paid transmission charges relating to assets in their own region). [Read the final determination](#)

Changes to Cost Allocation Method Issues Paper

On 14 February 2013, the AEMC published a rule change proposal by Trans Tasman Energy Group, an energy consultancy, in relation to the cost allocation method under the National Electricity Rules. [Read more about cost allocation method](#)

Australian Capital Territory

Independent Competition and Regulatory Commission (ICRC)

Public Hearing – Supply of Regulated Water & Sewerage Services

On 23 April 2013 the ICRC held a public hearing in Canberra on the Draft Report and Proposed Price Direction. [Read about the Draft Report](#)

Retail Price for Franchise Electricity Customers – Price Reset 2013-2014

On 22 April 2013 the ICRC released an information paper on the energy purchase cost (EPC) component of the regulated retail electricity tariff. The paper is the first step in the process of setting the regulated retail electricity price reset for 2013–14. [Read the information paper](#)

Regulated Water and Sewerage Services

On 26 February 2013 the ICRC released its Draft Report and Proposed Price Direction – Regulated

Water and Sewerage Services – for ACTEW, to apply from 1 July 2013. Submissions are required by 12 April 2013. [Read about the ICRC Draft Report](#)

New South Wales

Independent Pricing and Regulatory Tribunal (IPART)

End of Term Review of State Water Operating Licence 2012-13

From 25 July 2012 to 31 May 2013 the IPART is undertaking a five-year review of State Water's operating licence. The review will determine whether the existing licence is meeting its objectives and whether the Tribunal will recommend that the licence be amended to make it more effective. [Read about licence review](#)

Draft Report – Review of Regulated Retail Prices for Electricity 2013 to 2016

On 23 April 2013 the IPART released a draft report setting out its decisions on retail electricity prices for the period 1 July 2013 to 30 June 2016. The IPART is responsible for regulating retail electricity prices for around 40 per cent of all residential and small business customers in New South Wales. [Read the draft report](#)

Draft Report – Review of Regulated Retail Prices for Gas 2013 to 2016

On 23 April 2013 the IPART released a report setting out its draft decisions regarding gas pricing agreements for the period 1 July 2013 to 30 June 2016. The IPART is responsible for regulating retail gas prices for a third of residential and small business customers in New South Wales. [Read the draft report](#)

Review of Energy and Water Compliance Policy

On 3 April 2013 the IPART announced the review of its Energy and Water Licence Compliance Policy which was originally adopted in 2005. The policy provides information to stakeholders about the processes to be followed in response to licence compliance matters. [Read about Review](#)

Review of Prices for the Water Administration Ministerial Corporation

On 26 March 2013 the IPART announced deferral of the prices review. It is anticipated the next price review will take place in 12 months with new prices to be effective from 1 July 2015. [Read about the price review](#)

Draft Report on Hunter Water Prices

See Notes on Interesting Decisions.

State Water Operating Licence Draft

On 20 February 2013 the IPART released a fact sheet summarising its approach to the end-of-term review of State Water's operating licence. The fact sheet outlines how the IPART has developed the draft licence and package and discusses the next steps in the review process. [Read about the review of State Water's Operating Licence](#)

Draft Report on Water Prices for Gosford City Council and Wyong Shire Council

On 19 February 2013 the IPART released its draft report on the prices that Gosford City Council and Wyong Shire Council can charge for providing water, sewerage, stormwater drainage, trade waste and other ancillary and miscellaneous services from, 1 July 2013 to 30 June 2017. [Read about draft Gosford/Wyong water prices](#)

IPART's Submission on Water Industry Competition (WIC) Act 2006

On 8 February 2013 the IPART provided a submission to the Department of Finance and Services' Discussion Paper, on what the IPART considers to be the priority issues for reform of the WIC Act, particularly in respect to the licensing framework. [Read about IPART's submission on WIC Act](#)

Northern Territory

Utilities Commission

Cost Pass Through Application

On 17 April 2013 the Utilities Commission announced receipt of submissions from three parties in response to its Draft Determination on the 5 February 2013 application from Power and Water Corporation (PWC) for a cost pass through of expenditure related to the implementation of the recommendations from the Davies Review (the inquiry into the failure of the Casuarina Zone Substation and subsequent outages). The Utilities Commission made a Draft Determination on the grounds for the application and the amount which should be passed through. [Read about the Cost Pass Through Application](#)

Metering and Billing

On 18 February 2013 the Utilities Commission issued a Media Release titled 'Metering and Billing by Power and Water Corporation'. [Read the Utilities Commission Media Release](#)

Queensland

Queensland Competition Authority (QCA)

Extension of Termination Date

On 26 April 2013, Aurizon Network withdrew its April 2013 proposal to extend the terminating date of its 2010 access undertaking from 30 June 2013 to 30 June 2014 and to adjust existing tariffs for 2013-14. Aurizon Network intends to submit a new proposal in early May 2013. [Read about extension](#)

Rail: Goonyella to Abbot Point Expansion

On 12 April 2013, Aurizon Network (formerly QR Network) withdrew its 10 September 2012 draft amending access undertaking (DAAU) for the Goonyella to Abbot Point expansion (GAPE) and submitted a revised GAPE DAAU proposal. Submissions on the new proposal are required by 13 May 2013. [Read the revised DAAU](#)

Interim Price Monitoring of SEQ Water and Wastewater Distribution and Retail Activities

On 2 April 2013 the QCA released its Final Report on SEQ Water Price Monitoring for 2012-13. [Read the report](#)

Review of Solar Feed-in Tariff

On 22 March 2013 the QCA released its Final Report on Estimating a Fair and Reasonable Solar Feed-in Tariff for Queensland. [Read the Final Report](#)

Proposed Standard Rail Connection Agreement

On 21 March 2013 the QCA announced that Aurizon Network's 14 February 2013 submission of its amended proposed standard rail connection agreement (SRCA) had been approved and applies from 24 April 2013. The QCA had initially decided not to approve Aurizon Network's 30 June 2011 proposed SRCA. [Read the proposed SRCA](#)

Reducing the Burden of Regulation

On 8 March 2013, the Office of Best Practice Regulation of the QCA released its Final Report on Measuring and Reducing the Burden of Regulation. [Read 'Measuring and Reducing the Burden of Regulation'](#)

Seqwater Irrigation Price Review 2013-17

On 28 February 2013 the QCA released summaries of issues arising from Round 2 Consultation and new submissions on the Draft Report Seqwater Irrigation Price Review 2013-17. [View the submissions](#)

Aurizon's Standard User Funding Agreement (SUFA)

On 26 February 2013 the QCA published an Issues Paper on the 2012 SUFA Draft Amending Access Undertaking. Submissions close on 29 March 2013. [View 2012 Draft Amending Access Undertaking](#)

Regulated Retail Electricity Prices 2013-14

See Notes on Interesting Decisions.

Price Monitoring of SEQ Water and Wastewater Distribution and Retail Activities 2013-15

On 31 January 2013, the QCA received a Ministerial Direction, in which the monopoly distribution and retail water and wastewater activities of Queensland Urban Utilities, Unitywater, Gold Coast City Council, Logan City Council and Redland City Council were referred to the QCA for a price monitoring investigation for the period from 1 July 2013 to 30 June 2015. [Read more on price monitoring](#)

South Australia

Essential Services Commission of South Australia (ESCOSA)

Submissions Received on Post-NECF Review of Regulatory Instruments

On 8 April 2013 the ESCOSA announced that it is conducting a thorough review of regulatory instruments made by it. The focus of the review is to ensure obligations remain appropriate and to confirm consistency across documents. [Read about the review](#)

ElectraNet's Proposed Amendments to Revised Electricity Transmission Code

On 5 April 2013 the ESCOSA released a Draft Decision concerning various amendments to the code which were proposed by ElectraNet in November and December 2012 and explains the ESCOSA's draft response to each of those proposals. [Read the Draft Decision](#)

Regulatory Arrangements for Reticulated LPG

On 4 April 2013 the ESCOSA announced completion of its review of how the licensing provisions of the *Gas Act 1997 SA* (the Act) apply to reticulated LPG networks in South Australia with a view to determining whether the current exemption regime should remain, or whether a licensing regime should be implemented as is envisaged under the Act. Entities currently providing reticulated LPG services will be required to apply by 31 May 2013 to the

ESCOSA for the licence or licences relevant to their operations. [Read the Final Decision](#)

Draft Determination Solar Feed-in Tariff Premium 2013

On 28 March 2013 the ESCOSA released its Draft Price Determination of the solar Feed-in Tariff (FiT) Premium to apply from 1 July 2013 – 31 December 2016. [Read more about the draft determination](#)

ESCOSA Submission to DTF Report on Access to Water and Sewerage Infrastructure

On 21 March 2013 the ESCOSA published its submission on the report prepared by the South Australian Department of Treasury and Finance (DTF) titled 'Access to Water and Sewerage Infrastructure'. The report prepared by DTF discusses proposals for a third-party access regime to water and sewerage infrastructure services. [Read ESCOSA's submission](#)

SA Power Networks Service Standard Framework 2015-2020 – Issues Paper

On 15 March 2013 the ESCOSA released an Issues Paper to assist in its development of reliability service standards for SA Power Networks. Once these have been established the Australian Energy Regulator (AER) is responsible for assessing the efficient level of expenditure required for SA Power Networks to provide distribution services at the specified standards. Feedback on the Issues Paper is required by 26 July 2013. [Read the Issues Paper](#)

Post-NECF (National Energy Customer Framework)

On 12 March 2013, the ESCOSA announced a review of regulatory instruments in the post-NECF. From 1 February 2013, the principal regulation of South Australia's retail energy market transferred to the Australian Energy Regulator (AER). The AER is now responsible for consumer protection and performance monitoring in the electricity and gas retail market. The ESCOSA has retained responsibility for a number of functions that are not regulated by the AER under the National Electricity Rules. [Read review of regulatory instruments](#)

Determination of SA Water's Drinking Water and Sewerage Revenue 2013-14 to 2015-16

See Notes on Interesting Decisions.

Water Industry Retail Licences

Over the months of January, February and March 2013, the ESCOSA announced that it had issued Water Industry Retail Licences to providers such as the City of Port Lincoln and the South Australian Water Corporation.

Tasmania

Office of the Tasmanian Economic Regulator (OTTER)

Comparison of 2013 Australian Standing Offer Energy Prices

On 10 April 2013 the OTTER released its *Comparison of 2013 Australian Standing Offer Energy Prices Report*. The OTTER's report provides an overview of regulated and standing offer tariffs for gas and electricity around the country. [Read the pricing report](#)

Industry Guidelines and Standards

In April 2013 the OTTER released updated versions of its guidelines and standards. [See listings](#)

2013 Determination

On 28 March 2013 the OTTER released its determination of retail electricity prices for the period from 1 July 2013 to 31 December 2013. [Read about the 2013 Determination](#)

Water and Sewerage Ring Fencing and Regulatory Accounting

In February 2013 the OTTER released its Consultation Paper on Draft Water and Sewerage Accounting Ring Fencing Guideline and Regulatory Accounts Templates. [Read the consultation paper](#)

Energy Performance

On 23 January 2013 the OTTER released its *Energy in Tasmania – Performance Report*. [Read the performance report](#)

Victoria

Essential Services Commission (ESC)

Rural Water Price Review 2013-18 – Draft Decision Volume 1

On 26 March 2013 the ESC released a draft decision on each of three rural water businesses, who submitted in October 2012 their Final Water Plans. These plans set out the prices that each of the businesses propose to charge for their water and other related services for their regulatory periods commencing 1 July 2013. [Read the draft decision](#)

Regional Urban Water Price Review 2013-18 – Draft Decision Volume 1

On 26 March 2013 the ESC released a draft decision outlining its views on whether to approve or not approve the proposal of each of twelve regional urban water businesses. The water businesses are

required to respond to this draft by 2 May 2013. [Read the draft decision](#)

Water Price Review

In February 2013 the ESC published submissions received in relation to its review of the prices for water and sewerage services provided by Victoria's water businesses for the regulatory period 2013-18. [Read more about the Water Price Review](#)

Return of Additional Desalination Payments

On 7 February 2013 the ESC published its second quarterly progress report, in its monitoring of the return of unrequired desalination payments by the metropolitan water businesses and Western Water. [Read the progress report on desalination payments](#)

Economic Regulation Authority (ERA)

Guidelines for the Rate of Return for Gas Transmission and Distribution Networks

On 13 March 2013 the ERA published public submissions received in response to its Guidelines for the Rate of Return for Gas Transmission and Distribution Networks Consultation Paper. [Read Gas Access Guidelines](#)

WACC Values and Method

On 7 February 2013 the ERA sought public comment on: an update of the weighted average cost of capital (WACC) values to apply to regulated railway networks from 30 June 2013; and a review of the method for calculating the WACC values to apply from 30 June 2014. [Read more on the WACC Determination](#)

Rate of Return for Gas Transmission and Distribution Networks

On 21 December 2012 the ERA published on its website a consultation paper on guidelines for the rate of return for gas transmission and distribution networks. [Read the consultation paper](#)

New Zealand

Commerce Commission (CCNZ)

CCNZ Issues Draft Report on Auckland International Airport

On 30 April 2013 the CCNZ released its draft report to the Ministers of Commerce and Transport on the effectiveness of the information disclosure regulatory regime under Part 4 of the Commerce Act in relation to Auckland International Airport. [Read the draft report](#)

Approved Amendment to Costs Transpower Can Recover For Otahuhu Substation Project

On 15 April 2013 the CCNZ approved an amendment to the Major Capital Expenditure Allowance (MCA) for the Otahuhu Substation Diversity Project. The maximum amount of expenditure that Transpower can now recover from consumers has increased from \$99.0 million to \$106.1 million (all in 2009 dollars). [Read more about approved amendment](#)

Announcing Next Step in Setting UBA Price

On 3 April 2013 the CCNZ released an updated timetable for completing its determination of a cost-based price for wholesale broadband – the unbundled bitstream access (UBA) service. [Read more about next step in setting UBA price](#)

Liability for the Telecommunications Development Levy

On 13 March 2013, the CCNZ reminded those who deliver telecommunications services to check whether they are liable to contribute to the 2012-13 Telecommunications Development Levy that pays for telecommunications infrastructure including the Deaf Relay Service, broadband for rural areas, and improvements to the 111 emergency service. [Read more about the levy](#)

CCNZ Sets Prices and Quality Standards for Gas Pipeline Services

On 28 February 2013 the CCNZ released its final decision on the first default price-quality paths for gas pipeline services. Future price increases have been limited to no more than the rate of inflation from 2014 through to 2017. [Read about pipeline services decision](#)

CCNZ Final Report on Wellington International Airport Points to Excessive Profits

On 8 February 2013 the CCNZ announced its report on the effectiveness of the information disclosure regulatory regime under Part 4 of the Commerce Act, which finds that the regime has not limited the ability of Wellington International Airport Limited to make excessive profits. [Read about final report on Wellington International Airport](#)

New Report Tracks Electricity Distributor Trends 2008 –2011

On 30 January 2013 the CCNZ released a report on the performance of local electricity distribution businesses, covering aspects such as revenue, demand, service reliability and expenditure on the network. [Read about local electricity distribution businesses report](#)

Notes on Interesting Decisions

Draft Report on Hunter Water Prices

On 12 March 2013, the Independent Pricing and Regulatory Tribunal (IPART) released its Draft Report on the prices that Hunter Water can charge for water, sewerage and stormwater drainage services from 1 July 2013 to 30 June 2017. Under the Draft Determination, water and sewerage bills for the typical house in Hunter Water's area will rise by less than the rate of inflation, bills for residential flats and units will increase by marginally more than inflation, and costs for most small businesses will decrease significantly. While the IPART has accepted Hunter Water's expenditure proposal with some minor adjustments, it has set prices marginally lower than those proposed by Hunter Water, by applying a lower rate of return on its assets.

The prices for different categories of customers will move differently to reflect differences in the costs of delivering the services.

For residential houses, typical annual water and sewerage bills will rise by 6.7 per cent or \$69 over the next four years to 2017. This increase is less than our estimate of the rate of inflation of 11.0 per cent over the same period. The price of stormwater drainage will decrease by about 22.5 per cent including inflation, over the same four-year period.

For residential flats and units, typical annual water and sewerage bills will rise by 15.6 per cent or \$113 over the four years to 2017. Stormwater charges for flats and units will fall by about 72 per cent including inflation over the same period.

The majority of small businesses operating will experience decreases in their bills, both before and after inflation is taken into account. This is due to a reduction in the sewerage service charge to put them on par with residential customers.

Larger business customers will see their water and sewerage bills increase by around half the rate of inflation.

The capital expenditure Hunter Water plans for in the next four-year period is less than half of what it spent in the current period. The IPART's analysis of the capital expenditure requirements and efficient operating costs in the Hunter, makes it confident that the draft decision will allow Hunter Water to continue to provide quality services and meet regulatory standards. The Draft Determination excludes all costs related to Tillegra Dam.

The Draft Report and Draft Determination, Hunter Water Corporation – Prices for Water, Sewerage and Stormwater Drainage and Other Services from 1 July 2013 to 30 June 2017, is available on the IPART's

website.

http://www.ipart.nsw.gov.au/Home/Industries/Water/Reviews/Metro_Pricing/Review_of_prices_for_Hunter_Water_Corporation_from_1_July_2013

Queensland Competition Act (QCA) Regulated Retail Electricity Prices 2013-14

On 22 February 2013, the QCA released its Draft Determination on regulated retail electricity prices for 2013-14. The QCA followed the same approach introduced in 2012-13 and based prices on an 'N + R cost build-up approach' where the N (network) component is treated as a pass-through and the R (energy and retail) component is determined by the QCA. Cost-reflective notified prices will increase in 2013-14 due to increases in the underlying costs of supply, which are predominately driven by increases in network charges. Energex's network charges will increase by around 23 per cent (on average) and Ergon Energy's network charges by around 13 per cent (on average). Energy costs are the next biggest cost driver and are estimated to increase by around nine per cent.

For 2012-13, the Queensland Government froze the Tariff 11 notified prices at 2011-12 levels (with an addition to the variable charge to account for the impact of the carbon tax). This led to the fixed charge for Tariff 11 being lower, and the variable charge being higher, than the cost-reflective levels that would otherwise have prevailed. For 2013-14, the QCA is proposing to implement a three-year transitional path to rebalance the fixed and variable components of Tariff 11 so that each component is cost-reflective by 1 July 2015. The proposed transitional charges for 2013-14 are significantly higher than the frozen charges for 2012-13 and will increase a typical customer's annual bill from \$1,184 to \$1,437.

The QCA is proposing to implement further transitional arrangements for customers on most of the existing obsolete tariffs as many of these customers would still face significant price impacts if they were immediately moved to an alternative cost-reflective tariff. The QCA proposes to retain all existing obsolete tariffs with the exception of Tariffs 53, 63 and 64, which will be removed. The prices associated with the retained tariffs will be increased by between 11 per cent and 21 per cent (depending on the tariff). A transition period of seven years is proposed for Tariffs 21, 37, 62, 65, 66, 20 (large) and 22 (small and large), while Tariffs 41 (large) and 43 (large) will be retained for one year only. The QCA is also proposing that new customers be allowed to access the retained obsolete tariffs (to be referred to as transitional tariffs from 1 July 2013), except for

Tariff 37, which has been obsolete for a number of years, and Tariffs 41 (large) and 43 (large), which will be removed at the end of 2013-14. New customers accessing the retained transitional tariffs will be subject to the same transitional period as existing customers.

The Draft Determination and the draft report on energy purchase costs from the QCA's consultant (ACIL Tasman) are available at:

[QCA – Draft Determination: Regulated Retail Electricity Prices 2013-14 \(Feb 13\) \(PDF, 5.5MB\)](#)

[ACIL – Draft Report: Estimated Wholesale Energy Costs for 2013-14 retail tariffs \(Feb 13\) \(PDF, 3.3MB\)](#)

Files relating to the modelling of energy costs, along with fact sheets for customers to help them understand the outcomes of the Draft Determination, can also be downloaded from the QCA website.

Determination of SA Water's Drinking Water and Sewerage Revenue 2013-14 to 2015-16

The ESCOSA is undertaking the first independent determination of the amount of revenue that can be recovered by SA Water from its drinking water and sewerage customers, and will make its first revenue determination for SA Water in May 2013. On 7 February 2013, the ESCOSA released for public consultation a Draft Revenue Determination for SA Water for the three years commencing 1 July 2013.

On 26 March 2013 the ESCOSA published submissions received in response to its 7 February 2013 Draft Determination.

As part of this Determination, the ESCOSA will set maximum revenues ('revenue caps') for SA Water's water and sewerage services. The net effect is a 3.3 per cent reduction in the overall real average price for water and sewerage combined. At the start of each year the ESCOSA will convert these real revenue caps into nominal revenues by adjusting for inflation. SA Water will be responsible for setting specific prices (such as supply and usage charges) for residential and non-residential customers; however, those prices must comply with the average revenue caps in the ESCOSA's Final Revenue Determination.

The model that underpins the water demand forecast used in the ESCOSA's draft determination of SA Water's water and sewerage revenues for 2013-14 to 2015-16 was released on 13 February 2013. It was developed for the ESCOSA by CIE Pty Ltd. The title of the model is 'SA Water – Water Consumption Forecasting Model'. The model comprises 17 Excel Worksheets divided into three categories – input sheets; regression sheets and output sheets. The nine input sheets are forecast inputs control sheet; derived water data; economic data; demographic data; ABS population projections; SA Government

projections; Annual weather data; Monthly weather data; Water restrictions and prices. The three regression sheets comprise annual regression data; annual regression inputs and annual regression outputs. The four output worksheets comprise residential worksheets; other non-residential forecasts; commercial forecasts and total forecasts. <http://www.escosa.sa.gov.au/Publications/Download/Publication.aspx?id=2503&versionId=2640>

Regulatory News

ACCC Regulatory Conference

The 2013 regulatory conference program and registration form are now available. There is considerable interest in the conference and conference registrations are well underway. For those who have registered, and those who are still considering registration, we have now added the final program details with the dinner speaker, Professor Matthias Finger, Director, MIR, Ecole Polytechnique Federale de Lausanne, Switzerland, and the Chair and panel for the debate 'Are we twenty years behind America or not on the same page with regard to consumer involvement?'

In other years we have had waiting lists so if you are interested in attending we encourage you to submit your registrations.

Network Publication Schedule for 2013

Our review of the take-up of *Network* shows that the December issue has a much lower take-up than the other issues. Rather than being caught-up in the Christmas rush we will, for 2013, move to a transition schedule. The next edition will be due in August, with the final edition for 2013 being available in late November or early December.

Network is a quarterly publication of the Australian Competition and Consumer Commission for the Utility Regulators Forum. For editorial enquiries please contact Rob Albon (Robert.Albon@acc.gov.au) and for mailing list enquiries please contact Genevieve Pound (Genevieve.Pound@acc.gov.au).