

network

etwork national developments telecommunications gas electricity airports rail transport p
cc state developments victoria western australia south australia act new south wales tasmania queensland northern territory contacts ncc
as electricity airports rail transport prices ncc state developments victoria western a ISSUE 13, APRIL 2003 ISSN 1445-6044 telecommunic

A publication of the Utility Regulators Forum

13

When investment is 'lumpy'

Dr Darryl Biggar, Consulting Economist, ACCC

The views expressed in this article are those of Dr Biggar and do not necessarily reflect those of the ACCC.

Introduction

Many network industries exhibit economies of scale or scope in investment. Here, I am not referring to the conventional economies of scale—that a doubling of output involves a less-than-doubling of costs. Rather, I am referring to the fact that investing in an additional X units of capacity usually costs more than half the cost of adding 2X units of capacity. For example, if a trench must be dug to install a new telecommunications cable, it often makes sense to lay a cable with extra capacity, rather than incurring the cost of digging another trench in a few years time. In the same way it often makes sense to install a pipeline with extra capacity in a region with growing demand, rather than constructing a second parallel pipeline in the future. When there are economies of scale or scope in investment, it is more efficient to carry out investment projects in one go, so capital expenditure tends to be grouped together and the path of investment is 'lumpy'.

These economies of scale and scope in investment have interesting implications for regulation. For example, the efficient cost of a facility capable of meeting a given demand depends not just on the size of that demand but also on the historic path of demand in previous years. Similarly, meeting future demand depends on the forecast path of demand into the future.

This can create problems for regulators who want to set the regulatory asset base on the basis of providing a facility capable of meeting current demand. As the examples below show, if the regulator ignores the historic path of demand it runs the risk that either allowed earnings (and therefore prices) will fluctuate too much or the regulated firm will be under-compensated and therefore may not invest. At the same time, if the regulator ignores the economies of scale in investment to meet future demand, it may either over-compensate the regulated firm or induce the regulated firm to invest in inefficiently small increments, raising the overall cost of service.

The historic path of demand

Many regulators say that they base the size of the regulatory asset base on the (depreciated) minimum cost of buying or building a brand new asset capable of meeting the current level of demand. In the telecommunications industry, in particular, regulators often assert that they want to measure the current minimum cost of constructing a network capable of meeting current demand. This is sometimes justified on the basis that this is the cost that a new entrant would incur and that any higher measure of cost could lead to inefficient network duplication.

But when there are economies of scale in investment, the minimum cost of providing a facility capable of meeting current demand depends not just on the current level of demand but also on the path of demand over the industry's history. For example, if demand in the industry grew slowly, it might have been more efficient to add capacity gradually, in small lumps. But if demand grew rapidly, adding capacity in one single large lump might have been more efficient.

Suppose there is a fixed cost to an investment project of $100, so that investing to expand capacity on an electricity transmission link by X megawatts costs $100+X.

A transmission link capable of providing 400 MW of power would then cost $500 if constructed in one project, but would cost $600 if constructed in two projects of 200 MW each.

Suppose that current demand requires a link of 400 MW, but the path of demand was such that a 200 MW link was constructed 10 years earlier, at a cost of $300. At the present time, upgrading the link to provide the extra 200 MW costs $300. Let's suppose that the regulator sets the regulatory asset base on the basis of the 'efficient' (one-shot) project cost, which in this case is $500. If the project is undertaken, the firm's regulatory asset base can only rise by $200 at most, even though the project costs $300. Clearly, if the project goes ahead either the regulated firm will be undercompensated or it will be required to 'expense' (i.e. treat as operating expenditure) $100 of the project in the current year, which will imply a significantly higher allowable revenue for the current period. This, in turn, implies significant instability in regulated prices. Either outcome is likely to be undesirable.

This example raises the question: does it make sense to attempt to set the regulatory asset base on the basis of the least cost of meeting current demand, without any regard to the past?

This issue has arisen in the telecommunications industry where there has been on-going discussion of the merits of the scorched node versus the 'scorched earth' approach. The scorched earth approach determines the efficient cost of a network which provides the same services as the incumbent network, without placing any constraints on its configuration, such as the location of the main switching nodes. The 'scorched node' approach, on the other hand, assumes that the historic locations of the switching nodes cannot be easily changed and won't be in the near future. The scorched node approach, therefore, determines the efficient cost of a network which provides the same services as the incumbent network taking as given the current location of the incumbent's nodes.

One enduring regulatory puzzle has been that most regulators say they are trying to determine the efficient costs of a modern replacement network (to prevent inefficient entry), but then proceed to use the scorched node approach. But why is a modern replacement network constrained to use the same switch locations as the incumbent network? Some light can be shed on this puzzle by the discussion above. If the regulator used a scorched earth approach it would be effectively ignoring the historic demand patterns which led the incumbent to adopt the current network configuration. If the historic legacy were ignored entirely, the resulting change in the regulatory asset base would either leave the incumbent undercompensated (and might deter new investment) or would lead to undesirable fluctuations in prices. Both outcomes are bad. Regulators are left in the slightly awkward position of saying they do one thing, but then doing another.

The future path of demand

Another interesting curiosity arises from economies of scale in investment anticipating future demand. Suppose demand is enough to justify a transmission link of 200 MW today, but an extra 200 MW will be required soon. Let's assume the regulator follows a policy of only allowing into the regulatory asset base the cost of a facility capable of meeting current demand—in this case 200 MW provided at a cost of $300.

What happens when the extra demand of 200 MW materialises in the future? Should the regulator allow the regulatory asset base to increase by $300 (the cost of upgrading a 200 MW link to 400 MW) or by $200 (up to $500, the one-shot cost of constructing a 400 MW link)? Allowing the larger increase in the regulatory asset base runs the risk that either the regulated firm will not adequately provide for future demand when it is efficient to do so (raising the total cost of providing service) or, if the regulated firm does, it will be over compensated.

But how much should the regulatory asset base be increased when the extra demand materialises? If extra demand was certain, the answer is simple—the regulator should adjust the asset base by the smaller of:

a. the cost of building the additional capacity earlier 'brought-forward' by multiplying by the cost of capital (to reflect the time during which this capital has laid idle) and

b. the cost of upgrading the network to provide the additional capacity today.

In the example above, if the original 200 MW was installed three years earlier and the cost of capital is 10 per cent, the asset base should be adjusted upwards by the lesser of (a) the extra $200 in costs, brought forward by multiplying by $1.1\times1.1\times1.1=1.33$, for a total adjustment of $266.2; and (b) the cost of upgrading by 200 MW today, which is $300. Since the brought-forward cost is lower, it was more efficient for the firm to anticipate the extra demand at the last construction phase and build in extra capacity then.

The problem is only a little more complex when the regulator and the regulated firm are not sure that the extra demand will materialise. In this case it still may be efficient for the regulated firm to construct the extra capacity in advance, even though the extra demand may not materialise. Now, however, the regulator must adjust the asset base upwards by more than the brought-forward cost when the demand materialises, to compensate the regulated firm for the chance that the extra capacity might never be needed (and therefore never paid for).

For example, in the problem above, suppose there is a 10 per cent chance that the extra demand will not materialise. It is still efficient for the upgrade to be carried out at the earlier time (it is better to spend $200 three years earlier than to pay $300 with a probability of 0.9 today). The regulated firm knows that if it builds the extra capacity earlier it will receive at most $200 in present value terms if the demand materialises, and nothing if it does not. Since this is less than the cost of the extra capacity ($200) it will not adequately provision. To induce the regulated firm to make adequate provisioning it must receive at least $200 on average from doing so. In this example, this implies that the asset base must be adjusted upwards when demand materialises, not by $266.2 but by $266.2 divided by 0.9 (the probability that demand will not materialise) which equals $295.77.

This can be stated as a general principle: when there are economies of scale in investment, if the regulated firm is to be adequately compensated and properly induced to invest at the efficient time, previously-excluded assets should be brought back into the asset base at the lesser of (a) the brought-forward cost divided by the probability that the extra capacity would not be needed and (b) the cost of upgrading the existing network to provide the extra capacity today.

But, as always, regulatory policy-makers need to be keenly aware of the information available to the regulator at all times. What if the regulator finds it difficult to assess the probability that future capacity will be needed? In particular, it seems highly unlikely that the regulator could come to a realistic assessment ex post (after the extra demand has materialised) of the probability that the demand would materialise in the future looking forward from when the investment decision was made. Anticipating this problem the regulator and the regulated firm might seek to agree on the relevant probability ex ante. But, again, the regulator may be at the mercy of the

superior information of the regulated firm. (The regulated firm has an incentive to make the need for the extra capacity look less likely than it really is to achieve a higher adjustment to the asset base when the demand materialises). Is there a mechanism which could induce the regulated firm to invest at the appropriate time without unrealistic information requirements and without leaving undue rents to the regulated firm?

Conclusion

Economies of scale and scope in investment create interesting problems for regulators. These can be addressed partly by recognising that the efficient cost of meeting demand depends not just on the level of demand today but also on the historic path of demand in the past and the forecast for the future. At the risk of over-simplification, when it comes to valuing assets, history matters.

Telecommunications

New functions for the ACCC

The amendments to the telecommunications-specific competition provisions in the *Trade Practices Act 1974* (the Act) has resulted in new functions for the ACCC.

By the middle of 2003 the ACCC will publish benchmark terms and conditions for three core services: the PSTN (public switched telephone network), the LCS (local call service) and the ULLS (unbundled local loop service). Telstra's competitors use all these services to access the fixed network and compete with Telstra for local, long-distance, international, fixed-to-mobile, mobile-to-fixed and some broadband services. These benchmarks should reduce information asymmetries and help industry participants come to amicable access agreements. Over the past 12 months the ACCC has tried to reduce information asymmetries in the industry by releasing indicative prices and pricing methodologies.

By the end of the year, the ACCC will publish the first set of data about accounting separation of Telstra's wholesale and retail accounts. Accounting separation should increase the transparency of supply costs and help competitors who rely on Telstra for upstream inputs to negotiate terms and conditions of access.

To comply with the transitional provisions associated with these amendments, the ACCC has issued a discussion paper seeking comment on proposed expiry dates for currently declared telecommunications services (i.e. regulated services). The ACCC is required to review each declaration by public inquiry, ahead of the expiry date, to establish whether the declaration should continue or be revoked. Reviewing existing declarations ensures that regulation only continues to apply if it remains in the long-term interests of consumers and users of telecommunications services.

ACCC considers analogue pay TV undertakings

The ACCC is currently considering undertakings lodged by Telstra and Foxtel on 21 November 2002 that specify the price and non-price terms and conditions of supplying access to the analogue subscription television broadcast service. The undertakings follow the ACCC's decision on 13 November 2002 to allow the arrangement between Foxtel and Optus for supplying content. In coming to that decision, the ACCC accepted court enforceable undertakings (under section 87B of the Act) from several participants in the pay TV industry, including Telstra and Foxtel. These undertakings included lodging access undertakings relating to the terms and conditions for access to analogue pay TV services.

The ACCC is also currently considering access undertakings lodged by Telstra that specify the price and non-price terms and conditions on which Telstra proposes to supply the key interconnection services—the PSTN, LCS and ULLS.

In the absence of commercial agreement between the parties, these undertakings, if the ACCC accepts them, will determine the terms and conditions on which other service providers can obtain access to the services specified. Under the Act, the ACCC must accept or reject the undertaking based on whether it considers the terms and conditions to be reasonable. The amendments to the Act require the ACCC to make a decision on each undertaking within six months of lodgment although the clock-stopping measures in place can extend this timeframe.

Digital pay TV exemption

The ACCC issued a discussion paper in January 2003 seeking comment on Telstra and Foxtel's applications for exemption from access regulation of digital pay TV services, should they digitise their pay TV networks. The parties have indicated that they are seeking the exemption on the basis that before undertaking the investment to digitise their networks they need to be certain about the terms and conditions beforehand. The ACCC expects to make a decision about the exemption applications by the middle of the year.

Public release of telecommunications information

The ACCC has issued a report proposing that certain industry-wide data about market developments be publicly available—including revenue, usage, market share and market growth information for retail and wholesale telecommunications services. The ACCC can require public disclosure of information collected via the telecommunications record-keeping rules.

The benefits in releasing such information includes improving the transparency of ACCC decision-making and helping stakeholders make submissions to the ACCC on such matters as the development of competition in telecommunications markets. It would also complement the accounting separation regime for Telstra.

The final decision on whether to release this information will occur after consultation with telecommunications carriers.

Draft paper on bundling

The ACCC has released a draft information paper on the bundling of services in the telecommunications industry, seeking comments from industry on a proposed approach.

Bundling provides many benefits to consumers—lower prices for telecommunications services and having all services supplied on one bill. But it also risks creating a climate for anti-competitive conduct by suppliers of services—bundling may have major implications for telecommunications markets, particularly markets for developing services such as broadband.

The ACCC has proposed that bundling be assessed case by case, taking into account competition in the relevant markets and the price terms and conditions for the bundle, including consideration of discounts and importance for bundling in relevant markets. This was the ACCC's approach recently when it examined Telstra's bundling of pay TV and telephony services.

Contact: Michael Cosgrave
(03) 9290 1914

Electricity

SA transmission network revenue cap—final decision

On 11 December 2002 the ACCC made its final decision on the revenue cap to apply to the South Australian transmission network, owned and operated by ElectraNet. It sets out the maximum revenue that ElectraNet is allowed to earn from using its non-contestable transmission assets. The revenue cap will apply for five and a half years, starting 1 January 2003.

The cap will increase from $148 million in 2002–03 to $180 million in 2007–08. The decision is expected to result in a 4 per cent decrease (in real terms) in transmission prices over the regulatory period compared to 2001–02.

In setting the cap, the ACCC assessed ElectraNet's capacity to achieve realistic efficiency gains in its proposed operating and maintenance expenditure with regard to future demand and service quality. The ACCC has granted ElectraNet approximately $48 million per year for operating and maintenance expenditure over the regulatory period (including grid support).

The ACCC also assessed ElectraNet's proposed capital expenditure on future demand and service quality. The ACCC has included a total capital expenditure roll-in for the period 1 January 2003 to 30 June 2008 of $358 million. ElectraNet is required to apply the regulatory test to justify including the projects in its future asset base.

The decision includes an incentive scheme to encourage ElectraNet to maintain or improve its service quality and reliability.

The ACCC also approved ElectraNet's request to use modified cost reflective network pricing as it believes that it provides more efficient pricing signals than the standard approach.

Victorian transmission network revenue cap—final decision

The ACCC considered the appropriate revenue cap to apply to the Victorian electricity transmission network for five and a half years starting 1 January 2003. The Victorian network is planned by VENCorp and owned and operated by SPI PowerNet.

On 16 December 2002 the ACCC released its final decision which sets a revenue cap for SPI PowerNet that increases from $271.23 million in 2004 to $303.05 million in 2008.

The revenue cap is based on a post-tax nominal return on equity of 11.09 per cent and an opening asset balance of $1835.60 million.

The ACCC has included a total capex roll-in for the period 1 January 2003 to 30 June 2008 of $378.64 million to cater for demand growth and the ageing network. This will ensure a reliable supply of electricity to Victorian consumers, while providing long-term investment incentives for SPI PowerNet. SPI PowerNet must apply the regulatory test to justify the inclusion of the projects in its future asset base.

The ACCC considered submissions from industry and consumer bodies before issuing its final decision.

Authorisation of amendments to the national electricity code

South Australian full retail competition and system planning derogations

On 16 August 2002 the ACCC received applications for authorisation (A90838, A90839 and A90840) of amendments to the derogations contained in chapter 9 of the national electricity code.

The proposed derogations relate to the metering arrangements of chapter 7 of the code and the system planning provisions of chapter 5. The proposed changes to the South Australian derogations would:

- introduce transitional arrangements for metering services in the wholesale electricity market
- provide the local network service providers (LNSPs) with a monopoly for providing metering services
- ensure the derogation relating to system planning is consistent with the code as amended by changes to the network and distributed resources code gazetted by National Electricity Code Administrator (NECA) on 8 March 2002
- require the National Electricity Market Management Company (NEMMCO) to provide the Electricity Supply Industry Planning Council (ESIPC) with planning information.

The ACCC received one submission regarding the proposed system planning derogation.

After considering the issues raised in the submission, the ACCC issued its draft determination on 6 November 2002. It did not receive a request for a pre-determination conference and so released the final determination on 27 November 2002.

In its final determination the ACCC granted conditional authorisation of the amendments to the derogations. The ACCC considered that the full benefits of full retail competition (FRC) can only be realised if the environment is conducive to customer churn. Allowing LNSPs to have temporary exclusivity in metering services may provide such an environment by simplifying the process for customers who choose to switch retailers and minimising disruption to metering data systems. The ACCC also considered that the system planning derogation will result in public benefits as it ensures the derogation is consistent with the code.

Queensland technical derogations

On 26 August 2002 the ACCC received applications for authorisation (A90841, A90842 and A90843) of amendments to chapter 9 of the national electricity code.

The amendments relate to Queensland technical derogations which specify technical standards that Queensland transmission and distribution companies must abide by to ensure that the stability of the transmission system is maintained.

The extension to the derogations will allow Queensland code participants continuity of performance standards until the new performance standards regime, currently being considered for authorisation by the ACCC, is implemented.

The ACCC released its final determination for Queensland technical standards on 27 November 2002 extending the derogations for a further two years, to expire on either 31 December 2004 or 12 months after new performance standards begin, whichever is earlier.

Safety net provisions and reserve contracting

On 10 September 2002 the ACCC received applications for authorisation (A90844, A90845 and A90846) of a derogation from the national electricity code to widen the scope of the existing reserve trader provisions. This would allow NEMMCO to enter into non-scheduled reserve contracts.

NECA requested and was granted an interim authorisation of the proposed derogation on 6 November 2002 to ensure that NEMMCO is able to enter non-scheduled reserve contracts for the coming summer.

The ACCC received one submission regarding the proposed derogation.

After considering the issues raised in the submission, the ACCC issued its draft determination on 6 November 2002. The ACCC did not receive a request for a pre-determination conference and so released the final determination on 27 November 2002.

In its final determination, the ACCC granted conditional authorisation to the proposed derogation. Overall, the ACCC considered that the derogation will improve the operation of the safety net and reserve contracting provisions by:

- providing additional sources of reserve capacity ensuring NEMMCO has a greater opportunity to meet reliability standards
- increasing competition among reserve contract and non-scheduled reserve contract suppliers, potentially lowering the total costs incurred by NEMMCO when activating the reserve trader
- promoting demand-side management to alleviate supply scarcity.

The ACCC also identified several issues regarding drafting of the proposed derogation. It considered that there are benefits in addressing these issues to make sure the derogation achieves its intended purpose. Subsequently, the ACCC imposed several conditions to help realise the anticipated public benefits.

Bidding and rebidding rules

On 13 September 2001 the ACCC received applications from NECA to authorise code changes to the rebidding rules that would enable NECA to work with NEMMCO and the market to address issues such as inefficiencies that have contributed to the very short-term price spikes, generators' bids and rebids being made in good faith, and those aspects of generators' bidding and rebidding strategies that may prejudice the efficient, competitive or reliable operation of the market.

NECA developed the proposed rebidding code changes after criticism of price outcomes that arose during the summer of 2000–01.

NECA also proposed associated changes to the management of system security and ancillary services, aiming to improve network transfer capabilities. This meant additional benefits of trade could be realised and reduced opportunities for the exercise of local market power.

The ACCC received 22 submissions from interested parties and on 3 July 2002 released its draft determination outlining its analysis and views on the proposed code changes.

Good faith

On the basis of the authorisation test, the ACCC found that the public benefits of the good faith proposal, on balance, outweighed the detriments. Public benefits arising from reliable pre-dispatch forecasts were an important component in the NEM's design.

To address the issue of uncertainty surrounding the definition of good faith, the ACCC urged NECA to develop a definition.

Reverse onus of proof

The ACCC did not support the 'reverse onus of proof' proposal, as such a clause would require generators to prove themselves innocent to the satisfaction of the National Electricity Tribunal if NECA questioned their behaviour. The proposal could impose significant costs on participants and would not be consistent with the code objective 'to provide a regime of "light-handed" regulation'.

Conduct prejudicial

The ACCC did not consider that the proposal delivers a net public benefit and for this reason has not authorised it. Its three main reasons for not authorising this change are: the proposal was considered to be unworkable; the compliance costs could have led to less flexibility in the market which could have reduced competitive responses; and the guidelines seemed to go beyond the bidding and rebidding mechanism.

Power system security

The ACCC found that the 'power system security' code change would satisfy the authorisation test after conditions of authorisation were applied.

On 13 August 2002 a pre-determination conference was held in Melbourne. The ACCC received submissions from 25 interested parties.

In its final determination issued on 4 December 2002, the ACCC granted conditional authorisation to the proposed code changes, considering that the net public benefit of the good faith proposal, on balance, outweighed any detriment associated with the change. However, the ACCC considered that providing a firm definition of good faith would alleviate concerns that participants may have with the code change.

Therefore, the ACCC deemed it prudent to define good faith according to NECA's submission, as a participant's 'genuine intentions'.

The ACCC continued to believe there is merit in the code changes aimed at improving network transfer capabilities by modifying arrangements for managing power system security and non-market ancillary services. However, the ACCC imposed conditions of authorisation to ensure that the public benefits resulting from the code changes outweigh the potential detriment that could arise from its operation. Also, the condition relating to clause 3.11.3(b) was modified somewhat from that proposed in the draft determination.

Amendments to Victorian transmission regulatory arrangements

On 15 October 2002 the ACCC received applications for authorisation (A90850–52) for amendments to Victorian derogations contained in chapter 9 of the national electricity code. The applications related to the regulation of transmission network services in Victoria from 1 January 2003.

The key amendments would ensure:

- greater clarity in allocating roles and responsibilities between the Victorian Energy Networks Corporation (VENCorp) and SPI PowerNet
- explicit recognition in Victoria's derogations of VENCorp's not-for-profit status
- that, in accordance with its not-for-profit status, VENCorp can recover all of its operating costs (including all payments that it must make to the owners of Victorian transmission assets)
- that VENCorp can recover all costs associated with all network augmentations that meet the requirements of the ACCC regulatory test when those costs are incurred.

The ACCC received four submissions on the proposed code changes.

On 18 December 2002 the ACCC granted interim authorisation to enable full consideration to be given to the applications, while allowing the proposed changes to operate from 1 January 2003 when the ACCC assumed responsibility for the regulation of VENCorp and SPI PowerNet.

The interim authorisation was granted subject to various conditions. Condition C1 addressed issues relating to practical aspects of setting VENCorp's revenue under the proposed amendments, recognising that its revenue for 2003–08 had been set under the code as it currently existed. Conditions C2–C7 were considered necessary to deal with several drafting errors, or clauses that needed clarification.

Queensland intra-regional loss factors

On 14 October 2002 the ACCC received applications for authorisation (A90847–49) of amendments to chapter 9 of the national electricity code.

The applications relate to the code provisions that require wholesale electricity prices to be adjusted to reflect losses in transmission. These losses arise from the fact that whenever electricity is transmitted from one point of the transmission or distribution network to another, some proportion of electricity is lost due to resistance in the network.

Queensland derogated from the code in 1998 and since this time has been calculating loss factors on a forward-looking basis, based on predicted load and generation data for the next financial year.

In its determination, *Stage 1 of integrating the energy market and network services* (3 October 2002), the ACCC authorised changes to the code allowing the NEM-wide implementation of forward-looking loss factors. The new methodology was intended to be implemented by 1 July 2003. However, NEMMCO has indicated that this may not allow enough time to develop the methodology and therefore NECA has decided to delay the code changes until 1 January 2004.

Without an extension to their current derogation Queensland would have to revert to backward-looking loss factors until NEM-wide forward-looking loss factors are implemented.

The ACCC considered it prudent that Queensland continue using the forward-looking method and accordingly released its final determination on 15 January 2003. This effectively extends the derogation until either 31 December 2004 or the implementation of NEM-wide forward-looking loss factors, whichever is earlier.

Murraylink Transmission Company—application for conversion to a prescribed service

On 18 October 2002 the ACCC received an application from the Murraylink Transmission Company (MTC), on behalf of the Murraylink Transmission Partnership (MTP), requesting the ACCC to determine that:

- the network service provided by the Murraylink interconnector be classified as a prescribed service for the purposes of the national electricity code
- to provide this prescribed service, MTP be eligible to receive the maximum allowable revenue from transmission customers (through a coordinating NSP) for a regulatory period starting from the date of the ACCC's final decision to 31 December 2012.

MTC is currently registered with NEMMCO as a market network service provider (MNSP). Its application has been lodged according to clause 2.5.2(c) of the code.

The code establishes two frameworks for developing network services in the national electricity market (NEM), regulated and unregulated. Regulated assets earn a regulated revenue determined by the ACCC according to chapter 6 of the code. Unregulated assets earn revenue from trading in the wholesale electricity market according to chapter 3 of the code. In particular, MNSPs operate as unregulated interconnectors relying on the spot price differential between two interconnected regions to earn revenue.

In early February 2003 the ACCC released an issues paper on MTC's conversion application. It sets out the ACCC's proposed approach for assessing MTC's application, and presents some key issues, including the determination of an opening asset value, and applying the regulatory test.

The ACCC invites interested parties to comment on the application, the issues paper, and the reports by the ACCC's consultants. The ACCC will consider comments in its draft decision and it will consult on the draft before issuing a final decision.

Review of the regulatory test—discussion paper

On 5 February 2003 the ACCC released a discussion paper as part of its commitment to reviewing the regulatory test to ensure that it does not result in a complex and lengthy process delaying the development of regulated investment.

The discussion paper summarises the main concerns raised by interested parties in response to an ACCC issues paper released last year and puts forward three options for the refining the test.

Option one aims to ensure consistency between the regulatory test and the national electricity code, but essentially maintains the existing regulatory test.

Option two addresses concerns that the regulatory test is ambiguous, and defines and clarifies elements of the test to ensure a consistent application across the NEM.

Option three looks at ways of broadening the scope of the regulatory test to capture the benefits of increased competition resulting from improved interstate transmission links. Benefits arise from greater competition between generators and the subsequent reduction in market power that may be exercised on occasions.

The ACCC invites interested parties to comment on these options. Such comments will be considered in its draft decision and the ACCC will consult on the draft before issuing a final decision. The ACCC considers that the regulatory test will ultimately form part of its regulatory principles.

Contact: Sebastian Roberts
(03) 9290 1867

Gas

Amadeus Basin to Darwin pipeline—final decision

On 4 December 2002 the ACCC issued its final decision on NT Gas Pty Ltd's access arrangement for the Amadeus Basin to Darwin natural gas transmission pipeline. The final decision does not accept the proposed access arrangement in its current form and requires several amendments for final approval.

The final decision moderates NT Gas' proposed reference tariffs and access terms and conditions consistently with the business interests of the service provider, third parties and the broader public interest. In recognition of the circumstances of the NT Gas pipeline, the ACCC has approved a 10-year access arrangement.

NT Gas was originally granted until 15 January 2003 to submit a complying access arrangement. However at the request of the service provider the ACCC has extended this date until 5 February 2003.

GasNet access arrangement 2003–07

GasNet Australia (Operations) Pty Ltd lodged proposed revisions to its natural gas transmission access arrangements with the ACCC on 28 March 2002.

The ACCC issued its final decision on 13 November 2002 accepting major changes to GasNet's access arrangements. These included the merging of two access arrangements (for the principal transmission system and the western transmission system); having the southwest pipeline and the Murray Valley pipeline in the capital base; and introducing pass-through mechanisms and prudent discounts.

However the ACCC concluded that several aspects of the proposed revisions were inconsistent with the principles and objectives of the gas code. It decided not to approve GasNet's proposed revisions and set out the amendments that would have to be made for approval to be granted.

GasNet submitted amended revisions to the ACCC on 6 December 2002 and a revised version on 6 January 2003. The ACCC concluded that the revisions did not incorporate the amendments specified in the final decision or address the matters used to justify the amendments. Therefore the ACCC did not approve GasNet's amended revisions.

Consequently, the ACCC drafted and approved its own revised access arrangement for GasNet. The final approval, issued on 17 January 2003, and the ACCC's access arrangement are available on the ACCC's website.

The ACCC's revisions vary from GasNet's as they adopt Commonwealth bonds of a different term for estimating the risk-free rate and use different values for the equity beta, debt raising costs, asymmetric risks allowance and inflation. The ACCC's revisions provide for average annual benchmark revenue of $77 million whereas GasNet's provide for $81.9 million. GasNet's second access arrangement period began on 1 February 2003.

On 31 January 2003 GasNet applied to the Australian Competition Tribunal for a review of the ACCC's decision.

Final determination: re-authorisation of MSOR

On 18 December 2002 the ACCC issued a final determination granting authorisation for VENCorp, Victoria's independent gas and electricity systems operator, for the market and system operations rules (the MSOR).

The MSOR govern the operation of Victoria's gas transmission system, and provide for a spot market to trade gas.

After extensive public consultation, the ACCC concluded that the public benefits flowing from the MSOR outweigh any detriment. They include benefits flowing from the operation of the spot market, which allows gas to be traded in a transparent manner. The ACCC also believes the MSOR provide the basis for competition among retailers.

In the final determination to address some concerns the ACCC recommended that VENCorp include an end-users representative on the gas market consultative committee and conduct a review into whether an alternative pricing mechanism, such as hourly locational pricing, should be introduced. As a condition of authorisation the ACCC required that VENCorp amend the *force majeure* provisions.

The final determination grants authorisation for 10 years. This period of authorisation avoids conflict with a Victorian statutory review of VENCorp that will occur by 2007. It also reflects the ACCC's view that market carriage has operated effectively so far and should be permitted to continue.

Tender approval request for Central Ranges pipeline

The Central Ranges Natural Gas and Telecommunications Association Inc, a community based group consisting of eight local government areas and two local development organisations in the Central Ranges region of NSW, has sought approval from the ACCC to conduct a competitive tender under the gas code to develop a gas transmission pipeline. Regulatory approval of the process is required before the tender can be conducted. It also submitted an application to IPART relating to distribution pipelines on the project. Although the ACCC and IPART will make separate decisions, the process is being conducted jointly.

The tender proposal includes constructing a new transmission pipeline that would likely transport gas from an existing transmission pipeline (the Central West pipeline, which terminates at Dubbo), as well as constructing a network of distribution pipelines to deliver gas to prospective users in the Central Ranges region (which extends broadly from Dubbo to Tamworth and Gunnedah).

Under the approval process, proposed tariffs for covered transmission pipelines are submitted to the ACCC for assessment. Alternatively, for new pipelines, the gas code allows tariff-related aspects to be established through a competitive tender process.

If approved, the tender process proposes to award the tender principally on the basis of the lowest 'combined' distribution and transmission tariffs.

Under section 3.23, the ACCC and IPART jointly released a public notice and issues paper on 14 January 2003. Public consultation closed on 7 February 2003. The ACCC is currently reviewing the application and submissions and will release its decision by 7 March 2003.

Contact: Russell Phillips
(02) 6243 1259

Transport and prices oversight

Airports

Final regulatory reports for phase I privatised airports

The ACCC released its annual regulatory reports for Sydney, Melbourne, Brisbane and Perth airports on 22 January 2003. The reports cover price monitoring, price cap compliance, quality of service and financial accounts reporting for the year 2001–02 with an overview over the five-year period from when the airports were sold in 1997–98 until 30 June 2002.

Because the regulatory requirements have changed this is the last year that price cap compliance will be assessed for Melbourne, Brisbane and Perth airports for aeronautical services such as using runways, aprons and terminal facilities. The reports include the final reporting on price cap (CPI–X) compliance, which covers 1997–98 until 30 June 2002. Melbourne, Brisbane and Perth airports are now subject only to prices monitoring.

Sydney airport is no longer required to notify the ACCC regarding proposed price increases. As of 1 July 2002 it is also subject to prices monitoring.

The reports show that over the past five years, regulated charges fell on average by around 20 per cent in real terms at the price capped airports.

The reports also show that quality of airport services has generally been good over the five-year period of reporting. This suggests that service quality has not been sacrificed to reduce costs under the price cap arrangements.

At Brisbane airport consistently high standards of quality have been reported, while recent survey results for Sydney airport also indicate a high degree of satisfaction with the quality of services.

Results for Melbourne airport showed that users have been satisfied with the availability and standard of the facilities and services each year except 1999–2000 when some issues were identified. At Perth airport, surveys of users indicate reasonable levels of satisfaction, although some lower ratings from airlines were apparent in 2001–02.

On 1 July a prices monitoring regime was introduced, under which the ACCC will report on pricing outcomes but does not expressly limit them.

The ACCC will continue to present annual reports on financial reporting, quality of service and price monitoring of some services.

Petrol monitoring

Major consumer awareness initiative launched on petrol price cycles

In early March 2001 the Federal Government asked the ACCC to examine the feasibility of placing limitations on petrol and diesel retail price fluctuations throughout Australia. The ACCC's report, *Reducing fuel price variability*, was publicly issued on 14 May 2002. Copies are available from the ACCC's website at http://www.accc.gov.au. The report concluded that consumers were likely to benefit overall from price cycles.

One of the report's recommendations was to increase consumers' understanding of petrol price cycles and how to exploit them. The government agreed and asked the ACCC to collect and publish the information on petrol prices it considered helpful for consumers.

The ACCC launched this major initiative on its website on 19 November 2002. The Commission's site provides data on price cycles in Sydney, Melbourne, Brisbane, Adelaide and Perth. Data is not provided for Canberra, Hobart or Darwin as petrol prices in those cities do not exhibit regular price cycles. Information for each city is available on:

- the days of the week when prices were at the bottom or top of the price cycles in the previous four months. This provides a simple guide to the best days of the week on which to buy petrol.
- average retail petrol prices over the past 30 days. This enables consumers to see how average prices have moved in the last month, the peaks and troughs, and where the current day is placed in terms of the pattern of price cycles in their city.
- the length of price cycles (that is, the number of days from trough to the next trough) in the previous four months. This lets consumers know how long the current price cycle may last.

The information on the website about average retail prices over the past 30 days is updated every day and the analysis of the price cycles is updated every month. The website also includes information on what determines Australian petrol prices, country petrol prices and answers to some frequently asked questions. The site also has links to other websites that have information about petrol prices and petrol pricing issues.

Motoring organisation surveys have indicated that a substantial proportion of consumers would change their petrol buying behaviour to take advantage of the price cycle if they knew roughly when prices were likely to be lower. Consumers can make significant savings by buying petrol at the bottom of the cycle. By publicising information about price cycles the ACCC hopes that more consumers can exploit it.

The information about petrol price cycles on the ACCC's website can be downloaded, displayed, printed and reproduced to increase awareness in the community about changes in petrol prices.

Contact: Margaret Arblaster
(03) 9290 1862

National Competition Council (NCC)

Virgin application for declaration of certain services at Sydney domestic airport

On 1 October 2002 the NCC received an application under Part IIIA of the Trade Practices Act from Virgin Blue Airlines Pty Ltd for a recommendation to declare:

- a service for the use of runways, taxiways, parking aprons and other associated facilities necessary to allow aircraft domestic passengers to:
  - take off and land using the runways at Sydney airport
  - move between the runways and the passenger terminals at Sydney airport.

After it receives a declaration application the NCC must consider the application against the criteria in section 44G of the Trade Practices Act. The NCC then makes a recommendation to the Hon. Ian Campbell, Parliamentary Secretary to the Treasurer, on whether the criteria are met and whether the service should be declared.

The NCC published an issues paper seeking public submissions which closed 28 February 2003. Copies of the application, the issues paper and non-confidential submissions are available from the NCC's website. The NCC will now consider the information received.

Application to revoke coverage of City Gate to Berrimah pipeline

On 30 January 2003 the NCC received an application from NT Gas Distribution Pty Ltd (NTGD) to revoke coverage of the City Gate to Berrimah pipeline (CGBP) under the *Gas Pipelines Access (NT) Act 1998*. The Act incorporates the National Third Party Access Code for Natural Gas Pipeline Systems (the code).

The CGBP transports gas from the Darwin City Gate to Berrimah, which is near the area designated as the Darwin trade development zone. Gas is then distributed from two offtake stations to a small number of industrial/commercial users through a plastic reticulation system.

The natural gas supplied in Darwin comes from the Central Australian natural gas fields and is transported to the Darwin City Gate via the Amadeus Basin to Darwin pipeline.

An initial access arrangement for the pipeline was due to be submitted to the ACCC on 12 February 1999 but NTGD has applied for and been granted successive deferrals. On 5 February 2003 the ACCC agreed to a further extension until 12 June 2003 to allow the NCC and the minister enough time to consider an application for revocation of coverage.

Under the code, the NCC is responsible for making a recommendation to the minister who must decide whether or not to revoke coverage of the pipeline. The responsible minister is the Hon. Paul Henderson, Minister for Business, Industry and Resource Development (NT).

The NCC issued a draft recommendation on 20 March 2003. This and NTGD's application for revocation are available from the website.

APT applies for review of decision re the Wirrida to Tarcoola rail track

On 18 October 2002 Australasia Pacific Transport Pty Limited (APT) applied to the Australian Competition Tribunal (the tribunal) for a review of the minister's decision to declare the service provided by the Wirrida to Tarcoola rail track.

On 10 March 2003 the tribunal set aside the minister's decision to declare the service on the procedural basis that there was no probative material before it upon which it could be satisfied of the matters set out in s. 44H(4) of the TPA.

Victoria

Essential Services Commission (ESC)

Electricity

Distribution and retail performance monitoring and reporting

The national reporting requirements for the reliability and quality of supply will apply from 1 January 2003. The January–June 2002 distribution report was published in August and the 2002 calendar year report is currently being drafted.

The ESC has advised all Victorian licensed retailers that the revised information specification, which has been aligned with the national reporting requirements, will apply from 1 July 2003. Discussions will start with relevant stakeholders and other jurisdictions on extending the indicators for the competitive market including price, service and efficiency of transfers. The ESC is also examining options to better measure retailer performance to customers experiencing financial difficulties.

The comparative retail report for the calendar year 2002 is currently being drafted.

Distribution loss factors

The ESC is reviewing the approval process for distribution loss factors with other jurisdictions through the Utility Regulators Forum, incorporating recent national electricity code changes. The review is expected to be completed by March 2003.

Distribution and retail audits

The ESC is conducting audits in early 2003 to determine the level of distributors' and retailers' compliance with regulatory obligations. The audits will be separately conducted and the retail audits will incorporate both gas and electricity local retailers. They are a licence condition for all distributors and gas and electricity local retailers, and arise from the ESC's objectives to:

- encourage efficiency in regulated industries and the incentive for efficient long-term investment
- prevent the misuse of monopoly or non-transitory market power
- promote effective competition and competitive market conduct.

Distribution audits have begun. The ESC is currently consulting with the stakeholders on the scope of the retail audits and audit deeds. A three-year strategy is being developed for retail audits, taking into account the need to extend the audit licence condition to all retailers in Victoria. This strategy will also review how audits are conducted in other jurisdictions.

Review of electricity and gas customer protection framework

The ESC has begun its review of electricity and gas customer protection regulation to ensure multi-fuel contracts are appropriate for specific

customers, and to encourage the move towards an integrated energy industry. In response to stakeholder submissions, the scope of the review has been widened to consider other issues, including consistency between the jurisdictions. The ESC will consult with other jurisdictions to determine a strategic approach to the review.

Options for price disclosure in advertising and marketing material are currently being explored.

Interval meter rollout for Victorian electricity customers

In November 2002 the ESC released its position paper on the introduction of interval meters for all electricity customers. The paper calls for comments on the cost-benefit analysis and regulatory and implementation issues.

Retailer of last resort (RoLR)

The ESC has finalised its initial consultation on the pricing principles for retailer of last resort service. The next step is for the ESC to develop a position with further input from stakeholders on who provides the RoLR service in the case of local retailer failure and the price when customers are supplied by the RoLR. A draft decision will be released in April. The ESC has finalised RoLR internal operating procedures.

Ring fencing

Following the introduction of FRC in electricity, the ESC will next consider the need for further ring fencing of the electricity distributors to ensure a competitive market. It will review its 2001 pre-FRC position paper and expects to release this review in April 2003.

Public lighting review

The ESC is reviewing excluded services charges for the operation, maintenance and repair (OMR) of public lighting and is receiving submissions from distributors on their proposed charges and terms and conditions for providing public lighting OMR excluded services.

The ESC will then analyse the information and release an issues paper on OMR costs for consultation with all relevant parties, including all public lighting customers. The review is expected to be completed by late April 2003.

Regulatory accounting information requirements

The ESC will review its regulatory accounting guideline in early 2003 to ensure that such information provided by the distributors is accurate, fully consistent with national regulatory reporting requirements and aligned with the electricity distribution price determination reporting templates.

Gas

Full retail competition

The ESC has finished an extensive customer information campaign to ease the introduction of FRC on 1 October 2002. The campaign included radio, television and press advertising as well as a comprehensive gas FRC brochure delivered to every gas-reticulated home in Victoria.

Market research to track the effectiveness of the FRC communication campaign showed that the awareness level of gas FRC reached a peak at 94 per cent of reticulated gas customers.

Based on customer transfer data at 6 February, about 32 500 customers have changed retailer since contestability was introduced.

FRC cost recovery

The ESC implemented cost recovery for FRC systems for VENCorp and gas distributors. Both mechanisms will operate for the next five years and will permit the recovery of FRC-related expenditure approved by the ACCC that VENCorp and the distributors incur from gas retailers.

The ESC approved aggregate amounts that can be recovered by VENCorp and gas distributors. An annual review will ensure only compliant ongoing or future expenditure will be recovered.

Review of retail codes

The ESC has begun a review of the gas and electricity retail codes. In developing both codes, the ESC has sought to align the provision of both fuels. The primary focus of the review is to ensure dual fuel (i.e. gas and electricity joint products) issues are adequately captured in the minimum customer protection measures in the codes.

Retailer of last resort

The ESC has begun to consider a RoLR policy for the gas market. It expects to release a paper mid-2003 to explore further issues raised during consultations in 2002.

Retail audits

The ESC is currently developing the scope for compliance audits of gas and electricity retailers. They will focus on assessing compliance with the gas and electricity retail codes and associated guidelines, together with the retail market rules. The areas that will be targeted are:

- affordability of services, encompassing billing, metering, refundable advances, payment arrangements, and disconnections for non-payment. These matters determine the extent to which low income customers in particular are able to pay their bills and maintain access to supply.
- complaints and confidentiality. Complaints handling is central to providing good service and detecting non-compliance, while confidentiality is a major issue of customer concern.
- market conduct. Retailer (and their agents) behaviour in marketing products to customers in an attempt to win market share is also of great concern to customers.
- performance indicators. The focus on performance indicators reported to the ESC relates to their central role in facilitating competition by comparison and sound regulatory decision-making.

Performance reporting

The annual performance report of gas distributors and retailers is currently being drafted. The report will be released in June and will incorporate key findings of the regulatory compliance audits.

Gas distribution system code

The code has been amended following public consultation to incorporate the decisions taken in the access arrangement review of gas distributors (final decision 3 October 2002). The code now incorporates:

- guaranteed service level obligations on distributors related to the number of network interruptions, timeliness of customer connections, timeliness of customer appointments
- guidance on connection charges.

Western Australia

Office of Gas Access Regulation (OffGAR)

Proposed access arrangements

Final decisions on access arrangements in Western Australia have yet to be issued for two pipeline systems—the Dampier to Bunbury natural gas pipeline (DBNGP) and the Goldfields gas pipeline (GGP). A proposed access arrangement

is yet to be submitted for the Kalgoorlie to Kambalda pipeline, following an extension of time by the regulator until 1 July 2004.

Draft decisions for the GGP and the DBNGP were issued on 10 April 2001 and 21 June 2001 respectively. Both have been subject to legal action in the Supreme Court of Western Australia. The court's decision was handed down on 23 August 2002 for the DBNGP, followed by a further hearing on 28 November 2002 where the parties made submissions on the declaratory orders and costs. The court handed down its final orders on 20 December 2002, including an additional order that the factors in section 8.10(a) to (k) of the code are relevant and are to be given weight as fundamental elements in establishing the initial capital base. The court said that it was not persuaded that the manner in which the regulator conducted its case before the court caused the regulator to stray outside the limited role that was appropriate to his statutory function, according to the principle enunciated by the High Court in the Hardiman decision.

The court also noted that the applicants were successful in their application for relief. However, they did not succeed on every point—in fact, the court's view was that substantial aspects of the applicants' case were unsuccessful. The regulator was not required to pay the applicants' costs.

The action initiated by the owners of the GGP in the Supreme Court of Western Australia has been discontinued. This follows the regulator issuing a notice on 6 November 2002 that he will amend his draft decision for the GGP to take into consideration, among other things, the decision of the Supreme Court relating to the DBNGP. The regulator intends to issue an amended draft decision in two parts, the first of which will update his earlier decision following the court ruling in relation to the DBNGP, while the second part will consider any matters raised by the owners of the GGP relating to subclause 21(3) of the state agreement for that pipeline.

Full retail contestability costs

As reported in the last edition of *Network*, AlintaGas Networks Pty Ltd (AGN) submitted a proposal on 24 June 2002 seeking the regulator's binding approval under section 8.21 of the gas access code to estimated costs of developing systems associated with the introduction of full retail contestability (FRC) in the Western Australian mid-west and south-west gas distribution systems. This approval would add the costs of AGN's investment to its capital base when its access arrangement is reviewed in March 2004 and reference tariffs for using these distribution systems would be adjusted accordingly.

AGN also asked the regulator to provide a non-binding acknowledgment that FRC related non-capital costs would be likely to satisfy the requirements of section 8.37 of the code.

Most of these costs were associated with the network management information system for handling customer transfers, billing, managing e-commerce workflows and meter reading.

On 27 December 2002 the regulator issued a notice, indicating that he could not approve the costs under section 8.21 of the code as he considered the proposed expenditure could not be recovered under the code. While it may have originally been intended that such costs would be recoverable under the code, as presently drafted, it does not provide for their inclusion. As a result, the National Gas Pipeline Advisory Committee (NGPAC) was advised of the apparent inconsistency between the interpretation and the intent of the code. NGPAC as the body responsible for recommending changes to the code has been working to remove this inconsistency. The necessary changes are likely to be made in the first quarter of 2003 after which AGN's application may be reconsidered.

Information on developments about gas access regulation is available on the Office of Gas Access Regulation website at <http://www.offgar.wa.gov.au>.

Contact: Peter Kolf
(08) 9213 1900

South Australia

Essential Services Commission of South Australia (ESCOSA)

Electricity supply industry

Price regulation

Notice of price determination of AGL SA's standing contract prices for unmetered supplies

As required under the *Electricity Act 1996*, ESCOSA made a price determination relating to AGL SA's standing contract prices for unmetered supplies, which includes public street lighting and traffic lights. The determination was published on 31 December 2002, with prices applying to small customers from 1 January 2003.

Electricity reselling arrangements from January 2003

ESCOSA set the maximum reselling prices that an inset network operator can charge inset customers for electricity from 1 January 2003, as well as several other reselling arrangements.

Full retail contestability

Electricity metering code

ESCOSA has made a new electricity metering code to take effect in South Australia from 1 January 2003 following the start of full retail competition.

ESCOSA has varied the code, following representations from industry participants, to ensure that the first tier retailer will be able to fulfil the distributor's responsibilities for final and special meter reads for first tier metering installations containing accumulation meters.

Electricity distribution code

ESCOSA has also instituted a new electricity distribution code in South Australia from 1 January 2003.

Revocation of electricity industry guideline no. 7—consumer information and protection: green power

From 31 December 2002 ESCOSA has revoked *Electricity industry guideline no. 7—consumer information and protection: green power*. ESCOSA decided that following the regulatory changes necessary for full retail competition the guideline is no longer relevant, and other regulatory mechanisms (for example the electricity marketing code of conduct) provide the appropriate consumer protections.

Electricity distribution price review

Efficiency carryover mechanism—discussion paper

ESCOSA released a discussion paper examining the legal requirements set out in the electricity pricing order (EPO) for ESCOSA to develop a method for sharing any efficiency gains made by ETSA Utilities in the current regulatory period. In particular, issues relating to defining efficiencies and the design of a mechanism that meets this EPO requirement were discussed.

Inquiries/reviews

Review of supply charges for combination tariffs and multiple connection points

ESCOSA has begun a review of arrangements which applied in the past to consumers on combination tariffs where a single supply charge applied even though there were multiple connection points. This arrangement was unique to South Australia, and caused transitional problems with the move to FRC on 1 January 2003 when AGL applied a supply charge to each connection point.

The minister requested that an interim arrangement be implemented capping the number of supply charges that apply to any combination tariff customers.

As part of this review ESCOSA released a discussion paper setting out the current arrangements for combination tariff consumers. It assesses the most common situations in which combination tariffs are used, and canvasses options that could be considered, depending on the nature of the electricity supply arrangements at particular premises.

Inquiry into generator rebidding behaviour

On 30 January 2003 the ACCC received notice from the Hon. Kevin Foley MP, in his capacity at the time as Acting Minister for Energy, for an inquiry into generator rebidding during gas emergencies. This arose following gas restrictions implemented by the South Australian Government after damage to the Moomba gas processing plant. The inquiry will investigate the bidding and rebidding activity by South Australian generators during the gas processing down time at Moomba from 25 to 28 January 2003. ESCOSA will submit its final report to the minister by 7 March 2003.

Review of standard of telephone response services provided by ETSA Utilities and AGL SA

ESCOSA has recently initiated an independent review of the standard of telephone response services currently provided by ETSA Utilities and AGL SA. The review has been prompted by some customers experiencing significant congestion when trying to contact either ETSA or AGL during December 2002 when both businesses were, for different reasons, facing high demand in their call centres.

A specialist call centre consultant will conduct the review during the first quarter of 2003, a period of potentially significant loading on the telephone response systems of both AGL and ETSA.

Audit of ETSA Utilities—voltage compliance

ESCOSA has engaged Kellogg Brown & Root Pty Ltd (KBR) to audit ETSA Utilities' performance in managing the distribution network according to the Electricity Act, regulations, distribution code and relevant standards.

The audit will cover such issues as:

- the systems and processes ETSA uses to ensure its distribution network is operated to ensure voltage requirements are met
- how ETSA deals with low voltage complaints
- what processes ETSA has in place to monitor voltage at customer connection points
- whether ETSA has a long-term strategic for implementing new Australian voltage standards.

The consultant will report to ESCOSA by 31 March 2003.

Demand management for distributors

Following submissions received on a discussion paper issued in August 2002, ESCOSA has released a position paper on demand management for distributors for public comment.

The paper presents ESCOSA's proposed strategy for improving the transparency and robustness of ETSA Utilities' regulatory demand management obligations.

Guideline no. 4—compliance

Following consultation ESCOSA has amended *Electricity guideline no. 4—compliance systems and reporting*. The guideline establishes how licensees must report their compliance with their obligations arising from conditions of licences as well as relevant industry codes. The guideline has been amended primarily to take into account the additional obligations of licensees arising due to the commencement of FRC.

Because the changes have meant the code has been revised, ESCOSA has given licensees 45 days notice before the start of the revised guideline. The guideline will apply to the reporting obligations of licensees for the reporting periods ending on, or after, 31 March 2003.

Draft decision on reliability performance: changes to distribution code standards

The distribution code sets out performance targets for reliability, both as 'best endeavours' service standards and as baseline targets within a performance incentive scheme. These targets were established when the code was made in October 1999, and reflected actual reliability performance as measured by ETSA Utilities in the period before the code began.

Following discussions with ESCOSA, ETSA has recently re-analysed historical supply interruption data using more accurate estimates of customers affected by interruptions than were available when the data was originally analysed.

In December 2002 ESCOSA issued a discussion paper outlining this process and the possible implications for the reliability performance targets specified in the code. It canvassed various options for responding to this issue, including possible changes to the targets.

After considering submissions ESCOSA released a draft decision on reliability performance: changes to distribution code standards. It proposes some changes to rural reliability performance standards, aimed at setting the standards at revised levels resulting from a detailed assessment of historical reliability performance in the rural area.

Reliability performance of the SA network during the heatwave of December 2002

In late December 2002 there was considerable public discussion about the reliability of the ETSA Utilities distribution network during a heatwave which affected much of South Australia from 15–20 December. ESCOSA prepared a report on its performance, which discusses some of the general issues associated with assessing reliability performance of the ETSA Utilities network, presents the results of the analysis of performance during the December heatwave, and draws some conclusions.

The report urges caution in making conclusions about reliability performance on the basis of performance over a 5-day period.

Licence applications

Generation—Hydro Tasmania

Hydro Tasmania has applied for a generation licence for a wind farm with a capacity of 60–70 MW at Cathedral Rocks, approximately 30 kms south-

west of Port Lincoln. The wind farm will be connected by a single 132kV line to the ElectraNet substation at Port Lincoln.

The applicant, Hydro Electric Corporation, is a Tasmanian government business enterprise, trading under the name Hydro Tasmania. Hydro Electric Corporation was established as the Hydro Electric Commission by the *Hydro-Electric Commission Act 1944* and was incorporated by the *Hydro-Electric Corporation Act 1995*.

Retail—Australian Energy Services Pty Ltd

Australian Energy Services asked to re-activate its application for a retail licence in South Australia. Its initial application was put on hold at its request in September 2002.

AES is a wholly owned subsidiary of Australian Energy Ltd and already holds retail licences in Victoria, New South Wales and Queensland.

ESCOSA is required to consider all licence applications in line with the criteria specified in the *Electricity Act 1996* and the *Essential Services Commission Act 2002*. As part of this process a period of public consultation on applications will occur, at the conclusion of which the Commission will then make a licensing determination.

Retail—Energy Australia

Energy Australia has applied to ESCOSA to retail electricity to contestable customers in South Australia.

Energy Australia is a state-owned corporation under the *Energy Services Corporations Act 1995 (NSW)*. It already holds retail licences in NSW, Victoria, Queensland and the ACT, and has over 1.4 million customers.

In its application, Energy Australia states that it plans to market and sell electricity to all classes of contestable customers in South Australia.

Exemptions

ESCOSA has issued two exemptions under s. 80 of the *Electricity Act 1996* (the Act):

1. On 24 December 2002 the minister who is responsible for carrying out retailing of electricity under the remote areas energy supply (RAES) scheme in Oodnadatta, Parachilna, Marla, Marree, Nundroo, Glendambo, Kingoonya, Mannahill, Blinman and Cockburn was exempted from the licensing provisions of the Act, subject to conditions as described in the exemption.
2. On 31 December 2002 an exemption was granted under which licences held by entities for operations under the RAES scheme (i.e. Cavill Power Products Pty Ltd, ETSA Utilities, Coober Pedy District Council, Dalfoam Pty Ltd and Jeril Enterprises Pty Ltd) and the licences held by Cowell Electric Supply Pty Ltd, Municipal Council of Roxby Downs, One Steel Manufacturing Pty Ltd and WMC (Olympic Dam Corporation) Pty Ltd, are not required to contain conditions specified in ss. 21–24 of the Act.

Rail

Tarcoola–Darwin Railway: access pricing—draft guidelines

As advised in the November update ESCOSA previously released a draft determination on matters related to certain rates of return for the Tarcoola–Darwin railway. This draft determination was a precursor to the finalisation of pricing guidelines required under the AustralAsia railway (third party access) code as the draft guidelines did not address all pricing matters arising in the code. ESCOSA has now released in December 2002, the access pricing draft guidelines. The draft guidelines should be read in conjunction with ESCOSA's *Tarcoola–Darwin railway: regulated rates of return: draft determination* and it also elaborates on the 'Tarcoola–Darwin railway: determining an appropriate return on assets' paper released in January 2002.

Ports

Ports industry guideline no. 2: regulatory accounts

ESCOSA has issued *Ports industry guideline no.2: regulatory accounts*. This guideline sets out how regulated operators are to prepare and maintain accounts and records in relation to the ports access regime. Any information collected under the guideline will remain confidential, as required under Part 5 of the *Essential Services Commission Act 2002*.

Ports price review discussion paper no. 1

ESCOSA has issued a discussion paper marking the beginning of the review of price regulation of South Australian ports. The paper looks at the question: Should price regulation continue? Interested parties are invited to make submissions to ESCOSA by 6 March 2003.

Ports price information

ESCOSA has approved price information kits for both Flinders Ports Pty Ltd and AusBulk Ltd. They contain price and related information for services covered by the ports access regime and will be available on each company's website.

Contact: Lew Owens
(08) 8463 4450

New South Wales

Independent Pricing and Regulatory Tribunal (IPART)

IPART reports mentioned below can be downloaded from <http://www.ipart.nsw.gov.au>.

Energy licensing

Last year the Minister for Energy asked IPART to recommend changes to licence and authorisation conditions or licensing administrative arrangements to improve licence and authorisation holders' compliance with government policies.

The final report released in January 2003 made eight recommendations to the minister, dealing with changes to licence conditions. It also set out how IPART proposes to administer the energy licensing regime.

The final report represents an important overhaul of the regime's compliance reporting and administrative arrangements. The approach proposed should deliver cost-effective, flexible administration and continuous improvement.

Electricity

2004 Review of distribution network prices

IPART's current determination on the regulatory arrangements applying to NSW distribution network service providers (DNSPs) expires on 30 June 2004. To prepare for a new determination, IPART began reviewing the form of regulation that should apply from 1 July 2004. The new arrangements will include a weighted average price cap for the distribution component of network tariffs, a pass through of transmission charges and a price cap for miscellaneous charges and monopoly fees.

In November 2002 IPART released an issues paper discussing these arrangements.

IPART has also released draft models and an information request to collect the required data, which are available from the IPART website.

IPART has engaged Meritec Ltd to review each DNSP's operating and capital costs.

Metrology

IPART has released its final report on its review of the initial metrology procedure. The main changes follow:

- There is a revised definition of an embedded network.
- IPART has clarified that the DNSP should be the responsible person for customers in embedded networks.
- The profile start dates are aligned to those in the CATS procedures.
- DNSPs are permitted to have a second controlled load profile.

Greenhouse gas benchmarks

In December 2002 the NSW Parliament passed legislation setting up a Greenhouse Gas Abatement Scheme to operate from 2003 till 2012.

The purpose of the scheme is to reduce the per capita greenhouse gas emissions from the NSW electricity sector by:

- encouraging low-emission generation of electricity
- encouraging a range of electricity and non-electricity related abatement activities
- allowing trading of certificates created for electricity related abatement activities.

The scheme is mandatory for those subject to a benchmark (typically electricity retailers) and imposes a financial penalty for failure to meet the benchmark. This penalty is calculated at $10.50 per tCO_2-e and will be adjusted according to the CPI.

Present legislative framework

The Greenhouse Gas Abatement Scheme is implemented through an amendment of the *Electricity Supply Act 1995*. The Act:

- sets mandatory targets for reducing emission for electricity retailers and certain other benchmark participants
- establishes a framework for low emission generators and other emission abatement activities to create and trade abatement certificates.

The Act is supported by a series of greenhouse benchmark rules, which are approved by the Minister for Energy. These provide:

- detailed regulation of compliance with the scheme
- eligibility criteria and greenhouse accounting rules for the creation of abatement certificates.

Structure of the scheme

The scheme requires retailers and other benchmark participants to offset the average greenhouse emission associated with the electricity they supply in line with annual targets set for 2003–07. Per capita emissions must then be maintained until 2012. To do this, retailers will buy abatement certificates from those carrying out abatement activities recognised by the scheme rules.

These transactions are tracked through the scheme registry, which will register all abatement certificates as they are created and subsequently traded and acquitted.

Administration of the scheme is divided into two separate roles of the compliance regulator and the scheme administrator.

The compliance regulator deals with benchmark participants. Its functions include confirming annual targets, assessing compliance and enforcing any penalties.

The scheme administrator deals with abatement certificate providers. Its functions include accrediting providers to participate in the scheme, assessing their compliance with the greenhouse accounting aspects of the rules, ensuring their certificates reflect genuine abatement and maintaining the register of certificates.

At present IPART exercises both of these roles, but the legislation allows for another body to be appointed as scheme administrator.

Gas

Retail

IPART is currently reviewing prices that apply to customers served by Origin Energy in Albury and several Murray Valley towns under its standard supplier's endorsement to its licence. A 3 per cent increase in all tariffs occurred from 1 January 2003. The tribunal is seeking further information from Origin Energy, and intends to release a draft report for public consultation in due course.

IPART has also started collecting information for a review of prices charged by ActewAGL in Queanbeyan and Yarrowlumla. It will also be reviewing the miscellaneous fees charged by ActewAGL in the Shoalhaven area for inclusion in its voluntary pricing principles.

IPART deferred its proposed 2002 mid-term review of AGL Retail Energy's voluntary pricing principles for low usage gas customers until it had enough information on costs for public discussion of tariff changes.

The proposed timetable is:

28 March 2003
: AGLRE proposal due. It will be posted on the tribunal's website.

3 April 2003
: AGLRE presentation to Energy Industry Consultation Group to explain proposal

24 April 2003
: Roundtable including tribunal members and interested parties

14 May 2003
: Written submissions due

13 June 2003
: Tribunal to release final report

1 July 2003
: Tariff changes to take effect

Networks

The access arrangement for Country Energy Gas (CEG, formerly GSN) applies from 1 October 1999 to the end of 2003 and requires CEG to submit its proposed revisions by 31 December 2002. On 16 December 2002 CEG sought the tribunal's approval to vary the revisions submissions date to 30 June 2003. IPART agreed to this revision on 18 December 2002.

The revisions submission is due from AGL Gas Networks (AGLGN) on 1 July 2003. AGLGN has made a formal application to extend the date on which revisions submissions are due by six months. At the time of writing, the tribunal has not decided whether to approve the extension.

IPART will put out a timetable for the two access arrangement reviews soon.

Other

IPART (and the ACCC) have received a tender approval request (TAR) from the Central Ranges Natural Gas and Telecommunications Association Inc (CRNG&TAI) to supply natural gas to the Central Ranges region of NSW. The CRNG&TAI wants to extend the existing the Central West pipeline transmission pipeline from Dubbo to Tamworth and reticulate gas within the Central Ranges region, as outlined in the proposed tender documents. On 12 March the tribunal decided to approve the TAR pursuant to the national gas code. It released a decision paper outlining its

reasons on 14 March 2003 (see IPART website for further details).

Transport

IPART is undertaking its annual review of maximum fares that can be charged on NSW government-owned public transport services. This includes Sydney's CityRail passenger train network and State Transit Authority buses and ferries in Sydney and Newcastle. A public hearing will be held in June, with the final determination due for release in August 2003 to be implemented on 1 September.

IPART has a five-year standing reference to recommend fare changes for private transport operators. IPART is currently reviewing fares in the private bus, private ferry and taxi industries. An issues paper will be released in April, followed by a workshop in June and recommendations to be forwarded to the Minister for Transport in August to be implemented on 1 September 2003.

Water pricing

IPART is currently finalising its review of metropolitan water prices to apply from 1 July 2003 until 30 June 2005. It will set prices for the retail metropolitan water agencies: Sydney Water Corporation, Hunter Water Corporation, Gosford Council and Wyong Council. It will also complete a mid-term review of the prices of the Sydney Catchment Authority whose current price path runs until June 2005.

IPART released an issues paper in June 2002, and commissioned Halcrow Pacific to review the asset management, capital expenditure and operating costs of the water agencies. Halcrow's report was given to the tribunal and water businesses in early December, available on the tribunal's website. Halcrow reviewed past capital expenditure together with the water agencies forward capital programs and proposed operating costs.

In late November and early December 2003 the tribunal held public hearings as part of this review in Sydney, Newcastle and on the Central Coast.

IPART anticipates releasing final determinations and reports for this review in May 2003.

In mid-2003 IPART will start a review of the prices charged by the Department of Land and Water Conservation, through its business unit, StateWater, for bulk water extractions from river systems and groundwater sources. The current price determination, released in December 2001, sets prices until June 2004. IPART will shortly finalise a timetable for the review.

Workers compensation legislation

The *Workplace Injury Management and Workers Compensation Act 1998* requires IPART to review the amendments made by the *Workers Compensation Legislation Amendment Act 2001* and the *Workers Compensation Legislation Further Amendment Act 2001* to determine whether the policy objectives of those amendments remain valid and whether the terms of the Workers Compensation Acts are appropriate to meet those objectives.

IPART has begun the review to be completed by 27 April 2003. A report will be provided to the minister for tabling in both Houses of Parliament.

Contact: Eric Groom
(02) 9290 8475

ACT

Independent Competition and Regulatory Commission (ICRC)

Current inquiries

ACTION prices from 1 July 2003

After receiving the reference for this inquiry under s. 15 of the *Independent Competition and Regulatory Commission Act 1997*, the ICRC released an issues paper in January 2003. It has received submissions from ACTION. The draft report on ACTION pricing for the period beginning 1 July 2003 was issued on 24 March 2003, with submissions on the draft report closing on 23 April. The ICRC will hold a public hearing early in April so that the community can raise concerns. In the past, public hearings have provided views unavailable in the written submissions to the inquiry. The final report is due to be submitted by 16 May 2003.

During previous inquiries the ICRC has raised the need for more reliable data on the demand elasticities for ACTION services. Late in 2002, ACTION commissioned Booz-Allen & Hamilton to undertake an elasticity study. ICRC has the draft report of that study and a final report is due in March 2003.

Also in past reviews, the ICRC has criticised the absence of a consistent policy on the funding of ACTION deficits and the way in which community service obligations have been funded. The ICRC considered the deficit funding approach lacked rigour and any incentives for change or efficiency. In a recent Commission of Audit report, the ICRC was suggested as a broker to reach an agreed effective funding model for ACTION services. The ICRC's suggested funding model is currently in the late stages of discussion with stakeholders. By the time the Budget is brought down in May, a new funding model should be agreed.

FRC in electricity issues

FRC transitional price inquiry

As part of the government's decision to introduce a contestable retail market in electricity to the ACT, the ICRC must establish a safety net retail price for those customers who are to remain 'franchise customers' under the *Utilities Act 2000*. While the retail market will be open to competition, customers consuming less than 100 megawatt hours of electricity a year will remain defined as franchise customers. Consumers can choose to move into competitive contracts, thereby ceasing temporarily to be franchise customers. However, later on those non-franchise customers may choose to return to the franchise tariff, with the regulated protection that such a choice implies. Those transitional arrangements will last for up to three years, ceasing only when the ICRC has reviewed the need for them to continue. During the transitional period the ICRC must establish a transitional retail price for those customers who remain franchise customers. The ICRC has proposed a transitional price that will encourage competition among retailers, while not penalising those who opt to remain franchise customers.

Originally due to commence on 1 March 2003, FRC has been delayed until 1 July 2003 because of the recent bushfires in the ACT. The ICRC's direction on the transitional retail electricity price will be available by the end of May 2003.

FRC public information campaign

The ICRC has consulted extensively in developing the public awareness campaign, originally expected to be delivered in February. However, the delay of FRC in electricity for the ACT to 1 July 2003 has meant the campaign has been deferred until May.

Network pricing inquiries for electricity, water and wastewater

As reported in the last issue of *Network*, the ICRC has begun its inquiries into network pricing for electricity and water, including wastewater, for the period commencing 1 July 2004. The ICRC has released its papers on 'Prescribed and excluded services' and 'Form of regulation in Part E of the national electricity code'. Consultation is proceeding on both of those issues, and the ICRC

expects that they will be included in the issues paper to be released in June. Discussions have identified several areas where the ICRC may wish to amend the approach it adopted in 1999, moving wherever possible to lighter handed regulation. Decisions on these matters are not necessary until later in the year when the draft report on the network price inquiries is expected.

The ICRC will release its request for tender (RFT) in early March for a consultancy to review ActewAGL's capex and opex submissions. The review will consider the submissions for both electricity and water networks. The RFT will be completed by May.

Gas network price inquiry

The ICRC expects to receive a submission on the gas access arrangement in June, to take effect from 1 July 2004. The submission is to be brought forward by ActewAGL. The timetable remains unchanged.

Utilities Act issues

Customer transfer code

The ICRC has agreed an electricity customer transfer code to apply in the territory, under the *Utilities Act 2000*. The code will be renotified in May, ready for the opening of the retail electricity market in July. It provides the framework for transfers to occur in the competitive market, spelling out the obligations of the parties to a transfer and setting some deadlines to be met to ensure efficient operation and seamless transition for consumers.

Utility licence fee review

In May the ICRC will review the licence fees for utility service providers, including network and retail service providers for electricity, gas, water and sewerage services. The determined fees will apply from 1 July 2003. Licence fees in the ACT are set under the Utilities Act to recover the reasonable cost of regulation (regulation that is consistent with the purposes of the *Utilities Act 2000*). Utility licence fees cover regulatory services provided by the ICRC, the technical regulator and the Essential Services Consumer Council. The fees are set annually on the basis of estimated costs in the year ahead. At the end of the year unexpended fee revenue is returned to licensees.

Additional gas licence issued in the ACT

The ICRC has agreed to Country Energy's application for a licence to retail gas in the ACT. The Country Energy licence brings to three the number of retailers to supply gas in the territory, the others being ActewAGL and Energex. The additional licence increases the potential for sale of bundled energy products in the territory, potentially offering price and service benefits to consumers.

Utility licensees' compliance report

The ICRC has received compliance reports from licensed utility service providers in the ACT for the period ending October 2002. The ICRC is preparing a compliance report for submission to the minister and wider publication. The compliance reporting is confined at the moment to the service obligations in the Utilities Act. The preliminary assessment is that all the licensees are complying with their obligations under the Act.

Following a review of the report and the reporting requirements, the ICRC anticipates that the compliance reporting obligation can be combined with other performance reports to provide a fuller picture of utility performance and compliance. In developing more comprehensive reporting the ICRC will consider the existing and emerging nationally consistent reporting frameworks being developed by regulators through the Utility Regulators Forum.

Metrology coordination

In November 2002 the ICRC was appointed the jurisdictional metrology coordinator for the ACT. The metrology procedures for the ACT have been submitted to the Code Authority, and advice on that issue has been circulated. The ACCC has circulated a draft decision of the metrology derogation for the ACT, mirroring those in NSW and Victoria.

The ICRC is planning to begin its review of the initial ACT metrology procedures, as required by the code, in June 2003. The ICRC expects to be able to consider the recommendations of the national review of types 5 and 6 meters in the review of metrology procedures, recognising the links between the introduction of interval meters and the continuing progress on reform to competition in the electricity market.

Utility Regulators Forum working groups

The ICRC is participating in several working groups created by the Utility Regulators Forum. The ICRC has a particular interest in the working groups on metrology, retailer of last resort and the form of regulation under Part E of the national electricity code. While not participating directly in the working group on distribution loss factors the ICRC maintains an interest in that issue also.

Tasmania

Office of the Tasmanian Energy Regulator (OTTER)

Natural gas distribution and retail tender process

Following formal termination of the tender under the national gas code for the distribution of natural gas, the Tasmanian Government negotiated with several potential distributors to create a strategic alliance for the gas distribution project. In December 2003 the government entered a memorandum of understanding for the development of a gas distribution network with Powerco Limited, a New Zealand gas and electricity distribution company. The alliance incorporates direct government assistance.

Powerco and the government are currently negotiating two development agreements—one for a backbone system serving major industrial customers and the other for a rollout to domestic customers. Powerco has estimated that the network rollout will eventually pass approximately 100 000 homes, taking five to seven years. Powerco's medium to long-term target is 50 000 customer connections.

The Powerco network investment will start from the transmission pipeline installed by Duke Energy International, which runs from Longford Victoria across Bass Strait and through, or close to, Tasmania's major population centres.

The Tasmanian Energy Regulator has so far received one application for a licence to retail natural gas.

Investigation into the pricing policies of the electricity supply industry

Extension of the 1999 electricity pricing determination

The Electricity Supply Industry (Price Control) Amendment Regulations 2002 became effective on 16 October 2002. They enabled the regulator, at the minister's request, to extend the determination for a further 12 months. This ensures that the price regulation arrangements applying in Tasmania at the time of NEM entry are consistent with the national arrangements.

Accordingly, on 4 December 2002 the regulator announced that prices would be maintained for a further 12 months in real terms and also allowed the pass-through of the costs of renewable energy certificates to the retailer, as required by Commonwealth legislation. The revised tariffs came into effect on 1 January 2003.

The 2003 investigation

In December 2002 the regulator released a paper entitled 'Framework for the 2002–03 investigation into the maximum prices of electricity distribution services and retail tariffs on mainland Tasmania: draft proposal' (available on the regulator's website <www.energyregulator.tas.gov.au>). In the paper the regulator proposes, in the absence of well-developed distribution tariffs, to regulate distribution services using a revenue cap formula. The regulator also proposes to maintain the use of a tariff basket approach for retail tariffs. He is seeking submissions on whether the tariff baskets used in the 1999 determination should be retained or whether the three baskets (HV business, LV business and residential) should be consolidated into one.

Aurora Energy Pty Ltd presented its preliminary submission to the regulator in December. Aurora supports the continued use of a revenue cap, on the basis of regulatory simplicity and cost of compliance, for distribution and a retail tariff basket incorporating all regulated tariffs. The submission also outlined Aurora's base case proposals (i.e. proposed capital, operating and maintenance expenditures and service offerings) for distribution services and estimated retail margin and service offerings for the retail business. Aurora is likely to make a supplementary submission in March detailing its proposed enhanced services options.

Submissions closed on 31 March 2003.

The regulator has engaged PB Associates to provide an expert opinion on the prudence of capital expenditure proposed and undertaken since the current regulatory period began, plus the prudence of the proposed operations and maintenance expenditures for the coming regulatory period.

The regulator has also established a pricing issues focus group to discuss various issues and the regulator's draft proposals during the investigation.

The final report will be released by 31 July 2003. A determination specifying maximum prices or price controls for the declared distribution, metering and related services for the period 1 January 2004 to 31 December 2007, and declared retail tariffs and related services for the period 1 January 2004 to 31 December 2006, is expected to be finalised by 30 September 2003.

Grant of derogation regarding parts of chapter 6 of the Tasmanian electricity code

Chapter 6 of the code sets out the principles and rules for calculating prices payable by network users for conveying electricity through the Tasmanian network.

In December 2002 the regulator approved and granted a derogation supporting information gathering and the making of a determination for the economic regulation of distribution network services. These provisions potentially conflict with the procedures set out in the Electricity Supply Industry (Price Control) Regulations 1998, which authorise price investigations.

The regulator's office sought comment from code participants on the proposed derogation and no objection was raised. The derogation took effect on 16 December 2002 and will apply until any amendments to the code arising from the code review have been made.

Basslink

Basslink Pty Ltd has entered into a contract with Pirelli for the manufacture and installation of the cable that will run between terminals in Victoria and Tasmania. Siemens will install converter stations and the overhead lines between the existing networks and cable terminals.

Basslink Pty Ltd expects the project to be commissioned in the summer of 2005–06.

Government Prices Oversight Commission

Urban water pricing compliance review

The government has asked the Commission to review local government's compliance with the *Urban water and waste water pricing guidelines* issued in January 2003 by the local government division of the Department of Premier and Cabinet. Consistent with the Council of Australian Governments water reform requirements, the guidelines require councils to set their water and wastewater prices so that they recover all costs but not so high as to recover monopoly profits. The guidelines are available at www.dpac.tas.gov.au. The review is expected to be finished by 30 April 2003 and the report will be available on the department's website.

Investigation of the pricing policies of Metro Tasmania

The Commission has begun the third investigation into the pricing policy of Metro Tasmania Pty Ltd by inviting submissions on some of the major issues including the effectiveness of Metro's services, the integration of its services with other public transport, and student concessions and other fares.

Metro provides urban public transport and is mainly funded by the government through a community service agreement. The Commission reviews the appropriateness of Metro's pricing policies by comparing them with other operators in Tasmania and elsewhere in Australia. In the investigation the Commission will examine the efficiency of Metro's public transport services and how effective the current arrangement with the government is, including incentive mechanisms for buying services bearing in mind the cost of delivery and service levels. The Commission has also been asked to advise on suitable indicators for measuring both efficiency and effectiveness with a view to their being adopted into future community service agreements. The Commission's final report will be released in June 2003.

Contact: Andrew Reeves
(03) 6233 5665

Queensland

Queensland Competition Authority (QCA)

Many of the papers mentioned below can be found on the QCA's website at: <http://www.qca.org.au>.

Electricity

During the first half of 2003, the QCA will be working with distributors to finalise revenue requirements for 2003–04 to be targeted in pricing. It will also finalise distribution pricing and transmission pass-through pricing. To meet code requirements, the distributors must publish their (QCA approved) price schedules for the forthcoming financial year by 31 May.

The QCA is reviewing the form of regulation to apply in the next regulatory period. It has received several submissions in response to its discussion paper detailing the different forms of regulation

available under the code. A draft decision will be released shortly. To meet code requirements, the QCA will advise stakeholders of any change in the next regulatory period by 30 June 2003.

The QCA's *Electricity distribution: service quality reporting guidelines* require distributors to provide data on specific service quality measures on a quarterly and annual basis. In February 2003 the QCA started to publish service quality data on its website with the September 2002 quarterly reports, as well as a brief summary prepared by the QCA.

The QCA is also investigating options for including a service quality mechanism into the regulatory arrangements to apply from 2005. The QCA has appointed Meyrick and Associates, together with Pacific Economics Group, to advise on service quality incentives and to develop an incentive mechanism for consideration. The consultants are expected to provide a draft report in late April 2003.

Contact: Gary Henry
(07) 3222 0504

Gas

During the implementation of the approved access arrangements for gas distribution in Queensland, QCA:

- has continued to discuss with service providers its proposed accounting guidelines
- has required both service providers to resubmit their ring-fencing compliance reports by 28 February, addressing a number of concerns
- has considered Allgas' proposed associate contract submitted for QCA approval on 25 September 2002. Following a public consultation process, QCA determined that the proposed contract is unlikely to have the effect of substantially lessening competition in a market, and therefore decided to approve it. A decision document was released on 29 November 2002, and the contract was entered into on 24 December 2002.
- has approved information packages required under the code for both service providers
- has released a discussion paper on service quality monitoring in November 2002. Comments were sought by 1 February 2003 and several submissions were received (available on the QCA web site). The QCA is now considering the submissions and it will release its draft proposal on service quality monitoring in due course.
- is investigating efficiency carry-over issues before releasing a discussion paper in the first half of 2003.

Contact: Gary Henry
(07) 3222 0504

Water

Gladstone Area Water Board

The QCA released its final report of recommendations on the pricing practices of the Gladstone Area Water Board (GAWB) in September 2002. However, the Queensland Government has delayed its response while considering alternative infrastructure investments to address severe drought conditions in the Gladstone area.

The final report gave some attention to the implications of the drought for regulatory pricing. These issues are likely to become a key focus of the next review of GAWB's pricing practices.

Contacts: Rick Stankiewicz
(07) 3222 0510

George Passmore
(07) 3222 0545

Burdekin Haughton water supply scheme

On 17 January 2002 the Premier and Treasurer directed the QCA to assess gazetted prices for channel and river irrigators receiving water infrastructure services provided by SunWater within the Burdekin Haughton water supply scheme.

Key issues relate to certain payments and whether they should be recognised as capital contributions, the appropriate weighted average cost of capital that should be applied and whether the current price paths incorporate any excess return on capital based on the above analysis. The QCA also advised under what circumstances it would be appropriate for an entity to charge a positive rate of return on scheme assets.

In September 2002 the QCA released its draft report for comment. In response to the issues raised by stakeholders, it received an extension to the deadline to enable another round of consultation. The final report is to be delivered to the Premier and the Treasurer by 31 March 2003.

Contacts: Rick Stankiewicz
(07) 3222 0510

Cath Barker
(07) 3222 0547

Local government

The QCA has finished its fifth review of Queenland's local councils' progress in implementing competition reforms. It covered reforms implemented by Queensland's 125 councils to 30 June 2002 for 731 nominated business activities and 110 COAG water activities and other general competition reforms.

Overall, councils' recommended payments for implementing the reforms have been assessed at 80 per cent. The larger councils have mostly completed implementing competition reforms to their nominated activities and are concentrating on ongoing compliance issues. Most small councils have achieved substantial progress.

Council business activities have continued to benefit from the combination of commercial incentives, greater autonomy and increased accountability associated with the scheme. In particular, councils have commented that the reforms have enabled them to:

- identify inadequacies in management performance and reporting systems
- achieve a better allocation of resources for council operation
- improve their financial information on the costs of the delivery of services and transparency of the costs of social objectives
- improve their operational performance, efficiency and effectiveness
- improve governance and accountability.

Councils continue to identify new business opportunities. This is evident from the additional 236 activities nominated for the scheme in 2001–02 and reflects the councils' increasing understanding of the reforms.

Contacts: Rick Stankiewicz
(07) 3222 0510

Sean Andrews
(07) 3222 0516

Rail

Standard access agreement

When the QCA approved Queensland Rail's standard access agreement for coal-carrying train services in October 2002, two matters remained unresolved. The first was that the agreement catered for the situation where the access holder was also the train operator. It did not cater for the case where the access holder was a user (e.g. a mine) and the train services were subcontracted to a third party. The second involved developing a key performance indicator (KPI) regime with an associated incentive mechanism. Work on resolving both of these outstanding matters has continued.

On 16 December 2002 QR submitted a revised access agreement for the QCA's approval to cater for the situation where the access holder subcontracts the operation of train services. QR has proposed a back-to-back agreement, where all access rights and obligations are vested with the access holder who must then ensure that the train operator complies with its access obligations. QR will not have a direct contractual relationship with the train operator. Public consultation on that draft agreement closed on 7 February 2003 and the QCA is currently assessing submissions.

QR has begun public consultation on seven proposed KPIs that will eventually sit at the heart of the access agreement's performance regime. It intends to conduct a paper trial of the KPIs from July 2003. On the basis of that trial, QR will develop the associated incentive mechanism from July 2004 before implementing a performance regime in January 2005.

Reference tariffs

QR's access undertaking sets out reference tariffs for defined coal-carrying train services in central Queensland. Since approving QR's access undertaking, the QCA has reviewed various elements of these tariffs.

First, QR has defined the reference train services in terms of the current predominant train. As new entrants will introduce non-reference trains, it is likely they will have to negotiate an access charge which differs from the reference tariff. The most likely difference will be in the charge for capacity consumption based on the non-reference train's sectional running times. Any train's capacity consumption will be comprised of two elements: direct consumption, based on its transit time; and indirect consumption, reflecting the capacity lost due to the interaction between trains with differing operating characteristics.

In November 2002 the QCA published an arbitration guideline setting out the principles it is likely to apply if QR and an access seeker were unable to agree on the capacity consumption element of an access charge for a non-reference train service. In the guideline the QCA accepted the argument that an access charge should be based on a train's direct consumption of capacity but that the indirect consumption should be paid by all train operators.

Second, the reference tariffs for the nine clusters of mines in the central Queensland coal region were determined on the basis of forecast traffic volumes. QR's access undertaking includes a mechanism to limit QR's exposure to volume risk. It allows for the review of a cluster's reference tariff if the traffic volume falls outside a range of plus or minus 10 per cent of the forecast value, and this deviation is reasonably expected to be sustained.

Third, in March 2003 QR applied for a reference tariff for train services servicing the new Hail Creek coal mine. The QCA released an issues paper and the consultation period concludes in April 2003.

In December 2002 the QCA rejected QR's application to increase the North Goonyella reference tariff on the basis that the lower than forecast volumes were unlikely to be sustained. It is currently reviewing another application from QR for a decrease to the Newlands reference tariff.

A copy of the arbitration guideline is available on the QCA's website.

Mid-term review

In the coming months, the QCA, in collaboration with QR, will conduct a mid-term review of the QR access undertaking, as well as a review of yard control services in central Queensland.

Annual report

In December 2002 QR's Network Access Group published its first audited and certified regulatory financial statements for 2001–02.

Contact: Paul Bilyk
(07) 3222 0506

Ports

In September 2001 the Queensland Government approved a long-term lease for the Dalrymple Bay Coal Terminal (DBCT). As part of the lease process, the government established that the port would be subject to economic regulation based on:

- declaration under Part 5 of the QCA Act of the services provided by DBCT
- a requirement that the lessee submit (through the lessor) an access undertaking to the QCA detailing the negotiation and pricing framework for access.

The QCA expects to receive a draft access undertaking for the DBCT by mid-2003.

Contact: Paul Bilyk
(07) 3222 0506

Northern Territory

Utilities Commission of the Northern Territory

Suspension of the contestability timetable in the NT electricity market

Because of the withdrawal of NT Power—the only competitor to the Power and Water Corporation in the territory's electricity market—the government advised the Utilities Commission in January 2003 of its decision to suspend the timetable that would have seen full retail contestability achieved by April 2005. This has the effect of halting contestability at a level of 750MWh per annum until prospects for competition re-emerge.

Generation prices oversight

In light of NT Power's withdrawal from the territory's electricity market in September 2002, the government has approved prices oversight of Power and Water's generation business by the Utilities Commission. The Commission will develop a regulatory framework in consultation with NT Treasury, for approval by the government. It expects to be able to advise existing contestable customers of details of the regulatory framework by the end of May 2003.

Jabiru electricity price review

The government has given the Utilities Commission the terms of reference for a review of costs associated with supplying electricity to the Jabiru township. The Commission expects to issue a draft report to parties to the review by mid-March.

Water and sewerage price structure review

The government has also given the Utilities Commission the terms of reference for a review of Power and Water's water and sewerage pricing structures. The Commission's report will consider whether changes are needed to satisfy relevant COAG requirements and to encourage appropriate investment decisions and water conservation. It will also identify the likely price effects on individual classes of customers arising from its recommended changes. The Utilities Commission expects to issue a draft report by end-March.

Inquiry into network access code

The Utilities Commission has published an issues paper as part of its inquiry into the effectiveness of the territory's network access code in facilitating use of networks by electricity generators and retailers and in preventing the exercise of market power by the owners/operators of electricity networks, especially since the application of the code on 1 April 2000. The Utilities Commission expects to publish a draft report by mid-March.

In an associated development, the Utilities Commission has asked the government to consider a 12-month delay in the regulatory reset due by mid-2003, to enable the reset to occur after the network access code has been reviewed, and possibly amended.

Network loss factors

The Utilities Commission has begun to assess whether the loss factors used by Power and Water to settle energy imbalances have conformed strictly to the current requirements of schedule 13 of the code. It is also considering whether changes are warranted going forward in the methodology used to estimate the loss factors.

Technical codes

The Utilities Commission has separately approved the publication of the system control technical code prepared by Power and Water as the power system controller and the network technical code prepared by Power and Water Networks as the network service provider. Both codes are requirements under the territory's network access code.

Contact: Anne-Marie Hart, Executive Officer
(08) 8999 6822

Contributing to Network

If you are interested in publishing an article in *Network*, please contact Katrina Huntington on (03) 9290 1915 or email to <katrina.huntington@accc.gov.au>.

To subscribe to *Network*, cancel your subscription or update contact details—mail, fax or email your details to:

Katrina Huntington
Network coordinator, ACCC
GPO Box 520J, MELBOURNE VIC 3001
Facsimile: (03) 9663 3699
Email: katrina.huntington@accc.gov.au

Your details should include your name, your organisation, postal address, telephone number, fax number and email address.

Contacts

ACCC		http://www.accc.gov.au	
	Regulators Forum	Mr Joe Dimasi	(03) 9290 1814
	Newsletters	Ms Katrina Huntington	(03) 9290 1915
	Transport and prices oversight	Ms Margaret Arblaster	(03) 9290 1862
	Electricity	Mr Sebastian Roberts	(03) 9290 1867
	Gas	Mr Russell Phillips	(02) 6243 1259
	Telecommunications	Mr Michael Cosgrave	(03) 9290 1914
NSW	Independent Pricing and Regulatory Tribunal (IPART)	http://www.ipart.nsw.gov.au	
	Dr Tom Parry	(02) 9290 8411	
VIC	Essential Services Commission	http://www.esc.vic.gov.au	
	Dr John Tamblyn	(03) 9651 0223	
TAS	Govt Prices Oversight Commission (GPOC)	http://www.gpoc.tas.gov.au	
	Mr Andrew Reeves	(03) 6233 5665	
	Office of the Tasmanian Energy Regulator (OTTER)	http://www.energyregulator.tas.gov.au	
	Mr Andrew Reeves	(03) 6233 6323	
QLD	Queensland Competition Authority (QCA)	http://www.qca.org.au	
	Mr John Hall	(07) 3222 0500	
WA	Office for the Gas Access Regulator (*Off*GAR)	http://www.offgar.wa.gov.au	
	Dr Ken Michael	(08) 9213 1900	
	Office of Water Regulation	http://www.wrc.wa.gov.au/owr	
	Dr Brian Martin	(08) 9213 0100	
SA	South Australian Independent Pricing and Access Regulator (SAIPAR)	http://www.saipar.sa.gov.au	
	Mr Graham Scott	(08) 8226 5788	
	Essential Services Commission of South Australia (ESCOSA)	http://www.escosa.sa.gov.au	
	Mr Lew Owens	(08) 8463 4450	
ACT	Independent Competition and Regulatory Commission (ICRC)	http://www.icrc.act.gov.au	
	Mr Paul Baxter	(02) 6205 0799	
NT	Utilities Commission	http://www.utilicom.nt.gov.au	
	Mr Alan Tregilgas	(08) 8999 5480	

Produced by the ACCC Publishing Unit 4/03