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Australian Energy Regulator

The new National Electricity Law, which will implement new institutional and governance arrangements in the National Electricity Market (NEM), was passed by the South Australian Parliament on 14 April 2005.

The legislation will confer electricity rule-making and market development functions on the Australian Energy Market Commission (AEMC) and economic regulation and enforcement functions on the Australian Energy Regulator (AER). Commonwealth legislation, the Australian Energy Market Act 2004, will apply the National Electricity Law and National Electricity Rules as Commonwealth law in offshore areas.

The AER will initially be responsible for economic regulation of electricity transmission in NEM jurisdictions. The AER will also be responsible for monitoring the wholesale electricity market and will enforce the National Electricity Rules. Later in 2005 the AER will become responsible for economic regulation of gas transmission pipelines in all jurisdictions except Western Australia. During 2006 the AER will become responsible for the regulation of energy distribution and retailing (other than retail pricing), and may carry out retail pricing functions by agreement with jurisdictions.

The AER has been established as a separate legal entity and a constituent part of the ACCC under Part IIIAA of the *Trade Practices Act 1974*. It is expected to formally commence its work in June 2005. The AER will comprise three members who will be statutory appointments, including a full time Chair.

Mr Steve Edwell will be the Chair of the AER. Two members will be part-time. Part IIIAA of the Trade Practices Act provides that one of the members of the AER will be a commissioner of the ACCC. The inaugural Chief Executive Officer will be Michelle Groves. Ms Groves has worked at the National Competition Council since 1998, for the last nine years as Director of Energy, Transport and Access.

The ACCC will retain responsibility for competition regulation and industry access code approvals under Part IIIA of the Trade Practices Act. A memorandum of understanding will be developed between the AER, the AEMC and the ACCC to facilitate the operation of new energy governance and institutional arrangements. Its objective is to provide for efficient and effective cooperation and coordination between the AER, the AEMC and the ACCC, including streamlined procedures for the ACCC to exercise its functions in the energy sector.

Telecommunications

ACCC issues draft view on future Telstra price controls

The Minister for Communications, Information Technology and the Arts has directed the ACCC to hold a public inquiry on the current price control arrangements that apply to Telstra and the nature of the price control arrangements that should apply in future. Accordingly, in November 2004 the ACCC published a draft view on the current price control arrangements that apply to Telstra and the arrangements that should apply after they expire on 30 June 2005.

The ACCC's draft recommendation was that price cap regulation be retained on the services to which it currently applies. The ACCC recommended that:

- a basket containing line rental, local calls, domestic and international long-distance and fixed-to-mobile calls be subject to a price cap of approximately CPI–5 per cent
- a basket containing only connection services be subject to a price cap of CPI.

The ACCC indicated that it would further consider whether:

- business services should be excluded from price cap regulation and, if so, how the class of business services should be determined
- national long-distance calls and international calls should be excluded from price-cap regulation.

The ACCC also considered that line rental prices should be subject to a specific form of price control and will consider further whether this should be a price-cap over the line rental service generally, or price controls over Telstra's most basic local access products, such as HomeLine Part and BusinessLine Part.

The ACCC also considers that, while the inclusion of targeted measures aimed at assisting potentially disadvantaged consumers has been a good initiative of the price control arrangements, the current low-income package can be improved to ensure that low-income consumers access the same basic telecommunication services than other Australians.

The ACCC's draft recommendation is that the next price control arrangements should apply for three years. The ACCC's final report was delivered to the minister in early February 2005.

ACCC issues three Telstra accounting separation reports

The ACCC issued three reports on accounting separation in relation to Telstra.

These reports are prepared under a ministerial direction and provide greater transparency of Telstra's operations to ensure that it does not unfairly discriminate between access seekers using its network services and its own retail operations.

The reports issued were:

- current cost accounting separation report for core telecommunications services for the 2003–04 period
- two imputation analysis reports comparing Telstra's retail prices with the prices of the core telecommunications services provided to access seekers for the September 2004 quarter and the June 2004 quarter.

The current cost accounting separation report for core telecommunications services indicates that, on a current costs basis, the aggregate values of assets for the core access services are substantially higher than the historical asset valuations. In proportionate terms, this is particularly apparent for the unconditioned local loop and local carriage services.

The results of the two quarterly imputation analysis reports show that for domestic and international long-distance calls and fixed-to-mobile calls, there were sufficient margins between Telstra's retail prices and the prices it charges other service providers to use the core services (plus related costs) to allow efficient firms to compete at the retail level. The imputation analysis showed that there were insufficient margins for local call services (line rental and local calls combined). The ACCC does not necessarily regard the insufficient margins to be a competition concern at this stage because of the bundling of local call services with other services.

The September quarter report is the first report to contain imputation testing of the unconditioned local loop core service (ULLS). The ULLS essentially allows a competitor to lease the use of the customer's line from Telstra to supply any combination of access, voice, ADSL or other data services. The report strongly indicates that the average margins available for ADSL or a bundle of ADSL and voice services over the ULLS are not sufficient to recover costs.

Hutchison and Telstra 3G radio access network sharing

In December 2004 the ACCC announced that it did not intend to oppose the third generation (3G) mobile radio access network (RAN) infrastructure sharing arrangement between Hutchison 3G Australia and Telstra.

Hutchison and Telstra announced they had signed binding agreements on 6 December2004 to establish a new partnership to jointly own and operate 3G mobile RAN infrastructure. This infrastructure is a key component for mobile telephony services on 3G mobile networks.

The ACCC considers that although the agreement may ultimately reduce the extent of infrastructure-based competition between possible future 3G mobile network operators, the arrangement has the potential to save 3G mobile operators significant costs and avoid the unnecessary duplication of mobile network infrastructure. In turn, this should enable a faster and more extensive deployment of 3G mobile networks across Australia.

Mobile terminating access service—notifications and access disputes

In the December quarter of 2004 the ACCC was notified of five access disputes regarding the mobile terminating access service (MTAS). PowerTel and Telstra notified the ACCC of access disputes with Optus, while Hutchison 3G Australia, PowerTel, and Telstra notified the ACCC of access disputes with Vodafone. Outside the reporting period, on 27 January 2005, AAPT also notified the ACCC of a dispute with Vodafone regarding the MTAS.

In the December quarter Vodafone and Optus also lodged ordinary access undertakings with the ACCC regarding their supply of the MTAS.

The domestic mobile terminating access service is a wholesale input used by providers of fixed-to-mobile and mobile-to-mobile calls to allow their customers to call mobile phone users. It allows consumers (either fixed-line or mobile) to call mobile users connected to another network.

The ACCC has started the arbitration processes for the access disputes and its assessment of the notifications.

ACCC to monitor domestic inter-carrier roaming services on CDMA mobile networks

Australian mobile carriers that offer domestic inter-carrier roaming (domestic roaming) on second generation CDMA mobile networks will be required to provide the ACCC with details of the terms and conditions they charge for the service following a final decision made by the ACCC in December 2004.

Domestic roaming is a wholesale service sold by one mobile network carrier to another. Mobile carriers can use this service to enable their subscribers to make and receive mobile phone calls in areas where they do not have network coverage by using (or 'roaming' on to) another carrier's network.

The decision to monitor the terms and conditions upon which domestic roaming services are provided on CDMA mobile networks follows a final decision by the ACCC not to declare a domestic roaming service. The monitoring does not extend to roaming services provided on GSM networks due to the more favourable competitive conditions in the market for national roaming on GSM networks.

Given Telstra is the only provider of a CDMA domestic roaming service at present, these rules will only apply to Telstra at this time.

The ACCC has released a draft of its proposed record keeping rule for public comment.

ACCC accepts Telstra's revised access undertakings for PSTN and local call access services

In December 2004 the ACCC decided to accept Telstra's revised access undertakings for PSTN originating and terminating services (PSTN access) and the local carriage services (LCS) and has issued a final report on its assessment of these undertakings.

This confirms the ACCC's draft view, issued in October 2004, and is the first time the ACCC has formally accepted access undertakings for Telstra's main fixed network services.

Before the ACCC's decision to finalise its views on these undertakings, Telstra notified the ACCC that it would withdraw its undertaking for the unconditioned local loop service. This undertaking had been rejected by the ACCC in its draft report.

The undertakings specify the price and some non-price terms and conditions proposed by Telstra for access to the PSTN access services over three financial years. The terms and conditions for the LCS apply for one financial year.

These core services enable Telstra's competitors to provide local, long-distance, international, fixed-to-mobile and mobile-to-fixed calls.

ACCC issues discussion paper on data network access service number portability

In November 2004 the ACCC issued a discussion paper on number portability for data network access services.

Number portability is the ability of customers to change their network provider and/or service provider while retaining the same service number. The absence of number portability effectively locks many customers into a particular service provider by making it expensive and inconvenient for consumers to switch providers.

A data network access service (DNAS) provides a user on a network (other than a data network) the ability to gain access to a data network or to features or facilities on a data network.

The ACCC is seeking further information on those consumers, industry participants and potential new entrants that will benefit from DNAS number portability. The ACCC is also seeking information on the estimated cost of implementing DNAS number portability using different technical solutions.

ACCC issues draft report on internet interconnection

In October 2004 the ACCC issued a draft report seeking comment on whether internet interconnection arrangements should be subject to a two-year period of monitoring.

Internet interconnection allows customers—business, residential or other—that are connected to one internet network to send and receive emails and access websites connected to other internet networks. Internet interconnection also enables business and other consumers to have the content they store on the internet accessed by other internet users.

The ACCC has conducted an inquiry into whether to regulate internet interconnection. The ACCC's draft decision determined that a case has not been made out for regulation at this stage, but that there are sufficient concerns to warrant the implementation of a vigorous monitoring program.

The ACCC proposes that monitoring be carried out under a record keeping rule that would apply to a cross-section of key players, and would identify the terms and conditions of interconnection, including any criteria for either peering or discounts along with other essential information that would indicate structural or behavioural problems.

While outside the reporting period, on 21 January 2005 the ACCC issued its final report which was substantially unvaried from the draft report. The ACCC is consulting further on the nature and extent of the record keeping rule.

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Gas

Submissions to inquiries

National competition policy

On 10 December 2004 the ACCC lodged a further submission to the Productivity Commission's inquiry into national competition policy (NCP). In its submission the ACCC acknowledged the success of NCP, but based on its experiences as the national competition and economic regulator has made recommendations to maintain and extend the gains from economic reform.

The ACCC's submission identified that the electricity and telecommunications industries require further measures to protect and promote competition. Specifically, measures over and above the Trade Practices Act are necessary and include:

- considering measures to prevent integration between natural monopoly and contestable parts of the industry, and measures to prevent the exercise of generator market power
- at a minimum, the operational separation of Telstra's business units as means of creating more pro-competitive pressures in the industry.

The ACCC also suggested that competition law reform encompass:

- a review into consumer protection policy to enhance its effectiveness
- removing scope for corporations trading with government to claim 'shield of the crown' immunity from prosecution under the Trade Practices Act
- allowing the ACCC to appear at anti-dumping hearings where the competitive effects of imports were cited in merger applications.

The ACCC's suggested measures to improve NCP are intended to improve competitive conduct across the economy and deliver benefits to the community.

Authorisations

Application for authorisation of joint marketing by PNG gas producers

On 14 December 2004 the joint venture participants in the PNG gas project applied to the ACCC for authorisation to negotiate the common terms and conditions (including price) under which gas produced by the project will be offered for sale (joint marketing).

The PNG gas project involves the development of petroleum fields in the Southern Highlands of PNG and the marketing of natural gas produced from those fields to Australian customers. The gas will be transported to customers through a pipeline from PNG to Queensland.

In addition to seeking authorisation to jointly market their gas, the applicants have proposed that the authorisation apply for the life of the project (estimated at 30 years) and also cover future participants in the project.

On 23 December 2004 the ACCC released an issues paper calling for submissions from interested parties. Submissions were due by 15 February 2005 and the ACCC has received eight submissions. The ACCC is currently preparing its draft determination.

Access arrangements

ACCC issues final decision on south-west Queensland gas pipeline

On 2 December 2004 the ACCC issued its final decision on the access arrangement for the south-west Queensland pipeline. The final decision approves the amended access arrangement provided by Epic Energy on 18 November 2004.

Epic lodged the amended access arrangement following the ACCC's draft decision on 6 October 2004 which set out two required amendments for the ACCC to approve the access arrangement.

First, the ACCC required Epic to insert a review trigger in the access arrangement. The review trigger provides for review of the non-derogated elements of the access arrangement should certain events occur. This is important given the potential for significant changes to the gas transmission network in Queensland over the next decade. Without the review trigger, certain elements of Epic's access arrangement would be outside the ACCC's scope for reviewal until 2016.

Second, the ACCC required Epic to address concerns raised by interested parties about the price of non-standard services by undertaking not to negotiate a price any higher than existing tariffs in real terms.

The amended version of the access arrangement came into effect on 15 December 2004.

ACCC issues final decisions on GasNet system

The ACCC made final decisions on 15 December 2004 about the four revisions GasNet Australia (Operations) Pty Ltd proposed on 24 August 2004 to its access arrangement. The GasNet system transports natural gas through Victoria and extends into southern NSW.

The ACCC approved the revisions GasNet proposed to:

- its price control formula
- the weather standard included in its demand forecasts for 2004–07
- introduce a mechanism which would allow implementation of the revisions for the calculation of its 2005 tariffs.

The ACCC considered concerns raised in submissions about GasNet's proposal to change the structure of its refill tariff at the Iona underground storage facility. The ACCC was particularly concerned that the change could be detrimental to customers who had a reasonable expectation that GasNet's tariffs would only vary over the period to the end of 2007 in accordance with the revised access arrangement approved in 2003. The ACCC did not approve this revision.

Ring fencing compliance reporting program 2003–04

The National Third Party Access Code for Natural Gas Pipeline Systems (the gas code) sets out the minimum ring fencing obligations for service providers of covered pipelines. This involves developing and maintaining structures and procedures to prevent certain flows of information and personnel which could be detrimental to users of the pipeline and to competition in upstream and downstream markets.

The ACCC requires service providers to submit annual ring fencing compliance reports after the end of the financial year. These reports describe the measures service providers have taken to ensure compliance with their obligations under the gas code. This year annual ring fencing compliance reports were received from 19 service providers, reflecting their interests in nine transmission pipelines.

As in previous years, the ACCC found that the level of detail and usefulness of the information provided varies between service providers. In summary, in terms of meeting the requirements currently set out by the ACCC:

- some reports fully complied
- some generally complied, but the ACCC identified areas for improved reporting on confidential information and/or marketing staff
- while also generally complying, a small number of reports did not provide adequate information about the cost allocation process employed
- in one instance, issues relating to ss. 4.1(c) and (e) of the code were identified.

The ACCC wrote to the service providers individually during November 2004 identifying appropriate areas where better future reporting appears warranted.

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Electricity

Regulatory projects

NSW transmission network revenue caps (TransGrid and EnergyAustralia)

The ACCC has the responsibility under the National Electricity Code to set the revenue caps for TransGrid and EnergyAustralia. The ACCC is currently setting these revenue caps for the regulatory period of 1 July 2004 to 30 June 2009.

On 23 and 26 September 2003 EnergyAustralia and TransGrid submitted applications for the ACCC to reset their revenue caps under clause 6.2.4(b) of the code for the regulatory period. The ACCC issued its draft revenue cap decisions on 4 May 2004.

The draft decision's noted that the ACCC was in the process of developing a new framework for the regulation of capital expenditure to be applied in the final revenue cap decisions. On 29 October and 18 November 2004 EnergyAustralia and TransGrid resubmitted their capital expenditure forecasts to be consistent with the new framework. To assist its review of the revised forecasts the ACCC appointed PB Associates. The reports on EnergyAustralia and TransGrid are available on the ACCC's website.

The ACCC released its supplementary draft decisions on 3 March 2005 after considering the revised forecasts, submissions received, PB Associates' reports and other information. EnergyAustralia and TransGrid have requested that the ACCC hold a public forum. It was held on 18 March 2005 in Sydney. The ACCC expects its final revenue cap decision in April 2005.

Directlink's application for conversion to regulated interconnection

Issue 18 of *Network* reported on Directlink Joint Venturers' (DJV) application for conversion from a market network service to a prescribed service and a maximum allowable revenue (MAR) for 2005–14.

The ACCC has engaged two separate consultancies to assist with the consideration of the DJV application. The first consultant (PB Associates) is to undertake a review which will establish a suite of feasible alternatives and the level of deferral benefits associated the provision of network support. The second consultant (IES) is to review the market benefits of each alternative identified.

On 26 November 2004 the ACCC received a report from PB Associates setting out its views on the deferral benefits claimed by the DJV. A copy of the report was placed on the ACCC website and submissions were sought, including from the DJV. The DJV provided comments on the PB Associates' report on 14 January 2005. Subsequently, on 8 February 2005 the DJV provided the ACCC with revised costing estimates for the alternative projects and recalculation of their network deferral benefits. These revisions raise issues of substance and alter the nature of the application.

The ACCC expects to receive the second consultancy report from IES in March. The ACCC is proposing to release a draft decision in the second quarter of 2005.

SPI ring fencing waiver application

Issue 18 of *Network* reported on SPI PowerNet Pty Ltd (SPI) ring fencing waiver application.

The applicant and the following interested parties made submissions:

- Victorian Energy Networks Corporation (VENCorp)
- Essential Services Commission of Victoria (ESCV)
- South Australian Department of Treasury and Finance (SA Treasury).

No submissions were received from interested parties or the applicant on the draft decision released on 21 December 2004.

On 2 March 2005 the ACCC decided to approve the application for waiver from the ring fencing obligations set out in clause 7.1(a)(ii) of the ACCC's transmission ring fencing guidelines. The ACCC also decided to impose obligations on SPI under clause 9 of the guidelines. In summary, the additional obligations are that SPI's transmission service activities relating to ring fenced services will remain subject to all other aspects of the guidelines. The decision also provides for a review of both this waiver and the additional requirements that are imposed if there's a change in the role of VENCorp and the Victorian distribution businesses in planning and directing augmentation of the Victorian transmission system.

Authorisations

Amendments to Victorian derogations—metering

On 6 April 2004 the ACCC received applications for authorisation of derogations (Nos A90915–17) from the National Electricity Code. These applications were lodged by the National Electricity Code Administrator (NECA) on behalf of the Victorian Minister for Energy, Industries and Resources.

The purpose of the applications for authorisation is to extend Victoria's derogations from chapter 7 of the code until 31 December 2006, and ensure that metering services for small electricity retail customers are exclusively provided by distribution businesses in Victoria.

On 2 March 2005 the ACCC released a final determination on Victoria's application. The final determination authorises Victoria's application for derogations, subject to a condition of authorisation. The effect of the final determination is that distribution businesses will continue to have exclusive responsibility for providing metering services to all small customers using types 5–7 metering installations.

The condition of authorisation ensures that the exclusivity does not include remotely read type 5 interval meters for small customers, irrespective of how frequently those meters are read. The condition will ensure that retailers can choose to be responsible for remotely read interval metering to small customers where this is efficient.

Amendments to NSW derogations—metering

On 27 August 2004 the ACCC received applications for authorisation of derogations (Nos A90928–30) from the code. These applications were lodged by NECA on behalf of the New South Wales Department of Energy, Utilities and Sustainability.

The applications for authorisation seek amendments to New South Wales' derogations from chapter 7 of the code and ensure that metering services for small electricity retail customers are exclusively provided by distribution businesses in New South Wales.

On 2 March 2005 the ACCC released a final determination on NSW's application. It authorises NSW's application for derogations, subject to a condition of authorisation.

This will ensure that distribution businesses will continue to have exclusive responsibility for providing metering services to all small customers using types 5–7 metering installations. The provision of type 5 meters for customers consuming more than 100 MWh per annum is currently contestable in NSW.

The condition of authorisation ensures that the exclusivity does not include remotely read interval meters for small customers. The condition will ensure that retailers can choose to be responsible for remotely read interval metering to small customers, irrespective of how frequently those meters are read.

Dispatching the market—interim arrangements extension

On 16 November 2004 the ACCC received an application for authorisation of a derogation to the code (Nos A90938–40). The application was submitted by NECA on behalf of NEMMCO.

The original derogation concerning interim arrangements for dispatching the market were to expire on 31 December 2004. This date was originally agreed to on the assumption that a final decision on network constraint formulation would be made before that time through the Ministerial Council on Energy's (MCE) consideration of the regional structure of the NEM. However, the MCE is still in the process of considering this issue and for

this reason NECA requested that the derogation be extended to 31 December 2005.

On 9 February 2005 the ACCC released a final determination granting authorisation to extend the derogation relating to interim arrangements for dispatching the market, which give effect to proposals for the management of network limitations within the Snowy region and constraint formulation in the NEM.

Tasmanian FCAS—chapter 8 derogation

On 22 December 2004 the ACCC received an application for authorisation of a derogation to the code (Nos A90948–50). The application was submitted by NECA.

The derogation sets out that mainland NEM participants should not pay for frequency control ancillary services (FCAS) required locally for Tasmania and conversely Tasmanian participants should not pay for FCAS services required locally on the mainland. The derogation is needed as Tasmania will not be interconnected with the other NEM regions at the time of its entry to the NEM. The derogation expires on 31 December 2006 at the latest.

The changes proposed a mandate for NEMMCO to calculate the costs of ancillary services needed locally in each region and globally across the market.

On 9 March 2005 the ACCC released a final determination granting authorisation to the code changes relating to limited regional recovery of regulation ancillary services costs following Tasmania's entry to the NEM.

Minor variation to the authorisation of the National Electricity Code

Publications date of statement of opportunities

On 17 December 2004 NECA lodged an application for minor variation of the authorisations of the code by way of a derogation providing for:

- a delay of the publication date of the statement of opportunities (SOO) from 31 July to 31 October
- the removal of the obligation to publish a mid-year update to the SOO.

NECA proposed that the derogation apply for 2005 only.

The SOO provides information about the adequacy of electricity supplies in the NEM over the next 10 years. The need for the code change arose because of the tight timeframe within which the SOO must be published. It also eliminates the costs of preparing a mid-year update to the SOO.

The ACCC has considered the minor variations and has decided under subs. 91(2)(e) of the Trade Practices Act to amend the existing authorisations of the code to encompass these minor variations. This determination was made on 12 January 2005 and expires on 31 December 2010.

Tasmanian technical derogations

On 4 January 2005 the ACCC received an application for a minor variation to the authorisation of Tasmania's derogations from the code (Nos A90759–61). These applications were lodged by NECA.

Further amendments to Tasmania's derogations are necessary due to changes to the code and other developments subsequent to the Tasmanian derogations being authorised in 2001. In particular, the authorised derogations require amendment to:

- update the references and terminology to be consistent with the amended code and other instruments
- delete a number of derogations which are now irrelevant
- address some unforseen outcomes of changes to the code made as a result of the review of technical standards by the Reliability Panel.

The previously approved derogations have not, as yet, been gazetted by NECA pending determination of a firm starting date for Tasmania's participation in the national electricity market. This is expected to be 29 May 2005 but is subject to confirmation by Tasmania.

The ACCC has considered the minor variations and has decided under subs. 91(2)(e) of the Trade Practices Act, to amend the existing authorisations of the code to encompass these minor variations. This determination was made on 2 February 2005 and expires on 31 December 2010.

Statement of principles for the regulation of transmission revenues

The introductory explanation to chapter 6 of the code envisaged that the ACCC would publish a statement of regulatory intent to establish guidelines explaining how the ACCC would perform its regulatory function. Accordingly in May 1999 the ACCC released its 'Draft statement of principles for the regulation of transmission revenue' (DRP).

In the DRP the ACCC noted that its approach to regulation would need to evolve in response to factors such as code amendments, changes in the industry and improvements in regulatory models and best practice worldwide.

The ACCC has now completed all first round revenue cap decisions. It considered it appropriate to review the principles in light of this experience so that it can apply the revised statement of regulatory principles to second round revenue cap decisions.

The focus of the review is on improving incentives for investment by:

- changing the way sunk assets are valued
- implementing an ex ante capital expenditure (capex) incentive
- maintaining consistency in the calculation of the weighted average cost of capital (WACC).

Valuation of sunk assets

With respect to valuation of sunk assets, the ACCC advocated in the DRP that the asset base should be periodically revalued on a depreciated optimised replacement cost (DORC) basis.

However, revaluations can lead to unpredictable revenues and prices and the prospect of windfall gains or losses. Periodic revaluation can also create a risk that efficient expenditure may not be recoverable. This may deter efficient investment. For these reasons, the ACCC considers that the periodic revaluation of sunk assets should not be continued. The ACCC will now roll forward the value of sunk assets at their depreciated historic cost, taking account of inflation.

Ex ante capex incentives

The SRP outlines an approach to transmission investment regulation that relies on the efficiency incentives arising from the establishment of ex ante investment targets. In designing the revised incentive, the ACCC has sought to promote certainty and create incentives for efficiency while also minimising forecasting errors.

The revised investment incentive consists of two elements, a 'main' ex ante incentive and an 'excluded project' ex ante incentive.
The main ex ante incentive is specified as a capital expenditure target for each year of the regulatory period to be established at the start of each regulatory period. This expenditure target would be based on the expected efficient expenditure for each year of the regulatory period.

It is expected that the majority of investment will be covered by the main ex ante incentive. The expenditure target can have a fixed element and an element that changes in line with key cost drivers, such as demand growth. This provides

TNSPs with the flexibility to deal with reliability issues that emerge within the regulatory period.

At the end of the regulatory period, the depreciated value of the actual expenditure (rather than target expenditure) during the regulatory period will be recorded in the regulated asset base (RAB). This means that TNSPs retain the depreciation and return on investment on the difference between the actual and allowed expenditure (as determined by the ACCC) for the regulatory period. This creates an efficiency incentive for the TNSP as it will be able to achieve a higher return on its assets during the regulatory period if it spends below the expected level, while still delivering the same outputs.

Consistency in WACC calculations

The ACCC has decided to continue to establish the WACC on the basis of benchmark parameters such as the market risk premium, the equity beta and the risk-free rate. Consistency of regulatory approach is intended to increase certainty for TNSPs when making investments. However, the ACCC will continue its research in this area and reserves the right to change the value of the WACC parameters to reflect refinements in the methodology and data.

Transport and prices oversight

Airservices Australia price notification

On 12 August 2004 Airservices Australia submitted a draft price notification to the ACCC covering the periods 2004–05 to 2008–09 and proposing changes to the pricing of its regulated services: terminal navigation (TN); en route navigation (en route); and aviation rescue and firefighting (ARFF) services.

The ACCC released its preliminary view on Airservices' proposed price increases on 5 November 2004. The ACCC indicated in its preliminary view that it did not object to the prices proposed for TN and en route services, but that it objected to Airservices' proposed price increases for ARFF services. In particular, the ACCC expressed concern about the effect of applying the current basis for imposing ARFF charges, i.e. the maximum take-off weight (MTOW) of aircraft with a threshold of 2.5 tonnes.

On 29 November 2004 Airservices submitted a formal price notification to the ACCC which proposed price changes for TN and en route services the same as those set out in its draft price notification. Airservices also proposed that prices for its ARFF services be set at current levels, pending a formal review and consultation process.

In December 2004 the ACCC released its final decision not objecting to price increases proposed by Airservices relating to TN services and prices being maintained at current levels for ARFF services. The prices set out in the price notification took effect on 1 January 2005.

The final decision is available on the ACCC website.

Airports quality of service monitoring report

On 23 December 2004 the ACCC issued its 2003–04 monitoring report on quality of service at major Australian airports—Adelaide, Brisbane, Canberra, Darwin, Melbourne, Perth and Sydney—the second report since price caps were removed.

The ACCC has published regulatory reports for major airports since 1998. Before 2002–03 these reports covered both price cap and quality monitoring, as well as financial reporting. Since 2002–03 the ACCC has included objective measures of quality as well as survey results in the report.

The report shows Brisbane, Melbourne and Sydney airports performing strongly across the range of quality of service indicators. Canberra, Darwin, Perth and Sydney airports all achieved reasonable ratings across the same range of indicators. Adelaide airport achieved slightly low ratings, but its results may have been affected by the construction of new terminal facilities.

The ACCC found no marked changes in overall survey ratings by users compared with the previous year. Passengers continued to rate the international terminal facilities at Brisbane, Melbourne, Perth and Sydney airports as good. Airline users generally rated facilities at the airports as satisfactory to good while the ratings for terminal facilities ranged from good for Brisbane and Melbourne airports to between poor and satisfactory for Adelaide, Darwin and Perth airports.

Quality monitoring is complementary to the ACCC's role of price monitoring, as there is potential for airport operators to reduce quality as an effective alternative to increasing prices. The report suggests little evidence of this.

The report is available on the ACCC website.

Airports price monitoring and financial report

On 21 February 2005 the ACCC released its *Airports price monitoring and financial report 2003–04*. The report provides information on the prices, costs and profits of Adelaide, Brisbane, Canberra, Darwin, Melbourne and Sydney airports.

The report shows that aeronautical revenue per passenger increased by between 46 and 201 per cent between 2000–01 and 2003–04. In 2003–04 increases in average revenue were less (up to 16 per cent) and in some cases average revenue fell.

Average airport costs increased by between 3 and 67 per cent from 2000–01 to 2003–04, but in 2003–04 unit costs fell for most airports. Greater security requirements at airports since 2001 contributed to these increases. However, the increases in unit costs since 2000–01 are small compared with the price rises and, combined with increased traffic, the ACCC reported significant increases in several measures of airport profitability. Aeronautical margins as well as returns on assets increased.

The full report is available on the ACCC website.

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National Competition Council (NCC)

Part IIIA matters

Pilbara rail services

On 15 June 2004 the NCC received an application under Part IIIA of the Act from Fortescue Metals Group Ltd (FMG) for declaration of a service described as the use of part of the Mt Newman and Goldsworthy railway lines in the Pilbara region of Western Australia. The railway lines are managed by BHP Billiton Iron Ore Pty Ltd but are owned by separate joint ventures (BHP Billiton Minerals Pty Limited being the major joint venture participant in each joint venture). The railway lines are used to transport iron ore to the Port Hedland iron ore processing and export facility.

FMG's application raised a number of preliminary matters under Part IIIA. The principal issue was whether the 'service' (the subject of the application for declaration) was a 'service' to which Part IIIA applied or whether it involved the use of a production process for the purposes of the service

definition exemption in s. 44B. If it did, Part IIIA would not apply to the 'service' and the NCC would not be able to consider the application further.

Given the pivotal nature of the production process issue, the NCC considered it appropriate to decide the issue before progressing with a substantive consideration of the application against the declaration criteria. The NCC sought public submissions on the preliminary matters. It released a statement of reasons in December 2004 in which it concluded that the service provided by the Mt Newman railway did not involve the use of a production process whereas the service provided by the Goldsworthy line did. As such, declaration of the former but not the later service could be sought under Part IIIA.

On 24 December 2004 BHP Billiton Iron Ore applied to the Federal Court for a declaration that the use of the Mt Newman line is not a service within the meaning of s. 44B. An order prohibiting the NCC from further considering FMG's declaration application was also sought. In February 2005 FMG applied to the Federal Court for a declaration that the use of the Mt Goldsworthy line is a service within the meaning of s. 44B. The court has determined that these two matters will be heard together.

The NCC's statement of reasons

In considering the production process issue, the NCC was bound by the Hamersely decision of the Federal Court. In that decision Justice Kenny held that the term 'production process' means a series of operations by which a marketable commodity is created or manufactured (s. 44B).

Applying this test to the Mt Newman railway line, the NCC noted that three of the six iron ore products that involve use of the line were blended before rail transportation to the port. A contract of sale indicated that one of those prior blended products was sold as a finished product before transportation. Similar sales arrangements were for the other two prior blended products. As at least one product was marketable before use of the railway line, the use of the line cannot be said to involve the use of a production process.

In the case of the Goldsworthy railway line, all three iron ore products that use the line are blended and processed at the port. There was no evidence that the constituent ores were marketed before transportation to the port. As such, the use of the railway line involved the use of a production process and was not subject to Part IIIA.

Having concluded the matter by applying Justice Kenny's test, the NCC suggested an objective economic test to assess the production process issue. The NCC suggested that a production process would exist if the transaction costs to the economy as a whole of decomposing a set of activities into services that are made available separately exceed the gains of doing so. Conversely, when separation of a set of services imposes costs that access seekers can be required to meet through access prices and conditions, the services concerned cannot be considered to form a production process. The NCC concluded that if it was to apply this economic test, it was unlikely that either the services provided by the Mt Newman or the Goldsworthy railway lines amounted to the use of a production process.

Snowy water storage services

On 8 October 2004 the NCC received an application under Part IIIA from Lakes R Us Pty Ltd for the declaration of particular water storage, transportation and release services in the Snowy River system. The applicant sought access to manage water entitlements for, among other things, participation in the water lending and trading markets. On 12 January 2004 Lakes R Us completed its application by providing supplementary material. The service providers in the matter are Snowy Hydro Limited and State Water. The decision maker in the matter will be the Premier of New South Wales.

This is the first Part IIIA declaration application that has been made for water infrastructure.

The NCC will release an issues paper calling for public submissions on this matter in April 2005.

Sydney sewage reticulation network services

In December 2004 the NCC forwarded its final recommendation on Services Sydney's application for declaration of interconnection and transportation services provided by Sydney Water's sewage reticulation network to the decision maker in the matter, the Premier of New South Wales.

The NCC forwarded its final recommendation to declare the services to the Premier in December 2004. As the Premier did not make a decision within 60 days after receiving the NCC's recommendation, the Premier was deemed, under s. 44H(9) of the Act, to have made a decision not to declare the services.

Services Sydney has sought a review of this decision by the Australian Competition Tribunal.

National gas code

Goldfields gas pipeline

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

In July 2004 the minister accepted the NCC's recommendation and determined not to revoke coverage. GGT applied to the Western Australian Gas Appeals Board for a review of the minister's decision. The substantive hearing is listed for October 2005.

A preliminary matter considered by the appeals board related to the NCC's role in the proceedings. The NCC sought to be joined as a respondent and heard as a party to the proceedings. The applicants opposed the NCC's application. The appeals board granted the leave sought by the NCC. In doing so, the board noted that the matter was not limited to a consideration of private interests and that the public interest was best served in allowing the NCC a greater role in proceedings. The board noted that the NCC had a sufficient interest in the proceedings and that that interest 'arises out of the NCC's role, scope and purpose of the statutory functions it is required to perform.' The board also noted that the assistance the NCC could provide would be both 'necessary and appropriate' and that it would 'assist the board to perform its function to determine' the application for review.

Moomba to Adelaide pipeline system

On 15 March 2005 the NCC received an application from Epic Energy South Australia Pty Ltd for revocation of coverage under the *Gas Pipelines Access (SA) Act 1997* of the transmission pipelines within the Moomba to Adelaide pipeline system. The system is comprised of the main transmission pipeline which runs from Moomba to Adelaide in South Australia and laterals (SA:PL1).

The NCC is calling for public submissions in response to the application by 3 May 2005.

Dawson Valley pipeline

On 16 March 2005 the NCC received an application under the gas code from Molopo Australia Limited for coverage of the Dawson Valley Pipeline.

The pipeline (Qld: PPL 26) extends from Dawson Valley to the Wallumbilla to Gladstone pipeline.

The NCC is calling for public submissions in response to the application by 4 May 2005.

Certification matters

Tasmania gas access regime

On 13 October 2004 the Tasmanian Government applied to the NCC for a recommendation that the state's access regime for gas pipeline services is an effective access regime under s. 44M of the Act. The NCC released a draft recommendation in February 2005. The draft recommendation was that the regime be certified.

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state developments

Victoria

Essential Services Commission (ESC)

Energy

2006–10 electricity distribution price review

In March 2004 the ESC formally established a new set of price controls to apply to the Victorian electricity distribution businesses from 1 January 2006. This new set of price controls will apply until 31 December 2010.

The price review started with the release of 'Consultation paper no. 1: framework and approach' which sets out the framework and approach of the ESC. Further consultation papers on the service incentive arrangements and the future regulation of excluded service charges were released, as well as a paper seeking comment from stakeholders on issues related to metering services.

In October 2004 the distributors submitted their price-service proposals to the ESC. The price-service proposals will be a central focus for the price review going forward and will provide the basis for analysis and discussion between the ESC, distributors and other stakeholders until the draft decision is released in June 2005.

On 14 December 2004 the ESC released an issues paper that identified key issues for public comment arising from the ESC's preliminary analysis of the distributors' price-service proposals. Submissions in response closed on 28 January 2005.

The ESC will release a position paper that sets out the ESC's preliminary view on the key issues arising in the price review. A draft decision is due in early June 2005 followed by a final determination in August 2005.

Information on the progress of the review and the consultation process is provided at the website the ESC has created for the price review: www.esc.vic.gov.au/electricity699.html.

Electricity transmission augmentation and land access guideline

On 19 March 2004 the ESC released its issues paper—'Access to land held by a transmission company for augmentation of the electricity transmission system'—and received a total of six detailed submissions.

The purpose of the issues paper followed amendments to the *Electricity Industry Act 2000* that established the statutory framework for the resolution of land access for transmission augmentation in accordance with the guidelines to be prepared and published by the ESC. The ESC also proposed combining the land access guideline with a guideline accommodating contestability for transmission works. An issues paper concerning this last matter was released by the ESC in July 2003.

Following significant consultation with key stakeholders the ESC released its draft combined guideline for comment by stakeholders. Submissions were accepted until 4 February 2005.

The ESC received five submissions which it is currently reviewing and intends releasing its final decision and guideline by April 2005.

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

The Victorian Government amended the energy legislation in late 2004 to provide for compensation for small customers who are disconnected from their energy supply other than in accordance with the terms and conditions of their contract. The ESC has consulted with retailers, consumer groups and other stakeholders on operating procedures to implement this statutory requirement. The Victorian Energy and Water Ombudsman has a key role in complaints and dispute resolution, and the ESC will be required to make a determination if agreement cannot be reached. The compensation is $250 per day.

In the course of these consultations, further issues have arisen for retailers and consumer groups on how to ensure the best possible assistance for customers in hardship. The ESC is facilitating workshops on these matters.

Retail performance monitoring and reporting

The report on the re-audit of Origin Energy was published in December 2004. The ESC is further auditing all local retailers in January/February 2005 on the obligations in the retail codes on disconnections and capacity to pay. Results will be published in April/May 2005.

The 2003 comparative performance report and January–June 2004 disconnections report for retailers was published in December 2004. This report provided information on all retailers selling to customers in Victoria.

The ESC revised the performance indicators in early 2004 to better monitor whether customers who do not have the capacity to pay their accounts are being disconnected by retailers. These indicators took effect from 1 January 2005, and other jurisdictions are considering their national implementation through the Utility Regulators' Forum.

Price disclosure and comparison

In September 2004 the Minister for Energy Resources and the chairperson of the ESC publicly launched the Energy Comparator, developed by the ESC as an online tool which enables a consumer to compare an offer made by an energy retailer against their current gas and/or electricity arrangements. The Victorian Government has subsequently placed a statutory obligation on retailers to publish tariffs and other details of offers on their website to enable consumers to compare an offer directly with the Energy Comparator. The ESC is required to develop a guideline setting out the manner in which these offers should be published. In developing this guideline the ESC will continue to examine placing obligations on retailers to provide a written fact sheet with each offer sent to consumers, similar to those used in overseas jurisdictions and which have recently been implemented by ESCOSA. The ESC will publish this guideline in April 2005. Further work will be undertaken in 2005–06 on a comprehensive interactive website price comparison tool, similar to those available for financial and other products.

National consistency and market monitoring

The ESC continues to consult with other jurisdictions to develop consistency in its customer protection regulatory instruments and convenes the steering committee on energy retail consistency (SCERC) under the auspices of the Utility Regulators' Forum.

At its quarterly meeting in November 2004 the forum endorsed the SCERC continuing to develop a 'best practice' model for retail service standards and other regulatory instruments. This work will be coordinated with the MCE developments.

Market conduct

The ESC has coordinated regulatory activities with Consumer Affairs Victoria (CAV) in monitoring and enforcing market conduct regulation. This activity has involved three retail businesses in the past six months, including interstate retailers. The ESC continues to take a vigilant monitoring role in market conduct and determines the approach to compliance and enforcement with CAV, in accordance with the memorandum of understanding.

Energy retailer of last resort

The ESC is currently in the process of reviewing the issues raised in the submissions received to their issues paper released on 14 October 2004 before developing its draft decision for both the gas and electricity RoLR schemes. For further information see *Network 18*.

Natural gas extensions

The Victorian Government has committed $70 million under the Regional Infrastructure Development Fund to help provide reticulated natural gas to towns in rural and regional Victoria through its natural gas extension program. The majority of program funds are being allocated to developers through a centralised competitive tender process, which is being administered by Regional Development Victoria (RDV). The ESC provided assistance to RDV in providing advice and information on the proposed regulatory treatment of projects conducted through the program.

The ESC expects several tender outcomes will seek regulatory approval under the national gas code. The ESC has considered and issued final decisions for applications from Envestra regarding the provision of natural gas to the East Gippsland towns of Bairnsdale and Paynesville. Both proposals sought the ESC's ex ante approval under s. 8.21 of the gas code that the forecast New Facilities Investment to reticulate Bairnsdale and Paynesville meet the requirements of s. 8.16(a) of the code. The ESC released its final decision on the Envestra's Bairnsdale proposal on 12 May 2004 and for the Paynesville proposal on 30 July 2004.

TXU (SPI) networks also made a similar application on 22 December 2004 for exante approval for the reticulation of some 12 towns including Macedon Ranges (including Woodend, Macedon, Riddell's Creek, Romsey, Lancefield, Gisborne and New Gisborne), Creswick, Camperdown, Barwon Heads, Port Fairy and Maiden Gully meets the s. 8.16 (a) requirements of the code.

The ESC received four submissions on the TXU proposal and, following further analysis of the proposal and the submissions received, anticipates issuing its draft decision for comment in March with a final decision in April 2005.

Interval meter rollout

In July 2004 the ESC released its final decision on the mandatory rollout of interval meters for electricity customers in Victoria. The mandatory rollout will commence in 2006 and will follow a timetable based on customer size and meter type.

As part of the electricity distribution price review (EDPR), the ESC has proposed that distributors will be exclusively responsible for rolling out manually read interval meters to customers with annual consumption less than 160 MWh. Metering services for these customers will be classified as a prescribed service. The metering service charges will be unbundled from the distribution use of charges through a separate price control.

From 1 January 2006 it is proposed that the retailer will have the choice of responsible person (retailer or distributor) for customers with annual consumption greater than 160 MWh or with a remotely read interval meter. Metering services for these customers will be classified as an excluded service. The responsible person will be responsible for rolling out an interval meter to these customers within the timeframes specified.

As part of their price-service proposals submitted for the EDPR, the distributors have forecast the way in which manually read interval meters will be rolled out to customers with annual consumption less than 160 MWh, the costs for doing so, and the metering service charges that will be levied. The ESC and its consultants are currently assessing the reasonableness of the distributors' proposals. A report by the consultants is due for release in March 2005. The ESC's decisions with regard to metering will be made in conjunction with the EDPR.

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Western Australia

Economic Regulation Authority (ERA)

All decisions, determinations, reports, discussion papers and public submissions are available at www.era.wa.gov.au.

References and research

Urban water and wastewater pricing inquiry

The ERA is conducting an independent inquiry into the pricing structures and tariff levels of the Water Corporation's urban water and wastewater services, and the Bunbury and Busselton water boards' water services.

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

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Inquiry on the cost of supplying bulk potable water to Kalgoorlie-Boulder

On 13 January 2005 the Treasurer requested that the ERA undertake an inquiry into the cost of supplying bulk potable water to Kalgoorlie-Boulder and surrounding regions.

In accordance with the terms of reference, the ERA is comparing the current cost to the Water Corporation of providing bulk potable water to Kalgoorlie-Boulder with the costs of a proposal by United Utilities Australia to pipe desalinated seawater from Esperance to Kalgoorlie-Boulder. The ERA will also be examining the avoidable costs to the Water Corporation if the United Utilities Australia proposed scheme were to go ahead, the impact of each option on government finances and the costs and benefits of each option.

A draft report will be published by 6 May 2005 and public submissions on the draft report will be invited. The final report will be published by 4 July 2005.

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Industry access

Gas

Dampier to Bunbury natural gas pipeline (DBNGP)

See Network 18 for more background information.

As previously reported, after the ERA approved an access arrangement for the Dampier to Bunbury natural gas pipeline (DBNGP) in December 2004, an application of appeal to the Western Australian Gas Review Board (GRB) was lodged by Western Power. The review was initially scheduled to be heard in early March 2005, but has been adjourned until 1 June 2005.

Revisions to the DBNGP's access arrangement for a second five-year period were originally scheduled for 1 December 2004 but the new owners of the pipeline, DBNGP (WA) Transmission Pty Ltd, (DBNGPT), requested an extension to 21 January 2005. After a public consultation process the ERA agreed to extend the date to 15 January 2005. Public submissions for the earlier request indicated that there would be parties financially disadvantaged by any delay to the completion of the revision process beyond 30 June 2005 through the continuation of certain aspects of the existing access arrangement.

The submission period closed on 14 March 2005. Copies of the proposed revisions to the DBNGP access arrangement and public submissions from interested parties are available at www.era.wa.gov.au.

A draft decision is expected to be released shortly.

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Goldfields gas pipeline (GGP)

See p. 8 this issue and Network 18 for more background information.

An application by the owners of the Goldfields gas pipeline (GGP) for revocation of the pipeline from the regulatory regime in March 2003 was reviewed by the NCC which recommended that coverage should not be revoked. On 2 July 2004 the minister accepted the NCC recommendation and determined not to revoke coverage. The owners of the GGP have lodged an appeal against this decision and the GRB is scheduled to hear the matter in October 2005.

The ERA issued the amended draft decision for the proposed access arrangement for the GGP on 29 July 2004. The final decision is expected to be issued shortly.

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Mid-west and south-west gas distribution systems

See Network 18 for more information.

AlintaGas Networks Pty Ltd (AGN) submitted proposed revisions to the access arrangement for the mid-west and south-west gas distribution systems on 31 March 2004.

On 28 February 2005 the ERA released its draft decision and determined that the proposed revisions to AGN's access arrangement would not be approved in its current form. The decision by the ERA requires AGN to make amendments to the proposed reference tariffs for gas transportation and to the terms for access to the gas distribution system. Submissions on the draft decision closed on 21 March 2005.

AGN provided a comprehensive response to the draft decision which included a marked up version of the proposed revised access arrangement (PRAA). AGN also submitted some revisions to the AAI. Other submissions were received from: Energy Networks Association, the Office of Energy, Parmelia APT (the new owner of the Parmelia pipeline, a secondary transmission pipeline supplying gas to one part of the AGN distribution system) and Western Power, the state owned electricity utility. All submissions are available at www.era.wa.gov.au.

It is anticipated the final decision will be released in June 2005.

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Electricity

Electricity networks access

On 30 November 2004 the ERA assumed responsibility for the Electricity Networks Access Code 2004 established under the *Electricity Industry Act 2004*.

Under the access code the ERA is responsible for regulating the terms and conditions of access, including prices, for regulated electricity networks in Western Australia. The ERA also performs regulatory oversight functions (such as monitoring, ring fencing and approving annual price lists) under the access code and is responsible for approving technical rules for regulated electricity networks.

At the commencement of the access code, the only regulated network in Western Australia is Western Power Corporation's South West Interconnected Network (SWIN) within the south-west interconnected system. Western Power is obliged to submit a proposed access arrangement, access arrangement information and technical rules to the ERA by the end of May 2005.

In preparation for the assessment process, the ERA published a determination of the preferred weighted average cost of capital methodology to apply to networks on 25 February 2005. Both Western Power and the ERA must consider the preferred WACC methodology, as must the service provider of a network which subsequently becomes covered while the determination is in effect.

A technical rules committee has been established to provide specialist knowledge and advice to assist the ERA in approving the first technical rules proposed by Western Power for its SWIN. Technical rules consist of network benchmarks and standards, procedures and planning criteria.

The access code also provides for ring fencing arrangements to ensure that network service providers deal with related businesses and other associates on an arms-length, commercial basis. The ERA may establish ring fencing rules to enforce these arrangements. The ERA recently released a discussion paper to facilitate public comment on the development of ring fencing rules to apply to Western Power's networks business.

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Rail

Review of railways access code

The Western Australian rail access regime has been in place since September 2001. Section 12,

Part 2 of the *Railways (Access) Act 1998* requires the rail access regulator to undertake a review of the Railways (Access) Code 2000 on the third anniversary of its commencement and every five years thereafter. The ERA is the relevant regulator under the legislation.

Section 12 of the Act also requires the ERA, as part of the review process, to undertake public consultation for a minimum period of thirty days and prepare a report based on the review for the minister. The ERA released a notice on 23 February 2005 inviting interested parties to make submissions on the code review. The submission period closes on 28 March 2005.

An issues paper was also released on 23 February 2005 to assist stakeholders in making submissions. The issues paper is available at www.era.wa.gov.au.

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Review of cost allocation methodologies

As indicated in *Network 18*, the ERA has established a working group comprising rail owners and rail network users to review methodologies for allocating common costs to rail routes. The current methodology used has created anomalies on some rail lines with relatively short routes that carry heavy traffic. A report will be provided to the ERA's governing body by June 2005 recommending changes to the current methodology to better ensure an equitable outcome for the railway owner and users of the rail network.

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Licensing, monitoring and customer protection

Electricity licensing

From 1 January 2005 the ERA has the role of licensing electricity supply services in Western Australia in accordance with the *Electricity Industry Act 2004*. A person or organisation intending to supply or sell electricity in Western Australia must be licensed by the ERA unless an exemption under the Act has been provided. An electricity supply includes the means to generate electricity, transport electricity through a transmission or distribution system and sell electricity to customers.

The ERA has prepared an application form for an electricity supply licence and draft copies of the electricity industry guidelines: 'Information for licence applicants and the generation licence'. All of these documents are available at www.era.wa.gov.au.

The development of retail, transmission, distribution and integrated regional licences will be completed by the end of 2005.

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Gas licensing

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

Standard form contracts as approved by the ERA facilitate the provision of services to residential and small business customers and ensure that the rights of these customers are readily understood and protected.

Standard form contracts were submitted by each of the three holders of gas trading licences: Alinta Sales Pty Ltd, Wesfarmers Kleenheat Gas Pty Ltd and Burns and Roe Worley Power Generation (Esperance) Pty Ltd. The standard form contracts were approved and became effective from 1 December 2004.

In January 2005 the ERA approved an application to transfer the gas distribution licence from Burns and Roe Worley Power Generation (Esperance) Pty Ltd to a related company Esperance Power Station Pty Ltd.

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Water licensing

In February 2005 the ERA has approved the grant of water service operating licence for the Shire of Denmark made to cover an existing non-potable water supply servicing the leasehold area within part of reserve 24510 Peaceful Bay.

The ERA released an issues paper regarding an application by the Water Corporation for an amendment to its water services operation licence to align its metropolitan operating area boundary with that of the Western Australian Planning Commission's Metropolitan Region Scheme boundary. Public submissions on this issue closed on 21 February 2005. The ERA's decision on the proposed amendment will be released in April 2005 and will be available at www.era.wa.gov.au.

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Monitoring

Gas monitoring

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

The existing gas trading and distribution licensees Alinta Sales Pty Ltd, AlintaGas Networks Pty Ltd and Wesfarmers Kleenheat Gas Pty Ltd were required to provide both these reports to the ERA by the end of 2004.

Wesfarmers Kleenheat Gas Pty Ltd submitted their reports to the ERA on 23 December 2004. The independent expert confirmed good general compliance with the required standards and requirements for their gas trading and distribution licences.

Alinta Sales Pty Ltd and AlintaGas Networks Pty Ltd were granted an extension to 25 February 2005 to submit these reports, which have now been received and are being reviewed.

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Water monitoring

The Bunbury Water Board (Aqwest) has complied with its licence requirement to conduct an operational audit which demonstrated its effectiveness of measures taken to maintain the quality and performance standards referred to in its licence.

Further, Aqwest and the Water Corporation have complied with its licence requirements to provide for an asset management system which sets out the measures to be taken by these organisations for the proper maintenance of assets used in the provision of water services and for the undertaking, maintenance and operation of water services works.

Busselton Water Board and Rottnest Island Board are currently in the process of conducting their operational audits and asset management reviews.

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South Australia

Essential Services Commission of South Australia (ESCOSA)

Corporate

Essential Services Commission of SA 2003–04 Annual Report

ESCOSA's annual report was tabled in parliament on 26 October 2004 by the Treasurer, the Hon. K Foley. The report provides a summary of ESCOSA's activities and achievements for the 2003–04 financial year. Printed copies of the report can be obtained by contacting ESCOSA by email (escosa@escosa.sa.gov.au) or on (08) 8463 4444.

Key issues for the 2005–06 work plan

ESCOSA has commenced planning for its work program in 2005–06 and beyond, and has developed some initial ideas on key issues it should incorporate into its work program for the following year. As part of this process a discussion document setting out the key issues was released, seeking comments from interested stakeholders with a view to assisting ESCOSA with the revision of the 2004–06 strategic plan. A draft plan will be released in April 2004, following consideration of any submissions received and an internal strategic planning workshop to be conducted in late March. The final strategic plan will be submitted to the Treasurer in June in accordance with s. 23 of the *Essential Services Commission Act 2002*.

Energy

Prepayment metering consultation code

As a further step in its consideration of a regulatory framework for prepayment meters, ESCOSA prepared and released for stakeholder comment a consultation draft of a prepayment metering code.

The consultation code takes into account comments received by ESCOSA on the 'Consumer issues with prepayment meters' report prepared for the Consumer Advisory Committee and work undertaken elsewhere in Australia on prepayment meter issues.

Comments have been sought on all issues covered by the code including matters such as the operating information to be provided to consumers, the proposed mandatory trial period, proposed limits on the recovery of debt and charging for other goods and services through the prepayment meter, the proposed amount of emergency credit and the provisions dealing with payment difficulties and hardship. Following receipt of submissions ESCOSA intends to finalise the proposed code, with one final opportunity for consultation before the making of the code, which is anticipated for May 2005.

Energy price disclosure code/price information disclosure in the competitive gas market

Under s. 26A(2)(d) of the *Gas Act 1997* ESCOSA is required to create an industry code to regulate price information by retailers to small customers, enabling small customers to compare competing gas offers with greater ease.

ESCOSA has already issued an electricity price disclosure code, and sought to base the energy price disclosure code on this document, encompassing ESCOSA's obligations under both ss. 26A(2)(d) of the Gas Act and s. 24(2)(d) of the *Electricity Act 1996*.

As part of this process ESCOSA issued an issues paper entitled 'Price information disclosure in the competitive gas market' and sought feedback and comment from energy industry participants, consumers and other stakeholders for the proposed energy price disclosure code. ESCOSA received five submissions.

ESCOSA subsequently issued an energy price disclosure code under s. 28(1) of the *Essential Services Commission Act 2002*, s. 24(2)(d) of the *Electricity Act 1996* and s. 26A(2)(d) of the *Gas Act 1997*. This code is intended to facilitate the comparison by customers of competing market offers for gas and electricity and revokes and replaces the electricity price disclosure code.

The energy price disclosure code commenced on 1 January 2005.

Small customer transfer statistics

ESCOSA in its FRC monitoring final decision paper (released in September 2004) advised that it would move to releasing six-monthly substantive FRC monitoring reports (September and March), and that it intended to commence the routine reporting of monthly electricity and gas transfer statistics. The first of the six-monthly substantive reports was released in September 2004.

As at 31 December 2004 the schedule of completed transfers to market contracts for South Australian electricity and gas small customers shows:

- around 227 000 small customer completed transfers to electricity market contracts since the start of electricity FRC on 1 January 2003, representing 31 per cent of the small customer base of 740 000
- around 38 000 small customer completed transfers to gas market contracts since the start of gas FRC on 28 July 2004, representing 10 per cent of the small customer base of 365 000.

The next six-monthly substantive FRC monitoring statistical report was due to be released at the end of March 2005.

Annual performance reports

ESCOSA released two reports which summarise the performance of the SA electricity and gas supply industries during 2003–04. The electricity report is the fifth annual performance report on SA's electricity supply industry released by ESCOSA. Its particular focus is on the performance of the retail, distribution and transmission sectors of the industry in South Australia over the past year.

The gas report is the first separate annual performance report for regulated gas businesses in South Australia and focuses on the retail, retail market administration and distribution sectors. ESCOSA assumed certain regulatory functions for the gas industry from 1 July 2003.

Gas and electricity price comparison service updated

ESCOSA has updated the Estimator price comparison service for residential electricity and gas retail offers that changed on 1 January 2005. The Estimator is an easy, user-friendly application available from the link-on the home page of ESCOSA's website. ESCOSA recognises that to participate effectively in the competitive gas and electricity markets, consumers need access to relevant information to help them make informed choices. The Energy Choice Price Comparison Service, and the online Estimator provide tangible assistance to residential gas and electricity consumers, allowing them to compare retail offers and determine which might be the best for them.

Users enter information from their recent energy bills, and are provided with an estimate of their energy costs under electricity and gas standing contracts and under other market contracts available from licensed energy retailers.

Electricity

Electricity retail price path inquiry

On 14 September 2004 ESCOSA released a discussion paper as part of the electricity retail price path inquiry. This inquiry was referred to ESCOSA by the Minister for Energy on 26 May 2004. The discussion paper was released with studies commissioned from the Electricity Supply Industry

Planning Council (ESIPC) and the Allen Consulting Group.

ESCOSA received seven submissions for the electricity retail price path inquiry discussion paper. ESCOSA also received three confidential submissions from AGL, EnergyAustralia and NRG Flinders.

A public hearing was held on 20 October 2004. Four of the organisations that made a submission made a presentation to ESCOSA.

On 30 November 2005 ESCOSA released its draft report on the inquiry into the electricity retail price path. It also released a draft price determination, which will apply from 1 January 2005. The draft determination applies to AGL SA's standing contract process from 1 January 2005 to 31 December 2007.

On 23 December 2004 ESCOSA made a final price determination under the *Essential Services Commission Act 2002*, fixing the electricity standing contract prices which may be charged to small electricity customers by AGL SA in accordance with s. 36AA of the *Electricity Act 1996*.

The price determination set a price path for all standing contract prices, having effect for a period of three years from 1 January 2005. The existing electricity standing contract price determination was revoked with effect from that date.

On 12 January 2005 AGL SA sought a review under s. 31 of the Essential Services Commission Act of the 'Electricity standing contract price determination' published by ESCOSA on 23 December 2004.

In summary, AGL SA sought a review of the price determination for:

- those parts of the price determination that relate to wholesale energy costs, retail operating costs, and retail margin which AGL SA complains are too low or otherwise inadequate
- the failure of ESCOSA to follow statutory requirements and objectives
- those parts of the price determination that are beyond power.

The AGL SA review application and the supporting documents (amounting to some three boxes of materials) was treated as confidential. Following consultation with AGL SA, ESCOSA has publicly released an executive summary of the application.

In accordance with Part 6 of the *Essential Services Commission Act 2002*, ESCOSA provided a copy of AGL SA's application to the Treasurer and invited him to become party to the review.

ESCOSA had six weeks within which to decide the outcome of the review. It had the option of confirming, varying or substituting the price determination, and must provide written notice of the decision and reasons for the decision. ESCOSA's decision is open to appeal to the District Court.

On 11 February 2005 the Treasurer, Hon. K Foley MP, lodged a submission regarding the review application and indicated he wished to be joined as a party to the review.

On 21 February 2005 ESCOSA issued its decision regarding the review application. Following extensive consideration of the matters raised by AGL SA in its application and in the submission from the Treasurer, Hon. K. Foley MP, ESCOSA decided, under s. 31 (8) of the ESC Act, to confirm the standing contract price determination of 23 December 2004.

ESCOSA is currently in the process of finalising the electricity retail price path inquiry: final report, which is scheduled for release at the end of March 2005. In response to the draft report ESCOSA received one submission from NRG Flinders.

Draft electricity distribution price determination 2005–10

The electricity distribution business in South Australia, ETSA Utilities, provides electricity distribution services to consumers in accordance with standards set by ESCOSA. ETSA Utilities is entitled to charge customers in exchange for services at those standards at prices set by ESCOSA.

ESCOSA is required by legislation to establish price controls to apply to ETSA Utilities from 1 July 2005 to 30 June 2010 through a price determination.

On 30 November ESCOSA released its 'Draft 2005–10 electricity distribution price determination', which reflects its views on the price controls and service standards it considers should be applied to ETSA Utilities from 2005–10, following an extensive consultation process extending over a two and a half year period. As part of its review process ESCOSA engaged PB Associates to undertake an independent assessment of ETSA Utilities' proposed operating and capital expenditure for the 2005 to 2010 regulatory period.

The draft determination comprises two parts: part A contains a statement of reasons for the draft price determination and part B contains the draft price determination itself.

ESCOSA has sought stakeholder comment on the draft determination to assist with the finalisation of the price determination. In response to this request, ESCOSA received eight submissions, all of which are available on the ESCOSA website. These submissions are currently being reviewed and will assist ESCOSA in finalising the price determination.

The final price determination, which will set out ESCOSA's final position on the price controls and service standards it will apply to ETSA Utilities for the 2005–10 regulatory period, was due to be released at the end of March 2005.

Electricity compliance audits

ESCOSA has appointed Deloitte Touche Tohmatsu for the initial conduct of regulatory compliance audits in the electricity sector. The appointment was made following an open tender process finalised in October 2004.

The compliance areas being audited are:

- compliance with FRC obligations by licensees retailing to small customers
- compliance with performance reporting obligations by licensees, under ESCOSA's Electricity Industry Guideline No. 1 and Energy Industry Guideline No. 2.

This audit work is expected to be finalised by January 2005 and March 2005, respectively.

Discussion paper: contestable augmentation of the electricity distribution network

Chapter 3 of Part A of the distribution code deals with the procedures to be followed by ETSA Utilities for establishing connections to the distribution network in situations where network extension and/or augmentation are required.

A review of the provisions of chapter 3 was commenced in December 2001 with the release of a discussion paper. Following receipt of submissions on the discussion paper, and review of those submissions, ESCOSA published a position paper in June 2003; 'Review of distribution code, chapter 3: connections requiring network extension and/or augmentation', outlining its preferred position for the issues such as contestability of works and network augmentation costs.

In the June 2003 paper ESCOSA endorsed the principle of expanding contestability in distribution services and proposed to review this matter with stakeholders.

The current discussion paper reviews the relevant issues and seeks comments on ESCOSA's position and provides some specific examples to focus discussions. However, ESCOSA would also be pleased to receive submissions that identify other relevant issues that should be considered.

Power Line Environment Committee annual report

The Power Line Environment Committee (PLEC) annual report for 2003–04 has been distributed to the Minister for Energy, all members of parliament and local government organisations. The report summarises project works implemented throughout 2003–04 and projects approved by the Minister for Energy for construction throughout 2004–05.

Licensing

Wind electricity licence—applications

ESCOSA has received the following applications:

- On 10 December 2004 TrustPower Australia Holdings Pty Ltd applied for the issue of a generation licence on behalf of Snowtown Wind Farm Pty Ltd (ACN 109 468 804). The application relates to the proposed operations of a wind farm with a total output capacity of between 135 MW and 180 MW. Snowtown Wind Farm Pty Ltd's current ultimate parent company is TrustPower Limited, a listed company on the New Zealand stock exchange with significant experience in electricity retailing and the management and development of renewable generation assets. The Snowtown wind farm development is located in the Barunga Ranges in South Australia.
- On 13 December 2004 Wind Prospect Pty Ltd (ACN 091 885 924) applied for the issue of a generation licence relating to the proposed operations of a wind farm with a maximum output capacity of 200 MW. Wind Prospect Pty Ltd is majority-owned by Wind Prospect Group Limited, a UK-registered private company with international renewable energy development experience. The Barunga wind farm development is located in the Barunga Ranges in South Australia.
- On 16 December 2004 ESCOSA received an application from Lake Bonney Wind Power Pty Ltd (ACN 104 654 837) to vary the generation licence issued by ESCOSA in July 2002 for Stage 1 of the 80 MW 'Lake Bonney wind farm' to accommodate additional capacity of approximately 160 MW, thus increasing the total capacity of this wind farm to 240 MW.
- On 20 December 2004 TrustPower Australia Holdings Pty Ltd applied for the issue of a generation licence on behalf of Sellicks Hill Wind Farm Pty Ltd (ACN 101 038 386). The application relates to the proposed operations of a wind farm with a total output capacity of 40 MW. The proposed wind farm would be located on the Fleurieu Peninsula in South Australia. Sellicks Hill Wind Farm Pty Ltd's current ultimate parent company is TrustPower Limited, a listed company on the New Zealand stock exchange with significant experience in electricity retailing and the management and development of renewable generation assets.
- On 24 December 2004 ESCOSA received an application by Willogoleche Power Pty Ltd (ACN 112 307 589) for the issue of a generation licence for a wind farm with a total output capacity of between 52 MW and 78 MW. The wind farm site is located to the north of Adelaide, and will be connected to the ElectraNet transmission network. The applicant's ultimate parent company is International Power PLC, whose subsidiaries hold electricity licences in South Australia and Victoria.

These applications have been lodged under Part 3 of the *Electricity Act 1996* and will be assessed against relevant criteria specified in that Act and the *Essential Services Commission Act 2002*. As previously advised ESCOSA has determined that it will refer any new electricity generation licence applications to the Electricity Supply Industry Planning Council (ESIPC) for advice concerning network and market operational issues. ESCOSA has written to ESIPC seeking its advice on the above applications.

Guidance for future licence applications for electricity wind farms

ESCOSA has over the past two years issued generation licences under Part 3 of the *Electricity Act 1996* (SA) to a number of intending operators of wind farms at various sites around South Australia.

At 22 November 2004 the total capacity of the six wind farms in South Australia issued with licences was about 400 MW. Only one of these wind farms (Starfish Hill) is currently operational, but all are expected to be operational by the end of 2005. It is likely that a further generation licence will be issued to an intending wind farm operator (Pacific Hydro Clements Gap) by the end of 2004. Further such licence applications will be made during 2005.

The annual planning review released by the Electricity Supply Industry Planning Council in June 2004 has highlighted a range of system issues associated with a significant expansion of wind farm capacity in South Australia. These include impacts on the operation of scheduled generators, the need to match wind farm development with adequate connection infrastructure, uncertainties concerning the inclusion of wind farms in the supply–demand balance for South Australia, and meeting technical standards imposed by the National Electricity Code. It is important to establish a capacity limit below which wind farms in South Australia can be supported by the transmission network. ESCOSA understands that the council is preparing a discussion paper on this topic.

ESCOSA believes that it is important to determine the outcome of future generation licence applications for wind farm developments in South Australia. ESCOSA will therefore refer any such application to the council for comment, particularly on those issues.

ESCOSA also notes that in a number of cases, wind farm developers are starting construction before a generation licence is issued. ESCOSA advises that this is done entirely at the proponent's risk. The criteria for generation licence applications are detailed in ESCOSA's Advisory Bulletin No. 4, 'Licensing arrangements for the electricity and gas supply industries'.

Issue of electricity generation licence to Canunda Power Pty Ltd

ESCOSA issued an electricity generation licence to Canunda Power Pty Ltd (ACN 103 087 341) to generate electricity in South Australia. The entity will operate a wind farm with a capacity of 46 MW, situated on the Woakwine Range adjacent to Lake Bonney, south-west of Mount Gambier. The wind farm will be connected to the ETSA Utilities 33 kV network by a new 14 km distribution line. Canunda Power is a wholly owned subsidiary of International Power PLC, whose subsidiaries already hold generation licences in South Australia and Victoria.

Issue of electricity generation licence to Cathedral Rocks Wind Farm Pty Ltd

ESCOSA issued an electricity generation licence to Cathedral Rocks Wind Farm Pty Ltd (ACN 107 113 708) to generate electricity in South Australia. The entity will operate a wind farm with an expected capacity of 66 MW, situated approximately 30 kms south-west of Port Lincoln. The wind farm will be connected by underground cable to a new substation established at the wind farm site. A single circuit 132 kV line will link this substation to the existing ElectraNet substation at Port Lincoln. The Cathedral Rocks wind farm is a joint venture project between Hydro Tasmania and Corporation Energia Hidroelectrica de Navarra SA as the ultimate holding companies.

Electricity generation licence application: Carter Holt Harvey Wood Products Australia Pty Limited (CHHWP)

ESCOSA received an application from CHHWP for the issue of a licence for the operation of a wood-waste electricity generation plant, with a maximum output capacity of 6 MW.

The plant is located on the Jubilee Highway East in Mt Gambier, South Australia, and is connected to the ETSA Utilities 33 kV distribution network. The applicant is a wholly owned subsidiary of Carter Holt Harvey Australia Pty Limited, which in turn is a wholly owned subsidiary of Carter Holt Harvey Limited, a wood fibre products company.

This application has been lodged under Part 3 of the *Electricity Act 1996*, and will be assessed against relevant criteria specified in that Act and the *Essential Services Commission Act 2002*.

SPI Australia Group Pty Ltd—transfer of retail electricity and gas licences in South Australia

ESCOSA has received an application from SPI Electricity Pty Ltd to transfer its electricity and gas retail licences to SPI Retail Pty Ltd. SPI Electricity holds licences to retail electricity and gas in South Australia under the *Electricity Act 1996* (SA) and *Gas Act 1997* (SA) respectively.

In its application to ESCOSA, SPI Electricity notes that, as part of an internal restructure of the SPI Australia business, the retail and trading activities of SPI Electricity are being transferred to SPI Retail. This will therefore require the transfer of the electricity and gas retail licences and the transfer of all customers of SPI Electricity to SPI Retail. SPI Electricity's customers in South Australia include both large industrial and commercial customers and small business and domestic customers.

SPI Electricity proposes that the transfer of its existing customers will take effect from 1 April 2005 and that the transfer of the retail licence to SPI Retail will also take effect from that date.

This application has been lodged under Part 3 of the *Electricity Act 1996* and Part 3 of the *Gas Act 1997*, and will be assessed against relevant criteria specified in that Act and the *Essential Services Commission Act 2002*.

Terra Gas Trader Pty Ltd—surrender of gas retail licence in South Australia

On 27 January 2005 Terra Gas Trader (TGT) advised ESCOSA that as a consequence of the purchase of TGT by AGL on 12 January 2005, TGT had no need to retain its existing SA Gas retail licence and therefore sought to surrender its licence forthwith under s. 31 of the *Gas Act 1997*. TGT has indicated that it is not retailing gas to any customers in South Australia.

On 7 February 2005 under s. 31(3) of the Act, ESCOSA agreed to the surrender of TGT's gas retail licence with immediate effect. TGT continues to supply delivered gas to a number of electricity generators at their power stations in South Australia.

Gas

Receipt of submission from REMCo for rule changes to the gas retail market rules

ESCOSA has received four submissions from REMCo (Retail Energy Market Company Ltd) for rule changes to the gas retail market rules (RMR). The RMR facilitate the operation of the gas retail market in SA.

The Minister for Energy approved the initial set of RMR in June 2004 before commencement of the gas retail market on 28 July 2004. REMCo is required to submit to ESCOSA for its approval any proposals for amendments to the RMR. Regulation 5(3b) of the Gas Regulations 1997 establishes a process to be used by ESCOSA in considering proposed RMR amendments.

ESCOSA has an initial period of 30 business days from receipt of the application to consider the proposed amendments and to notify REMCo of its response. This period can be extended.

ESCOSA publicised REMCo's submissions on its website and sought submissions from interested parties on the possible impact of the proposed RMR amendments. ESCOSA received a response from six parties, as well as obtaining a copy of a letter from the Western Australian Government to REMCo regarding its rule change submission. ESCOSA has considered these responses in assessing REMCo's submissions.

ESCOSA has determined that it will approve the proposed RMR changes submitted by REMCo on 19 November and 1 and 21 December 2004. In its assessment of REMCo's proposed RMR amendments, ESCOSA considered their impact on the operation of cost efficient and effective retail market arrangements for the gas industry to facilitate competition in the gas retail market in South Australia for the benefit of consumers.

The date of implementation of the amendments is to be determined. A number of the amendments will require system changes before they can be implemented.

The approval of rule change C07/04R (interval metered site transfers) has given rise to an inconsistency with ESCOSA's Energy Customer Transfer and Consent Code. Clause 6.4 of that code provides that, until a date to be notified by ESCOSA, the transfer of a customer cannot be based on an estimated meter reading. ESCOSA has subsequently started to amend the code to permit the transfer of a gas customer based on an estimated meter reading for those large (> 10 TJ per annum) customers whose gas consumption is read by an interval meter. This will ensure consistency of the code with the proposed rule change. The implementation of rule change C07/04R will therefore not commence in South Australia until ESCOSA has made the appropriate changes to the code.

ESCOSA is currently considering request for amendment no. 4 received on 24 January 2005.

Review of Envestra's gas distribution access arrangement (2006): issues paper

ESCOSA is the local regulator under the *Gas Pipelines Access (South Australia) Act 1997* for the South Australian gas distribution system. Envestra is the owner and operator of that gas distribution system. In accordance with the terms of the current access arrangement applying to the South Australian gas distribution system approved under the National Third Party Access Code for Natural Gas Pipeline Systems, Envestra is required to submit to ESCOSA, on or before 1 October 2005, the revisions Envestra proposes to that access arrangement (its proposed access arrangement revisions). The commencement date for revisions finally approved by ESCOSA is 1 July 2006.

For reasons set out in an information paper by ESOCSA in August 2004, ESCOSA has decided to undertake a preliminary consultation process on selected matters before Envestra formally submit its proposed access arrangement revisions for approval. ESCOSA has published an issues paper to:

- narrow the range of possible issues requiring ESCOSA's consideration at the subsequent discussion paper and guidance paper stages of the preliminary consultation process
- gauge initial reactions to some of the main options associated with such issues.

The discussion paper is to be released in March 2005 following consideration of submissions received on the issues paper.

Draft price determination for REMCo

On 1 July 2004 ESOCSA made a price determination applying to the Retail Energy Market Company Ltd (REMCo) for its provision of retail market administrator services in South Australia.

As flagged at the time, ESCOSA has reviewed updated financial information from REMCo and has proposed that it should vary that initial price determination, primarily by:

- reducing the price cap for the market share charge to reflect updated projections
- clarifying the mechanisms for ongoing compliance with the pricing principles.

ESCOSA will make a final determination in March 2005.

Gas standing contract price inquiry (issues paper)

The *Gas Act 1997* was amended in 2004 to transfer price setting powers to ESCOSA. Origin Energy Retail Limited is the declared retailer for the purpose of the pricing provisions of the Gas Act.

On 15 December 2004 Origin Energy submitted to ESCOSA its price path proposal for standing contract supply of gas to apply for the three years commencing 1 July 2004.

As required by the Gas Act, ESCOSA has now commenced an inquiry under Part 7 of the ESC into the appropriate price to be fixed as the gas standing contract price.

ESCOSA has prepared and released an issues paper, which identifies the key issues faced by ESCOSA in its assessment of the Origin Energy submission. Submissions received in response to the issues paper will assist ESCOSA in the preparation of a discussion paper scheduled for release in early March 2005.

Transport

ESCOSA's work in transport regulation

Although best known for its regulatory activities on energy, ESCOSA also has an important role in transport regulation in the following areas:

- price and access regulation of seven South Australian ports
- access regulation of the Tarcoola–Darwin railway
- access regulation of certain South Australian (intra-state) railways.

The regulation of these industries is a little different to the regulation of the energy sector. Most notably, the access regimes covering these industries are negotiate–arbitrate regimes, which only require direct intervention when an access provider and a customer are in dispute. At other times, the parties are free to negotiate their own commercial arrangements. Unlike in energy, ESCOSA does not ordinarily predetermine prices in these industries.

One of the reasons for this approach is that the parties are usually businesses, rather than households, for whom commercial negotiation should be a core activity. However, the nature of the port and railway industries can still give rise to some market power concerns—therefore the access regimes remain available in case difficulties arise. The idea is that the threat of arbitration should reduce the likelihood of an access provider misusing any market power.

As these regimes don't require the regulator to set prices beforehand, they are often described as light-handed. This term can be misleading. Each regime requires preparation, and in some cases ESOCSA must prepare certain codes or guidelines covering, for example:

- pricing principles (that would apply in an arbitration)
- regulatory reporting
- price disclosure
- compliance.

ESCOSA has already prepared such documents, which are available from the publications section of its website.

In the coming months, ESCOSA will have an active work program for the three transport industries, including looking at:

Ports

- revisions to the two existing guidelines to reflect upcoming changes to ports regulation
- developing pricing methodologies for submission to an arbitration
- preparing an access guidebook.

Tarcoola–Darwin railway

- developing compliance guidelines or rules
- preparing an access guidebook.

Intra-state railways

- developing compliance guidelines or rules
- preparing an access guidebook
- revising the existing information kit, particularly the parts dealing with pricing principles and information reporting.

Interested parties are invited to subscribe to receive emails on transport matters by visiting ESCOSA's website.

New ports regulation

ESCOSA has made a new ports price determination for essential maritime services. The determination, which took effect on 18 November 2004, introduced price monitoring of essential maritime services. The new determination completes the main implementation phase of the new ports regulatory arrangements.

In summary, the new arrangements involve:

Price regulation

Price monitoring of charges for essential maritime services, replacing the former price caps. Price monitoring allows a regulated service provider to set their own charges, but includes a threat of re-regulation following a subsequent review (explained below). The new 2004 ports price determination is available on the ESCOSA website.

Ports access regime

Continuation of the ports access regime and its extension to include cargo (infrastructure) services at grain berths (as of 31 October 2004).

Subsequent review

The new arrangements will remain in place up to and including 30 October 2007. ESCOSA will conduct a further review beginning late 2006 to determine what price regulation, if any, is required beyond 2007.

The new arrangements are explained in a revised information paper and a revised advisory bulletin.

Water

Inquiry into 2004–05 wastewater pricing processes: final report

Under s. 35(1) of the ESC Act the Treasurer referred to ESCOSA an inquiry into 2004–05 wastewater pricing processes. In undertaking the inquiry, ESCOSA considered a document 'Transparency statement—wastewater prices in South Australia 2004–05', June 2004.

On 13 October 2004 ESCOSA forwarded to the Treasurer the final report: 'Inquiry into 2004–05 wastewater pricing process'.

As required by the Act, the final report was tabled in both Houses of Parliament on 24 November 2004.

Water and wastewater pricing processes

Under s. 35(1) of the ESC Act the Treasurer has referred an inquiry into the 2005–06 water and wastewater pricing processes to ESCOSA. ESCOSA is required to provide a draft report to the Treasurer and to the Minister for Administrative Services by 11 March 2005 and a final report by 8 April 2005.

ESCOSA published an issues paper regarding the water and wastewater pricing processes inquiry with submissions due by 3 February 2005 (in accordance with the Treasurer's instructions to ESCOSA concerning the inquiry).

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New South Wales

Independent Pricing and Regulatory Tribunal (IPART)

Electricity distribution

Demand management guidelines

As part of the 2004 electricity determination, IPART introduced a 'D-factor'. The D-factor provides a way for DNSPs to pass the costs of undertaking efficient demand management (DM) investment through into prices. It is intended to encourage DNSPs to consider DM options on at least an equal footing with network augmentation options when they plan for how to address a demand-supply constraint. IPART stated that it would issue guidelines to assist stakeholders in understanding the application of the D-factor and other aspects of IPART's approach to DM investments.

IPART convened a DM working group, made up of distributors and other stakeholders, to draft guidelines. The draft DM guidelines cover:

- calculation of avoided distribution costs for use in the D-factor [1]
- calculation of foregone revenue for use in the D-factor
- loss management investments
- a note on distributor network planning processes.

IPART published draft DM guidelines on its website for comment in December 2004. In February 2005 it held a stakeholder workshop, at which interested parties were given the opportunity to comment. IPART will now consider the comments made at the workshop and issue final guidelines.

[1] Avoided distribution cost sets a cap on the amount of (non-tariff based) DM implementation costs that a DNSP can pass through under the D-factor.

2004 review of access arrangements

IPART released in December 2004 its draft decision on AGLGN's proposed revisions to its access arrangements. Public submissions on the draft decision are due 28 February. IPART expects to release a final report in April 2005 with the revised access arrangement commencing on 1 July 2005.

The next review of the access arrangement of Country Energy Gas will also occur in 2005. Country Energy's proposed revised access arrangement is also on the IPART website. A draft report is scheduled for release in mid-2005.

Transport

IPART is currently assessing the real, pre-tax rate of return to be applied to the opening and closing regulatory asset base and the remaining mine life of the Hunter Valley coal mines. Both reviews are required by the NSW rail access undertaking (formerly regime).

IPART has a five-year standing reference to recommend fare changes for private transport operators. IPART is reviewing fares in the taxi industry and, following a public submissions process, will submit its report with fare recommendations to the minister in early 10 June 2005.

IPART is also reviewing some financial aspects of the ambulance service of NSW in response to terms of reference issued by the Premier. IPART has published an issues paper on its website as part of a public submissions process. IPART expects to submit a report with recommendations to the Minister of Health in early June 2005 and a second report on the role of cost indexes in future fee setting by early September 2005.

Water pricing

Metropolitan water pricing

IPART is currently reviewing prices charged by Sydney Water, Sydney Catchment Authority, Hunter Water, Gosford Council and Wyong Council. For each agency, it will set maximum prices to apply from mid-2005 for water, wastewater and stormwater services, taking into account costs the agency will incur to provide appropriate levels of service. IPART released an issues paper calling for submissions to the review.

Submissions from water agencies were received by November 2004, somewhat later than anticipated and submissions from other stakeholders were sought by 23 December 2004.

IPART engaged a consortium of WS Atkins and Cardno MBK to review the asset management, operating costs and capital expenditure of the businesses. An overview report from Atkins/Cardno has been placed on the IPART website. IPART also engaged MMA to undertake a review of the reasonableness of each agency's consumption forecast and to make recommendations about consumption assumptions for the purposes of price setting. MMA's report is also available on IPART's website.

IPART conducted a public hearing for the purpose of this review on 10 March in Sydney.

Bulk water

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

IPART released an issues paper for this review on 17 September 2004 and received a submission from State Water on 4 November 2004 and DIPNR on 10 February 2005. Public submissions are due by 4 April 2005, and public workshops will be held in late-May or June 2005.

Water licensing

Metropolitan water

IPART is currently reviewing the operating licences for Sydney Water Corporation and Sydney Catchment Authority. The Sydney Water licence is to take effect from 1 July 2005 and for the Catchment Authority, 1 January 2006.

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

IPART released an issues paper for this review in early September. A public workshop was held in Sydney on 10 December 2004. IPART is to report to the minister by 31 May 2005.

Bulk water

IPART has begun a review of the charges to apply from 1 July 2005 for the extraction of bulk water by

farmers, industrial users and town water suppliers from water sources managed by DIPNR (under the Water Administration Ministerial Corporation) and State Water.

IPART released an issues paper for this review on 17 September 2004. Public submissions were due by 17 December 2004.

Greenhouse Gas Abatement Scheme

The Greenhouse Gas Abatement Scheme began on 1 January 2003. The scheme imposes greenhouse gas emission targets on benchmark participants. The legislation outlines the emissions targets up to 2012.

More information about the scheme is available in *Network 16*.

The administrative processes supporting the scheme were fully implemented by August 2003. Since then IPART has accredited 120 abatement certificate providers, which have collectively registered over 10.2 million abatement certificates.

Details of accredited abatement certificate providers and the certificates they have registered are available at www.ggas-registry.nsw.gov.au.

Full details of the scheme, including application forms, guides to applying and other documents are available from the scheme website at www.greenhousegas.nsw.gov.au.

In June 2004 IPART reported to the Minister for Energy on benchmark participants' compliance with their 2003 greenhouse gas benchmarks and on the overall performance of the scheme. There were 31 benchmark participants in 2003 (22 of these were compulsory participants). All electricity retailers and other benchmark participants have reduced their emissions to their benchmark levels or have carried forward a small shortfall, within the permitted 10 per cent buffer. For the 2003 compliance year, benchmark participants have surrendered 1 167 392 certificates. No benchmark participant incurred a penalty. IPART accredited 113 projects that were eligible to create certificates for abatement activity in 2003. A total of 6 662 994 abatement certificates have been registered as a result of abatement activity in 2003. As a result there has been a surplus of certificates created to those needed to meet the obligations of the participants for compliance in 2003.

Abatement certificates are bankable enabling those registered early in the scheme to be used for compliance in future. The number of certificates required for participants to meet the benchmark levels in future years will be significantly higher.

Other reviews

IPART also undertakes reviews outside the utility regulation functions at the request of the NSW Government or others. These are available at www.ipart.nsw.gov.au.

ACT

Independent Competition and Regulatory Commission (ICRC)

Current issues

Daily pricing for water

The ICRC issued its direction on water and wastewater pricing in March 2004. One of the issues the ICRC recognised was ACTEW Corporation's proposal that the ICRC agree to introduce daily pricing for water in the ACT to improve the cost reflectivity of prices and provide more acute demand management signals. The ICRC has researched the issue and consulted with ACTEW Corporation and other stakeholders, but has decided that the claimed benefits of introducing daily pricing have not been demonstrated.

The ICRC is concerned about the extent and the accuracy of the data with which it has been provided to make the assessment, the difficulties of successfully introducing such a scheme and the likelihood that consumers will not benefit from the change. The ICRC has been careful not to introduce a measure like daily pricing, given the uncertainty surrounding it and the volatile nature of water issues in Canberra and the region. The ICRC has taken account of the number of other changes it has introduced in the pricing of water and external issues such as emerging government water policy, the impact of the national water initiative on the community and the policy debate about the need for additional water storage to meet the community's future needs. The ICRC's decision leaves open the possibility that daily pricing might be revisited in future, with the benefit of more extensive analysis of the available data.

Water restrictions pass through

At the same time the ICRC is considering an application for pass through of water restriction costs arising from the application in the ACT of stage 3 water restrictions to meet the demands of the continuing drought. The water restrictions have persisted throughout five months of the year and resulted in lower revenues for ACTEW than provided for in the water price direction.

Lower than forecast demand arising from the drought was designated as a pass through event in the price direction. The ICRC's direction also took into account the demand effect of stage 2 restrictions. The ICRC is currently finalising a methodology that distinguishes the effect of stage 3 restrictions from stage 2 restrictions and will result in a targeted sharing of those costs with consumers.

Incentives mechanisms for utilities

In its directions for both electricity and water, the ICRC indicated that it would consider introducing incentive mechanisms for achieving greater levels of efficiency and to focus the utility's attention on service quality. An issues paper on incentive mechanisms is to be released in March, including a discussion on both a carryover mechanism and the possible introduction of a service quality incentives scheme. The incentive mechanisms will apply in the first instance to electricity and water utility services. Whether the mechanisms are to be applied in the first instance to gas networks will be an issue for the ICRC to consider. Decisions on this issue are to be made by 1 July 2005.

Form of regulation for greenfields electricity infrastructure developments

Following release of the ICRC's report on contestability in electricity infrastructure development (April 2004), the government directed that the market should remain non-contestable. The ICRC has consequently initiated a review to develop an appropriate regulatory framework. A discussion paper will be released in March proposing a light-handed regulatory framework. The ICRC will seek to build on the degree of contestability currently existing in the contracting of services by ActewAGL and to increase the independence of the technical requirements and oversight for infrastructure developments. ActewAGL largely retains responsibility for technical standards setting, accreditation and approvals.

Utilities compliance and performance reporting

The ICRC is finalising its compliance report for utilities in the ACT and expects to have the report released early in March. Utilities are obliged to report to the ICRC on compliance with their obligations under the Act and their licences. Reports are submitted annually in October for the year to 30 June. The 2004 report will be the third compliance report and covers not only electricity but also gas and water.

The report addresses compliance with the terms and conditions of utilities' licences and also the

requirements of the nationally aligned regulatory reporting requirements adopted by regulators to provide nationally consistent reporting on electricity retail and distribution. This is the second year in which the ICRC will have provided comprehensive nationally consistent data.

The ICRC's overall assessment of compliance is that utilities have complied with their obligations and that there are no areas for concern about licensees' ability to continue holding their licences. The ICRC has identified a number of minor issues that need attention and these will be pursued with utilities over the balance of the year.

The ICRC will release its report on utility performance in the ACT later in March.

Forecast activity

Hot water metering for gas consumption in residential complexes

The ICRC's advice was sought to resolve several issues relating to the supply of energy to residential complexes in the ACT. In particular, the ICRC's advice was sought on the use of hot water 'metering' for the consumption on gas. The commissioner proposes to use a methodology similar to that used in other states. The approach requires, among other things, that the *Utilities Act 2000* be amended to recognise use of hot water systems as a substitute for metering of gas supply and the formal adoption of a consistent approach to the calculation of gas consumption by reference to the use of hot water.

Price resets for electricity, gas and water networks

Price reset applications will be received at the beginning of March for adjustments for network prices according to the recent price directions for the period from 1 July 2005 to 30 June 2006.

Transport price resets

Applications for price resets under the ICRC's directions for taxi fares and fares for ACTION bus services are expected in May to apply for the period commencing 1 July 2005 to 30 June 2006.

Taxis will have adjustments made to their cost indexes in May once published data is available from the Australian Bureau of Statistics.

ACTION service prices are to be adjusted by CPI only this year, the third year of the direction. The ICRC will review ACTION pricing and make a new direction to apply from 1 July 2006. The CPI adjustment will reflect CPI movement over the 12 months to the end of March 2005.

Tasmania

Office of the Tasmanian Energy Regulator (OTTER)

Credit policy/discount

Energy retailer Aurora Energy has made a formal application for approval by the regulator of proposals to:

- offer discounts to customers who pay their electricity accounts by direct debit or payroll deduction
- impose a late fee on customers who pay their electricity account after the due date.

Direct debit incentive

The regulator has approved the proposal on the following basis:

- A discount or rebate will be provided to customers when electricity is used and a direct debit receipt is recorded in the transaction.
- The discount will not apply to:
  - direct debits by credit card
  - where payment plans are present
  - where direct debits have been dishonoured during the statement period
  - or where the customer received a reminder notice for the last statement.
- The incentive will be based on a rate of 5 cents per day plus GST for the statement period or the period since establishment of direct debit deduction.

At this stage, the incentive will not be available to customers uing Centrelink's Centrepay service due to the cost to Aurora of availing itself of that service. Aurora has been requested to continue its efforts to extend the incentive to Centrepay payments.

Late payment fee

The regulator has approved the late payment fee of $5, applicable to all tariff customers who pay their account after the due date, subject to the following conditions:

- all heath care card holders and customers entitled to receive a pensioner concession on their electricity accounts will be exempt from late payment fees
- Aurora will not charge the fee in the following circumstances:
  - customers on payment plans will be exempt as will suspended accounts, deceased estates and final accounts
  - customers on Aurora's levelised EasyPay billing system will be exempt
  - the late payment fee will be applied on the fifth day past the due date, to ensure that customers are afforded the opportunity to avoid the fee
  - an account balance will have to be greater than $50 for the fee to apply
  - the fee will be waived for customers who contact Aurora before day 5 after the due date and agree on a deferred payment arrangement
- for the first 12 months, any customer incurring a late payment fee will have it waived for the first occurrence and the customer will be notified of the waiver.

A statement of reasons for the regulator's decisions will be published shortly.

2005 electricity retail tariff approvals

Aurora's tariff prices were not allowed to increase on average by more than 1.11 per cent from 1 January 2005. This is less than the rate of inflation and less than that predicted when the regulator made his determination last year. The regulator had forecast increases slightly above the rate of inflation in 2005.

Average price changes were held below the rate of inflation, despite higher charges from Transend, principally because:

- Aurora failed to meet reliability of supply targets for 2004 and is required to pay a penalty of $1.68 million in 2005 through reducing customer charges
- there was significant load growth in 2004, approximately 7 per cent compared to a forecast load growth of only 1.4 per cent.

Aurora Pay As You Go review

The final report on the review of the Aurora Pay As You Go (APAYG) service offering was delayed while the government finalised its submission. The regulator is now in a position to finalise his decisions about the matters raised in his July 2004 issues paper.

The government considers that APAYG should not be regulated as a tariff as the non-regulated nature of the product contributes to it being an effective budget management strategy. Given the government's advice, the regulator will seek the support of the Department of Treasury and Finance

in amending the tariff customers regulations as soon as practicable.

The government also advised that it supported the development of a code of practice, which would be published for Aurora to better deliver and manage APAYG. Similar views were expressed in other submissions. The regulator will develop a code of practice during the second quarter of this year.

The government has yet to make a decision on whether full retail contestability will apply in Tasmania. Nevertheless, with the potential for retail competition and future development of APAYG, the regulator considers it appropriate not to limit the code of practice to APAYG as it currently applies.

The regulator has advised Aurora of matters that should included in the code of practice.

- The retailer will be required to monitor self-disconnections to identify customers experiencing financial difficulties and for whom other payment arrangements may be more suitable and to report on self-disconnection frequency and duration.
- Any customer electing to take supply under a pre-payment meter will have the right to revert to the standard tariff free of charge within the first six months after installation.
- The retailer will be required to set the emergency credit to $10.
- The retailer will be required to ensure that the pre-payment meter will not disconnect during the same time on weekdays and weekends that applies to standard tariff customers.
- The code will specify that the maximum debt that may be recovered through a PPM, the rate applied to the daily fixed charge and the period over which the debt may be recovered, will require the regulator's approval.
- The retailer will be required to provide pre-payment meter customers advice of price changes, and their right to revert to standard tariffs within a specified period after notification of the change in prices, by direct mail out as well as advertising in the daily newspapers.
- The code will provide for a minimum set of information to be provided to customers in promotional and other informational brochures and information made available on Aurora's website.
- Pre-payment meters will be subject to the regulator's standard retail performance monitoring scheme, with the performance indicators and measures to be agreed between the retailer and the regulator. The performance monitoring reports will also be subject to independent appraisal.

The regulator also proposed that Aurora give consideration to these matters which include:

- the location of meters
- the complexity of the 'time of use pricing structure'.

It is expected that the final report will be available by the end of March 2005.

New role of the Reliability and Network Planning Panel

The Tasmanian Electricity Code has been amended by the minister to facilitate Tasmania's entry to the NEM. The effective date of these amendments is NEM entry date, 29 May 2005. The continued role of the Reliability and Network Planning Panel (RNPP) was established in these amendments.

In the NEM, the RNPP will continue its role to annually review Tasmania's capacity reserve standards until Basslink becomes operational, and frequency operating standards until the second anniversary of Tasmania's entry to the NEM. The RNPP will also continue to conduct its annual review of the reliability of the Tasmanian power system.

The remainder of the RNPP's work will be driven by requests from the regulator or jurisdictional coordinator and may include the review of jurisdictional transmission planning criteria (which the RNPP is presently developing) and the review of proposed network augmentations and other capital expenditure projects put forward by the distribution network service provider.

RNPP matters

Frequency operating standards—2004 review

The RNPP is required to determine and annually review the power system security and reliability standards.

The RNPP proposed, in its 2004 issues paper, that the frequency operating standards as determined in 2003 remained appropriate, and that standards for islanded subsystems were not necessary. A submission from NEMMCO proposed that the RNPP should determine standards for electrical islands within the Tasmanian power system.

The RNPP agreed to set standards for islanding. Accordingly, the RNPP published a draft determination, taking islanding into account, and invited further comment. The final determination is available on the Regulator's website at www.energyregulator.tas.gov.au.

Power system reliability—2004 review

The RNPP commenced its 2004 review of the reliability of the Tasmanian power system in accordance with the terms of reference issued by the regulator.

The RNPP published a draft report on 26 January 2005 and is seeking comment on its findings. The RNPP expects to publish a final report by the end of April 2005.

Snapshot of changes to the Tasmanian electricity code

In May 2005 Tasmania will join the National Electricity Market (NEM) with national electricity law and the National Electricity Code (NEC) coming into effect in Tasmania. With this is mind, the minister amended the Tasmanian Electricity Code (TEC) to deal with matters of inconsistency between the TEC and NEC following Tasmania's entry into the NEM. Apart from the role of the RNPP, they did not seek to address technical and other issues that may be relevant to NEM entry.

The regulator is undertaking a more comprehensive review of the TEC, with the assistance of various interested parties, to address technical and other matters which will arise post-NEM entry.

Most of the matters put forward by the regulator were either technical, to bring the TEC up to date with current industry practice, or reflect a revised (and generally simplified) approach to institutional and procedural arrangements or requirements.

Licensing matters

Option One

Powerco Energy Services Pty Ltd, the holder of a gas retail licence, has been trading under the registered business name 'Option One'. Due to a Powerco group restructure, Powerco Energy Services has applied for the transfer of its licence to a newly incorporated company, Option One Pty Ltd.

Roaring 40's Wind

Roaring 40's Wind Pty Ltd is the holder of the generation licence for the Woolnorth wind farm. Hydro Tasmania, the owner of Roaring 40's, has advised the regulator that the name of that company has been changed to Woolnorth Bluff Point Wind Farm Pty Ltd.

The regulator has amended the licence to reflect the change of name.

Hydro Tasmania has also advised the regulator of a reorganisation of its company structure.

The regulator is considering what implications, if any, this may have for the terms and conditions of the Woolnorth licence.

Marshall Resources International

Marshall Resources International Pty Ltd applied for a generation licence for a combined wind and hydro proposal at Cumberland Lakes, in the Trial Harbour area.

The application has been refused as the project is at an early stage and the proponent is not yet able to notify the regulator of its capability to undertake and operate the project.

Government Prices Oversight Commission (GPOC)

Urban water and wastewater services

On 14 October 2004 the minister issued the terms of reference directing GPOC to review the compliance by councils with urban water pricing guidelines.

The outcomes of the review will be reported in the next edition of Network.

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Queensland

Queensland Competition Authority (QCA)

Electricity

QCA released its draft determination on the regulation of electricity distribution in December 2004. The draft determination sets out the regulatory arrangements to apply to Queensland's electricity distribution network service providers (DNSPs), Energex and Ergon Energy, for the five-year period commencing on 1 July 2005.

QCA prepared its draft determination in accordance with the requirements of the National Electricity Code. It considered submissions from the DNSPs and other interested parties. It also relied on data supplied by the distributors and on analysis undertaken by several independent consultants with specialist skills in various areas (*see* www.qca.org.au).

The draft determination includes a revenue cap form of regulation based on a cost building block approach.

Of the proposed building blocks:

- new asset valuations were completed for the DNSPs resulting in regulatory asset bases of $4.3 billion for Energex and $4.2 billion for Ergon Energy at 1 July 2005
- the DNSPs' capital expenditure requirements were assessed by QCA's consultants to be $2.7 billion for Energex and $2.5 billion for Ergon Energy. However, QCA accepted its consultant's advice that Energex had not demonstrated an ability to resource more than 80 per cent of the required capital expenditure program.
- QCA proposed a post-tax weighted average cost of capital of 8.31 per cent
- continuation of a straight line method of depreciation was proposed to reflect the consumption of assets over time
- QCA's consultants assessed Energex's operating expenditure requirements at $1.02 billion and Ergon Energy's at $1.05 billion over the five-year regulatory period.

The draft determination proposed to reduce revenue by $41 million for Energex and $58 million for Ergon Energy in the next regulatory period to reflect the extension of overall lives for a number of assets in the new asset valuations and the associated writing back of depreciation that had previously been received by the distributors.

The review on electricity distribution and service delivery was critical of Energex's service quality performance and failure to undertake necessary operating and maintenance expenditure. Energex had consistently under-spent on opex relative to its forecast requirements at the start of the current regulatory period by around $105 million. QCA proposed to deduct the nominal value of this opex under-spend from Energex's future revenue. This would avoid customers having to pay twice for the same work.

Given the uncertainties surrounding peak demand growth and the associated difficulties in forecasting capex and opex requirements, QCA proposed demand triggers and capex pass-through mechanisms as part of the regulatory arrangements.

The demand triggers were based on a 3 per cent variation in customer numbers or a 5 per cent variation in maximum demand. The activation of a trigger would result in a review of the implications of the change and may lead to pass-through of associated costs.

QCA proposed capex pass-through mechanisms tailored to each DNSP.

As a result of its decisions on the cost building blocks, QCA proposed aggregate revenue requirements to be raised from distribution charges over the next regulatory period of $3.3 billion for Energex and $3.5 billion for Ergon Energy.

Given the establishment of minimum service standards by government in response to the review on electricity distribution and service delivery, QCA proposed to delay the introduction of a service quality incentive mechanism but continue to monitor report a range of service quality measures.

Submissions on the draft determination closed on 25 February 2005. Submissions were received from Energex, Ergon Energy (Distribution), Queensland Consumers Association, Energy Networks Association, Ergon Energy (Retail), Commerce Queensland/ Energy Users Association of Australia, an individual Energex customer, and AGL by the due date.

QCA expects to release a final determination in April 2005.

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Gas

QCA released an issues paper in September 2004 providing an overview of issues relevant to the consideration of an appropriate efficiency carryover mechanism. It received 15 submissions in response to the issues paper. Submissions can be downloaded from the QCA's website at www.qca.org.au.

The issues raised by QCA and responses received in submissions are currently being considered and the QCA expects to release its draft decision on an efficiency carryover mechanisms in the first half of 2005.

QCA's *Decision on Gas Distribution: Monitoring Service Quality* (available from the QCA's website) requires the Queensland gas distribution service providers to collect and report information on a number of service quality measures on an annual basis. The QCA released the first annual service quality reports for the Queensland gas distribution systems operated by Allgas and Envestra in November 2004. The reports and a summary prepared by the QCA are available on the website.

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Northern Territory

Utilities Commission of the Northern Territory

Review of network asset values

In the Utilities Commission's 2004 reset determination provision was made for a once-off adjustment to the value of the network price cap if it was found that a material error had been made in the regulatory asset values used in the reset price cap formula.

Following a review initiated by the Utilities Commission a draft decision was published in February 2005 to the effect that:

- the DORC values (and underlying book values) used in the 2004 reset involved certain measurement errors
- the 2004 reset's sole reliance on the DORC valuation methodology involved a conceptual error in light of relevant requirements of the NT Network access code and the Utilities Commission Act.

In place of the DORC valuation used at the time of the 2004 reset, the draft decision involves the use of a regulatory asset valuation methodology that:

- for sunk assets (in practice, assets in place at 1 July 2002), values such assets equal to a value that would sustainably generate sufficient cash flows to justify at least a single-A credit rating for Power and Water's regulated networks business on a stand-alone basis
- at 1 July in each of the subsequent years, the 1 July 2002 value 'rolled-forward' in accordance with generally accepted regulatory practice (i.e. appropriately adjusted for inflation, asset acquisitions, asset disposals and annual depreciation).

The draft decision also published the Utilities Commission's preliminary assessment that the use of this alternative methodology would reduce the regulatory asset value underlying the reset price cap formula by 27 per cent and the weighted average reference tariffs by 18 per cent.

Finally, the draft decision proposes that, while the benefits to network users of the resultant lower reference tariffs are to accrue from 1 July 2005, the passing on of those benefits to users be postponed for up to a year (involving the current reference tariffs remaining in place), to enable the Utilities Commission's preliminary assessment of the regulatory asset value to be finalised. To this end, parties are to be given until 30 September 2005 to, in addition to undertaking any associated consultations, make submissions to the Utilities Commission on the modelling underlying the preliminary assessment. The regulatory asset value will be finalised by no later than 30 November 2005, and the network service provider will then be expected to rebate the over-collections of network revenues expected during 2005–06 to users by 30 June 2006.

The Utilities Commission expects to finalise the draft decision by 31 March 2005.

Retail electricity licence application

In early January 2005 the Utilities Commission confirmed its decision not to grant an electricity retail licence to Paladin Torrix Energy Corporation Pty Ltd (PTEC), a start-up Alice Springs-based company. PTEC had been unable to provide requisite assurances regarding its financial capacity to operate as a retailer.

Annual power system review

In December 2004 the Utilities Commission released its latest annual review of trends in the NT's power system capacity relative to forecast growth.

Complaint on pricing conduct

In December 2004 the Utilities Commission reported to the minister the findings of its investigation into a complaint made under s. 48 of the Electricity Reform Act alleging that the Power and Water Corporation had been engaging in electricity pricing conduct contrary to the objects of the Electricity Reform Act and the Utilities Commission Act. The Commission found that the complaint could not be substantiated.

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International

Commerce Commission, New Zealand

Telecommunications

In December the Commerce Commission issued its draft report relating to the number portability determination. The Commerce Commission identified four classes of costs arising from the implementation of number portability: industry common set-up costs, operator specific set-up costs, per-line set-up costs, and additional call conveyance costs.

The Commerce Commission's preliminary view was that:

- industry common set-up costs of local and cellular number portability should be allocated among all providers of local and/or cellular telephone services respectively in line with market share, measured by subscriber numbers
- operator specific set-up costs should be borne by each operator providing incentives for each operator to minimise costs while maintaining the ability and incentive to compete
- per-line set-up costs should be recoverable by a donor network operator from a recipient network operator—the donor network operator should not seek to recover any part of those costs from the out-porting customer
- each operator should bear its own additional call conveyance costs. Additional call conveyance costs are minimal using an intelligent network system to provide number portability. To the extent that there are any additional call conveyance costs, an allocation rule requiring each operator to bear its own costs will provide appropriate incentives for operators to minimise those costs.

The Commerce Commission decided not to investigate unbundled partial circuits (UPCs) following adjustment of UPC prices by Telecom to be consistent with international benchmarks issued by the Commerce Commission.

The Commerce Commission decided to investigate applications by TelstraClear and IHUG for determinations on access to wholesale bitstream services. IHUG withdrew its application following a commercial settlement with Telecom.
The Commerce Commission also decided to investigate an application by TelstraClear for a determination on access to resale of Telecom's private office (business DSL) service.

Progress was made on a range of bilateral disputes, including the interconnection price review, the business and residential wholesale price reviews, and on finalising the TSO for 2002–03.

The Commerce Commission will hold a conference on mobile termination in February.

The Commerce Commission has developed a TSLRIC model to be used in determining the price payable for the PSTN interconnection. It has assessed Telecom's calculation of the price payable for the designated interconnection service, provided under s. 45 of the Telecommunications Act. The Commerce Commission is preparing a draft determination for release in March.

Electricity lines

The Commerce Commission continued its review of all 28 distribution business self-assessments from the second assessment date (31 March 2004) to establish criteria for normal and extreme outage events. It is also evaluating ways in which businesses communicate with consumers about the trade-offs between price and service quality to develop possible best practice criteria. The Commerce Commission is also reviewing Transpower's self-assessments from both the first and the second assessment dates.

On 24 December 2004 the Commerce Commission issued its *Review of the information disclosure regime discussion paper*. This is the first step in its planned review of the electricity information disclosure requirements 2004 for electricity lines businesses. At the same time it issued its paper *Implementing valuation choice for system fixed assets: draft decisions and discussion paper*. This introduces the choice between indexed historic cost and optimised deprival value valuations for use in information disclosure, post-breach inquiries, control declarations and (potentially) threshold resets.

On 24 December the Commerce Commission also issued its paper, *Next steps for implementing proposed changes to the distribution thresholds gazette notice*. The paper addresses matters such as the correction of an anomaly in the thresholds formula and the treatment of some pass-through costs.

Gas pipelines inquiry

The gas control inquiry final report was delivered to the Minister of Energy on 29 November 2004 and publicly released on 2 December 2004. The Commerce Commission recommended that direct control under Part V of the Commerce Act should be imposed on gas distribution companies Vector Limited and Powerco Limited. It did not recommend direct control for NGC Transmission Limited, NGC Distribution Limited, Wanganui Gas Limited, Maui Development Limited, Nova Gas Limited and the individual transmission pipelines located in the Taranaki area.

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