

## Assessing Proposals for Regulatory Write-downs

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The regulatory asset base plays a central role in monopoly infrastructure regulation across Australia, and most developed economies. It represents unrecovered past capital investments made by the existing and past infrastructure owners. Provision of a rate of return on the value of these past investments usually represents the single largest component of access charges for many infrastructure services, under the commonly applied 'building block' approach to setting access prices. The regulatory asset base exists to recognise that networks are required to fund long-lived capital intensive physical assets that will supply both existing and future consumers over their service life. In the case of electricity networks, these physical asset lives typically span between 30 and 50 years. The mechanism of the regulatory asset base allows these costs to be borne through time by beneficiaries of the services enabled by the assets, avoiding current consumers subsidising future consumers, or an unfair deferral of current costs on to future consumers.

Importantly, the regulatory asset base quite often also reflects large non-discretionary investments that have been made to meet regulatory obligations. As a common example, because electricity is deemed to be an essential service, most jurisdictions place (and have for decades) an 'obligation to connect' on electricity distribution networks covering a broad range of customer types. This places the network in the position of being required to make long-lived customer-specific investments in connection (in addition to any required shared system augmentation to enable that connection) to discharge statutory obligations.

Furthermore, many jurisdictions place statutory restrictions on how and from whom networks recover these and other capital investments. This means that network businesses are effectively barred from allocating the price or adjusting terms and conditions for access, taking into account the risk of future stranding. Rather, state and territory arrangements, combined with the existing regulatory rules framework (providing for returns over the life of the asset, irrespective of the risk of future stranding),

effectively dictate how, when and from whom many electricity networks recover networks investments.

The treatment of the regulatory asset base represents a critical part of the overall regulatory compact. This is because assets that form the regulatory base, unless they are protected by either credible or binding long-term regulatory rules or commitments from a regulatory body, are subject to the risk of regulatory 'asset stranding' or 'regulatory taking' (Greenwald 1984). The degree of this risk will affect the cost of financing the regulated firms new and existing investments, since the regulatory treatment of past capital investment is the best objective information available to investors on how current investments are likely to be treated over their lives.

Australian practice in both the energy and wider infrastructure sectors has consistently, and as a matter of deliberate policy and regulatory choice, moved away from allowing an opportunity for periodic or ad hoc revaluations, because of recognition of the significant disadvantages these entail. These disadvantages include: the potential to increase regulatory risk; distortion of patterns of investment; introduction of additional costs, dispute, and complexity into the regulatory process; and the non-recovery of investments that were prudently made on the basis of the best-available information.

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What is sometimes called the ‘time inconsistency’ problem, or, less gently, the potential for regulatory ‘hold-up’ captures the potential for regulators or regulatory regimes to promote investment in sunk, single-use, long-lived investments, and then effectively to expropriate this same investment once it has occurred. Independent regulation, expanding to independent rule-making and review mechanisms are fundamentally attempts to make credible long-term signals that policy-makers or regulators will not engage in this behaviour.

Regulatory policymakers commonly encounter pressure to revisit the regulatory compact as circumstances and competitive conditions change in markets over time. Revisiting of the regulatory asset base of firms is extremely uncommon, however. An ENA Research Paper *Written Down Value?*, released in August 2014, examined some of the potential direct consequences of writing down regulatory asset bases in regulated networks.

This article builds and expands on aspects of this paper to sketch out a taxonomy of potential impacts and considerations around the issue of regulatory write-downs, defining the role of the regulatory asset base, and discussing its evolution as a regulatory concept through time. By briefly reviewing its features, the potential impacts of write-downs can be better understood, and some provisional thoughts given on more fruitful alternative directions.

### Is there an incomplete regulatory compact?

One theoretic perspective which might seem initially attractive to apply is that of an incomplete regulatory contract. No regulatory contract can ever be (efficiently) fully specified, and so, it might be argued, perhaps regulatory asset write-downs could be viewed as a clause of the regulatory contract that policy makers and regulators simply neglected to fill out. That is, that the regulatory bargain always has an implicit clause that ‘if things change, things may change’. In the case of long-lived capital intensive networks, however, this thesis faces a few problems.

First, with the latest version *National Electricity Rules* stretching to 1469 pages, incompleteness is amongst the least of its vices. In fact, Rules around the updating and stability of the regulatory asset base are amongst the most specific and detailed, with specific nominated values arising from past decisions ‘locked in’ to a schedule of the Rules.

Second, implementation of these Rules by regulators and the underlying regulatory bargain have also been publicly and transparently laid out in a series of regulatory decisions. A series of AER decisions have quite clearly set out its views on both how the risks of changing demand levels should be shared over future current regulatory periods. Therefore, doubt-plagued Rawlsian puzzling about what regulatory

bargain ‘might have been struck’ in the face of changing demands is not required. Indeed, as a construct applied to the actual circumstances applying to energy networks, such puzzling is highly artificial. Rather, the bargain is detailed, detailed indeed at what many would say was inordinate length.

A final problem is that even if the thought experiment is followed – it leads in different directions from write-downs. In cases where new long-lived, sunk capital investments are entered into in competitive markets in the face of uncertain demand conditions, the result is not pricing based on volumetric usage charges and low fixed charges. Rather, the revealed preference from users and providers is that ‘take or pay’ contracts predominate. These commonly underwrite significant gas pipeline infrastructure, for example. In the case of toll roads, for example, volume and demand risk are increasingly underwritten by taxpayers.

### Literature on Regulatory Stranding

Due to the rarity of regulatory stranding actions, there is a substantially smaller regulatory economic literature around the issue than perennial regulatory issues such as pricing or alternative approaches to access pricing. An exception to this is examination of the issue of regulatory stranding associated with the construction by US utilities of nuclear power stations in the wake of the Three Mile Island disaster. These events triggered a substantial regulatory review of approved and partially constructed power plants, raising the issue of the allocation of the risks and costs of changed regulatory policy.

As Professor Ingo Vogelsang recently pointed out, a basic choice exists – compensation of the owners before the stranding event, or compensation afterwards (Vogelsang 2014). Delivery of that compensation prior to any stranding also involves choices. Some options include the deliberate allowance of an additional allowance in the regulatory cost of capital, or equivalent adjustments to cash-flows (in a sense an ‘insurance premium’). Regulators in energy and telecommunications have previously indicated that advancing depreciation could be one mechanism adopted, should regulators believe there was a higher uncertainty over recovery of costs<sup>1</sup>.

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<sup>1</sup> ACCC Review of the 1997 Telecommunications Access Pricing Principles for Fixed Line Services – Draft Report, September 2010, pp. 30-31 and Victorian Office of the Regulator-General Electricity Distribution Price Determination 2001-05 – Volume 1, Statement of Purpose and Reasons, September 2000, p. 322.

Once these choices have been identified, it is simply an empirical issue whether either of these approaches have been applied. In Australia, compensation for regulatory stranding has not occurred on a prospective basis, and there has been no meaningful consideration of the price and revenue implications of it occurring after the fact. As US commentators Kolbe and Tye discuss, were significant advanced compensation for regulatory stranding given, it should be quite obvious from the pattern of allowed returns, simply from their required size alone (Kolbe and Tye 1996).

In the Australian electricity sector, not only is there no claim of pre-compensation seriously advanced, there is nothing in the record of regulatory decisions to suggest it could have occurred. Any attempt to construct such intent would be highly problematic, and be unlikely to persuade future investors of the rigor or stability of the regulatory compact.

Asset write-downs would also risk undermining other wider economic efficiency objectives, to the detriment of consumers.

Implementation of any asset write-down proposal would be likely to lead to a significant pause in network investment. Networks facing the uncertainty of regulatory write-downs would be likely to cancel or defer significant non-discretionary capital investment. This investment pause would impact on the timing and nature of capital investments, undermining dynamic efficiency objectives through interruption of planned and sequenced network investments. Regulatory disallowances of sunk investments would also be likely to have an enduring impact on investment over long periods. Peer-reviewed studies of investment patterns following a sequence of partial disallowances in the regulated US nuclear power generation sector (amounting to US\$19 billion) have shown enduring negative investment impacts over a 20 year period (Lyon and Mayo 2005).

An asset write-down would clearly result in different prices for network usage. While these prices may be different, however, there is no reason to assume that they would promote a more efficient use of, and investment in, network assets. Rather, write-downs would affect incentives to invest in more complex and long-lasting ways, by impacting on future network investment and expenditure decisions. For example, the risk of future asset stranding would be likely to change the mixture of operating and capital cost investments to lower the risk of stranding, leading to the installation of shorter-lived assets, or assets requiring a greater level of operating rather than capital costs. While this may be an efficient firm-level response to minimise the regulatory risk of future stranding, there is no *a priori* reason to suggest such changes would represent the achievement of an

optimal mixture of investments or asset decisions to minimise long-term service costs for consumers.

In circumstances in which network businesses either restricted non-discretionary capital expenditure, or altered the mixture of capital and operating costs to minimise their future exposure to write-downs, there would also be material consequences for future operating costs. Both of these circumstances would be expected to lead to an increase in required operating costs (for example, through increased monitoring and maintenance costs, resulting from a lower level of capital expenditure asset replacement or renewal). In the absence of any other factors, this substitution effect could be expected to increase network charges.

Networks rapidly substituting operating for capital expenditure would be likely to lead to a 'price shock' for consumers, because operating costs are recovered in full from current consumers within each regulatory period. By contrast, the costs of long-lived capital network investments are (typically) recovered over 30-40 years from both current and future consumers. This particular impact is additional to any of the network or final price outcomes estimates detailed in this analysis. It is difficult to quantify because the existence and scope of these substitution possibilities will only be known with any certainty by network owners, and will differ according to the characteristics of each electricity network.

A further issue relevant to the implementation of any regulatory asset write-down is that it would clearly re-open the issue of the economically appropriate level of the new asset base. That is, it cannot be presumed without evidence that a value *lower* than the existing level is unambiguously more efficient than an alternative well-founded value. In these circumstances, there would be potentially strong arguments to revisit the original asset valuation processes undertaken for the most part in the late 1990s, to establish a satisfactory basis for a view of whether they represented an economically efficient starting point for price and revenue setting purposes. There is certainly evidence to suggest that electricity distribution networks operate a significant range of assets that were not actually recognised in original asset valuation processes. There are credible economic efficiency arguments to recognise and incorporate any evidence of undervaluing the current regulatory asset base in any reassessment of regulatory asset values. This issue is one illustration of the complexity and ambiguity created by re-opening asset bases, the recognition of which is a key rationale for predictable roll forward approaches based on the value of past investments.

These issues would be critical policy considerations for rule or policy makers examining these proposals, due to the *National Electricity Law* objective,



centering on the long-term interests of consumers, being clearly an economic efficiency-based objective, and directing consideration to issue of ensuring efficient investment in, and operation and use of electricity services<sup>2</sup>.

## Claims Made for Regulatory Asset Write-downs

A variety of economic and policy claims are sometimes made in support of the use of regulatory asset write-downs. As regulatory asset write-downs are extremely rare, it is difficult to test these claims in other than qualitative terms. The overwhelming and consistent pattern of regulatory practice in developed economies, and Australia, has been in the direction of maintenance of the regulatory commitment to cost-recovery.

One claim is that regulatory stranding promotes economically efficient outcomes by reflecting a genuine economic stranding that has already occurred. A clear example of this argument might be a single rail line serving a mine with an exhausted resource. Absent any alternative uses for the dedicated line, there is a plausible case to be made that existing and future users of other parts of the common network should no longer face charges reflecting this cost. This is the basis of the traditional US utility regulatory test of an asset being 'used and useful'.

Notice, however, that there are several quite restrictive conditions that need to be met before this claim is viable. It needs to be clear, for example, that the asset is genuinely stranded, and has no alternative value in use (including its potential option value). The example is also predicated on a binary standard of an asset being 'in service', or 'stranded'. Otherwise, a further discussion is needed to establish 'how much' of the asset is truly stranded, which is a not a simple exercise.

Aside for a relatively limited set of clearly by-passed, or obsolete assets, these conditions may be genuinely hard to establish. A regulator's hope of doing so is not assisted by the inevitable uncertainty and subjectivity that may attach to forecasting future demand and competitive conditions, technological developments, and potential alternative uses of assets.

An example of these challenges is the widely unforeseen use of the decades-old copper network to deliver very high-speed broadband through a combination of technological developments. Similarly, it is not obvious in respect of electricity

networks that distributed energy developments, potential for electric vehicle developments, and increasing 'two-way' flow of energy and information mean that the electricity grid will not be *more* valuable, rather than less.

A second claim is that regulatory asset write-downs are an important tool to 'punish' or 'discipline' excessive investment. This claim is typically predicated on an assessment that regulatory gaming may lead to the embedding within the regulatory asset base of excessive past investments.

Both claims are complicated, typically, by the presence of past or existing obligations to invest. Where a regulated firm has invested to meet binding licence or minimum service obligations, on a non-discretionary basis, it is difficult to see *ex post* regulatory action as a particularly well-targeted regulatory tool enshrining sound future incentives. In the case of the electricity regime, opportunities for *ex post* reviewing of capital expenditures, and in some limited circumstances, stranding of capital investments made during of the previous regulatory period that are in excess of original allowances, are already tools being trialled in upcoming decisions.

## Practical Alternatives – which is the better approach?

If regulatory asset write-downs are not the answer, the question remains: how should network regulators and policy makers think about some of the drivers that lead to this issue being raised?

Economically speaking, the logical question to ask is: if networks prices are established to be commercially constrained by competing technologies, should the community continue to expend significant resources applying costly pricing regulation in the first place?

The real redundant asset, in the case where workable competitive forces are evident, would appear to be the original regulatory and institutional regime.

It is unclear whether this is the circumstance the community faces now, but emerging competition and increasing pricing constraints seem to be, if anything, good reasons for evolution to a leaner and more flexible regulatory regime; rather than one that features scope for *ad hoc* confiscation.

In particular, emergence of competition should direct attention to adaptable frameworks, and calibrated forms of price control to any residual areas of 'bottleneck' power. Also, the results of ENA's quantitative write-down analysis show the strong consumer benefit in capacity to efficiently finance long-lived capital investments. Focus must also remain, therefore, on regulatory policy and practice that protect this benefit.

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<sup>2</sup> National Electricity (South Australia) (New National Electricity Law) Amendment Bill 2005 - Second Reading Speech, and see also National Electricity Law, s.7.

More generally, a 'no-regrets' approach would be to use exactly the same types of tools used in the competitive market to manage risks. This includes exploring flexibility of depreciation approaches, which respond to market circumstances and evolving risks. A priority should also be pricing that promotes efficient usage and consumption signals. Collectively, these tools and approaches provide far greater scope for much better outcomes for consumers relying on regulated infrastructure services, than do calls for regulatory write-downs.

## References

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## Critical Issues in Regulation – From the Journals

**Integrating Regulatory and Antitrust Powers: Does It Work? Case Studies from Spain and Mexico**, Juan Delgado and Elisa Mariscal, *Competition Policy International*, 10, 1, Spring 2014, pp. 135-159.

This article focuses on the analysis of ‘multi-purpose regulators’ that combine regulatory and antitrust powers, such as the Spanish *Comisión Nacional de los Mercados y la Competencia* (CNMC). In this article, Juan Delgado and Elisa Mariscal: focus on institutional design; review the existing literature on the pros and cons of single-purpose versus multi-purpose regulators; and use the new Spanish and Mexican institutional settings to ‘contrast how such pros and cons are designed to operate on paper and how they do so in real life’. The authors’ overall goal is to look for evidence, at the very initial stage of the reforms in both countries, of whether these countries are ‘moving closer to a rule-of-law equilibrium’.

The CNMC resulted from the integration of the former competition (antitrust) authority, *Comisión Nacional de la Competencia* (CNC) with six area-specific regulators responsible for energy, telecommunications, audiovisual media, railways, postal services and airports. The CNMC consists of a decision board, composed of ten members, and four Directorates (antitrust, energy, telecommunications and audiovisual, and transport and postal services). There are other horizontal units such as a legal service that reports to the board; and a competition-advocacy department that reports directly to the Chairman. The board is divided in two chambers: the antitrust chamber, chaired by the Chairman, and the regulatory chamber, chaired by the Deputy Chairman. There is a mechanism for exchanging opinions between chambers and discrepancies between chambers are resolved at plenary sessions of the two chambers.

The authors first consider the issue of synergies *versus* conflict. Synergies might potentially arise at the Board level both within the regulatory chamber that deals with several areas, and therefore can apply consistent regulatory principles, and across the two chambers, since the consultation mechanism between chambers can realise synergies between regulation and antitrust enforcement. The integration of institutions can also increase administrative efficiency, which the authors see as a second-order benefit that should not be a driver for integration. Creation of a multi-purpose regulator can also generate conflicts.

A strong multi-purpose regulator will be able better to influence decision-makers and get its proposals through the political process. Also, being able to use a multi-perspective approach could allow regulators to elaborate a more comprehensive and effective strategy on area-specific issues.

An independent agency will more likely use its powers to enforce technical decisions and rules versus short-term political goals or agendas. While independence from the political process is important, independent regulators must have some form of mechanism in which they are accountable via, for example, the control of their budgets.

Juan Delgado and Elisa Mariscal also consider whether it is easier or harder to ‘capture’ a single-purpose regulator (that oversees multiple sectors but needs to coordinate in order to enforce the law) or a multi-purpose regulator (that may have conflicting objectives).

The ultimate aim of institutional design is to ensure an effective enforcement of the law. The success of the new institutional settings both in Spain and Mexico is yet to be proved. According to the authors, some features of the new institutions were not fully motivated by the aim of improving regulatory enforcement. This can lead to a non-materialisation of the potential benefits. The following will be crucial to exploit the complementarities of regulatory and antitrust policies: fine-tuning of the institutional design; the details of the implementation; the internal procedural design; and the new culture of the institutions and governments.

**The Desirability of Forgiveness in Regulatory Enforcement**, Arun S Malik, *Journal of Regulatory Economics*, 46, 2014, pp. 1-22.

This paper is about enforcement of compliance with economic regulation. The author, Arun Malik, shows that a simple deterrence-based model of regulatory enforcement can be extended to allow for selective enforcement that takes into account a business’s efforts to comply with regulation. Malik’s model aims to provide a simple efficiency-based justification for selective enforcement based on an assessment of a violator’s efforts to comply. This is accomplished in the context of a (non-cooperative) principal-agent model with moral hazard. The article is quite technical, although readability is enhanced by placing the most technical analysis in an appendix. There is a comprehensive literature review and the reference list contains 34 items, many of which are from three leading journals in this area: the *Journal of*

*Regulatory Economics*; the *Bell (Rand) Journal*; and the *Journal of Political Economy*.

In the model, the regulator forgives noncompliance if it is able to obtain sufficiently strong evidence that the regulated business had exerted a high level of compliance effort. This evidence takes the form of an additional signal of the business's effort acquired by the regulator at some cost. This signal – that is possibly multi-dimensional – represents the results of: inspections of a business's records; interviews with its employees; or evaluations of its processes and procedures for achieving compliance. Collection of such information is a common element of real-world enforcement practices.

The author identifies the key benefit of forgiving noncompliance as a reduction in the probability with which the business needs to be monitored. The additional signal of the business's compliance effort, coupled with selective forgiveness, increases the power of the regulator's penalty scheme.

The article is available by subscription to the *Journal of Regulatory Economics*.

**Electricity Transmission Arrangements in Great Britain: Time for Change?**, G Strbac, M Pollitt, C Konstantinidis, I Konstantelos, R Moreno, D Newbery and R Green, *Energy Policy*, 73, October 2014, pp. 298-311.

In Great Britain and across Europe, substantial capital expenditure in electricity transmission is expected over coming years as 'decarbonisation' and market-integration efforts are intensified. However, there is also significant uncertainty with the amount, location and timing of new-generation connection, which in turn will determine the needs for transmission investment. This paper reviews whether the current institutional arrangements for system planning and delivery are fit-for-purpose in meeting the identified investment challenges in a timely and efficient manner. The paper includes a comprehensive reference list.

The authors take as a given the absence of efficient market design, and identify three key areas of concern with the current transmission investment arrangements: (i) a misaligned incentives-framework for transmission investment and operation; (ii) a lack of coordination of investment and operation; and (iii) conflicts of interest. The authors propose three options for future evolution of transmission regimes, which cover the full spectrum of institutional arrangements with respect to transmission planning and delivery. These are: how and who plans, owns, builds and operates the transmission system. For each option the authors present: key characteristics; evolution of the current regimes; the ability of the

option to address the concerns; and key strengths and weaknesses. Overall, the authors conclude that, in the case of Great Britain, the most appropriate option would be that of an Independent System Operator (ISO) that would be responsible for planning and operating the transmission system. The authors remark that this conclusion could be extended to other European countries.

The article is available by subscription to *Energy Policy*. **Access a draft of the article here.**

**Financial Impacts of Net-Metered PV on Utilities and Ratepayers: A Scoping Study of Two Prototypical US Utilities**, Andrew Satchwell, Andrew Mills, and Galen Barbose, Prepared for the Office of Energy Efficiency and Renewable Energy Solar Energy Technologies Office U.S. Department of Energy, September 2014.

This report is about the financial implications for electricity utilities and their residential and commercial customers from the adoption of distributed Photo Voltaic (PV). This adoption has been driven in part by the prevalence of net metering, a billing arrangement that allows customers to offset their usage with PV generation and receive credits against future usage for excess generation. Although distributed PV generation currently represents no more than two per cent of the electricity supply in most US states, debates have surfaced about the financial impacts of distributed PV on utilities and their customers. This work is intended to provide information about the potential magnitude of these impacts, by identifying the key conditions under which they may become more or less severe, and by evaluating possible mitigating strategies. A financial model based on two prototypical utilities and estimates the possible financial impacts of distributed PV on both utility shareholders and ratepayers. A comprehensive reference list is attached to this report.

The prototypical utilities are a vertically integrated utility in the south-west and a wires-only utility in the north-east. At PV adoption levels equal to 2.5 per cent of total utility retail sales, Berkeley Lab found in each case that distributed PV resulted in about a four per cent reduction in shareholder earnings. The impacts on average retail electricity rates were increases of 0.1 and 0.2 per cent, respectively. The study also includes sensitivity cases with alternative assumptions about the two utilities.

In considering a future in which distributed PV reaches ten per cent of total utility electricity sales, the report estimates that shareholder earnings might be reduced by anywhere from five to 13 per cent for the south-western utility and by six to 41 per cent for the north-eastern utility. Those ranges reflect alternative assumptions about the utilities' underlying



load growth, rate structure, and other factors, and uncertainty about the degree to which distributed PV defers the need for utility capital investments in new generation, transmission, and distribution infrastructure.

A core purpose was to evaluate measures that could be pursued by utilities and regulators to reduce the financial impacts of distributed PV. The report considered a large number of such measures, including changes to utility rate design and rate-making processes, mechanisms that allow utilities to recoup revenues lost due to distributed PV or to earn profits on distributed PV, and a variety of other strategies. A number of these measures could restore utility profitability to levels similar to what would occur in the absence of distributed PV, or could offset rate increases associated with distributed PV, or both. However, the effectiveness of these measures often depends critically on their design, and in many cases, they involve important trade-offs – either between utility ratepayers and shareholders or among competing policy objectives. The authors seek to highlight important issues for utilities and regulators to consider distributed PV and net metering. **Access the report here.**

**Fixed-to-Mobile Substitution in the European Union**, Lukasz Grzybowski, *Telecommunications Policy*, 38, 2014, pp. 601-612.

This paper is about the substitution between fixed-line and mobile telecommunications (fixed-to-mobile substitution or FMS) in Europe. The empirical analysis is based on cross-section panel data across 27 European Union (EU) countries in the years 2005 to 2010. Households are categorised as: fixed-line only; mobile only; and both fixed-line and mobile. Explanatory variables include: fixed-line prices; mobile prices; GDP per capita; availability of bundled offers; penetration of cable; penetration of 3G internet; and overall internet penetration. There is a short literature review and 21 references are listed.

The author, Lukasz Grzybowski, finds that there are big variations in household choice across the 27 member states of the EU. In particular, the proportion of households with both fixed and mobile connections averages 56 per cent, but varies greatly from just 15 per cent in the Czech Republic to 94 per cent in Sweden. The proportion of households that are mobile-only ranges from zero to 81 per cent (average 18 per cent); with eastern European countries tending to have much-higher-than-average proportions of mobile-only households. Fixed-only households are few in number across the EU, with an overall average of only five per cent of households having only a fixed-line service.

The main results of the econometric study are the following:

- There has been a decline in fixed-line connections and an increase in mobile connections over the past few years; indicating an apparent overall fixed-to-mobile substitution.
- Statistically, neither fixed-line nor mobile prices are significant factors in this apparent FMS.
- Growth in the internet overall increases the share of fixed-plus-mobile households, and the spread of the internet overall has 'postponed FMS'.
- The spread of 3G and cable decreases the share of fixed-plus-mobile households and increases the share of mobile-only households.
- The availability of bundling increases the share of fixed-plus-mobile households and decreases the share of both mobile-only and fixed-only households.
- Finally, improvements in both the quality and the speed of the internet may result in a decline in copper-based connections.

The article is available by subscription to *Telecommunications Policy*.

**Regulating a Monopoly with Universal Service Obligations: The Role of Flexible Tariff Schemes**, M Willington and J Li Ning, *Telecommunications Policy*, 38, 1, February 2014, pp. 32-48.

This is primarily a theoretical article about regulation of a monopoly telecommunications provider with a universal service obligation (USO) that guarantees 'all consumers [have] equal access to the service at a reasonable cost'. The paper contains a theoretical analysis (including in a long technical appendix) and also features verbal explanations of the approach and results. The authors list seventeen references.

The authors envisage two types of situation. First, there is the rural dimension where networks are underdeveloped and involve higher costs than in urban areas. Second, there is the situation where services are available, but low-income consumers are unwilling to pay the price required to access the service. The paper is particularly about how two-part tariff arrangements can be used in achieving USO goals. There are three scenarios: first, the monopolist is forced to offer a single regulated two-part tariff; second, multiple tariffs can be offered provided all of the tariffs (including the regulated two-part tariff) are available to all consumers; and third, multiple tariffs can be offered, but only the regulated two-part tariff must be available to all consumers.



The article is available by subscription to *Telecommunications Policy*.

**Improving Economic Regulation of Urban Water**, Frontier Economics, Report Prepared for the Water Services Association of Australia, August 2014.

According to this report, current arrangements for the economic regulation of the urban water industry in Australia have some significant shortcomings when compared to best-practice. Frontier Economics argues that the most fundamental problems are: the lack of independent economic regulation in some jurisdictions; unclear or conflicting objectives given to regulators; and inadequate rights of review of regulatory decisions. It further argues that these attributes undermine the certainty needed for long-term planning; and also mean that current arrangements 'are not sufficiently robust to support more extensive private sector involvement'. The report is 162 pages in length (including content pages, introductory material, reference lists, etcetera) and has 77 references (mainly to regulators' publications and the professional literature).

Frontier Economics argues that there is no 'silver bullet' regulatory approach to achieve the underlying objectives of economic regulation while simultaneously minimising compliance and other costs. As there are likely to be trade-offs, the best approach will depend on views on these trade-offs, and on the particular circumstances applying in specific jurisdictions.

The report makes specific suggestions to improve on current arrangements: establishing the role of economic regulators as genuinely independent decision-makers with powers to make binding determinations; less prescription (water businesses are best-placed to understand customers' needs and demands, and economic regulators should not impose inflexible arrangements, especially as competition emerges); reducing unnecessary regulatory burden; providing more high-powered incentives (information asymmetry faced by economic regulators is likely to be best addressed through designing incentives for regulated businesses to act appropriately based on their knowledge rather than regulators seeking more and more detailed information); and strengthening accountability (particularly by clarifying regulatory objectives and providing for independent review of regulator's decisions).

The report also sees a need to re-focus on the appropriate role of economic regulation relative to policy formulation, service provision, and governance

(in particular the shareholder role). **Click here for the WSAA Report**

**Regulating Railways**, *Network Industries Quarterly*, 16, 2, 2014. Issued jointly by the Chair Management of Network Industries, *Ecole Polytechnique Fédérale de Lausanne* and the Florence School of Regulation Transport speciality.

This issue of the *Network Industries Quarterly* looks at different aspects of rail regulation with examples drawn from inside and outside the European Union. As in other network industries, the rail subsector in Europe is in a process of organisational restructuring that involves different forms of liberalisation, deregulation and reregulation. In this process many approaches to railway regulation are reassessed. Achieving better and more cost-efficient rail services for transport of freight and passengers is a commonly shared goal, but there are different opinions on the right policies to achieve this goal.

The five papers in this issue of *Network Industries Quarterly* are:

- 'The Reform of Passenger Rail in Switzerland: More Performance without Competition?' (Christian Desmaris)
- 'Current Regulatory Challenges in Access to the Rail Infrastructure in Poland' (Izabela Kuligowska)
- 'Methods for Saturation Modelling of Railway Lines: The Case of High-Speed Line Paris-Lyon' (Florent Laroche)
- 'Vertical Separation in Rail Transport: How Do Prices Influence Coordination?' (Miguel Amaral and Jean-Christophe Thiebaud)
- 'Capacity Pricing Schemes to Implement Open-access Rail in Tanzania (Maite Peña-Alcaraz, Ignacio Perez-Arriaga and Joseph M Sussman)

**Regulating Railways in NIQ available here.**

**Determining the Weighted Average Cost of Capital of Airports in an Evolving French Regulatory Environment**, Jeanne Lubek and Stéphane Wakeford, NERA Insight in Economics, 18 September 2014.

This NERA 'Insight in Economics' paper is about economic regulation of airports in France, with particular reference to the weighted average cost of capital (WACC). It suggests incremental changes to the current regulation towards more economic-based standards that would benefit both airport users and operators. In particular, the suggested changes would prevent the French price-cap regulation from becoming like a disguised rate-of-return regulation, of

which the negative effects have been widely documented (most notably, the Averch-Johnson effect regarding the tendency of rate-of-return regulation to result in overinvestment). The article is written by Jeanne Lubek and Stéphane Wakeford. It contains detailed information about the regulatory approach to airports in France and makes reference to key articles.

The WACC is central to French airport price-cap regulation. However, French regulation does not specify the key parameters and methodologies used to determine the WACC. This results in differing appreciations of the correct cost of capital to be used to determine the evolution of airport charges.

The authors argue that, in the context of the privatisation of French regional airports, regulatory uncertainty about the WACC is problematic because the state acts both as a regulator and as a shareholder. This undermines the confidence of airlines in the current regulatory framework. Furthermore, in their view, the lack of predictability of the price-setting mechanism places a burden on potential buyers of French airports in the form of regulatory risk regarding the next price-control periods. **Access the article here**

**The Debt Maturity Issue in Access Pricing**, Kevin Davis, *Economic Record*, 90, 290, September 2014, pp. 271-281.

This article is about the appropriate debt maturity to be used in determining the cost of debt for use in access pricing decisions. Some regulators have used a debt maturity corresponding to the length of the regulatory reset period, typically five years. Other regulatory bodies have used a longer maturity based on the longer lives of the assets being financed. In this article Kevin Davis contends that, in order to meet the legislative objectives of access pricing, the debt maturity should be set equal to the regulatory reset period. An alternative approach, which places more emphasis on an access provider's actual debt costs, is also considered. The article has the following headings: introduction; approaches to debt maturity in access pricing regulation; the model; implications and intuition; caveats and complications; and conclusion. It contains nineteen references covering academic articles (including by Martin Lally and Bruce Grundy) and publications by regulatory bodies (including the Australian Energy Regulator, the Ontario Energy Board and the Queensland Competition Authority).

The article is available by subscription to the *Economic Record*.

## Regulatory Decisions in Australia and New Zealand

### Australia

#### Australian Competition and Consumer Commission (ACCC)

##### Container Stevedoring Monitoring Report Number 16 Released

On 30 October 2014 the ACCC released its sixteenth annual report on container stevedoring monitoring. [Read the report.](#)

##### Position Statement on Telstra-NBN Co Arrangements for Telstra's Fixed-Line Prices Released

On 22 October 2014 the ACCC released a position statement on how it intends to account for the effect of arrangements between Telstra (ASX: TLS) and NBN Co in its final access determinations for Telstra's regulated fixed-line services. [Read the position statement.](#)

##### GrainCorp's Newcastle Port Terminal Granted an Exemption

On 2 October 2014 the ACCC granted an exemption for GrainCorp's Carrington terminal at the Port of Newcastle under the new mandatory Code on bulk wheat terminal access. The Code commenced on 30 September 2014, replacing the previous regime of access undertakings administered by the ACCC. It regulates monopoly bulk wheat port terminal operators. [Read more about the Code.](#)

### Australian Energy Regulator (AER)

#### Benchmarking Reports for Electricity Distribution and Transmission Released

See 'Notes on Interesting Decisions'.

#### TasNetworks Revenue Proposal – Draft Decision

On 27 November 2014, the AER issued its draft decision on the revenue proposal submitted by the Tasmanian electricity transmission business, TasNetworks (previously known as Transend). The revenue proposal applies for the four years starting on 1 July 2015. [View the draft decision.](#)

#### ACT and NSW Distribution and Transmission Businesses Revenue Proposals – Draft Decision

On 27 November 2014, the AER issued draft decisions on the revenue proposals submitted by

ACT and NSW distribution and transmission businesses starting on 1 July 2015. The draft decisions apply to: one electricity distribution business in the ACT (ActewAGL); three electricity distribution businesses in NSW (Ausgrid, Endeavour Energy and Essential Energy); one gas distribution business in NSW (Jemena Gas Networks); and two electricity transmission businesses in NSW (TransGrid and Directlink). [View the draft decision.](#)

#### Victorian Demand Management Incentive Scheme Re-issued

On 21 November 2014 the AER decided to re-issue the Victorian Demand Management Incentive Scheme for the 2016-2020 regulatory control period. [Read about the scheme.](#)

#### Electricity Network Charges in South Australia and Queensland – Reset Process to Commence

On 14 November 2014 the AER commenced its process on setting network charges for the 2015 to 2020 regulatory control period from Energex and Ergon Energy in Queensland and SA Power Networks in South Australia. [Request for submissions.](#)

#### Individual Exemptions for the Sale of Electricity

On 31 October 2014 the AER granted individual exemptions for the sale of electricity to: Solarmine Pty Ltd; Horan and Bird; Trading Green Pty Ltd; Demand Manager Solar Funding; and Kenjarhy Solar Pty Ltd. On 28 October 2014 the AER granted individual exemptions for the sale of electricity to: Countrywide Energy Pty Ltd; and Brookfield District Energy (CP) Pty Ltd.

#### Electricity Post-Tax Revenue Model (PTRM) – Proposed Amendments

On 3 October 2014 the AER released its proposed amendments to the Post-Tax Revenue Model for electricity. Stakeholders had until 17 November 2014 to make submissions. [See the proposed amendments.](#)

#### New AER Chair Commences

On 1 October 2014 Ms Paula Conboy commenced as the Chair of the AER. [Read about the appointment.](#)



## Australian Energy Market Commission (AEMC)

### Implementation Timetable for Competition in Metering Rule Change – Stakeholder Comments Sought

On 20 November 2014 the AEMC sought written submissions from stakeholders on the proposed implementation timetable for the various components of the competition in metering and related services rule change. [Read more about the draft determination.](#)

### New Rule on Connecting Smaller Generators

On 13 November 2014 the AEMC made a new rule on connecting generators under 5MW to distribution networks. [Read the final determination.](#)

### Approach to 2015 Retail Competition Review

On 31 October 2014 the AEMC invited stakeholder feedback on a consultation paper setting out the proposed assessment framework for the Commission's second review of energy retail competition in National Electricity Market states and territories. The AEMC undertakes annual NEM-wide competition reviews for the Council of Australian Governments Energy Council. [Read more about the consultation paper.](#)

## National Competition Council (NCC)

### 2013-14 Annual Report

On 29 October 2014 the NCC announced the public availability of its Annual Report for 2013-14. [Read the report.](#)

## Australian Capital Territory

## Independent Competition and Regulatory Commission (ICRC)

### ACTEW Regulated Water and Sewerage Prices

On 4 November 2014 the ICRC announced the maximum prices that ACTEW can charge for its regulated water and sewerage services from 1 July 2014. The approved schedule of ACTEW's 2014-15 water and sewerage service charges can be found on the ACT Legislation Register. [Read the announcement.](#)

## New South Wales

## Independent Pricing and Regulatory Tribunal (IPART)

### Annual Report 2013-14

On 17 November 2014 the IPART released its annual report for 2013-14. [View the annual report.](#)

## Queensland

## Queensland Competition Authority (QCA)

### Aurizon Network's Proposed Standard User Funding Agreement Arrangements – Draft Decision

On 31 October 2014 the QCA issued its draft decision on Aurizon Network's proposed Standard User Funding Agreement (SUFA) arrangements. The QCA is seeking views from interested parties on the draft decision by 16 January 2015 and will make a final decision in the first half of 2015. [Read more about the draft decision.](#)

### Queensland Rail's 2013 Draft Access Undertaking – Draft Decision

On 17 October 2014 the QCA issued its draft decision on Queensland Rail's 2013 draft access undertaking (DAU) – the rules governing competition in freight services on the State's rail network. [Read the draft decision.](#)

### Aurizon Network's Maximum Allowable Revenue (MAR) – Draft Decision

On 30 September 2014 the QCA issued its draft decision on Aurizon Network's Aurizon Network's Maximum Allowable Revenue (MAR) for its 2014 Draft Access Undertaking (2014 DAU). The MAR will determine the revenue Aurizon Network is allowed to recover from its customers during the period 2013–14 to 2016–17. [Read more about the draft decision.](#)

## South Australia

### Essential Services Commission of South Australia (ESCOSA)

#### Economic Regulation of SA Water – Framework and Approach

On 21 November 2014 the ESCOSA published the final framework and approach to regulating SA Water's revenues and service standards for the four-year regulatory period commencing 1 July 2016. [Read more about the framework.](#)

#### Tarcoola to Darwin Railway – Ten-Year Review

On 19 November 2014 the ESCOSA released an Issues Paper to commence the review of the revenues received from the provision of access to the Tarcoola – Darwin Railway during the ten-year period ending 30 June 2013. [Read about the review.](#)

#### Draft Determination of the 2015-2016 Minimum Retailer Solar Feed-in Tariff – Submissions Received

On 14 November 2014 the ESCOSA announced that it has received submissions on the Draft Determination of the 2015-2016 Minimum Retailer Solar Feed-in Tariff and will be making its Final Determination in December 2014. [Read about the draft determination.](#)

## Tasmania

### Office of the Tasmanian Economic Regulator (OTTER)

#### TasWater Proposed Price and Service Plan

On 3 October 2014 TasWater provided copies of the required draft policies with respect to Service Extension and Expansion, Water Metering, Service Introduction Charges and Developer Charges. [Read about the proposed plan.](#)

## Victoria

### Essential Services Commission (ESC)

#### Energy Retailers Compliance Report 2012-13

On 13 October 2014 the ESC issued its Energy Retailers Compliance Report for 2013-14. [Read the report.](#)

#### Review of Victorian Ports Regulation 2014 Final Report

See 'Notes on Interesting Decisions'.

## Western Australia

### Economic Regulation Authority (ERA)

#### Rail WACC – Revised Draft Decision and Call for Comments

On 28 November 2014 the ERA issued its Revised Draft Decision on the WACC and invited public comment. [Read about the revised draft decision.](#)

#### Wholesale Electricity Market Discussion Paper Released

On 19 November 2014 the ERA announced that it is seeking public comment from interested parties on any issues impacting the effectiveness of the Wholesale Electricity Market in meeting the Market Objectives. This is to assist it to prepare the 2014 report to the Minister for Energy. [View the 2014 Annual Wholesale Electricity Market Report to the Minister for Energy.](#)

#### Goldfields Gas Pipeline – Proposed Revised Access Arrangement

On 3 November 2014 the ERA published an issues paper on the proposed revised access arrangement for the Goldfields Gas Pipeline (GGP). [Issues Paper on Proposed Revisions to the Goldfields Gas Pipeline Access Arrangement.](#)

#### Rail WACC Calculation 2014

On 24 October 2014 the ERA announced it had calculated the weighted average cost of capital (WACC) for the Public Transport Authority, Brookfield Rail and The Pilbara Infrastructure rail networks as at 30 June 2014, as required by the Railways (Access) Code 2000. [Read more about the WACC.](#)

## **Mid-West and South-West Gas Distribution Systems – Proposed Access Arrangement for Period 2014-2019**

On 17 October 2014, ATCO Gas Australia Pty Ltd as the owner and operator of the Mid-West and South-West Gas Distribution Systems, submitted proposed revisions to the current access arrangement. The ERA released an issues paper to assist in the submissions process. Draft Decision on Proposed Revisions to the Access Arrangement for the Mid-West and South-West Gas Distribution System, submitted by ATCO Gas Australia Pty Ltd.

## **New Zealand**

### **New Zealand Commerce Commission (CCNZ)**

#### **Prices of Copper Lines and Bitstream Access – Draft Decisions on Prices**

See 'Notes on Interesting Decisions'.

#### **Liability Allocation for Telecommunications Providers – Draft Decision**

On 12 November 2014 the CCNZ released its draft decision about how much 22 telecommunications providers will pay towards the \$50 million Telecommunications Development Levy (TDL) for 2013-14. **Read the full news article.**

#### **Indicators for Monitoring Mobile Telecommunications Markets Updated**

On 3 November 2014 the CCNZ announced its new indicators for monitoring the mobile telecommunications markets. **Read the full news article.**

#### **Regulated Businesses' Cost of Capital – Final Decision**

On 30 October 2014 the CCNZ released its final decision on the weighted average cost of capital (WACC) used for regulated businesses. **Read the full news article.**

#### **Proposed Changes to Chorus's Regulated UBA Service – Investigation Suspended**

On 16 October 2014 the CCNZ announced that it had suspended its investigation into Chorus's proposed changes to the regulated unbundled bitstream access (UBA) service. **Read the full news article.**



## Notes on Interesting Decisions

### AER Benchmarking Electricity Distribution and Transmission

On 27 November 2014 the AER published its first annual benchmarking reports for electricity distribution and transmission networks, respectively. The benchmarking reports compare the relative efficiency of network businesses, taking into account differences in their operating conditions. The benchmarking reports contribute to the AER's role in regulating the network businesses, providing more transparency about the performance of network businesses than previously. The benchmarking reports reflect a range of efficiency performance across the businesses. Generally the Victorian and South Australian distribution networks are found to be the better performers and NSW, ACT, Queensland and Tasmanian distribution networks have performed less well.

The benchmarking reports have been developed over three years, including intensive consultation processes, being initiated with a joint **ACCC/AER report on benchmarking** energy networks published in 2012. The AER established the benchmarking and information framework under the Better Regulation Program in 2013. Information was then collected, tested, and validated across all network businesses, and was published on the AER website. The AER also further engaged in extensive consultation with network businesses and other interested stakeholders, including through hosting public forums and open workshops to discuss proposed benchmarking models and data requirements.

The overall benchmarking measures are amongst the tools the AER uses to assess the efficiency performance of network businesses and form part of the continuing process of refining the regulatory approach. The AER has regard to benchmarking findings for the draft decisions for the ACT, NSW and Tasmanian network service providers announced on 27 November 2014. The final decisions on the revenue proposals for these businesses will set the amounts (and therefore network charges) that can be recovered from customers. **Annual Benchmarking Report**

### Review of Victorian Ports Regulation 2014 – Final Report

The Essential Services Commission (ESC) released its *Review of Victorian Ports Regulation: Final Report* in August 2014. The purpose of the review was to make recommendations to the Minister for

Finance who administers the *Essential Services Commission Act 2001*. The recommendations concern whether or not prescribed port services should be subject to price regulation and the form of that regulation. The review covers only those port services that are prescribed by the *Port Management Act 1995*. Further, the review was conducted in the context of the existing legislative, regulatory, and ownership arrangements, and does not consider potential changes in ownership arrangements regarding the Port of Melbourne.

The assessment of market power entailed analysis of the potential for competition in the provision of the prescribed services within defined markets for channel services, container and motor vehicle services. This analysis takes into account the following factors:

The existence of barriers to entry: obstacles to new market entry by alternative providers and may include physical, economic or regulatory barriers.

Competition between ports: the potential for rivalry between ports in providing port services, including whether there are any other services which could be used in place of the prescribed services by the Port of Melbourne Corporation.

Countervailing market power: where a monopoly service provider's customer(s) also hold some degree of market power, strengthening the customer's bargaining position with the Port of Melbourne Corporation. This may occur if the customer is a large or the sole user of port facilities; or if the customer has the ability and/or incentive to use alternative port services.

The choice between light-handed and heavy-handed economic regulation needs to take into account whether Port of Melbourne Corporation has actually exercised its substantial market power. To this end, the ESC assessed the available evidence regarding movements in the prices, service quality and profitability of Port of Melbourne Corporation's prescribed services to ascertain whether there has been any misuse of Port of Melbourne Corporation's market power, in relation to the provision of prescribed services. The available evidence indicates that price movements have been in excess of Consumer Price Index growth but not substantially so, with the exception of the impact due to the introduction of the Port Licence Fee. Reported service-quality outcomes are observed either to have been stable or improved, and reported profitability does not appear to have been excessive.

To assist further in determining the appropriate form of regulation to apply, the ESC also assessed the existing regulatory framework based on the following assessment criteria:

**Transparency:** is the objective and operation of the price-monitoring framework clear?

**Effectiveness:** is the framework appropriately addressing the regulatory problem?

**Proportionality:** are the elements of the price-monitoring framework proportional to the nature of the regulatory problem, including the obligations currently placed on the Port of Melbourne Corporation under the framework?

**Accountability:** does the framework provide robust governance arrangements ensuring the integrity of operation of the regime?

This ESC's assessment considered how effective the current regulatory framework has been in constraining Port of Melbourne's exercise of its market power in providing the current prescribed services.

Based on the ESC's assessment of market power (available evidence of movements in the prices, service quality and profitability of Port of Melbourne's prescribed services) and on an assessment of the current regime, the ESC considers that the continuation of a 'light-handed' form of economic regulation (namely price monitoring) is appropriate. The ESC finds that there is no evidence to warrant a more heavy-handed form of regulation (for example, the ESC setting prices) being applied to the Port of Melbourne. Accordingly, the ESC recommends that the form of regulation to apply to the prescribed services is a price-monitoring framework.

The ESC contends that its recommendations represent a reduction in the regulatory burden for the Port of Melbourne, and provide regulatory clarity in relation to how prescribed services will be regulated regardless of future ownership arrangements at the Port of Melbourne. **Final Report Review of Victorian Ports Regulation**

## **Pricing of Unbundled Copper Lines and Bitstream Access – New Zealand**

On 2 December 2014 the Commerce Commission of New Zealand (CCNZ) released draft decisions for consultation setting proposed prices that Chorus can charge for use of its local copper lines (unbundled copper local loop, UCLL) and broadband service (unbundled bitstream access, UBA). These are wholesale prices that Chorus charges retailers of telecommunications services. The proposed maximum monthly rental price that Chorus can charge for its unbundled copper local loop (UCLL) is \$28.22, an increase on the current price of \$23.52

that was established by international benchmarking at the end of 2012. The additional proposed maximum monthly rental price for the UBA service is \$10.17, a decrease on the price of \$10.92 that was established by benchmarking at the end of 2013, and which came into force on 1 December 2014. The total proposed wholesale price for the UBA service will therefore be \$38.39 per month, compared to the price that came into effect on 1 December 2014 of \$34.44 per month. Prior to 1 December 2014, \$44.98 per month was the price Chorus could charge for the UBA service.

To determine these proposed monthly rental prices, the CCNZ is required—under the legislation—to develop a 'forward looking' cost model (called a TSLRIC model). This involves costing an efficient modern technology network that could deliver all the regulated UCLL and UBA services that Chorus currently provides. TSLRIC modelling is used in a number of European countries to set regulated prices for copper-based telecommunications services. The CCNZ has engaged the French consultancy, TERA, to develop the model. As this is the first time the CCNZ has undertaken a comprehensive modelling exercise, it is seeking industry's views on the model it has built and the reasoning behind its modelling choices. (Previously these prices had been determined by an international benchmarking process.)

In December 2013, the CCNZ published a process and issues paper on UCLL which set out the framework for modelling the UCLL service, and a number of modelling issues. The CCNZ also hosted an industry workshop on these initial processes. In February 2014, the CCNZ published a process and consultation issues paper on UBA. In March 2014, the CCNZ published further consultation papers on topics including backdating and modern asset equivalents and a technical consultation paper on the cost of capital. The CCNZ also hosted an industry workshop on TSLRIC. In April 2014, the CCNZ held a workshop where its consultants, TERA, explained the modelling approach to industry. In June 2014, the CCNZ published the TERA Literature Review and expert reports from Oxera, Dr Martin Lally on WACC and Professor Vogelsang on TSLRIC and the promotion of competition. In July 2014, the CCNZ published a consultation paper relating to the cost models. In September 2014, the CCNZ published an open letter on the process for 2015 and also a consultation paper on Service Transaction Charges.

The CCNZ states that it has taken an orthodox approach to TSLRIC modelling to promote as predictable a regulatory environment as possible. For the key input assumptions the CCNZ sought

advice from independent sources, for example, Beca for civil infrastructure costs, Landcare Research and Corelogic for geospatial data, and Oxera Consulting and Dr Martin Lally for the cost of capital. The modelled price of UBA in the draft release is similar to the benchmark price, and the modelled UCLL price is higher. There CCNZ notes that there appear to be 'uniquely New Zealand factors, such as the dispersed nature of the rural network, that may differentiate our UCLL prices from the overseas benchmarks'.

**The CCNZ is seeking submissions** from interested parties on both draft decisions by Friday 23 January 2015. The earliest that the final UBA price could apply from is 1 December 2014, which is when the benchmarked price came into effect. The CCNZ is seeking views from submitters on whether the final UCLL price should be backdated.



## Regulatory News

### ACCC/AER Regulatory Conference 2015

The ACCC/AER will hold its sixteenth Regulatory Conference in Brisbane on 6 and 7 August 2015.

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