



ICRC

independent competition and regulatory commission

Annual Report

2005–06

September 2006

The Independent Competition and Regulatory Commission

The Commission is established by the *Independent Competition and Regulatory Commission Act 1997* to determine prices for regulated industries, approve access arrangements and arbitrate disputes on access to infrastructure. The Commission also provides advice on competitive neutrality complaints and on government-regulated activities.

The Commission also has responsibilities under the *Utilities Act 2000*. Under the Act the Commission licenses utility services in the Australian Capital Territory. It also ensures compliance with legislation, codes and licence conditions, and approves industry codes of practice and the form of standard customer contracts.

The Commission has one Commissioner:
Paul Baxter, Senior Commissioner (term expires 30 June 2009).

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Transmittal certificate

Mr Simon Corbell MLA
Attorney General
ACT Legislative Assembly
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Dear Minister

This report has been prepared under section 6(1) of the *Annual Reports (Government Agencies) Act 2004* and in accordance with the requirements referred to in the Chief Minister's Annual Report Directions 2005-2006. It has been prepared in conformity with other legislation applicable to the preparation of the Annual Report by the Independent Competition and Regulatory Commission.

We hereby certify that the attached Annual Report is an honest and accurate account and that all material information on the operations of the Independent Competition and Regulatory Commission during the period from 1 July 2005 to 30 June 2006 has been included and that it complies with the Chief Minister's Annual Report Directions.

We also hereby certify that fraud prevention has been managed in accordance with Public Sector Management Standard 1, Part 4.

Section 13 of the *Annual Reports (Government Agencies) Act 2004* requires that you cause a copy of the report to be laid before the Legislative Assembly within three months of the end of the financial year.

Yours sincerely

Paul Baxter
Senior Commissioner

Ilan Primrose
Chief Executive Officer

18 September 2006



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Foreword

The Commission's annual report for 2002–03 was the first to be introduced by a brief essay to complement the mandatory reporting information later in the report. That first essay described the background to and state of utility regulation activities in Australia and, in particular, in the Australian Capital Territory (ACT).

The annual report for 2003–04 was introduced by building on the previous discussion, providing an ACT perspective on the role of state and territory regulators in the new Australian energy regulatory environment. The essay for 2004–05 focused on the pricing and regulation of water, in particular the pricing of externalities considered in the Commission's comprehensive review during the financial year.

For this Annual Report 2005–06, the introductory essay is a brief overview of current changes to energy utility regulation in Australia.

Energy regulation is changing

Regulation of energy in Australia is fundamentally changing. The changes that are taking place are of a similar magnitude and significance to the establishment of the national market, in the late 1990s, and the agreement among the Commonwealth, states and territories to the National Competition Policy and the related reforms that were endorsed in 1995.

The changes introduce a different structure for the regulation of energy, intended to lower the burden of regulation by reducing the cost of regulation and reducing duplication between jurisdictional regulatory agencies, and to contribute to the achievement of energy efficiency and improve the effectiveness of demand management. The changes affect the structure through which the energy market is integrated into the political and business economy, which in turn will affect the way in which market rules are determined and administered.

The changes are in large part a response to a desire by government to exert a more direct policy influence over the energy market, involving decisions about energy and environmental sustainability, resource development and infrastructure investment. They are also partly a response to industry calls for a reduction in the duplication of licensing and regulatory systems between jurisdictions, and in the number of regulators, with differing requirements and processes, to which energy businesses are responsible across the national market.

Also, to the extent that the regulatory systems are different in each jurisdiction, while they have tended to reach the same outcomes for consumers they have often made scale economies difficult to capture. The multiplicity of regimes has resulted in additional uncertainty for energy networks and generators: uncertainty with a direct cost expressed as greater industry-specific and firm-specific risk, and indirect costs in terms of delayed investment in generation and transport infrastructure.

The new structure for the electricity market

Following the Parer Review into the energy markets, the final report of which was submitted in 2002, the Australian Government drove the change agenda for energy with the support and cooperation of the states and territories. The Ministerial Council on Energy (MCE) was established to enable energy ministers to coordinate policy in relation to energy regulation and investment. The MCE took responsibility for a range of the related reforms in electricity and gas that had been progressing under the National Competition Policy agreements.

Two new regulatory bodies were also established: the Australian Energy Market Commission (AEMC) and the Australian Energy Regulator (AER). The AEMC took over the rule-making responsibility of the National Energy Code Authority (NECA), and its advocacy development role. The AER is to administer the rules: that is, to replace the multiplicity of jurisdictional price and industry regulatory functions formerly exercised by state-based regulators. The AER is to take over regulation of distribution networks and retail energy from 1 July 2007.

The National Electricity Market Management Company (NEMMCO) remains responsible for the daily management of electricity supply and the participation of service suppliers in the national market system. The gas market is less uniform in its management arrangements than the electricity market; independent bodies such as the Gas Market Company exercise a similar responsibility for the allocation and balancing of gas supply across the gas market system.

Arguably the new structure provides ministers with an ability to set the overall policy parameters for energy in Australia, initially concentrating on the national gas and electricity markets in the east of the nation. The national electricity market includes New South Wales, Victoria, Queensland, South Australia and the ACT, with Tasmania to enter the market in 2006–07.

The aim is that the new structure will provide for independent rule setting and regulation, in addition to reducing the cost and the level of regulatory

intervention in the market. There are doubts about how effectively independent the new regulatory bodies will be, or will be perceived to be: the AEMC makes rules that are finally authorised by the MCE, and the AER is a satellite of the Australian Competition and Consumer Commission (ACCC), which previously regulated electricity transmission and gas transport.

Moreover, the AEMC has taken a very robust stance on some regulatory issues that contrasts markedly with the way that those issues were dealt with under the state-based regimes. It is too early to decide whether that approach will be effective or whether it will become heavy-handed in its regulatory outcomes.

Several observations may be made at this early stage in the process of introducing the changes to national regulation. For example:

- the objectives of the new arrangements are ambitious and driven by the industry and policy makers' interests and not necessarily those of the consumer
- there has already been slippage in the timetable for transferring responsibility for network and retail regulation to the new national regulatory model
- there is arguably less certainty in the market now than there was before this process began
- the national regulators are not yet fully technically able and have not yet fully capitalised on the experience of the state and territory regulators.

In many senses regulation remains divided, which has increased uncertainty not only for suppliers but also for regulatory agencies and their employees, and for potential investors.

The initial competition reform framework

In 1993, the Council of Australian Governments (COAG) established a committee to inquire into microeconomic reforms that could improve the competitiveness of domestic markets and contribute to improvements in Australia's international competitiveness. Chaired by Professor Fred Hilmer, the committee made a number of key recommendations in its report delivered in 1994; COAG agreed to the reforms at its meeting in Hobart in April 1995.

The reforms were brought together in the Competition Principles Agreement. Three agreements formed the National Competition Policy, namely: the Conduct Code Agreement, the Competition Principles Agreement, and the Agreement to Implement the National Competition Policy and Related Reforms.

The agreements set in place the range of reform obligations to be achieved by governments in each state and territory, including local governments. In summary, the agreements provided that each jurisdiction would:

- consider mechanisms for providing effective price surveillance
- where it was appropriate, introduce competitive neutrality policies and principles for significant government-owned businesses, to create a level playing field where government-owned and private enterprises competed
- restructure government-owned monopolies, including through privatisation or commercialisation—whichever was appropriate to increase competition in formerly monopoly markets
- review and reform legislation that restricted competition, unless there was a net benefit to retaining the restraint
- provide third-party access to significant infrastructure facilities, to remove barriers to entry by preventing investment in inefficient duplication of infrastructure
- apply competition principles to local government
- extend the Competition Code to all jurisdictions
- implement the essential related reforms in electricity, gas, water and transport under consideration by COAG at the time of the agreements.

The related reforms contained the obligations that gave rise to the national electricity and gas markets. COAG had been debating and investigating microeconomic reform of energy supply for a number of years before the formation of the national markets. However, despite intense activity on a range of preparatory issues under the jurisdiction of the National Grid Management Council and COAG's oversight, the discussions had not realised a structure for the markets by 1995.

The inclusion of the related reforms in the National Competition Policy gave the process impetus because the reform objectives were attached to incentive payments for the first time. The payments, the so-called national competition payments, were paid annually until 2005, albeit in a variety of forms. Also, there was a genuine desire on the part of the participating governments to achieve real economic reform that delivered benefits to their communities. The agreements reached in 1995 brought to a head the intense preparatory activities, and were followed in 1997 by the first iteration of the national electricity and gas markets.

In terms of the national energy market, the related reform commitments for electricity and gas markets proved crucial to the form of regulation adopted between 1996 and 2007. In a letter to premiers and chief ministers, on 10 December 1996, the Prime Minister proposed a new timetable for

electricity reform that became the benchmark against which performance in establishing the electricity market was measured.

The main points included:

- harmonisation of the New South Wales (including the ACT) and Victorian wholesale electricity markets (NEM Phase 1) by February 1997
- authorisation of the National Electricity Code by the ACCC for the purposes of the *Trade Practices Act 1974* Part IV, and acceptance of the Code as an industry access code under Part IIIA of the *Trade Practices Act 1974*, by May 1997
- further harmonisation of Victorian and New South Wales market arrangements (NEM Phase 2) by July 1997
- passage of legislation giving effect to the National Electricity Law by participating jurisdictions by Autumn 1997
- full implementation of the market arrangements specified in the National Electricity Code by early 1998.¹

Those objectives were met by the jurisdictions that comprised the initial electricity market by 1998: New South Wales, Victoria, Queensland, South Australia and the ACT.

The passage of the National Electricity Law and the Code had authorised the establishment of the principal organisations responsible for setting the market rules, regulating the market and operating the market system: NECA, NEMMCO, and the state-based regulatory agencies responsible for developing industry and technical codes, licensing utility service providers and regulating service pricing.

Together with the ACCC, which retained responsibility for transmission regulation including pricing, the new electricity law and code set in place a state-based model for price and industry regulation. It is this model that the new arrangements intend to change, replacing the initial state-based model with a regulatory model based on the MCE and the new regulatory agencies, the AEMC and the AER.

For the gas market, the reform process was different. Partly because gas transport was not as extensive as the electricity network, the interconnections were less numerous and more capital intensive than for electricity. Also, the market management framework was less unified for gas than it was for electricity. New South Wales and the ACT had different management

¹ National Competition Council, *National Competition Policy: First Tranche. Volume 1: Assessment of Commonwealth, State and Territory Progress*, April 1997, p. 32.

structures to those of Victoria, Queensland and South Australia. Although the Moomba and Bass Strait gas fields supplied most of the east coast market, no single body managed the flow of gas through the system as NEMMCO managed the flow of electricity. Contracts to take gas were not traded through a central market, as was the case for electricity, and neither regulation nor management was centralised.

The management arrangements were governed at a high level by the Gas Code, but below that the gas market did not have a rule-making agency like NECA to coordinate development. In New South Wales and the ACT, at least, the gas market management arrangements were a cooperative venture based on gas suppliers, regulators and policy makers, unlike the arrangements for electricity whereby NEMMCO had a clear statutory mandate. Although gas supply was a regulated monopoly, particularly in pricing for gas services, it was largely self-managing, which contrasted with the approach to the structure of electricity regulation. In many ways the management of the gas market was simpler and more independent than the management of electricity, perhaps reflecting the view that gas was a less essential service.

These arrangements were landmarks. Certainly they provided a coherent, rational and reliable approach to regulation that enabled the rapid development of a set of regulatory skills and experience that placed regulation in Australia at the forefront of economic regulation of utility services in the developed world. The arrangements, with all their regional quirkiness, were benchmarks for regulators elsewhere. The roots of the system were in the United Kingdom and, to a lesser extent, the United States. But the refinements and their application were Australian.

The important emergent themes

The important theme running through these arrangements is that the framework consciously relied on each state and territory accepting responsibility for undertaking the reforms and reshaping its energy businesses by separating generation, transmission, distribution and retail functions into contestable segments, such as generation and retail, and regulated continuing monopolies such as transmission and distribution. The newly emerging energy supply businesses were competitive and not constrained to operate within the borders of one jurisdiction or another. Both gas and electricity markets began to realise the benefits of larger scale and scope and to pass those efficiencies on to consumers.

The needs of the markets for electricity began to coalesce into broader national energy markets, with the potential for greater growth based on

development of wider distribution and more extensive transmission and transport networks. On the retail side the marketing of energy displaced the sale of electricity. Retailers began to offer bundles of energy products made viable by the establishment of organisations able to trade freely within and between jurisdictions.

Such growth and development created a need for investment in infrastructure to keep pace with growth in demand. It was concern about investment decisions and the likelihood of satisfactory returns that brought into question the ability of state-based regulation to provide for the future in the same way as a single national regulatory scheme might. That issue, exacerbated by conflicting views about the role of state governments in the ownership of generation, transmission, distribution and retail energy assets and by the acceleration of centralised federalism, contributed to the decision to nationalise energy regulation.

The new arrangements

The national regulatory arrangements are based on the MCE, supported and advised by the rule-making body, the AEMC, and the price and market regulation agency, the AER. Management of the electricity market will be exercised by NEMMCO; the gas market will be managed by several management companies, such as GMS in New South Wales and the ACT and similar organisations in Victoria, Queensland and South Australia. It is likely that the gas market management arrangements will be harmonised in the near future with the merger of the existing organisations.

The existing national electricity and gas laws will be changed; new electricity and gas laws are expected before the middle of 2007. The passage of the legislation in South Australia will apply the laws uniformly across the markets, and will underpin the independent markets in Western Australia and the Northern Territory, giving a relatively consistent regulatory framework over the whole of the country.

Uniform regulatory frameworks will reduce the duplication of energy laws and regulations in the states and territories and reduce the cost of licensing utilities in each jurisdiction. Reporting by utilities will be less onerous, and there will be less risk for industry in dealing with a single pricing and regulatory agency rather than the former proliferation of agencies. While price and industry regulation will transfer to the new regulatory bodies, some regulation will remain the responsibility of the states and territories; technical regulation, the protection of consumers against unscrupulous business practice and the provision of a social safety net will remain

jurisdictional issues. To that extent there will be complexity and cost at the state level.

Will the sought-after savings for utilities be realised? A number of issues make a positive answer to that question more likely in the long run than in the short term. In the short term, a range of issues may add significantly to the cost of regulation; they include:

- the slow pace of the transfer of the responsibilities for energy regulation, which creates confusion and uncertainty for consumers and industry and increases the risk of inappropriate decisions being made
- confusion over who is regulating what parts of the system at a given time, with a risk of confusion and uncertainty, particularly for industry, and untimely decision making
- the difficulty of acquiring relevantly skilled staff with experience in economic regulation to undertake the pricing and regulatory responsibilities of the AEMC and the AER, with a potential loss of corporate and industry knowledge that makes decision making difficult, uncertain and potentially inconsistent
- the level of understanding of energy markets and economic regulation amongst the members of the MCE and its subordinate Standing Committee of Officials, with the high risk that the form of regulation that finally emerges nationally will be flawed and suboptimal and thereby increase the risk of inefficiency and inappropriate interventions.

The new arrangements may in the long run reduce costs for industry and provide more efficient structures with which industry must interact. However, the impact of problems in the short term may defer such benefits for a considerable time.

There is a question about the wisdom of changing the regulatory framework so fundamentally after a decade of successful and relatively low-cost state-based regulation. It is not that one approach is preferable to another. The question is whether, having chosen an approach and pursued it for a decade, there is a demonstrable achievable benefit to be gained, for the economy as a whole or for consumers, by changing it.

The Parer Review, COAG and the Australian Government viewed the answer positively, agreeing that there would be benefit in change. Subsequent experience has perhaps cast some doubt on the wisdom of that view. A key assumption in the decision to have a uniform national scheme was that there would be a net benefit in national regulation because it would provide the circumstances in which investment in infrastructure would be encouraged. However, the scale and frequency of infrastructure development

does not seem to have changed substantially since the decision to have a uniform national regulatory structure was announced.

Substantial changes are occurring in the energy sector, but not necessarily as a result of national regulation. Recent merger activity in the energy market cannot be directly attributed to the emergence of the national market arrangements, any more than the increasingly intense competition among energy suppliers reflects the expectation that there will be a national market. Moreover, increasing churn in retail markets is more likely to be the result of local marketing efforts and increasing consumer awareness than the result of national regulatory changes.

It is true, however, that the risks faced by businesses in the new national arrangements will be different to those that exist under the state and territory regimes: different risks, but not necessarily lower levels of risk. Increased certainty arising from uniform regulation across jurisdictions may be offset by the risk that, in a ‘one size fits all’ world, a decision that delivers a low return on investment will have a negative affect on all suppliers, whereas different decisions in different jurisdictions may have moderated that impact.

More importantly, the degree to which market participants can influence regulatory outcomes will be changed. In the new arrangements scale will attract attention. In the ACT, ActewAGL will be a less influential part of the regulatory scheme than in previous years (when it was the largest operator in the regulatory environment), although its long association with AGL and more recent association with Alinta may help to dampen this effect.

One unknown is whether the new arrangements will facilitate changes in the way that COAG views peripheral issues like the energy sector’s contribution to greenhouse gas emissions and global warming. If the new national regulatory arrangements assist in addressing those pressing concerns with greater effect than would have been the case with state-based regulation, that in itself may be a sufficient justification for the change.

The new directions for independent state-based regulation

The changes in economic regulation of energy are important because energy—electricity and gas—was the first focus for reform activity. The regimes established in each state and territory were amongst the first successes of the competition policy reform agenda. The major players in the development of the regulatory regimes in Australia are still playing a role, but the responsibility for the future direction of energy regulation is leaving them.

Do the changes to energy regulation mean that the contribution of independent regulators in the states and territories is finished? The answer is, of course, no: in most states independent regulators are busier than ever. Governments have recognised the benefits of independent, disinterested advice, and the disciplines that have been developed in economic regulatory agencies provide a strong foundation for policy development and regulation across a broad range of issues, including but not limited to utility services.

Among the issues that have been made subject to independent regulation in the states and territories are the regulation of transport industries, predominantly rail and road transport; water utility regulation; and regulation of ports and related infrastructure. The ACCC retains responsibility for telecommunications, airports and aspects of shipping, which complements the regulation that is increasingly being exercised by independent regulators in the states.

In addition to overseeing economic infrastructure, independent regulation is increasingly responsible for providing microeconomic reform analysis and advice to government on a range of issues: for example, the efficiency of investment in government infrastructure projects; major capital investments; the efficiency of public systems in areas such as health and education; water supply; and access regimes for water and wastewater industries that were formerly considered natural monopolies.

In addition to the regulation of water, the role of the independent regulator is increasing in other areas of environmental policy and practice. The Independent Pricing and Regulatory Tribunal (IPART) in New South Wales and the Independent Competition and Regulatory Commission (ICRC) in the ACT are both part of a greenhouse gas emissions reduction system recognising the need to influence climate change. While in future the roles of the states' and territories' independent regulators will not include regulation of energy, except in relation to technical and consumer protection regulation, jurisdictional regulators are being given wider and more numerous alternative responsibilities.

In the ACT, after the transfer of regulatory responsibility for energy to the AEMC and AER, the ICRC will retain its present responsibilities for licensing, industry code development and administration, and compliance monitoring for water and wastewater utility services and transport services (taxis and ACTION buses). Water in particular will be a key issue for the ACT in the near future. The challenge of ensuring the territory's long-term water security has not been fully resolved. The ICRC will retain its role both in general regulation and in pricing for water-related services. There is also potential for the development of greater competition in the provision of water services.

In the 2006–07 Budget the ACT Government announced changes to the structure of the ACT Public Service, including changes to the ICRC. The government created a new Office of Regulatory Services (ORS) in the Department of Justice and Community Safety, and the ICRC is to be included in this office. While part of the new ORS, the ICRC will retain its independent statutory structure. Also, through ORS, the ICRC expects to have a substantial future role in delivering on a range of business-related reform and regulatory responsibilities. In 2005–06, the ICRC provided advice on the structure and competitiveness of the Capital Linen Service and the pricing of the services provided by the ACT Ambulance Service.

In future, advice may be provided on issues such as improving the efficiency and effectiveness of business regulation and reducing the regulatory burden on business in the ACT. This is a key area for economic growth in the territory, and would extend the capacities of government agencies already struggling to maintain services while coping with reduced resources. Also, the ICRC may be asked for advice on the relevance of regulation for a wide range of industries and professions in the ACT. Those possibilities reflect the role that the Productivity Commission has been playing, and the developing role that the National Competition Council is now playing, in the Commonwealth arena. The future of an independent regulatory body such as the ICRC is as potentially bright in the territory as in any other jurisdiction, despite the obvious differences in scope between large state economies and the economy of the ACT.

The one advantage that remains undiminished in the changes that are washing through the discipline of economic regulation is the independence of state and territory regulators. The wisdom of the state and territory governments in establishing and developing independent regulatory agencies that provide advice to government and exercise regulatory responsibilities with minimum government interference and through transparent, open and accessible processes has been clearly demonstrated over the past decade.

In future, the need for independent advice and regulation will not diminish; rather, in all likelihood, it will substantially increase. In future, energy will be recognised as the area in which independent regulation and advice started, while the contribution of independent regulators continues in broader but equally important areas of the economy.

Contents

Foreword	v
Part A Senior Commissioner’s review	1
A.1 The organisation	1
A.2 Overview	4
A.3 Highlights	5
A.4 Outlook	7
Part B Commission performance	9
B.1 Performance against Commission objectives	9
B.2 Performance against government-wide objectives	26
Part C Management of the organisation	29
C.1 Managing our people	29
C.2 Governance	33
C.3 Sustainability and environment	40
Part D Analysis of financial performance	43
D.1 General overview	43
D.2 Financial performance	45
D.3 Commission financial position	48
D.4 Other financial reporting	51
Appendixes	53
Appendix 1 Financial report and audit report	53
Appendix 2 Legislative report	98
Appendix 3 Legislative Assembly committee inquiries and reports	99
Appendix 4 Contact officers, website address and other sources of information	100
Glossary and abbreviations	101
Compliance index	102
Alphabetical index	104

Part A Senior Commissioner's review

A.1 The organisation

A.1.1 Role and functions

The parameters under which the Commission operates are determined by the *Independent Competition and Regulatory Commission Act 1997* (ICRC Act) and the *Utilities Act 2000* (Utilities Act). The Acts variously describe the functions of the Commission as:

- providing price directions
- providing recommendations about price regulation
- providing advice to the minister about proposed access regimes
- arbitrating disputes about access to services under access regimes
- maintaining a register of access agreements
- investigating and reporting on matters referred by the minister and other referring authorities
- investigating and reporting on competitive neutrality complaints
- investigating and reporting on government-regulated activities
- issuing licences for the provision of utility services
- determining licence conditions
- ensuring compliance with the licence conditions
- approving and reviewing standard customer contracts and industry codes for utility service.

The Commission's objectives are defined in the ICRC Act and the Utilities Act. The objectives set out in the ICRC Act relate to industry pricing and access to infrastructure, competitive neutrality and government-regulated activities. Specifically, the objectives in s. 7 of the ICRC Act are to:

- promote effective competition in the interests of consumers
- facilitate an appropriate balance between efficiency and environmental and social conditions
- ensure non-discriminatory access to monopoly and near-monopoly infrastructure.

In s. 3 of the Utilities Act those objectives are reinforced and others are added, as follows:

- to encourage the provision of safe, reliable, efficient and high-quality utility services at reasonable prices
- to minimise the potential for misuse of monopoly power in the provision of utility services
- to promote competition in the provision of utility services
- to encourage long-term investment, growth and employment in utility services
- to promote ecologically sustainable development in the provision of utility services
- to protect the interests of consumers
- to ensure that advice given to the Commission by the Essential Services Consumer Council (ESCC) or the chief executive under Part 5 (technical regulation) is properly considered
- to ensure the government's programs about the provision of utility services are properly addressed
- to give effect to directions of the minister under s. 19 (s. 19 directions may only be given to ensure the achievement of the objects set out in the subsections above).

The legislative report at Appendix 2 lists some of the other Acts and codes under which the Commission has obligations.

A.1.2 Values

The Commissioner and Commission staff, collectively and as individuals, seek:

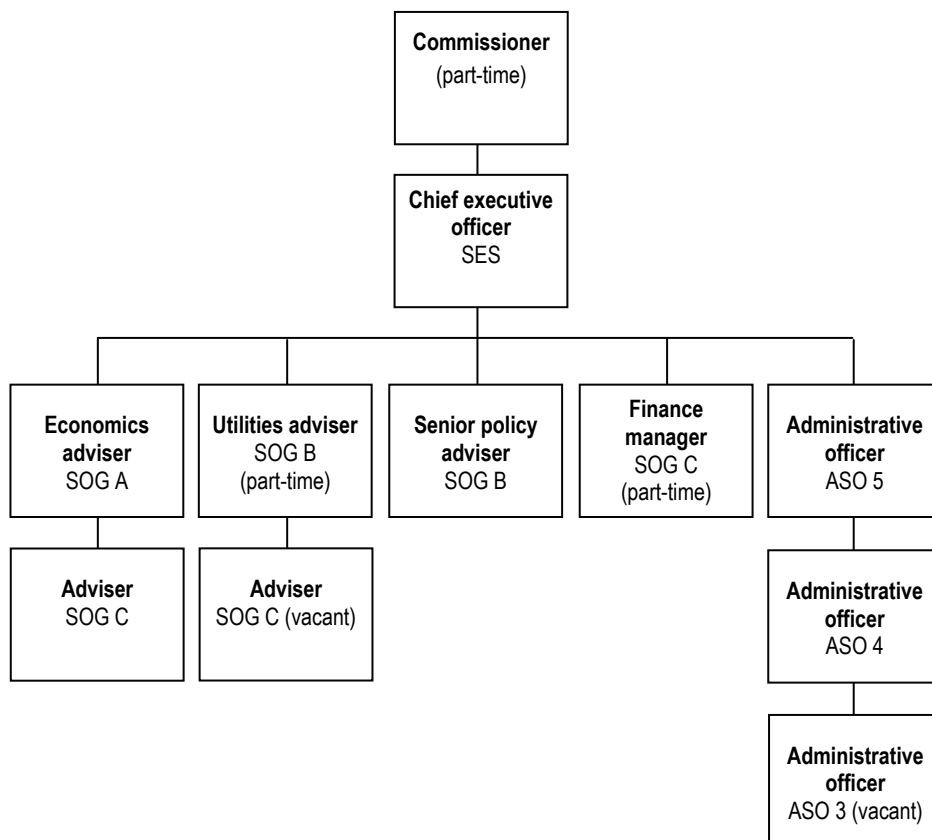
- to use our professional skills, expertise, experience and professional judgement to promote efficient competition in the territory economy in the interests of consumers
- to use our professional experience and mature judgement to achieve a balance between efficiency and environmental and social issues in a way that is sustainable
- to use our resources wisely, efficiently and to good effect
- to work together to provide a working environment that is safe, healthy and productive
- to create a learning organisation that encourages, supports, develops and challenges its individual members.

A.1.3 Structure

The Commission is a statutory agency of the ACT Government and reports to the Attorney General: Administrative Arrangements Orders changes in June 2006 transferred administrative responsibility for the Commission to the Attorney General from the Treasurer.

Figure 1 shows how the Commission was structured in 2005–06.

Figure 1 Organisational chart as at 30 June 2006



ASO = Administrative Service Officer; SES = Senior Executive Service; SOG = Senior Officer Grade

The organisation chart shows a total of eight staff as at 30 June 2006, representing seven full-time equivalents. In addition to those active staff there were two inoperative staff on long-term leave without pay.

A.1.4 Clients and stakeholders

The Commission's principal stakeholders are the ACT Government and its agencies; members of the Legislative Assembly; utility service providers in the ACT; regulated industries and industry in general; and members of the community of the ACT. The Commission also participates in a wider community of stakeholders including national and interjurisdictional regulatory bodies and other intergovernmental regulatory forums.

A.2 Overview

The 2005–06 year was one of continuing change and challenge for the Commission.

Together with other state and territory energy utility regulators, the Commission devoted considerable effort to preparing the energy sector for a change from state-based to national regulation. The Council of Australian Governments (COAG) made the decision to establish and transfer responsibility to national regulatory bodies in response to the findings of its 2002 energy market review.²

The transfer process was originally planned for completion by July 2006, but the complexity and scale of the task made that ambitious program impossible to maintain. During the year there was debate not only about the scale and scope of change required to transfer the regulatory powers, but also about the order in which tasks needed to be done and the timing of the process. The transfer of responsibility to the new Australian Energy Regulator (AER) is now planned to occur on 30 June 2007.

Uncertainty about the transfer complicated many of the regulatory issues for which the Commission was responsible during 2006. That uncertainty also perpetuated concerns about the future role and funding needs of the Commission that were raised in previous annual reports.

Nonetheless, the Commission maintained its high level of productivity. The Commission published some 26 reports in the financial year, more than keeping pace with the rate of publications in previous years. The range and complexity of the reports is noteworthy; brief descriptions of the issues

² The findings were published in December 2002 in the report *Towards a Truly National and Efficient Energy Market*, also known as the Parer Review.

reported upon during the year are provided in the Highlights section and Part B of this annual report.

Despite the Commission's major focus on achieving the significant outputs delivered during the year, the achievement was not without cost. During the year, the Commission lost important contributors to its productivity: staff whose talents had been significantly developed by the Commission departed for wider opportunities elsewhere. Because of the increasing uncertainty in the Commission's operating environment, the Commission has not replaced those people, and it will be some time before they are replaced.

In the 2006–07 Budget process the Commission, like other agencies, was affected by the whole-of-government need to make substantial budget savings. Resulting changes included staff reductions and new reporting arrangements. The Commission became part of the new Office of Regulatory Services, in the Department of Justice and Community Safety.

In addition, the appointments of the two assistant commissioners were not renewed on their expiry late in June 2006. The Commission ended the year reflecting on the substantial contributions made by both Robin Creyke and Peter McGhie in their five-year tenures as commissioners.

Looking ahead, many challenges remain. It is not clear yet what impact the inclusion of the Commission in the new Office of Regulatory Services will mean for the way in which the Commission is seen by the community or by the ACT Government and its other agencies. The Commission's role continues to change, increasingly rapidly. The contribution the Commission will be asked to make to the development and regulation of the economy in the ACT in future is uncertain.

Although it will not have an ongoing role in shaping energy regulation, the Commission will continue to regulate water and wastewater services: a particularly important role, given the increasing complexity and the difficulty of securing adequate water supply. The Commission also expects to continue and perhaps expand its role as regulator for greenhouse gas emissions.

A.3 Highlights

As always, the highlights of the Commission's achievements are the papers, reports and advice published during the year. The standard of the reports and papers remains very high. The continuing level and quality of productivity from such a small team of professional public servants is satisfying.

The Commission's successful activities during 2005–06 included assessing the competitive status of Capital Linen Service and examining the fees charged by the ACT Ambulance Service. These were relatively unusual areas of activity for the Commission, and the results suggested potential areas for further exploration.

In addition, the Commission made a new one-year price direction for ACTION buses and reset taxi fares and electricity network and water and wastewater prices. The Commission also made important recommendations to government about the transitional franchise tariff arrangement for non-contestable retail electricity customers. The recommendations were designed to encourage greater competition in the retail market and to prepare the ACT retail market more fully and robustly for a national market in which there will be a much lower level of price regulation.

Also, the Commission addressed a number of changes to regulatory codes during the year, to ensure that the Consumer Protection Code in particular continues to play its important role in safeguarding the interests of utility service users in the ACT. One significant change was the Commission's introduction of a new code addressing the use of prepayment electricity meters in the ACT.

Prepayment meters are a form of 'smart meter'. In 2005–06 the Ministerial Council on Energy agreed to promote the use of smart meters for electricity as a means of encouraging greater efficiency and reductions in levels of demand. Aurora Energy proposed a draft prepayment meter code to the Commission for approval, in accordance with the Utilities Act, to facilitate Aurora Energy's introducing the new metering technology as a different product offering for electricity consumers in the ACT. The proposed code sought to specifically permit the use of prepayment meters in the ACT: the existing code was silent on prepayment meters.

The Commission approved the code after extensive consultation with industry and the community. The consultation process highlighted the difficulty that often occurs when new technology becomes available and regulation of the technology needs to take into account the wide range of responses likely to occur across the community. The final decision needed to protect the interests of people who might be disadvantaged by adopting the prepayment model, while capturing the benefits of expanded consumer choice. The new code has opened the way for new technology that will benefit many consumers and, at the same time, strengthened consumer protection arrangements for those who are more marginally able to experiment with new products.

During the year the Commissioners took pride in the Commission's occupational health and safety record. In 2005–06 there were no injuries under case management, a record that has been maintained for the six years of the Commission's permanent establishment. The Commission's practice of active prevention and immediate response to emerging risks has resulted in a safe, productive and happy workplace.

Another success was the continuing full attendance at Commission meetings. Of the 11 monthly meetings scheduled in the year, the commissioners attended all without exception. This repeats the pattern established and maintained throughout the past five years. The commissioners also attended a large number of industry meetings, in the course of various reviews, and many working meetings with staff to discuss investigations or regulatory developments.

A.4 Outlook

The Commission looks forward to a new financial year in which there is increasing certainty despite substantial challenges.

It will be the beginning of the cycle of price inquiries for energy. Before 30 June 2007 the Commission will make a decision on the reset of prices for electricity distribution network services, which will be the last electricity price decision made by the Commission before responsibility for energy regulation transfers to the AER. The Commission expects to be involved with the AER in making the decision about the form of regulation to apply for electricity networks from 1 July 2009. That decision is also due to be made by 30 June 2007.

The Commission will also reset prices for water and for gas access early in 2007. The Commission has commenced work on the inquiry process that will lead to the determination of prices for water and wastewater services effective from 1 July 2008. The inquiry process will include the publication of a series of discussion papers encouraging all interested parties to express their views on particular aspects of water pricing.

The Commission will return to consideration of pricing for transport services, and expects references to be issued for examinations into taxi and ACTION buses pricing before October 2006. Decisions on pricing for both modes of transport are due to be made by 30 June 2007.

In addition, the Commission will be compiling the compliance and performance reports for utility services in the ACT. Reports on compliance

and performance to the end of 2005–06 are due on 1 October 2006 and should result in reports being published early in 2007.

The Commission will maintain its role as regulator for greenhouse gas emissions in 2006–07: greenhouse gas benchmarks will be issued by the end of November 2006, and reports on the process will be provided to the ACT Government by June 2007.

In most years, what is forecast for the work program turns out to be only part of what is achieved. It is likely that a number of other issues will arise and challenge the Commission's capacities in 2006–07.

Paul Baxter
Senior Commissioner

Part B Commission performance

B.1 Performance against Commission objectives

B.1.1 Overview

As described in more detail in Part A, the Commission's statutory objectives include:

- reviewing and where necessary amending industry codes
- further developing the compliance and performance reporting framework for utilities, including by initiating a program of audits for utilities
- regulating prices for regulated industries and monopoly and near-monopoly services
- promoting competition in markets, consistent with social and environmental sustainability
- maintaining an effective complaints mechanism for handling competitive neutrality complaints, as required by the National Competition Policy Agreements
- providing independent advice to the ACT Government on government-regulated activities in the territory.

The Commission advises on issues raised under terms of reference by referring authorities, including matters relating to regulated industries or industries in general, pricing for regulated industries, assessment and advice on access arrangements for regulated industries, competitive neutrality complaints as defined in the Competition Principles Agreement and set out in Schedule 1A of the ICRC Act, and government-regulated activities.

The Commission also has responsibilities in relation to the regulation of utility services supplied in the territory, as defined in the Utilities Act. Included in those responsibilities are obligations to report on compliance by licensees with their responsibilities under the Utilities Act, and determination of licence fees payable by licensees annually to recover the costs of operating the ESCC and the technical regulator.

In 2005–06 the Commission sought to implement the intentions of the ICRC Act and the Utilities Act to realise the government's objectives. The

Commission maintained its productivity across a range of activities consistent with its responsibilities. These activities included but were not limited to:

- a review of efficiency and service standard incentive mechanisms
- an inquiry into the regulation of greenfield electricity infrastructure development
- the approval of associate contracts between ActewAGL Distribution and ActewAGL Retail
- an inquiry into electricity metering (metrology) procedures
- a review of retail prices for non-contestable electricity customers
- an inquiry into the government-owned Capital Linen Service
- the development of a prepayment meter code
- a review of ACTION buses pricing for 2006–07
- a water and wastewater annual price reset for 2006–07
- an inquiry into the ACT Ambulance Service fees and charges.

Contact details for staff who can provide more information on the Commission's activities and performance are provided at Appendix 4.

B.1.2 Review of efficiency and service standard incentive mechanisms

The Commission is responsible for regulating ActewAGL's and ACTEW's monopoly energy and water and wastewater distribution networks in the ACT, including determining regulated prices. The Commission is responsible for conducting periodic reviews to determine the revenue requirement for the provision of each utility service.

In 2004, the Commission completed reviews into pricing for all three distribution networks. In those reviews, the Commission discussed with ACTEW and ActewAGL the possibility of introducing an efficiency carryover mechanism and/or service incentive scheme.

The Commission's final decision, released in December 2005, was that there was no justification for introducing either an efficiency carryover mechanism or a service incentive scheme in the ACT. The Commission concluded that it was not necessary to have a defined scheme in the form of an efficiency carryover mechanism to induce the businesses to become more productively efficient.

Instead, the focus at the time of each price reset in the current direction may be on developing guidance for forecasting costs in order to reassure the regulated business that, as part of the next regulatory price path, it will be rewarded for achieving economic efficiencies above those expected by normal productivity gains. The Commission believes this approach provides a better avenue to ensure that the incentive properties of a ‘CPI minus X’ form of regulation are effectively achieved in determining price paths for regulated entities.

The Commission’s decision will remain in effect until the next price path is determined. In future, the AER will be responsible for price determinations, and for deciding whether the form of regulation includes efficiency carryover and/or service quality incentive arrangements.

B.1.3 Regulation of greenfield electricity infrastructure development

At the direction of the ACT Treasurer, the Commission conducted an inquiry into whether there would be overall economic benefits from making greenfield electricity infrastructure works contestable. In the review, the Commission limited itself to considering only greenfield electricity infrastructure connection, expansion and enhancement works where a third party was required to make a capital contribution.

The Commission concluded that there would be a net benefit to the ACT economy if such works were made contestable. Despite the Commission’s findings, the ACT Government decided to maintain the current monopoly arrangements. Under those arrangements, the ACT’s electricity distributor, ActewAGL Distribution, is the sole supplier of services associated with the development and expansion of greenfield electricity distribution infrastructure within the ACT.

However, the Treasurer stated that, as an alternative to competition, he expected the Commission to review its regulatory methodology to be sure that appropriate oversight and transparency was applied to electricity distribution network pricing as it related to greenfields network infrastructure developments.

The Commission developed a regulatory regime based on monitoring and a reporting obligation. The reports provided to date have not indicated any issues that need further investigation. It is uncertain whether these arrangements will continue after the transfer of regulatory responsibility for electricity networks to the AER.

B.1.4 Associate contracts between ActewAGL Distribution and ActewAGL Retail

The *Gas Pipelines Access Act 1998* gives effect in the ACT to the National Third Party Access Code for Natural Gas Pipeline Systems, and nominates the Commission as the relevant regulator in respect of gas distribution pipelines in the ACT.

Under s. 7.1 of the code, a service provider must not enter into an associate contract as defined in the code without first obtaining the approval of the relevant regulator. The Commission, as relevant regulator, must not refuse to approve a proposed associate contract unless it considers that the contract would have, or would be likely to have, the effect of substantially lessening, preventing or hindering competition in a market.

ActewAGL Distribution submitted two proposed contracts between itself and its associate ActewAGL Retail to the Commission for approval:

- a gas transport services agreement for large customers
- a gas transport services agreement for small customers.

The proposed associate contracts are broadly consistent with ActewAGL Distribution's access arrangement for the ActewAGL gas distribution system in the ACT and Greater Queanbeyan area as approved by the Commission in October 2004. The term of the access arrangement is from 1 January 2005 to 30 June 2010.

After investigation, the Commission did not consider the proposed associate contracts were likely to have the effect of substantially lessening, preventing or hindering competition in a market. Accordingly, the Commission approved the associate contracts, as provided for in the National Gas Code.

B.1.5 Review of metrology procedures

In October 2004, a group of officials representing the jurisdictional regulators participating in the National Electricity Market published its final report of a review of metrology procedures, as required under the National Electricity Rules (previously the National Electricity Code).³

³ *Joint Jurisdictional Review of Metrology Procedures: Final Report*, October 2004. The group included representatives of the Essential Services Commission (Victoria), Essential Services Commission of South Australia, Independent Competition and Regulatory Commission (ACT), Independent Pricing and Regulatory Tribunal (New South Wales),

The group reviewed a range of metrology issues related to the development of an efficient national electricity market, including:

- options for developing a single, nationally consistent metrology procedure
- metering for small customers
- whether there were barriers to consumers adopting economically efficient metering solutions and other technology
- whether meter ownership was a barrier to consumers switching retailers
- the effectiveness of current ringfencing arrangements in relation to metering
- the process and timing by which interval meters should be rolled out.

The review identified potential barriers to consumers adopting economically efficient metering solutions and other technology and offered a number of key findings.

The jurisdictional regulators also recommended a number of amendments be made to the rules to enable those key findings to be implemented. It was recommended that the National Electricity Market Management Company (NEMMCO) be partly responsible for preparing the draft changes to the rules, and that the proposed changes be submitted to the National Electricity Code Administrator by 31 December 2005 (from 1 July 2005 the Australian Energy Market Commission assumed responsibility for making such rule changes). NEMMCO has been progressing changes to the rules based upon the outcomes of the joint jurisdictional review.

The Commission conducted a review of metrology procedures in 2005, for two reasons:

- to bring the key findings of the joint jurisdictional review to the attention of the industry and consumers in the ACT, with a view to obtaining feedback on the implications of those key findings to the ACT
- more specifically, to undertake an assessment of the costs and benefits of rolling out interval meters in the ACT as required by recommendation 8.1 of the review and by the Ministerial Council on Energy.⁴

Queensland Competition Authority and the Office of the Tasmanian Energy Regulator. Tasmania's participation in the national electricity market was imminent.

⁴ Ministerial Council on Energy—Standing Committee of Officials, *User Participation Policy Framework*, August 2004.

The final outcome of the review was to endorse the recommendations of the joint jurisdictional review and to specifically recommend that accumulation meters be gradually phased out in the ACT. The Commission recommended that interval meters be installed when new connections are made and when accumulation meters are replaced.

B.1.6 Retail prices for non-contestable electricity customers

In the ACT, the retailing of electricity to customers consuming more than 160 megawatt hours per year was made contestable from 1998. For customers consuming more than 100 megawatt hours per year, the electricity supply industry was opened to retail competition from 1 July 2001. Following a recommendation that full retail contestability (FRC) be introduced for all customers in the ACT, the government opened the market for customers using less than 100 megawatt hours per year to competition from 1 July 2003.

While the government decided to open the market to all customers, certain transitional arrangements were maintained. These were intended to ensure that customers were able to remain on non-negotiated contracts with the incumbent retailer. A regulated maximum tariff (the ‘transitional franchise tariff’) applied to such customers for three years. During the designated transitional period, the government undertook to consider whether these arrangements should be extended.

In this investigation, the Treasurer sought advice from the Commission on the need for the transitional arrangements to continue beyond July 2006 and the form and duration of any price protection that should apply to future franchise contracts. In reaching its findings, the Commission considered:

- the potential effect of the new national regulatory environment for energy
- arrangements for retailer of last resort
- retail prices charged by ActewAGL Retail in other jurisdictions.

The Commission assessed the ACT market, including the level of customer churn, the number of licensed retailers, the range of products and offerings, and the level of awareness of FRC. In addition, the Commission considered the underlying market structure in the ACT, based on the Commission’s assessment of the role that potential competition played in the dynamics of the market and the constraints that potential competition placed on retailers operating in the market.

In its analysis, the Commission also took into account the national energy market reforms, including statements from COAG that energy retail price regulation would be phased out once effective competition could be demonstrated.

The Commission concluded that the ACT market was sufficiently competitive to allow the removal of the regulated tariff but could not be considered ‘effectively competitive’. It was the Commission’s opinion that the removal of the transitional franchise tariff would assist in providing further opportunities for competition to evolve and deliver a wider range of benefits for customers in the ACT, while maintaining a capacity to re-regulate if the market shows signs of failure.

Initially the Commission recommended extending the transitional arrangements for at least 12 months so that changes could be made to the Utilities Act to provide for deemed customer contracts to maintain safety net arrangements in the ACT. The Commission further recommended an extension of the transitional arrangements for a period of up to three years, during which time the market could demonstrate that it had become effectively competitive. During that time responsibility for retail energy regulation would transfer to the AER, which would be responsible also for determining the effectiveness of competition in the market.

B.1.7 Competition inquiry into Capital Linen Service

The Minister for Urban Services (now the Minister for Territory and Municipal Services) requested the Commission to conduct an inquiry into Capital Linen Service (CLS), an ACT Government-owned laundry.

The Commission was asked to inquire whether CLS, by reason of its government ownership, had a competitive advantage in respect of services it provided. In reaching its conclusion, the Commission was asked to consider and report on:

- the market(s) in which CLS operates and the extent to which it is in competition with private sector enterprises, including a consideration of any competitive advantages and/or disadvantages under which CLS operates
- the extent to which cross-subsidisation between market segments exists (for example, private versus public sector customers, health sector versus accommodation/restaurant linen customers)
- whether CLS undertakes any community service obligations and, if so, whether they are appropriately costed and transparently funded

- the extent to which CLS is complying with the full range of competitive neutrality principles as outlined in the Competition Principles Agreement relating to tax neutrality, borrowing neutrality and regulatory neutrality
- where required, reform option recommendations which would best achieve the objectives of clause 3 of the Competition Principles Agreement.

The Commission's main finding was that CLS did not have a competitive advantage in respect of services it provided but that, in fact, the opposite was the case. The Commission found that CLS was constrained in its commercial activities, particularly by its lack of financial autonomy. Accordingly, the Commission recommended that the ACT Government consider allowing CLS to operate as an independent corporation.

B1.8 Review of ACTION buses pricing for 2006–07

The Minister for Urban Services (now the Minister for Territory and Municipal Services), as the referring authority for ACTION buses for price inquiries for regulated industries under the ICRC Act, asked the Commission to carry out an investigation of, and make a direction for, ACTION bus prices to apply from 1 July 2006 to 30 June 2007. The Commission determined that the weighted average price cap should be increased by 6%.

This figure represented a higher outcome than originally proposed. The Commission noted that, in arriving at this fare increase, it had taken into account the effective movement in efficient costs since the previous price determination (after allowing for the fare adjustment at the CPI rate allowed in 2005–06). Furthermore, the Commission had sought to ensure that passengers and the general taxpayer were not required to meet a higher level of cost than that required to fund the efficient operation and delivery of the ACTION bus service.

The Commission's choice of an average price cap was designed to provide ACTION with some flexibility to adjust individual fares within the limitation of the 6% overall increase. In particular, the Commission expected that ACTION would review its fare structures for full-fare and concession passengers, bearing in mind the government's longer-term Sustainable Transport Plan objectives.

The Commission expected that the increase would help to arrest a decline in ACTION buses' cost recovery, provide a ceiling on government contributions, and fairly share the recovery of efficient cost increases between passengers and the wider tax-paying community.

B.1.9 Water and wastewater annual price reset 2006–07

Because of the monopoly characteristics of the water and wastewater network in the ACT, the Commission is responsible for regulating the water and wastewater services provided by ACTEW.

In 2003–04 the Commission undertook a review of ACTEW's water and wastewater services and established a price path to apply to these services from 1 July 2004 to 30 June 2008. Following this review, ACTEW completed a series of reports investigating possible new water sources for the ACT. In an attempt to secure a reliable water supply, ACTEW is now completing several of the projects identified in those reports.

The costs of these investigations and projects were not accounted for in the 2003–04 price review and thus were not taken into account in determining the current price path. ACTEW provided the Commission with a submission requesting the pass-through of costs associated with these reports and projects.

Aware of increasing public interest in the price of water, the Commission produced an information paper outlining the main issues identified by the Commission in its consideration of whether to allow the pass-through.

B.1.10 Inquiry into ACT Ambulance Service fees and charges

The Minister for Police and Emergency Services sought the Commission's advice on a number of issues relating to the way in which the ACT Ambulance Service (ACTAS) identifies, allocates and recovers the operating costs of the service. The minister's terms of reference particularly sought advice on the pricing proposals made to the government by ACTAS, and on options other than those outlined in the ACTAS proposals that might be available for pricing ACTAS services.

The Commission considered the issues raised and the existing approach to meeting ACTAS operating costs. In doing so, the Commission provided advice on issues that remained unresolved and costs that were either largely or entirely unrecovered. The Commission observed that the costing approach did not address some issues that needed to be resolved before an effective costing model could be implemented successfully.

As a result of its consultation with ACTAS and other ambulance service providers, and its analysis of reviews recently conducted in South Australia and New South Wales, the Commission was aware that the problems facing

ACTAS were neither entirely of its own making nor uncommon. While there were differences in the ways that jurisdictions were reacting to and dealing with the problems, the issues were the same and there was cooperation between jurisdictions. The Commission noted that some jurisdictions had adopted approaches to revenue recovery that may be difficult to adopt in the ACT.

The Commission also acknowledged that ACTAS, like similar services across Australia, was subject to demand pressures. Ambulance services are being asked not only to provide core services traditionally associated with emergency treatment and transport of patients to hospitals, but also to support other health and health-related service providers. Increasingly, aged care and community facilities rely on ambulance services to assist with a wide range of non-emergency and non-treatment services for a widening number of client groups. Many of those services are neither traditional nor reflected in the customary cost recovery practices. There is an observable and widening gap between services that are transparently funded and those that are apparently provided free of charge but are, in fact, subsidised by the community as a whole through the ACT Budget.

B.1.11 Full retail contestability in energy markets

In recent years the ACT Government has progressively implemented FRC for both electricity and gas retail services. FRC allows customers the freedom to choose their electricity and gas retailers. Before contestability was introduced, ActewAGL supplied electricity and gas to all consumers within the ACT and, in the case of gas, in the surrounding region.

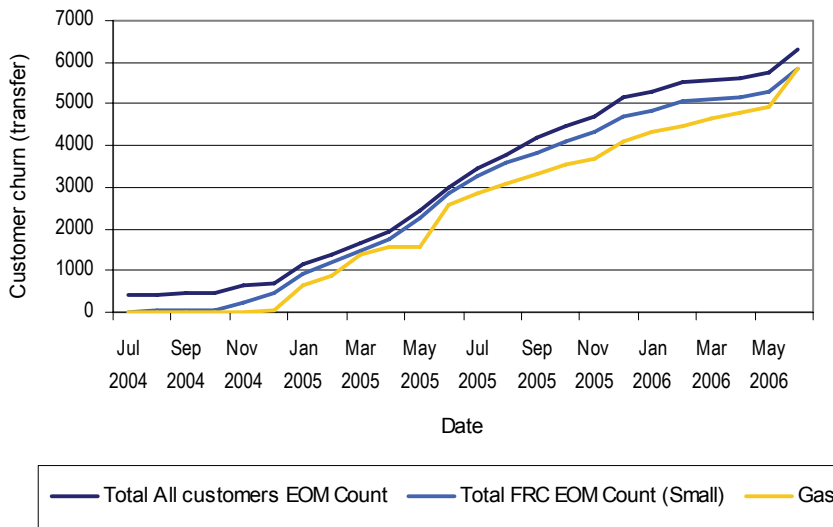
Electricity

FRC was introduced for electricity retail services from 1 July 2003. This gave customers using less than 100 megawatt hours of electrical energy per year the option of choosing their electricity supplier. The electricity retail market had been open since June 1998 for large customers using more than 160 megawatt hours per annum, and open since 1 July 2001 for customers using more than 100 megawatt hours per annum.

During 2005–06 there were approximately 145,000 electricity customers in the ACT and 15 retailers from which they could choose. In the first three years of contestability in the electricity retail market, approximately 6,000 small customers (users of less than 160 megawatt hours) elected to change to a retailer other than ActewAGL. This represents approximately 4% of the electricity retail market.

Figure 2 shows the number of ACT customers who have changed to alternative electricity and gas retailers since July 2004.

Figure 2 ACT electricity and gas customers transferring to new retailers, July 2004 to June 2006



However, there is evidence to suggest that a larger proportion of consumers have moved from standard customer contracts to negotiated contracts offered by ActewAGL. The Commission understands that in excess of 20,000 customers have elected to enter into these negotiated contracts.

As a comparison, in New South Wales, approximately 675,000 small customers out of a total base of 2,650,000 (approximately 25%) have changed electricity retailers since FRC was introduced in January 2002.⁵ Since FRC was introduced in Victoria, also in January 2002, approximately 1,400,000 residential customers out of a total base of 2,300,000 (approximately 60%) have changed retailers.⁶

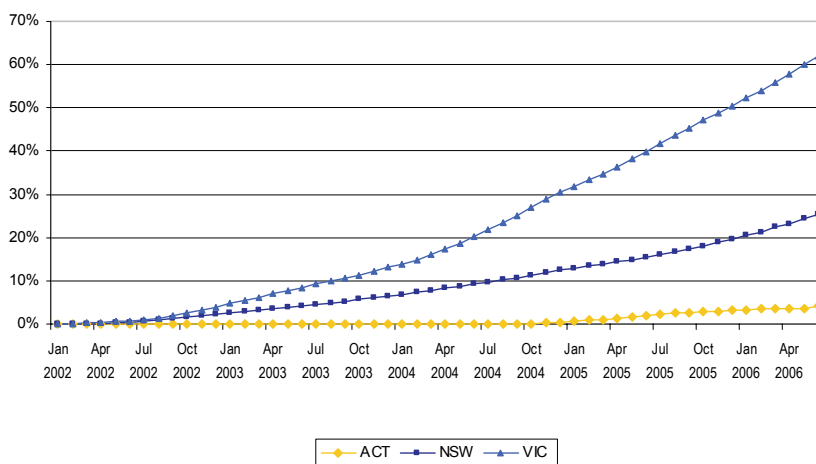
⁵ NEMMCO Retail transfer data, www.nemmco.com.au/data/ret_transfer_data.htm and customer numbers from Independent Pricing and Regulatory Tribunal, *NSW Electricity Distribution Pricing 2004–05 to 2008–09 Final Report*, June 2004.

⁶ NEMMCO Retail transfer data, www.nemmco.com.au/data/ret_transfer_data.htm and customer numbers from Essential Services Commission (ESC), *Electricity Distribution Price Review 2006–10 Draft Decision*, June 2005. It was assumed that approximately 95% of total electricity customers, taken from information on pages 133–135, can be classified as small. This is consistent with ESC, *Special investigation: Review of the Effectiveness of Full Retail Competition for Electricity—Final report*, September 2002, p. 29.

In South Australia, since FRC was introduced in January 2003, approximately 450,000 small customers out of total base of 755,000 (approximately 60%) have entered into negotiated contracts.⁷ However, many of these contracts may have been negotiated with the incumbent retailer, so caution should be taken when comparing these figures against those where the customer has chosen an alternative retailer.

Figure 3 shows electricity transfers as a percentage of the customer base for each of the ACT, New South Wales and Victoria.

Figure 3 Proportion of customers changing electricity retailers, ACT, New South Wales and Victoria, January 2002 to May 2006



Gas

FRC for gas services was introduced in the ACT on 1 January 2002. During 2005–06 there were five gas retailers with approximately 104,000 residential gas customers in the ACT. Although FRC was introduced in the ACT in 2002, there were no transfers made until April 2004. However, between April 2004 and 30 June 2006, approximately 6,000 small customers switched to a retailer other than ActewAGL. Figure 2 shows the trend.

As a comparison, in New South Wales approximately 175,000 gas customers out of a total base of 1,140,000 (nearly 15%) have transferred retailers since FRC was introduced in January 2002.⁸ In Victoria, approximately 870,000

⁷ Essential Services Commission of South Australia, *Completed small customer electricity and gas transfers to market contracts schedule*, July 2006.

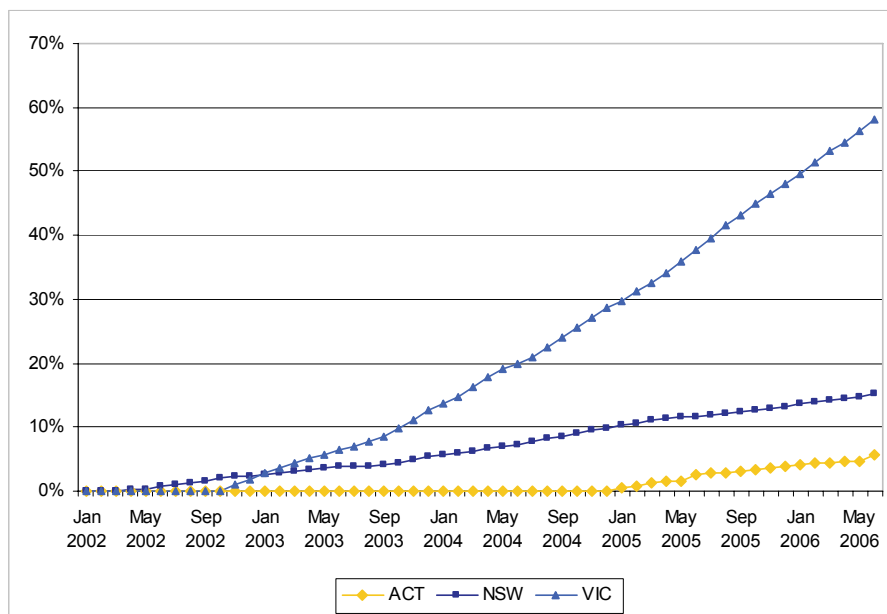
⁸ Information provided by the Gas Market Company.

customers out of a total base of 1,500,000 (approximately 60%) have transferred since FRC was introduced in July 2002.⁹

In South Australia, since FRC was introduced for small gas customers in July 2004, around 200,000 small customers out of a total base of 370,000 (approximately 55%) have completed transfers to market contracts.¹⁰ As is the case when interpreting South Australian electricity churn statistics, it should be noted that many of these customers may have entered into negotiated contracts with their incumbent retailer, so the figures cannot be directly compared to the churn statistics provided for other states.

Figure 4 shows gas transfers as a percentage of the customer base for each of the ACT, New South Wales and Victoria.

Figure 4 Proportion of customers changing gas retailers, ACT, New South Wales and Victoria, January 2002 to May 2006



⁹ Information available on the Vencorp website: www.vencorp.com.au.

¹⁰ Essential Services Commission of South Australia, *Completed small customer electricity and gas transfers to market contracts schedule*, July 2006.

B.1.12 Licensing issues

Licence applications

In 2005–06 the Commission approved applications for licences:

- to provide electricity supply services in the ACT, from Aurora Energy Pty Ltd and Red Energy Pty Ltd
- to provide gas supply services in the ACT, from TRUenergy Pty Ltd.

Licence variations

In 2005–06 the Commission varied the utility licence issued to Yallourn Energy Pty Ltd to reflect the change of the company's name to 'TRUenergy Pty Ltd'.

Licensees as at 30 June 2006

Table 1 shows the utilities licences that were current at 30 June 2006.

Table 1 Utilities licences granted, as at 30 June 2006

Service	Licensees
Electricity distribution and connection	ActewAGL Distribution
Electricity supply	ActewAGL Retail AGL Electricity AGL Victoria Aurora Energy Country Energy ENERGEX EnergyAustralia EnergyOne Ergon Energy Integral Energy Australia Origin Energy Electricity Powerdirect Red Energy TRUenergy Pty Ltd TRUenergy (Yallourn) Pty Ltd (formerly trading as 'AusPower')
Gas transmission	East Australian Pipeline Ltd
Gas distribution and connection	ActewAGL Distribution
Gas supply	ActewAGL Retail Country Energy ENERGEX Retail EnergyAustralia TRUenergy Pty Ltd
Water supply	ACTEW Corporation
Sewerage	ACTEW Corporation

License fees

The Utilities Act enables the Commission to determine licence fees that will recover from licensees ‘a reasonable contribution towards the costs incurred’ in regulating utilities.

For 2005–06 the total amount of licence fees determined by the Commission was \$1,576,000, of which approximately \$680,000 was to recover the costs of the Commission, approximately \$265,000 was to recover the costs of the technical regulator (ACT Planning and Land Authority), and approximately \$630,000 was to recover the costs of the Essential Services Consumer Commission. The actual amount payable by the utilities was less than this amount, as determined fees were reduced by rebates applying from the previous financial year.

B.1.13 Industry codes and guidelines

In 2005–06 the Commission undertook a process to develop an appropriate consumer protection code for prepayment meters (PPMs), following an approach from Aurora Energy about the possibility of selling electricity to ACT consumers through PPMs.

Prepayment meters (PPMs) are designed to cater for the ‘prepayment’ of electricity or gas by households and businesses. Customers purchase ‘credit’ from designated outlets through a variety of mechanisms, such as smart cards or keypad technology. This credit is downloaded into the PPM, which deducts payments from the credited amount as energy is consumed.

PPMs are one of many meter types being made available to customers by retailers as meter technology evolves. The introduction of PPMs in the ACT does not preclude the introduction of other meter types, but highlights the need to ensure all customers are equally protected regardless of their choice of meter.

There are many regulations that protect electricity customers in the ACT. The Consumer Protection Code, developed pursuant to the Utilities Act, provides comprehensive protection to consumers of gas and electricity (as well as water and wastewater services). The ACT’s *Fair Trading Act 1992* and *Door-to-Door Trading Act 1991*, and the national *Trade Practices Act 1974*, provide further avenues of protection for customers.

There are, nonetheless, gaps in protection for customers of PPM systems. In particular, the Consumer Protection Code assumes that consumers pay for their electricity, and other services, through the issuing of regular accounts,

rather than prepayment. Given that, and the fact that the technology and application of PPMs is new to customers in the ACT, the Commission considered that a code dealing specifically with PPMs would be necessary.

Aurora Energy submitted a draft PPM system code to the Commission for its review. The Commission released an issues paper and a draft decision to facilitate consultation on the draft code. As at 30 June 2006 the Commission was still considering the draft industry code (a decision to adopt the code was made in July).

B.1.14 Compliance and performance monitoring

Reports

An important part of the Commission's role in administering the utility licence framework established under the Utilities Act is monitoring utilities' compliance with their licence conditions and performance of their functions under the Utilities Act. To that end, the Commission prepares an annual utilities compliance report and an annual utilities performance report.

The Commission released the performance report for utility services for 2003–04 in September 2005. The 2004–05 compliance report for utility services was published in February 2006. The 2004–05 performance report, which complements the latter report, will be released shortly.

The Commission concluded, on the basis of the 2004–05 compliance report, that utilities were largely compliant with the requirements of the Utilities Act and licence conditions. Licensees did not report any material breaches of their regulatory requirements for the 2004–05 reporting period. The Commission was not aware of any material breaches by any licensees in 2004–05.

One minor breach relating to the holding of security deposits was identified and resolved. Some issues relating to network performance were also identified. These do not constitute breaches of the Utilities Act as such. However, the Commission will continue to monitor the particular utilities' performance.

Audit framework

In 2005–06 the Commission approved a compliance audit framework that will supplement and complement the existing utilities reporting program and assist in the verification of compliance data submitted to the Commission. To date, no compliance audits have been undertaken.

B.1.15 Greenhouse Gas Abatement Scheme

The ACT Greenhouse Gas Abatement Scheme commenced on 1 January 2005 through the *Electricity (Greenhouse Gas Emissions) Act 2004*. The scheme is modelled on the New South Wales Greenhouse Gas Abatement Scheme, which commenced operation in January 2003 and has since been extended to include the ACT.

The ACT scheme follows the general approach developed in New South Wales and uses the New South Wales scheme's administrative framework. The Commission is the compliance regulator of the ACT scheme (the New South Wales Independent Pricing and Regulatory Tribunal is the scheme administrator).

The scheme establishes annual greenhouse gas reduction targets for the ACT, and requires individual electricity retailers (and potentially any other parties who buy or sell electricity in the ACT) to meet mandatory benchmarks based on the size of their share of the electricity market. If such parties, known as 'benchmark participants', fail to meet their benchmarks, penalties are assigned.

The Commission's functions, as the regulator of the scheme, are to:

- establish greenhouse gas benchmarks for participants
- monitor benchmark participants' compliance
- impose penalties, if required.

The Commission concluded that all benchmark participants met their greenhouse gas obligations for 2005.

B.1.16 Promotion of independent regulation

The Commissioners remained committed to implementing the ACT Government's policy on independent regulation. During the year the Commission participated as a member of the national Utility Regulators Forum, and contributed to the development of the new national regulatory arrangements being introduced under the aegis of the Ministerial Council on Energy.

B.2 Performance against government-wide objectives

B.2.1 Access to Government Strategy

The Commission observes the Access to ACT Government Strategy, launched in 2003, in letter and spirit, ensuring that any member of the community who has a disability can readily access its services and facilities.

The Commission's action plan has included ensuring that its offices are easily accessible and its publications are available in print and electronic media. In the past the Commission has provided publications in braille and audio formats, and Auslan translation services, on request.

B.2.2 Community engagement

The Commission embraces its responsibility to consult the community on matters under investigation, and respond to issues raised by members of the community, in order to fulfil its statutory role and organisational objectives.

The Commission provides opportunities for, and encourages, participation at all stages of its inquiries, by individuals or by representatives of community groups, industry, peak bodies, regulatory agencies or other interested parties.

Public notices are published seeking input in relation to all references received for price and regulatory inquiries. Many issues raised in the granting of utility licences and approving of industry codes and standards are publicly notified, and many decisions are notified or made available through the Commission's website. Where public hearings are held, members of the public are invited to attend to make personal submissions.

In addition, the Commission continues to be involved in informing the developing debate on regulatory issues in the broader community, including among various not-for-profit human services organisations. In 2005–06, the Commission both sought ways to provide information on specific issues to the community and remained active in making presentations at conferences and seminars.

B.2.3 Multicultural framework

Workplace diversity within the Commission is discussed in Section C.1.4.

The Commission's processes are transparent and the Commission seeks to encourage access to its processes by all interested parties. The Commission does not customarily provide its reports in languages other than English; the cost would generally be prohibitive. However, where people need assistance the Commission uses or provides a referral to a translator.

B.2.4 Other reportable issues

In 2005–06 the Commission had nothing to report against the requirements or objectives of the:

- *Human Rights Act 2004*
- whole-of-government approach to Indigenous policy
- Strategic Bushfire Management Plan
- ACT Women's Plan.

Part C Management of the organisation

C.1 Managing our people

C.1.1 Workforce planning, attraction and retention

The Commission's continuing preferred approach to managing human resources efficiently and effectively is to employ contract staff and consultants as needed (see Table 6 for details of such consultancies in 2005–06), while maintaining core permanent staff in critical disciplines such as economics, econometrics, administrative law and communications.

The Commission's overriding goal is to remain, as far as possible, an 'employer of choice'—that is, one with conditions and practices that attract and retain high-calibre staff. The Commission continued to meet this challenge in 2005–06, and is proud of the achievements and productivity of its staff, whose performance continued to compare favourably to that of officers of other Australian regulators and other ACT Public Service agencies.

While the Commission is careful in its allocation of scarce human and financial resources, the constraints imposed on a small organisation with few permanent staff result, over time, in relatively high staff turnover, particularly as personnel are trained to a high level of individual competence and thus become very attractive to other employers. The Commission's relatively small scale does, however, provide opportunities for broad experience and substantial responsibility for outcomes.

C.1.2 Staffing profile

Table 2 provides details of the Commission's staffing profile as at 30 June 2006.

Table 2 Staffing profile of the Commission as at 30 June 2006

Level	Number	Full time		Part time	
		F	M	F	M
Commissioners	1				1
SES	1		1		
SOG A	1		1		
SOG B	2		1	1	
SOG C	2		1		1
ASO 5	1	1			
ASO 4	1	1			
ASO 3					
Total	9	2	4	1	2

ASO = Administrative Service Officer; SES = Senior Executive Service; SOG = Senior Officer Grade

Note: The table includes full-time permanent and part-time contract staff

The details of age by level have been omitted to protect individuals' privacy. The age profile of the Commission ranges from mid-twenties to 60; the Senior Commissioner and the chief executive officer are at the higher end of the range.

C.1.3 Culture and values

The Commission is committed to ensuring the government receives the best possible return from the resources it devotes to the Commission, through efficient and businesslike management of those resources, including prudent management of financial risk.

A key element of that prudent management involves ensuring staff are aware of the Commission's values and the ACT Public Service Code of Conduct, including processes to receive and deal with any allegations of potential breaches of the Code of Conduct. Commission staff meet regularly, both formally and informally, to discuss policies, resources and corporate objectives, and the Commissioners regularly receive reports on these activities and provide guidance on administrative policies and issues.

The Commission seeks to foster a culture of being transparent in its activities, accountable for its actions, consultative in its interactions with interested parties, independent in its decision-making processes, and ethical in all aspects of its behaviour.

Regular meetings are conducted with representatives of utilities and other interested parties about issues and progress with inquiries.

All documents generated by the Commission (except those deemed confidential to protect the legitimate interests or privacy of firms or individuals) are made available for public scrutiny. All documents published by the Commission are available in hard copy and in electronic form on the Commission's website, www.icrc.act.gov.au.

C.1.4 Workplace diversity

The Commissioners remain highly conscious of the importance of both equal employment opportunity (EEO) and cultural and linguistic diversity in determining the organisational health of the Commission. The Commission is an equal opportunity employer. Table 3 illustrates the EEO and equity composition of the Commission's staff as at 30 June 2006.

In 2005–06 the Commission's staff members generally comprised five females and five males. The gender distribution of the Commissioners remained unchanged at one female and two males (until 26 June 2005). Overall, the Commission retained a good gender balance.

There were no constraints on people with disabilities joining the Commission; the criteria for employment with the Commission are suitable experience and relevant skills. The physical facilities in the building are not a barrier to people with disabilities and include lift access to all floors and open access to all facilities. The Commission's emergency procedures take into account the needs of people with disabilities.

Table 3 EEO and equity composition of the Commission as at 30 June 2006

Level	Number	Gender		ATSI	Disability	NESB
		F	M			
Commissioner	1	0	1	–	–	–
SES 1.3	1	–	1	–	–	–
SOG A	1	–	1	–	–	–
SOG B	2	1	1	–	–	–
SOG C	2	1	1	–	–	–
ASO 5	1	1	–	–	–	–
ASO 4	1	1	–	–	–	–
ASO 3	–	–	–	–	–	–
Total	9	4	5	–	–	–

ASO = Administrative Service Officer; ATSI = Aboriginal or Torres Strait Islander background; EEO = equal employment opportunity; NESB = non-English speaking background; SES = Senior Executive Service; SOG = Senior Officer Grade

Note: The table includes full-time permanent and part-time contract staff

C.1.5 Workplace health and safety

The Commission is committed to following sound occupational health and safety (OH&S) approaches to ensure that a safe, healthy and secure workplace is maintained. OH&S is an important issue for the Commission, not only because the loss of a staff member could seriously weaken the Commission and be costly in terms of both replacement expense and time, but also because such a loss would represent the failure of the Commission's policy of ensuring a safe and healthy workplace.

During 2005–06, all office accommodation was monitored to ensure that any emerging risks were identified early and that appropriate action was taken to reduce or eliminate such risks. The Commission continued to implement and abide by OH&S policies applicable to all government agencies. As well as being considered at the monthly meetings of Commissioners, OH&S issues and complaints were standing agenda items for regular staff meetings.

During 2005–06 there was a reported instance of pain suffered by a staff member arising from use of IT equipment. Case management was immediate and effective: an assessment of the suitability of the workstation, PC and work practices was undertaken and advice arising from that review was acted upon. The assessor made minor adjustments to the furniture and set-up of the PC to reduce the risk of recurrence.

In total, there have been two incidents in the Commission's six years of operation: on each occasion case management effectively addressed the problem, prevented more serious injury from occurring and reduced the risk of compensation.

The Commission has two fully trained and certified first aid officers (one currently on maternity leave) and participates in fire safety and evacuation practices for tenants of Eclipse House, in which the Commission is situated. The Commission has a fire warden in the office.

C.1.6 Learning and development

As the major training activities during the reporting year, staff attended conferences and seminars on relevant industry regulatory issues. The Commission does not budget for any particular level of overall training expenditure as a proportion of general expenditure, but has an informal internal target of between 2% and 5% as a proportion of total wage- and salary-related overheads.

This was achieved largely as a result of a substantial contribution by the Commission to ACORE, the Australian Centre of Regulatory Economics at the Australian National University, in an arrangement which entitles the Commission to nominate suitable staff for relevant higher education opportunities in the disciplines of regulatory economics, policy and law. Two Commission staff have undertaken accredited ACORE courses: one deferred the course while undertaking other study, and one is due to complete a master's degree in early 2007. The Commission ceased to provide financial support for ACORE in January 2006, but continues to support the progress of the master's degree candidate.

The Commission also continued to encourage staff to pursue other further education, particularly relevant postgraduate courses, by supporting the Studies Assistance Program. As well, following on from a senior management training activity started in 2003–04, two senior staff members were supported in undertaking the Take The LEAD public management program under the auspices of the Chief Minister's Department.

As far as possible staff were allocated to deal with issues that interested them and would have a beneficial effect on their productivity and development. Staff were encouraged to contribute to the Commission's activities in a range of ways in order to maximise the benefits to the Commission and to provide variety and stimulation to the individuals. Regular staff meetings and discussions about issues were a means of providing developmental support for staff.

C.1.7 Workplace relations

In accordance with ACT Government policy, in 2005–06 there were no Australian Workplace Agreements applying to the Commission. A new three-year government-wide certified agreement was reached with effect from 1 April 2004, and covers all the Commission's senior officer and administrative officer employees.

C.2 Governance

C.2.1 Internal accountability

The structure of the Commission is set out in Figure 1 in Part A of this annual report.

The Commissioners during 2005–06 were:

- Paul Baxter, Senior Commissioner (appointed 1996; reappointed 2004, term expires 30 June 2009)
- Robin Creyke, Commissioner (appointed 2001; term expired 26 June 2006)
- Peter McGhie, Commissioner (appointed 2001; term expired 26 June 2006).

The chief executive officer is Ian Primrose CPA.

The chief executive officer is employed under an executive contract, the terms and conditions of which are determined by the ACT Remuneration Tribunal, as is the remuneration of the Commissioners.

As set out in the ICRC Act, the Commissioners are responsible for the governance of the Commission and the achievement of its objectives. The major corporate objectives of the Commission, as distinct from the Commission's statutory objectives, are:

- subject to the ICRC Act, to operate as a businesslike, customer service oriented entity
- to use benchmarking, to the extent possible for a regulatory agency, in order to operate at least as efficiently as alternative service providers and to provide quality, value for money services in all aspects of the Commission's operations
- to use financial practices and maintain accounts and records which satisfy the requirements of the *Financial Management Act 1996*, including the associated ACT Accounting Policy Manual, modelled on the requirements of Australian Accounting Standards, and fairly present the Commission's financial position and operational and cashflow results for planning and reporting purposes
- to adopt high-standard operating practices to safeguard the environment and health and safety of staff
- to provide a productive and satisfying working environment for staff, and a commitment to high standards of human resource management based on the principles of EEO.

During the reporting period, the Commissioners continued to oversee the governance of the Commission, including the application of principal Commission policies (such as those on OH&S, fraud control, financial control, internal audit and issues relating to administrative law obligations), through formal monthly meetings. The board, which includes the chief

executive officer as an ex-officio member, also oversees recruitment of staff to ensure that the quality of outputs remains at a high standard.

The Commission continued to pursue best practice in its corporate governance and management, including by implementing relevant recommendations on governance made by the Government Audit Office, and appropriate industry or public sector standards. The Commission also continued to implement best practice administrative arrangements. All determinations and advice developed by the Commission, and the processes by which those outputs are developed, remain accessible and transparent and include extensive provision of opportunities for public consultation.

C.2.2 Fraud prevention

The Commission's financial risk management practices, described below, are designed to prevent financial fraud.

In addition, for the purposes of contract tendering, members of the Commission's tender evaluation committees are required to complete declarations that they have no actual or perceived conflicts of interest in respect of any tenderer or panel member. Such documented declarations are retained on a registered file.

The Commission's probity adviser in respect of tendering and contracting is the deputy chief solicitor in the Government Solicitor's Office. The Commission's probity auditor is the Auditor-General. As mentioned below, for audit purposes, the Commission has engaged the Auditor-General to conduct regular audits of the Commission's processes and records.

C.2.3 Risk management and internal audit

Risk management

The Commission periodically has risks assessed as part of its internal audit program. In 2005–06, levels of all risks—including risks related to consultancies, information management, workplace safety and financial management—continued to be assessed as low.

The risks associated with non-performance of contracts for expert advice are low because the Commission manages and guides each contract closely. All contracts are let and managed by the chief executive officer subject to the Commissioners' direction and control. The Commission reduces contractual risk by using a panel of expert advisors. Each participating expert is

pre-assessed in terms of risks, and endorsed for five years. There were no incidents of contract non-performance in 2005–06.

The handling, storage and retrieval of information is a high-risk area for the Commission. Risks arising from inappropriate treatment of information continue to be addressed by improvements in the policies in relation to use and disclosure of confidential information, care in relation to the publication of information on the website or in reports, and appropriate storage of information.

The Commission is specifically addressing information management issues in relation to document description, handling and management. The Commission implemented the requirements of the *Territory Records Act 2002* by creating and complying with a formal records management program from 1 July 2004. The program includes a records management policy and procedures endorsed by the Director of Territory Records. The program details the practical requirements of the Commission's record keeping, including standard operating procedures for all Commission staff and consultants to follow, and identifying who is responsible for each of the tasks in the record-keeping process. The Commission has a senior officer responsible for coordinating document management and has prepared and implemented a complying thesaurus and document disposal policy.

Workplace risks are managed on a daily basis. Managers have an immediate view of the way in which employees work in the office and the structure of the office facilities. A staff member is responsible for OH&S representation. During 2005–06, the Commission's management board received monthly reports on OH&S risks and complaints. Those reports draw on reports to regular staff meetings, complaints raised with management and periodic reviews of physical risks in the office.

The Commission's capitalised assets consist mainly of furniture and fittings. Very small amounts of cash are held in the office. Financial risk arises from the Commission receiving revenue and making payments to suppliers.

The risks of mishandling or fraud are actively managed by separation of powers and regular monitoring of accounts. Most transactions on the revenue side are made by cheque or by direct credit to the Commission's accounts. On the payments side, there are no cash payments for services supplied and there is an appropriate authorisation process and separation of cheque preparation, payment authorisation and cheque signing. Two individuals only are involved in cash handling and banking, and financial records are prepared by one person with direct oversight from the chief executive officer. The Commissioners receive monthly reports on financial

performance, cash position, age of debtors and creditors, and performance against budget for the period and year to date.

Internal audit

In 2002–03 the Commission engaged Deloitte Touche Tohmatsu to review its internal risk management controls. The aims of the review were to identify areas of risk and, if necessary, to implement a planned process for reducing the level of risk. The review of internal controls was also to develop an audit process to monitor aspects of the Commission’s operations to ensure that risks were properly identified and controlled and that high-priority risks were reviewed more frequently than lesser risks.

The review identified few high-priority risks, a position borne out once again in 2005–06. The Commission continues to restrict control of financial transactions, invoicing, payments and banking to reduce fraud and mishandling of risk. Similar tight controls are applied to petty cash; no cash, other than petty cash, is kept in the Commission. There exist immediate lines of supervision of information to reduce risks such as use of information for private advantage or fraudulent purposes. The Commissioners maintain regular and frequent oversight of activities and principal transactions.

C.2.4 External scrutiny

The Auditor-General reviews the annual reports of ACT Government agencies each year. In 2005–06, as in previous reporting periods, the Auditor-General found that the Commission had complied with all the requirements of the Chief Minister’s Annual Report Directions. Apart from the probity audit arrangements for the Commission’s expert panel tendering and contracting mentioned above, the Commission was not the subject of other reports from the Auditor-General during the year.

The Commission was available for scrutiny by the committees of the Legislative Assembly but was required to appear only by the Estimates Committee in relation to the Budget Estimates for the financial year 2005–06. The committee was satisfied that the Commission’s estimates were satisfactory and its operations were appropriately conducted.

As mentioned in previous annual reports, the Commission had expected the Utilities Act and the ICRC Act to be reviewed in 2001–02, but that did not eventuate. The review of the Utilities Act is now being undertaken by the Chief Minister’s Department. At the end of the reporting year, no date was available for the start of a review of the ICRC Act.

The Commission's unqualified audited financial statements for the year 2005–06 appear in Appendix 1. The Commission was not a subject of any other external reviews during the reporting year.

C.2.5 Reports required by legislation

Freedom of information

Section 7 statement

In addition to the requirements of the *Public Interest Disclosure Act 1994* and the *Freedom of Information Act 1989*, the Commission is subject to requirements under both the ICRC Act and the Utilities Act to make public all decisions, submissions to inquiries, reports and draft reports and reasons for the Commission's decisions.

The Commission's final reports on investigations on all issues relating to prices, access disputes, access arrangement proposals, and decisions on the issue and revocation of utility licences and application of conditions to utility licences, are all publicly available. Guidelines about information access and confidentiality are readily available on the Commission's website, www.icrc.act.gov.au.

Section 8 statement

In practice, on request, the Commission makes available any and all records except documents containing genuine commercial-in-confidence information (in submissions made to the Commission by outside entities) and certain staff-in-confidence documents. The Commission makes information publicly available through published reports and its website, www.icrc.act.gov.au, and at the Commission's offices (Level 7, Eclipse House, 197 London Circuit, Civic).

The chief executive officer has appointed a records manager, among whose duties is a responsibility to attend to any outside information request in a prompt and thorough manner. The chief executive officer is the contact person for the purposes of freedom of information requests.

Section 79 statement

During the reporting year the Commission received no requests for information disclosure under the terms of the *Freedom of Information Act 1989*.

C.2.6 Public interest disclosure

Like other government agencies, the Commission has various obligations under the *Public Interest Disclosure Act 1994*. In particular, the Commission is required to have in place procedures to facilitate the making of public interest disclosures and to deal with public interest disclosures that the Commission is the proper authority to receive, and to ensure that those procedures are maintained.

The Commission has adopted the procedures established by the ACT Department of Treasury. They include procedures dealing with:

- making public interest disclosures
- assisting and providing information to a person who makes a public interest disclosure
- protecting a person who makes a public interest disclosure from unlawful reprisals, including unlawful reprisals taken by public officials in relation to the government agency
- acting on public interest disclosures.

Copies of the procedures are available to the Commission's 'public officials' and to the public.

The Commission received no public interest disclosure requests, and there were no incidents involving public interest disclosure, during 2005–06.

C.2.7 Territory records

As mentioned in Section C.2.3, the handling, storage and retrieval of information is a high-risk area for the Commission. To mitigate risk, the Commission has implemented the requirements of the *Territory Records Act 2002* by creating and complying with a records management program which has applied formally since 1 July 2004.

The program includes a records management policy and procedures, endorsed by the Director of Territory Records, detailing the practical requirements of the Commission's record keeping, including standard operating procedures for all Commission staff and consultants to follow when carrying out record keeping, and identifying who is responsible for each of the tasks in the record-keeping process.

Further, the chief executive officer has appointed one of the Commission's senior officers as records manager responsible for overseeing the policy and procedures.

C.3 Sustainability and environment

C.3.1 Commissioner for the Environment

The Commission has neither made reports to nor received requests for information from the Commissioner for the Environment.

C.3.2 Ecologically sustainable development

The Commission continued to further the aims of the ACT Greenhouse Strategy through its performance as compliance regulator of the ACT Greenhouse Gas Abatement Scheme, as described in Section B.1.15.

During the reporting year the Commission continued to review its operations and conduct its activities in accordance with the principles of ecologically sustainable development.

In 2005–06 the Commission again reviewed options for waste minimisation, the use of ‘green choice’ electricity or at least some mix of traditionally generated and ‘green choice’ electricity, and more efficient power usage in relation to lights and computers.

The Commission, consistent with the government’s ‘no waste’ policies, continued its commitment to producing zero waste by 2010 by attempting to reduce the amount of paper it uses and increase the proportion of its waste that is recycled. As part of its ongoing review the Commission aims to reuse paper products before recycling them.

Table 4 summarises the Commission’s ecological sustainability priorities.

Table 4 Commission activities supporting ecologically sustainable development, 2005–06

Issue	Activity	Outcome
<i>Core business</i>		
Compliance regulation	Establishing benchmarks, monitoring compliance and penalising non-compliance under the ACT Greenhouse Gas Abatement Scheme	Reduced greenhouse gas emissions
Inquiries	Considering social and environmental impacts, including the application of the precautionary principle	Promotion of sustainability and reflection of the real economic costs and the impact on social costs of market activity
Price setting	Considering social and environmental costs	Service pricing for regulated industries that reflects full costs, including environmental costs and the social impact of prices
<i>Operations</i>		
Consumables	Using recycled paper and other recycled consumables (such as printer toner)	Improved recycling practices, leading to reduced greenhouse gas emissions
Disposables	Recycling	Reduced impact on landfill, leading to reduced greenhouse gas emissions
Energy use	Reducing reliance on electric lighting	Reduced energy consumption, leading to reduced greenhouse gas emissions

Part D Analysis of financial performance

This assessment of the Commission's financial performance has been reviewed by the Auditor-General and found to be consistent with the information contained in the financial statements for 2005–06. The Commission's audited financial statements are at Appendix 1.

D.1 General overview

D.1.1 Objectives

The Independent Competition and Regulatory Commission (the Commission) is responsible for regulating and advising government about pricing and other matters for monopoly, near-monopoly and ministerially declared regulated industries, providing advice on competitive neutrality complaints and government-regulated activities under the *Independent Competition and Regulatory Commission Act 1997* (ICRC Act). Also, the Commission has responsibility for arbitrating infrastructure access disputes under the ICRC Act.

The Commission also licences utility service providers to operate in the territory, establishes the industry compliance framework and ensures compliance with industry codes and guidelines under the *Utilities Act 2000* (Utilities Act). Utility services covered by the Act are electricity, gas and water and wastewater.

The Commission is the regulator for the purposes of the *Electricity (Greenhouse Gas Emissions) Act 2004*.

The Commission's objectives are set out in full in s. 7 of the ICRC Act and s. 3 of the Utilities Act.

D.1.2 Risk management

The Commission has identified risk in several areas:

- consultant risk
- information risk

- workplace safety and related employee risks
- financial risk.

These risks continue to be assessed as low and are actively managed by the Commission. The Commission has had, and periodically will continue to have, risks assessed as part of its internal audit program.

- The risks associated with non-performance of contracts for expert advice are considered low because the Commission manages and guides each consulting contract closely and continually during its course. The Commission is reducing contractual risk by the establishing a panel of expert advisors for a period of five years; each participating expert is pre-assessed in terms of risks. There were no incidents of contract non-performance in 2005–06.
- Risks arising from inappropriate treatment of information continue to be addressed by improvements in the policies in relation to use and disclosure of confidential information, care in relation to the publication of information on the website or in reports, and appropriate storage of information. The Commission is specifically addressing information management issues by compliance with the ACT Public Sector policies and practices on document description, handling and management. The Commission has a senior officer responsible for coordinating document management and has prepared and implemented a complying thesaurus and document disposal policy.
- Workplace risks are managed on a daily basis. Management has an immediate view of the way in which employees work in the office and the structure of the office facilities. A staff member is responsible for occupational health and safety representation. During 2005–06, the Commission’s management board received monthly reports on occupational health and safety risks and complaints. Those reports draw on reports to regular staff meetings, complaints raised with management and periodic reviews of physical risks in the office.
- During 2005–06 there was a reported instance of pain suffered by a staff member arising from use of IT equipment. Case management was immediate and effective; an assessment of the suitability of the workstation, PC and work practices was undertaken and advice arising from that review was acted upon. The assessor made minor adjustments to the furniture and set-up of the PC to reduce the risk of recurrence. In addition, there have been two incidents in six years of operation: on each occasion case management effectively addressed the problem and prevented more serious injury from occurring and reduced the risk of compensation.
- Financial risk is identified as a consequence of the Commission receiving revenue and making payments to suppliers. Very low levels of

cash are held in the office. The risks of mishandling or fraud are actively managed by separation of powers, appropriate to a small office, and regular monitoring of accounts. Most transactions on the revenue side are by cheque or by direct credit to the Commission's accounts. On the payments side, there are no cash payments for services supplied and there is an appropriate authorisation process and separation of account cheque preparation, payment authorisation and signature (including countersigning by two parties).

In 2006–07, the Commission's structure will be changed and will implement new systems for payment of accounts and the delivery of human services. The Commission will be part of the Department of Justice and Community Safety, with new reporting arrangements and a different relationship with that department than it had with the Treasury. The Commission's risk profile will change accordingly, and new risk management approaches will be needed to ensure continuation of the Commission's record of successfully managing risk. However, the Commission does not expect that its approach to minimising risk will be reduced.

D.2 Financial performance

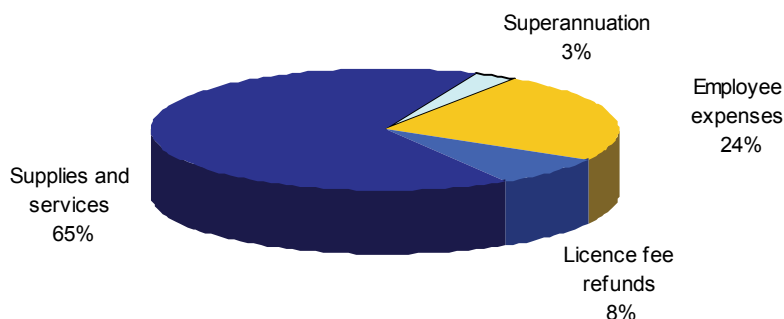
The following financial information is based on audited Financial Statements for 2004–05 and 2005–06, and the forward estimates contained in the 2005–06 Budget Paper Number 4.

D.2.1 Total expenses

Components of expenses

Figure 5 indicates the components of the Commission's expenditure for 2005–06, with the largest component of expenditure being supplies and services, which represents 65% of expenditure on ordinary activities, or \$1.603 million.

Figure 5 Components of expenses, 2005–06



Comparison to Budget—expenses

Total expenditure of \$2.485 million was \$0.006 million higher than the 2005–06 budget of \$2.479 million. This small overall increase in expenditure was the result of a number of factors:

- employee and superannuation expenses (\$0.673 million) were lower than budget estimates (\$0.878 million)
- administration expenses relating to Utilities Act responsibilities (\$0.750 million) increased by 81% compared to 2004–05 (\$0.414 million).

Comparison to 2004–05 actual expenses

Total expenditure was \$0.084 million or 3% lower than the 2004–05 actual result. This decrease reflects the decrease in revenue for the same period, which reflects the cost recovery policy adopted by the Commission.

Future trends

Total expenditure in 2006–07 is budgeted at \$2.458 million, and is dependent on a number of factors. The Commission’s responsibilities for energy regulation will transfer to the Australian Energy Regulator in 2007: the transferred functions will result both in less activity under the Utilities Act and therefore less expense, but also in less revenue from those activities. The 2006–07 Budget has required savings of the Commission that will reduce the Commission’s ability to cover expenditure in the financial year from appropriated funds. The Commission expects that there will be reductions in expenditure in 2006–07, but that at the same time there will be

greater reductions in Commission revenues. Also, and most importantly, the merging of the Commission with the newly established Office of Regulatory Services and changes to the way in which the Commission provides corporate and financial services will impact on expenditure: the Commission does not expect that expenditure will decrease substantially as a result of the merger in 2006–07.

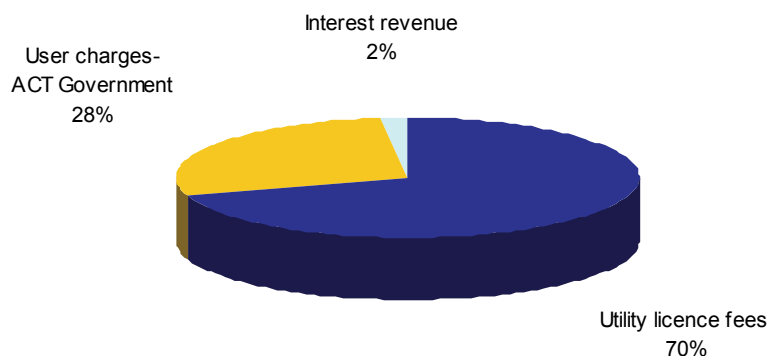
In 2006–07 the Commission faces circumstances where its expenses are largely fixed but there is less revenue to cover those expenditures that may result in a deficit.

D.2.2 Total income

Components of income

Figure 6 shows that the main source of income for the Commission is utilities licence fees of \$1.574 million or 70% of total revenue. This income relates to the issue of licences to providers of electricity, gas, water and sewerage services in the ACT. The remainder of the income was user charges—ACT Government, and bank interest.

Figure 6 Components of income, 2005–06



Comparison to Budget—revenue

Revenue for the year was \$2.266 million and was \$0.192 million lower than expected. This was mainly as a result of nil revenue from external sources

during the 2005–06 financial year. Interest revenue was 278% higher than expected due to greater levels of cash reserves on hand during the period.

Comparison to 2004–05 actual income

Total revenue in 2005–06 was down \$0.199 million compared to the previous financial year (\$2.465 million). Utilities licence fee income increased 2% whilst income from external sources was zero. Interest revenue increased from \$0.035 million to \$0.053 million in 2005–06.

Future trends

In 2006–07 the Commission's revenue is likely to decrease as services provided to government are unfunded. Licence fees are expected to remain at similar levels to 2005–06, with the transfer of energy regulation delayed effectively beyond 2006–07. However, revenue from services provided to government agencies may decline, as services formerly provided to government agencies are resumed by those agencies and the amount of services provided to agencies for which there is no payment increases.

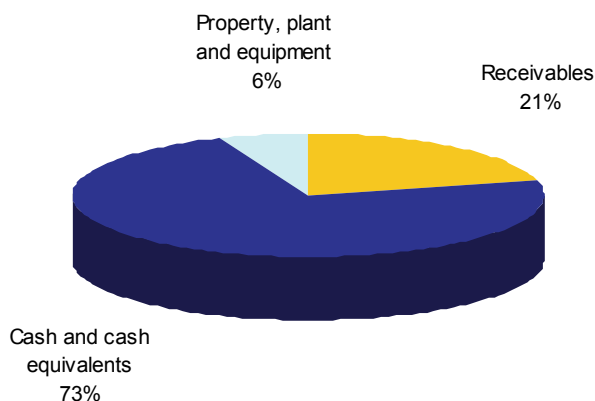
The Commission's revenue expectations are clouded at the present time and will remain so well into 2006–07, with uncertainty about the amount of work to be undertaken and the revenues associated with that work. At the same time the Commission is commencing a price review of water services and electricity network services that will increase revenues from non-government sources; that increase may offset any decline in other revenue.

D.3 Commission financial position

D.3.1 Total assets

Components of total assets

Figure 7 shows that the Commission continues to hold the majority of its assets in cash reserves: 94% of total assets are cash and receivables whilst the remainder is property, plant and equipment.

Figure 7 Total assets as at 30 June 2006

Comparison to Budget—assets

The total asset position as at 30 June 2006 is \$1.061 million. This is \$0.219 million or 17% lower than the budget position expected at 30 June 2006. Total current assets were lower than anticipated—in particular receivables (\$0.719 budget versus \$0.227 actual).

Comparison to 2004–05 actuals

The Commission's total asset position is slightly lower than for the same time last year. The current total assets position is \$1.061 million compared to \$1.078 million at 30 June 2005 (down \$0.017 million).

Liquidity

'Liquidity' is the ability of the Commission to satisfy its short-term debts as they fall due. A common indicator for liquidity is the current ratio, which measures the ability to fund short-term liabilities from short-term assets. A ratio of less than 1:1 may indicate a reliance on the next financial year's user charges—ACT Government to meet short-term debts. Table 5 indicates the liquidity position of the Commission.

Table 5 Current ratio as at 30 June 2006

Description	Prior year actual \$'000 s 2004–05	Current year budget \$'000 s 2005–06	Current year actual \$'000 s 2005–06	Forward year budget \$'000 s 2006–07	Forward year budget \$'000 s 2007–08	Forward year budget \$'000 s 2008–09
Current assets	1,000	1,215	996	1,209	1,242	1,269
Current liabilities	414	548	616	546	544	542
Current ratio	2.4:1	2.2:1	1.6:1	2.2:1	2.3:1	2.3:1

The Commission’s current ratio for the financial year is 1.6:1 which is a slight decrease from the budgeted current ratio of 2.2:1. The difference is reflected mainly in the lower than expected level of receivables at year end.

The Commission is expected to maintain its strong level of liquidity.

D.3.2 Total liabilities

Figure 8 below indicates that the majority of the Commission’s liabilities relate to payables (64%).

Figure 8 Total liabilities as at 30 June 2006



The Commission’s total liabilities for the year ended 30 June 2006 of \$0.616 million are \$0.068 million/12% higher than budget and represent an increase of \$0.202 million or 49% on the year end totals at 30 June 2005.

The majority of the increase relates to payables and in particular amounts payable to other ACT Government departments.

These costs have been incurred due to duties and responsibilities in relation to the Utilities Act.

D.4 Other financial reporting

D.4.1 Asset management

The Commission's only assets are the furniture and fittings in the Commission's offices. Those assets are managed in terms of repairs and maintenance but have no manageable capital value in the sense that property has. The assets are depreciated, and have been depreciated using a straight line on historical cost method since 2000. All other operating assets, for example IT equipment, printers and communications equipment, are leased. The Commission therefore has no need for a formal asset management plan.

D.4.2 Government contracting

The Commission continued to use consultants, including a panel of expert advisers, to assist with the conduct of inquiries and other processes.

The approach adopted by the Commission provided low-cost access to bodies of significant relevant expertise otherwise unavailable to the Commission. The approach, in the Commission's case, provided a flexible and highly skilled workforce at an efficient cost. The skill base of the Commission was therefore, in a practical sense, wider than the Commission would otherwise have been able to afford, and provided opportunities for core staff members to expand their skills and experience through skills transfer.

Table 6 shows the involvement of consultants and contractors in the Commission's operations during the financial year.

Table 6 Contractor and consultant services, 2005–06

Consultant/contractor^a	Service (date contract let)	Value \$^b
I-Mentor Pro	Provide staff training and development services (1/7/05)	13,830
Jindabyne Business Services	Provide financial management and accounting services (1/7/05)	50,965
KPMG	Provide assistance with ACT Ambulance Service inquiry (21/11/05)	13,584
KPMG	Provide assistance with 2003–04 utilities performance report (1/7/05)	44,450
PricewaterhouseCoopers	Provide assistance with transitional retail electricity tariff arrangements inquiry (13/11/05)	54,835
PricewaterhouseCoopers	Provide assistance with Capital Linen Service inquiry (16/11/05)	56,142
Recordkeeping Innovation	Provide recordkeeping development services (1/7/05)	1,772
Saha International	Provide assistance with ACTION bus prices inquiry (10/2/06)	69,174
Seabrook Consulting Services	Provide legal analysis and advice (4/10/05)	66,911
WordsWorth Writing	Provide editorial and design services (1/7/05)	44,321

a Only contractors and consultants external to the ACT Government are included

b All figures are exclusive of goods and services tax and rounded to whole dollars

Appendixes

Appendix 1 Financial report and audit report

Independent Competition & Regulatory Commission

**Financial Report
For the Year Ended 30 June 2006**

Auditor's statement



ACT AUDITOR-GENERAL'S OFFICE



A06/44



Mr Paul Baxter
Senior Commissioner
Independent Competition and Regulatory Commission
Level 7, Eclipse House
197 London Circuit
CANBERRA CITY ACT 2600

Dear *Paul* Mr Baxter

**AUDIT REPORT
INDEPENDENT COMPETITION AND REGULATORY COMMISSION
FINANCIAL REPORT
YEAR ENDED 30 JUNE 2006**

The ACT Auditor-General's Office has completed the audit of the financial report of the Independent Competition and Regulatory Commission for the year ended 30 June 2006.

I am pleased to attach the financial report together with the **unqualified** audit report.

I have provided a copy of these reports to the Attorney General, Mr Simon Corbell MLA.

Yours sincerely

Tu Pham
Auditor-General
14 August 2006

Statement of responsibility

**Independent Competition & Regulatory Commission
Financial Report
For the Year Ended 30 June 2006**

Statement of Responsibility

In my opinion, the financial report is in agreement with the Authority's accounts and records and fairly reflects the financial operations of the Authority for the year ended 30 June 2006, and the financial position of the Authority on that date.

Paul Baxter
Senior Commissioner
Independent Competition & Regulatory Commission

/s/ August 2006

**Independent Competition & Regulatory Commission
Financial Report
For the Year Ended 30 June 2006**

Statement by the Chief Finance Officer

In my opinion, the financial report has been presented in accordance with generally accepted accounting principles, and is in agreement with the Authority's accounts and records and fairly reflects the financial operations of the Authority for the year ended 30 June 2006, and the financial position of the Authority on that date.

Ian R Primrose
Chief Finance Officer
Independent Competition & Regulatory Commission

1 August 2006

Independent Competition & Regulatory Commission

**Territory Authority
Financial Report
For The Year Ended 30 June 2006**

Operating Statement For the Year Ended 30 June 2006

	Note No.	Actual 2006 \$'000	Budget 2006 \$'000	Actual 2005 \$'000
Income				
<i>Revenue</i>				
User Charges—ACT Government	4	639	885	431
User Charges—Non-ACT Government	4	—	473	453
Fees	5	1,574	1,086	1,538
Interest	6	53	14	35
Resources Received Free of Charge	2(f)	—	—	8
<i>Total Revenue</i>		<u>2,266</u>	<u>2,458</u>	<u>2,465</u>
Total Income		<u>2,266</u>	<u>2,458</u>	<u>2,465</u>
Expenses				
Employee Expenses	7	592	768	748
Superannuation Expenses	8	81	110	83
Supplies and Services	9	1,603	1,588	1,380
Prior Year Licence Fee Refund	10	196	—	337
Depreciation and Amortisation	11	13	13	13
Resources provided free of charge	2(f)	—	—	8
Total Expenses		<u>2,485</u>	<u>2,479</u>	<u>2,569</u>
Operating Deficit		<u>(219)</u>	<u>(21)</u>	<u>(104)</u>

The above Operating Statement should be read in conjunction with the accompanying notes.

Balance Sheet

As at 30 June 2006

	Note No.	Actual 2006 \$'000	Budget 2006 \$'000	Actual 2005 \$'000
Current Assets				
Cash and Cash Equivalents	14	769	496	979
Receivables	15	227	719	21
Total Current Assets		996	1,215	1,000
Non-Current Assets				
Property, Plant and Equipment	16	65	65	78
Total Non-Current Assets		65	65	78
Total Assets		1,061	1,280	1,078
Current Liabilities				
Payables	17	392	360	175
Employee Benefits	18	224	90	239
Total Current Liabilities		616	450	414
Non-Current Liabilities				
Employee Benefits	18	–	98	–
Total Liabilities		616	548	414
Net Assets		445	732	664
Equity				
Accumulated Funds	19	445	732	664
Total Equity		445	732	664

The above Balance Sheet should be read in conjunction with the accompanying notes.

Statement of Changes in Equity
For the Year Ended 30 June 2006

	Note No.	Actual 2006 \$'000	Budget 2006 \$'000	Actual 2005 \$'000
Opening Balance	19	664	753	768
<i>Accumulated Funds</i>				
Operating Deficit		(219)	(21)	(104)
Total Income and Expense Recognised Directly in Equity for the Period		(219)	(21)	(104)
Closing Balance	19	445	732	664

The above Statement of Changes in Equity should be read in conjunction with the accompanying notes.

Cash Flow Statement

For the Year Ended 30 June 2006

	Note No.	Actual 2006 \$'000	Budget 2006 \$'000	Actual 2005 \$'000
Cash Flows from Operating Activities				
Receipts				
Fees		1,575	1,086	1,268
User Charges—ACT Government		424	810	484
User Charges—Non-ACT Government		—	548	990
Interest Received		54	14	33
GST Collected from Customers		4	—	—
Other Receipts		88	83	134
Total Receipts from Operating Activities		2,145	2,541	2,909
Payments				
Related to Employee Payments		618	792	686
Related to Superannuation Payments		80	80	83
Related to Supplies and Services		1,653	1,581	1,563
Other Payments		4	98	110
Total Payments from Operating Activities		2,355	2,551	2,442
Net Cash Inflows/(Outflows) from Operating Activities	22	(210)	(10)	467
Net Increase/(Decrease) in Cash Held		(210)	(10)	467
Cash at the Beginning of the Reporting Period		979	506	512
Cash at the End of the Reporting Period	22	769	496	979

The above Cash Flow Statement should be read in conjunction with the accompanying notes.

Notes to and Forming Part of the Financial Report For the Year Ended 30 June 2006

- Note 1 Objectives of Independent Competition & Regulatory Commission
- Note 2 Summary of Significant Accounting Policies
- Note 3 Change in Accounting Policies

Income Notes

- Note 4 User Charges for Goods and Services
- Note 5 Fees
- Note 6 Interest

Expense Notes

- Note 7 Employee Expenses
- Note 8 Superannuation Expenses
- Note 9 Supplies and Services
- Note 10 Prior Year Licence Fee Refund
- Note 11 Depreciation
- Note 12 Act of Grace Payments
- Note 13 Auditor's Remuneration

Asset Notes

- Note 14 Cash and Cash Equivalents
- Note 15 Receivables
- Note 16 Plant and Equipment

Liabilities Notes

- Note 17 Payables
- Note 18 Employee Benefits

Equity Note

- Note 19 Equity

Other Notes

- Note 20 Financial Instruments
- Note 21 Commitments
- Note 22 Cash Flow Reconciliation
- Note 23 Events Occurring After Balance Date
- Note 24 Utility Licence Fee Adjustments
- Note 25 Reconciliation of Previous GAAP to Australian Equivalents to IFRS

Note 1 Objectives of Independent Competition & Regulatory Commission

Operation and Principal Activities of Independent Competition & Regulatory Commission

The Independent Competition and Regulatory Commission (ICRC) has regulatory rather than commercial objectives, which are prescribed in Section 7 of the *Independent Competition and Regulatory Commission Act 1997*. The Act provides the following objectives in relation to regulated industries, access regimes, competitive neutrality complaints and government-regulated activities:

- to promote effective competition in the interests of consumers
- to facilitate an appropriate balance between efficiency and environmental and social considerations
- to ensure non-discriminatory access to monopoly or near monopoly infrastructure.

In the *Utilities Act 2000*, the Independent Competition & Regulatory Commission has certain objectives. Section 3 provides the following in respect to utility services:

- to encourage the provision of safe, reliable, efficient and high quality utility services at reasonable prices
- to minimise the potential for misuse of monopoly power in the provision of utility services
- to promote competition in the provision of utility services
- to encourage long term investment, growth and employment in utility service industries
- to promote ecologically sustainable development in the provision of utilities services
- to protect the interests of consumers
- to ensure the advice given to Independent Competition & Regulatory Commission by the council, or the Chief Executive under Part 5 (Technical Regulation), is properly considered
- to ensure the Government's programs about the provision of utility services are properly addressed
- to give effect to directions of the Minister under Section 19.

Note 2 Summary Of Significant Accounting Policies

(a) Basis of Accounting

The *Financial Management Act 1996* (FMA) requires the preparation of financial statements (financial report) for Territory Authorities.

The FMA and the *Financial Management Guidelines*, requires that a Territory Authority's financial statements (financial report) include:

- (i) an Operating Statement for the year
- (ii) a Balance Sheet at the end of the year
- (iii) a Statement of Changes in Equity for the year
- (iv) a Cash Flow Statement for the year
- (v) a summary of the significant accounting policies adopted for the year
- (vi) such other statements as are necessary to fairly reflect the financial operations of the Territory Authority during the year and its financial position at the end of the year.

This general-purpose financial report has been prepared to comply with 'Generally Accepted Accounting Principles' (GAAP) as required by the FMA. This financial report has been prepared in accordance with:

- (i) Australian Equivalents to International Financial Reporting Standards (AIFRS), comprising accounting standards and UIG interpretations issued by the Australian Accounting Standards Board
- (ii) ACT Accounting Policies.

This is the first financial report by the Independent Competition & Regulatory Commission, to be prepared in accordance with AIFRS and as such AASB 1 'First-Time Adoption of Australian Equivalents to International Financial Reporting Standards' has been applied to this financial report. Previous GAAP was used as the basis for preparing the Authority's financial report for the 30 June 2005 financial year.

The financial report has been prepared using the accrual basis of accounting, which recognises the effects of transactions and events when they occur. The financial report has also been prepared according to the historical cost convention, except for certain assets which were valued in accordance with

the (re)/valuation policies applicable to the Territory Authority during the reporting period.

The Independent Competition & Regulatory Commission is an individual reporting entity.

(b) The Reporting Period

This financial report states the financial performance and cash flows of Independent Competition & Regulatory Commission for the year ending 30 June 2006 and the financial position of Independent Competition & Regulatory Commission as at 30 June 2006.

(c) Comparative Figures

Budget Figures

Budget information provided for 2005–06 matches the budget information contained in Independent Competition & Regulatory Commission’s Statement of Intent. The *Financial Management Act 1996* requires the financial report to facilitate a comparison with the Statement of Intent. The budget numbers are as per the Statement of Intent.

Prior Year Comparatives

Comparative information has been disclosed in respect of the previous period for all amounts reported in the financial report.

Where the presentation or classification of items in the financial report are amended, the comparative amounts have been reclassified where practical. Where a reclassification occurs the nature, amount and reason for the reclassification is provided.

(d) Rounding

All amounts in the financial report have been rounded to the nearest thousand dollars (\$’000). Use of “ ” represents zero amounts or amounts rounded down to zero.

(e) Revenue Recognition

Revenue is recognised at the fair value of the consideration received or receivable in the Operating Statement. All revenue is recognised to the extent that it is probable that the economic benefits will flow to the Independent Competition & Regulatory Commission and the revenue can be

reliably measured. In addition the following specific recognition criteria must also be met before revenue is recognised:

Utilities Licence Fees

Under the *Utilities Act 2000* (the Act) the Commission determines each year the licence fees for each utility providing services in the ACT. The Act also provides that the Independent Competition & Regulatory Commission may recover an amount considered to be a reasonable contribution towards the cost of providing its services from utilities through these licence fees.

The Commission determines the licence fees by referring to the estimated cost of providing regulatory services in a year and allocating those costs to the utilities providing electricity, gas and water services. The fees are separated into network and retail services.

Where, in the previous year, the costs of regulatory services was less than the licence fees collected, the Independent Competition & Regulatory Commission offsets the determined licence fee with a proportion of the unexpended balance of the fees collected in the previous year. Where in the previous year the costs of regulation are greater than the licence fees collected, either an additional licence fee will be determined or the shortfall shall be added to the licence fee payable in the succeeding year.

(f) Resources Received and Provided Free of Charge

Resources Received Free of Charge are recorded as revenue and expenditure in the Operating Statement at fair value. The revenue is separately disclosed under resources received free of charge, with the expense being recorded in the line item to which it relates. Goods and services received free of charge from ACT Government Agencies are recorded as Resources Received Free of Charge, where as goods and services received free of charge from entities external to the ACT Government are recorded as donations. Services that are received free of charge are only recorded in the Operating Statement if they can be reliably measured and would have been purchased if not provided to the Independent Competition & Regulatory Commission free of charge.

Resources provided free of charge are recorded at their fair value in the expense line items to which they relate.

(g) Taxation

Independent Competition & Regulatory Commission activities are exempt from all forms of taxation except Fringe Benefits Tax and Goods and Services Tax.

(h) Current and Non-Current Items

Assets and liabilities are classified as either current or non-current on the face of the Balance Sheet and in the relevant notes except for Employee Benefits (see note 2(o)). The Independent Competition & Regulatory Commission classifies assets and liabilities as current where they are expected to be realised within 12 months after the reporting date. Assets or liabilities not classified as current are classified as non-current.

(i) Cash and Cash Equivalents

For the purposes of the Cash Flow Statement and the Balance Sheet, cash includes cash at bank, cash on hand and demand deposits. Cash equivalents are short-term, highly liquid investments that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value. Cash equivalents include short-term investments held in the Cash Enhanced Portfolio managed by an external fund manager on behalf of the Central Financing Unit. Bank overdrafts are included in cash and cash equivalents in the cash flow statement but not in the Balance Sheet.

Cash is measured at nominal value.

(j) Receivables

Trade receivables arise in the normal course of selling goods and services to other agencies and to the public. Trade receivables are payable within 30 days after the issue of an invoice or the services have been provided under a contractual arrangement.

(k) Acquisition and Recognition of Property, Plant and Equipment

Property, plant and equipment is initially recorded at cost. Cost includes the purchase price, directly attributable costs and the estimated cost of dismantling and removing the item (where, upon acquisition, there is an obligation to remove the item). Where property, plant and equipment is acquired at no or minimal cost, the Independent Competition & Regulatory Commission records it at fair value.

Independent Competition & Regulatory Commission capitalises all non-current property, plant and equipment with a minimum value of \$5,000.

(l) Depreciation and Amortisation of Non-Current Assets

All non-current assets, having a limited useful life, are systematically depreciated/amortised over their useful lives in a manner that reflects the consumption of their service potential. The useful life commences when an

asset is ready for use. When an asset is revalued it is depreciated/amortised over the remaining useful life of that asset. Amortisation is used in relation to intangible assets while depreciation is applied to physical assets such as plant and equipment and buildings.

The value of leasehold improvements are depreciated over the estimated useful life of each improvement, or the unexpired period of the relevant lease, whichever is shorter.

Depreciation/Amortisation for non-current assets is determined as follows:

Class of Asset	Depreciation/Amortisation Method	Useful Life (Years)
Plant and Equipment	Straight Line	10 Years

(m) Payables

Payables include trade payables, accrued expenses and other payables. Trade payables represent the amounts owing for goods and services received prior to the end of the reporting period and unpaid at the end of the reporting period and relating to the normal operations of the Independent Competition & Regulatory Commission.

Accrued expenses represent goods and services provided by other parties during the period that are unpaid at the end of the reporting period and where an invoice has not been received by period end.

Other payables are those unpaid invoices that do not directly relate to the normal operations of the Independent Competition & Regulatory Commission.

(n) Leases

The Independent Competition & Regulatory Commission has entered into operating leases.

Operating Leases

Operating leases do not effectively transfer to the Independent Competition & Regulatory Commission substantially all the risks and rewards incidental to ownership of the leased asset. Operating lease payments are recognised as an expense in the Operating Statement on a straight-line basis over the term of the lease.

(o) Employee Benefits

Employee benefits include wages and salaries, annual leave and long service leave. These benefits accrue as a result of services provided by employees up to the reporting date that remain unpaid. They are recorded as a liability and as an expense.

Accrued wages and salaries are measured at the amount that remains unpaid to employees at the end of the reporting period. Annual leave and long service leave that falls due wholly within the next twelve months are measured based on the amount of remuneration anticipated to be paid when the leave is taken. Annual leave and long service leave that does not fall due wholly within the next twelve months is measured at present value. To simplify the present value calculation, the Independent Competition & Regulatory Commission use a shorthand approach whereby a net factor of 0.95 is applied to the Authority's amount of long service leave liability in order to calculate the present value. Present value is also calculated with reference to the length of qualifying service. For employees with less than ten years of required qualifying service, the liability is calculated using another shorthand approach where a 100% liability is recorded for employees with five or more years of service and 0% for employees with less than 5 years of service. This approach is an approximation process to recognise the probable liability that will eventuate for officers with less than ten years of service, when ten years of service is achieved.

Annual leave and long service leave liabilities are disclosed as current liabilities on the face of the Balance Sheet where the Independent Competition & Regulatory Commission does not have an unconditional right to defer the settlement of the liability for at least 12 months. However, where there is an unconditional right to defer settlement of the liability for at least 12 months, annual leave and long service leave have been classified as a non-current liability on the face of the Balance Sheet.

(p) Superannuation

The Independent Competition & Regulatory Commission makes a superannuation expense payment to the Superannuation Unit each year, to cover its superannuation liability for the Commonwealth Superannuation Scheme (CSS) and the Public Sector Superannuation Scheme (PSS). These payments cover the CSS/PSS employer contributions. The CSS and PSS are defined benefit superannuation plans, meaning that the defined benefits received by employees of the Independent Competition & Regulatory Commission are based on the employee's years of service and average final salary.

Superannuation employer contribution expense payments, for the CSS and PSS, are calculated by taking the salary level at an employee's anniversary date and multiplying it by the notional CSS or PSS employer contribution rate for each employee of the Independent Competition & Regulatory Commission.

The Independent Competition & Regulatory Commission does not carry a superannuation liability on its Balance Sheet as the Superannuation Unit carries the total Territory superannuation liability for the CSS and PSS.

The ACT Government is liable for the reimbursement of the emerging costs of benefits paid each year to members of the CSS and PSS in respect of the ACT Government Service after 1 July 1989. These reimbursement payments are made by the Superannuation Unit.

(q) Insurance

The Independent Competition & Regulatory Commission insures all of its major risks through the ACT Insurance Authority. The excess payable, under this arrangement, varies depending on each class of insurance held by the Independent Competition & Regulatory Commission.

Note 3 Change in Accounting Policies

There have been no major changes to accounting policies as a result of management decisions applicable for 2005–06. For changes resulting from the adoption of AIFRS see Note 25 “Reconciliation of previous GAAP to Australian Equivalents to IFRS.

Note 4

The Independent Competition & Regulatory Commission derives user charge revenue by providing goods and services to other ACT Government agencies and to the public. This revenue is commercial in nature.

	2006 \$'000	2005 \$'000
User Charges–ACT Government		
User Charges Dept of Treasury	396	408
User Charges ACT Government	243	23
Total User Charges–ACT Government	<u>639</u>	<u>431</u>
User Charges–Non-ACT Government		
Service Recipients (Non-ACT Government)	-	453
Total User Charges–Non-ACT Government	<u>-</u>	<u>453</u>
Total User Charges for Goods and Services	<u>639</u>	<u>884</u>

Note 5 Fees

	2006	2005
	\$'000	\$'000
Revenue from Regulatory Activities		
Fees	1,574	1,538
Total Fees Received	<u><u>1,574</u></u>	<u><u>1,538</u></u>

Note 6 Interest

	2006	2005
	\$'000	\$'000
Revenue from Other Sources		
Interest Received from Bank	53	35
Total Interest Received from Other Sources	<u><u>53</u></u>	<u><u>35</u></u>
Total Interest Received	<u><u>53</u></u>	<u><u>35</u></u>

Note 7 Employee expenses

	2006	2005
	\$'000	\$'000
Wages and Salaries	605	671
Annual Leave	(16)	39
Long Service Leave	(3)	29
Fringe Benefits Tax	6	9
Total Employee Expenses	<u>592</u>	<u>748</u>

Note 8 Superannuation expenses

	2006	2005
	\$'000	\$'000
Superannuation Contributions to the ACT Superannuation Unit	81	83
Total Superannuation Expenses	<u>81</u>	<u>83</u>

Note 9 Supplies and services

	2006	2005
	\$'000	\$'000
Leased Equipment & Charges	66	70
Professional Services	417	522
Staff Development	28	44
Travel & Accommodation	21	22
Postages & Printing	54	70
Fees to Commissioners	132	87
Advertising	8	8
Utilities Act—Admin Expenses	750	414
Other	127	143
Total Supplies and Services	<u>1,603</u>	<u>1,380</u>

Note 10 Prior year licence fee refund

	2006 \$'000	2005 \$'000
Licence Fee Rebate Applied	196	337
Total Licence Fee Rebate	<u><u>196</u></u>	<u><u>337</u></u>

Note 11 Depreciation

	2006 \$'000	2005 \$'000
Depreciation		
Plant and Equipment	13	13
Total Depreciation	<u><u>13</u></u>	<u><u>13</u></u>
Total Depreciation	<u><u>13</u></u>	<u><u>13</u></u>

Note 12 Act of grace

There were no Act of Grace payments made during the financial year pursuant to Section 104 of the *Financial Management Act 1996* (2005: Nil).

Note 13 Auditor's remuneration

The Auditor's remuneration note includes statutory audit services provided to the Independent Competition & Regulatory Commission by the ACT Auditor-General's Office. This note does not include internal audit costs.

	2006	2005
	\$'000	\$'000
Audit Services		
Audit Fees Paid to the ACT Auditor-General's Office	6	6
Total Auditor's Remuneration	<u><u>6</u></u>	<u><u>6</u></u>

No other services were provided by the ACT Auditor-General's Office.

Note 14 Cash and cash equivalents

The Independent Competition & Regulatory Commission holds a number of bank accounts with the Commonwealth Bank as part of the whole-of-government banking arrangements

	2006	2005
	\$'000	\$'000
Cash at Bank	769	979
Total Cash and Cash Equivalents	<u><u>769</u></u>	<u><u>979</u></u>

Note 15 Receivables

	2006	2005
	\$'000	\$'000
Current Receivables		
Trade Receivables	–	1
Accrued Interest	4	5
Accrued Revenue	202	–
GST Refundable	21	15
Total Current Receivables	<u>227</u>	<u>21</u>
Total Receivables	<u><u>227</u></u>	<u><u>21</u></u>
Aging of Receivables		
Receivables are Aged as Follows:		
Not Overdue	227	20
Overdue for less than 30 Days	–	–
Overdue for 30 to 60 Days	–	–
Overdue for more than 60 Days	–	1
Total Receivables	<u><u>227</u></u>	<u><u>21</u></u>
Split of Government/Non-Government Receivables		
Receivables with Other ACT Government Agencies		
Accrued Revenue	202	1
Other Receivables		
Total Receivables with Other ACT Government Agencies	<u>202</u>	<u>1</u>

Note 15 Receivables (continued)

	2006	2005
	\$'000	\$'000
Receivables with Entities Outside Government		
Accrued Interest	4	5
GST Refundable	21	15
Total Receivables with Entities Outside Government	<u>25</u>	<u>20</u>
Total Receivables	<u><u>227</u></u>	<u><u>21</u></u>

Note 16 Plant and equipment

Property, plant and equipment does not include assets held for sale.

Plant and Equipment held includes office furniture, fixtures and fittings.

	2006 \$'000	2005 \$'000
Plant and Equipment		
Plant and Equipment at Cost	129	129
Less: Accumulated Depreciation	(64)	(51)
Total Written Down Value of Plant and Equipment	<u>65</u>	<u>78</u>
Total Written Down Value of Property, Plant and Equipment	<u><u>65</u></u>	<u><u>78</u></u>

Reconciliation of Plant and Equipment

The following table shows the movement of Plant and Equipment during 2005–06.

	2006 \$'000	2005 \$'000
Reconciliation of Plant and Equipment		
Carrying Amount at Beginning of Financial Year	78	91
Depreciation	(13)	(13)
Carrying Amount at the End of the Financial Year	<u><u>65</u></u>	<u><u>78</u></u>

Note 17 Payables

	2006	2005
	\$'000	\$'000
Current Payables		
Trade Payables	213	68
Other Payables	2	–
Accrued Expenses	177	107
Net GST Payable	–	–
Total Current Payables	<u>392</u>	<u>175</u>
Total Payables	<u><u>392</u></u>	<u><u>175</u></u>
Payables are aged as follows:		
Not Overdue	392	175
Overdue for Less than 30 Days	–	–
Overdue for 30 to 60 Days	–	–
Overdue for More than 60 Days	–	–
Total Payables	<u><u>392</u></u>	<u><u>175</u></u>
Split of Government/Non-Government Payables		
Payables with Other ACT Government Agencies		
Trade Payables	180	41
Accrued Expenses	140	97
Total Payables with Other ACT Government Agencies	<u>320</u>	<u>138</u>

Note 17 Payables (continued)

	2006	2005
	\$'000	\$'000
Payables with Entities Outside ACT Government		
Trade Payables	33	25
Other Payables	2	1
Accrued Expenses	37	11
Total Payables with Entities Outside ACT Government	<u>72</u>	<u>37</u>
Total Payables	<u><u>392</u></u>	<u><u>175</u></u>

Note 18 Employee benefits

	2006	2005
	\$'000	\$'000
Current Employee Benefits		
Annual Leave	108	124
Long Service Leave	111	115
Accrued Salaries & Superannuation	5	–
Total Current Employee Benefits	<u>224</u>	<u>239</u>
Non-Current Employee Benefits	–	–
Total Employee Benefits	<u><u>224</u></u>	<u><u>239</u></u>
Estimate of when Leave is Payable		
Estimated Amount Payable within 12 Months		
Annual Leave	57	61
Long Service Leave	73	8
Accrued Salaries & Superannuation	5	–
Total Employee Benefits Payable within 12 Months	<u>135</u>	<u>69</u>
Estimated Amount Payable after 12 Months		
Annual Leave	51	63
Long Service Leave	38	107
Total Employee Benefits Payable after 12 Months	<u>89</u>	<u>170</u>
Total Employee Benefits	<u><u>224</u></u>	<u><u>239</u></u>

Note 19 Equity

	2006	2005
	\$'000	\$'000
Total Equity at the End of the Reporting Period		
Accumulated Funds	445	664
Total Equity	<u><u>445</u></u>	<u><u>664</u></u>
 Movements in Equity during the Reporting Period		
 Accumulated Funds		
Balance at the beginning of the Reporting Period	664	768
Operating Deficit	(219)	(104)
Balance at the End of the Reporting Period	<u><u>445</u></u>	<u><u>664</u></u>

Note 20 Financial instruments

The following table sets out the Independent Competition & Regulatory Commission's exposure to interest rates, including the weighted average interest rates by maturity period as at June 2006.

	Note	Fixed Interest maturing in:					Over 5 Years \$'000	Non-Interest Bearing \$'000	Total \$'000
		Floating Interest Rate \$'000	1 Year or Less \$'000	Over 1 Year to 2 Years \$'000	Over 2 Years to 3 Years \$'000	Over 3 Years to 4 Years \$'000			
Financial Assets									
Cash and Cash Equivalents	14	769					–	769	
Receivables	15	–					227	227	
Total Financial Assets		769	–	–	–	–	227	996	
Weighted Average Interest Rate		5.36%							
Financial Liabilities									
Payables	17	–					392	392	
Total Financial Liabilities		–	–	–	–	–	392	392	
Weighted Average Interest Rate									
Net Financial Assets/(Liabilities)		769	–	–	–	–	(165)	604	

Note 20 Financial instruments (continued)

The following table sets out the Independent Competition & Regulatory Commission's exposure to interest rates, including the weighted average interest rates by maturity period as at June 2005.

	Note	Fixed Interest maturing in:					Non-Interest Bearing	Total
		Floating Interest Rate \$'000	Over 1 Year to 2 Years \$'000	Over 2 Years to 3 Years \$'000	Over 3 Years to 4 Years \$'000	Over 4 Years to 5 Years \$'000		
Financial Assets								
Cash and Cash Equivalents	14	979					979	
Receivables	15	-				21	21	
Total Financial Assets		979	-	-	-	-	1,000	
Weighted Average Interest Rate		5.65%						
Financial Liabilities								
Payables	17					175	175	
Total Financial Liabilities		-	-	-	-	175	175	
Weighted Average Interest Rate								
Net Financial Assets/(Liabilities)		979	-	-	-	(154)	825	

Note 20 Financial Instruments (continued)**Interest Rate Risk**

Independent Competition & Regulatory Commission currently has the majority of its financial assets held in floating interest rate arrangements, however, it has the majority of its financial liabilities as non-interest bearing. This means that the Independent Competition & Regulatory Commission is not exposed to movements in interest payable, however it is exposed to movements in interest receivable. Interest rates have increased in 2006 and as such have resulted in a favourable effect on the amount of interest received. The Independent Competition & Regulatory Commission does not have any unrecognised financial assets or financial liabilities.

Credit Risk

Credit risk is the risk that one party to a financial instrument will fail to discharge an obligation and cause the other party to incur a financial loss. The Independent Competition & Regulatory Commission's credit risk is limited to the carrying amount of the financial assets it holds. The Independent Competition & Regulatory Commission's receivables are spread over a large number of entities and are split fairly evenly between other government agencies and entities external to the ACT Government, however, these receivables are unsecured. There is no significant concentration of credit risk that has been identified by Independent Competition & Regulatory Commission.

Fair Value of Financial Assets and Liabilities

The fair value of Financial Assets and Liabilities is the carrying value recorded in the Balance Sheet of the Independent Competition & Regulatory Commission.

Note 21 Commitments

	2006	2005
	\$'000	\$'000
Operating Leases		
Non-Cancellable operating lease commitments are payable as follows:		
Within one year	54	63
Later than one year but not later than five years	49	51
Total Operating Lease Commitments	<u><u>103</u></u>	<u><u>114</u></u>

Note 22 Cash flow reconciliation

Reconciliation of Cash at the end of the reporting period in the Cash Flow Statement to the equivalent items in the Balance Sheet

	2006	2005
	\$'000	\$'000
Total Cash and Cash Equivalents Disclosed in the Balance Sheet	769	979
	<hr/>	<hr/>
Cash and Cash Equivalents at the End of the Reporting Period as Recorded in the Cash Flow Statement	769	979
	<hr/>	<hr/>
Reconciliation of Net Cash Inflows/(Outflows) from Operating Activities to the Operating Deficit		
Operating Deficit	(219)	(104)
Add/(Less) Non-Cash Items		
Depreciation of Property, Plant and Equipment	13	13
	<hr/>	<hr/>
Cash Before Changes in Operating Assets and Liabilities	(206)	(91)
	<hr/>	<hr/>
Changes in Operating Assets and Liabilities		
(Increase)/Decrease in Receivables	(206)	697
Increase/(Decrease) in Payables	217	(202)
Increase/(Decrease) in Employee Benefits	(15)	63
	<hr/>	<hr/>
Net Changes in Operating Assets and Liabilities	(4)	558
	<hr/>	<hr/>
Net Cash Inflows/(Outflows) from Operating Activities	(210)	467
	<hr/> <hr/>	<hr/> <hr/>

Note 23 Events occurring after balance date

In 2006–07 the Commission’s structure will be changed and new systems for payment of accounts and the delivery of human services will be implemented. The Commission will be part of the Department of Justice and Community Safety.

Some of the Commission’s responsibilities for energy regulation will transfer to the Australian Energy Regulator in 2007. The transferred functions will result in both less activity under the Utilities Act and therefore less expense, but also in less revenue from these activities.

Note 24

The *Utilities Act 2000* provides that the regulatory bodies in the ACT, the Commission, the Essential Services Consumer Council (ESCC) and the technical regulator, may recover the reasonable costs of providing their services from utilities through the licence fees. The Commission determines each year the licence fees for each utility providing services in the ACT.

Fees charged to the utilities are calculated at the beginning of the financial year on the basis of the estimated costs of regulation. Under the Commission’s approved policy, adjustments are made to *Fees* charged in the following year if the actual cost of regulation at the end of the financial year varies from the cost estimated at the beginning of the year.

Licence fees are calculated by reference to the weighted amount of regulatory activity for each utility, electricity, gas or water, and service, network or retail. The calculation also takes into account the difference between fixed and variable costs, the latter based on the utility’s share of the market.

Note 25 Reconciliation of previous GAAP to Australian equivalents to IFRS**(a) Employee Benefits**

Under previous Australian GAAP the current and non-current classification of employee benefits in the balance sheet was based on an assessment of when the payment of the liability was expected to be made. Employee Benefits were classified as 'current' if payment of the liability was expected within the next 12 months. All other Employee Benefits were classified as 'non-current'.

Under AASB 101 *Presentation of Financial Statements*, employee benefits should be classified as a current liability in the Balance Sheet where the Commission does not have an unconditional right to defer payment for at least 12 months after the reporting date. The application of this requirement results in Employee Benefits (annual leave and long service leave) being reclassified from a non-current liability to a current liability.

Adjustment at 1 July 2004

Independent Competition and Regulatory Commission increased current employee benefits by \$86,000 and decreased non-current employee benefits by the same amount.

Adjustment at 30 June 2005

Independent Competition and Regulatory Commission increased current employee benefits by \$170,000 and decreased non-current employee benefits by the same amount.

Note 25 Reconciliation of previous GAAP to Australian equivalents to IFRS (continued)

Reconciliation of Balance Sheet as at 30 June 2005	Note	Previous GAAP 30 June 2005 \$'000	Effect of transition to Australian Equivalents to IFRS \$'000	Australian Equivalents to IFRS 30 June 2005 \$'000
Current Assets				
Cash and Cash Equivalents		979	–	979
Receivables		21		21
Total Current Assets		1,000	–	1,000
Non-Current Assets				
Property, Plant and Equipment		78		78
Total Non-Current Assets		78	–	78
Total Assets		1,078	–	1,078
Current Liabilities				
Payables		175	–	175
Employee Benefits	(a)	69	170	239
Total Current Liabilities		244	170	414
Non-Current Liabilities				
Employee Benefits	(a)	170	(170)	–
Total Non-Current Liabilities		170	(170)	–
Total Liabilities		414	–	414
Net Assets		664	–	664
Equity				
Accumulated Funds		664		664
Total Equity		664	–	664



ACT AUDITOR-GENERAL'S OFFICE



REPORT OF FACTUAL FINDINGS
INDEPENDENT COMPETITION AND REGULATORY
COMMISSION

To the Members of the ACT Legislative Assembly

Finding

Based on my procedures, no matters have come to my attention, which indicates that the Statement of Performance of the Independent Competition and Regulatory Commission for the year ended 30 June 2006 does not fairly present the performance of the Independent Competition and Regulatory Commission in accordance with the *Financial Management Act 1996*.

This finding should be read in conjunction with the following information.

Responsibility for the Statement of Performance

The Chief Executive Officer is responsible for the Statement of Performance. This includes responsibility for the maintenance of adequate supporting records and internal controls that are designed to prevent and detect fraud and error, and for the measurement policies and estimates used in the preparation of the Statement of Performance.

Contents of the Statement of Performance

The Statement of Performance consists of the performance measures included in the Independent Competition and Regulatory Commission's Statement of Intent and accompanying notes.

The Auditor's Responsibility

My responsibility is to provide a Report of Factual Findings on the Statement of Performance as required by the *Financial Management Act 1996*.

Scope

I have reviewed the Statement of Performance of the Independent Competition and Regulatory Commission for the year ended 30 June 2006, in order to report on whether any matters have come to my attention that would indicate that the Statement of Performance is not fairly presented in accordance with the *Financial Management Act 1996*.

Level 4, 11 Moore Street, Canberra City, ACT 2601 | PO Box 275, Civic Square, ACT 2608
Telephone: 02 6207 0833 | Facsimile: 02 6207 0826 | Email: actauditorgeneral@act.gov.au

My review was conducted in accordance with Australian Auditing Standards applicable to review engagements. A review is primarily limited to inquiries of the Independent Competition and Regulatory Commission's representatives, analytical procedures and the examination of other available evidence.

These procedures do not provide all the evidence that would be required in an audit, thus the level of assurance provided is less than given in an audit. I have not performed an audit and, accordingly, I do not express an audit opinion on the Statement of Performance.

My procedures also did not include an assessment of the relevance or appropriateness of the measures contained within the Statement of Performance.

I have not expressed an opinion on the accuracy of explanations provided for variations between actual and budgeted performance due to the essential subjectivity of these explanations.

Independence

In conducting this review, I followed applicable independence requirements of Australian professional ethical pronouncements.

Tu Pham
Auditor-General
7 September 2006

Independent Competition and Regulatory Commission

**Statement of Performance
For the Year Ended 30 June 2006**

Statement of Responsibility

In my opinion, the Statement of Performance is in agreement with the Commission's records and fairly reflects the service performance of the Commission for the year ended 30 June 2006 and also fairly reflects the judgements exercised in preparing them.

Ian Primrose
Chief Executive Officer
Independent Competition and Regulatory Commission
5 September 2006

**Independent Competition and Regulatory Commission
Statement of Performance for the Financial Year Ending
30 June 2006**

Table 1: Non-financial performance measures

Objective	Performance measures	Notes	Target	Result	Var %
Determine prices and advise on matters relating to energy, water and transport services in the ACT	Review incentives mechanisms for energy and water utilities		2 reports	2 reports	0
	Review metrology procedures in the ACT		2 reports	2 reports	0
	Determine prices for ACTION services for the period 2006-09.		3 reports	3 reports	0
	Develop and implement a regulatory framework for greenfields electricity network infrastructure.	1	2 reports	3 reports	50
Maintain an effective complaints mechanism for handling competitive neutrality complaints as required by the National Competition Policy Agreements	Provide reports to government on all competitive neutrality complaints	2	1 report	3 reports	200
Review and where necessary amend industry codes under the <i>Utilities Act 2000</i>	Provide reports to the government on each review and/or amendment of the industry codes under the <i>Utilities Act 2000</i>	3	2 reviews	3 reviews	50
Maintain the compliance and performance reporting framework for utility services	Publish a compliance report for utilities providing services in the ACT		1 report	1 report	0
	Publish a performance report for utilities providing services in the ACT		1 report	1 report	0
Promote competition in energy markets, consistent with social and environmental sustainability	Provide reports to the government on activities or references relating to the promotion of competition in energy markets	4	1 paper	2 reports	100

Notes to the Statement of Performance for the Independent Competition and Regulatory Commission for the Financial Year ending 30 June 2006

1. The Commission issued an issues paper, draft report and final report on this reference. The Statement of Intent forecast only a draft and final report.
2. No formal competitive neutrality complaints were raised with the Commission in 2005-06. However, the government issued the Commission with a reference to investigate the Capital Linen Service and provide advice on a range of issues including identifying any competitive neutrality issues that may need addressing to ensure that Capital Linen Service met the government's obligations in the National Competition Policy. As part of the investigation the Commission published an issues paper, draft report and a final report in the financial year.
3. The commission undertook 2 reviews of the industry codes in the financial year: the two reviews were a review of the Consumer Protection Code and the development of a new code dealing with prepayment meters. The prepayment meter code process involved the publication of 2 reports in the financial year [the final Code was published in 2006-07] and 1 report on the Consumer Protection Code.
4. The Commission expected to undertake 1 review in 2005-06 on energy market issues and the promotion of competition in markets in the ACT. During the year, however, the level of activity in the general area of energy and competitive markets exceeded the forecast, the Commission reviewed the Transitional Franchise Tariff arrangements for retail electricity supply (Retail Prices for non-contestable electricity customers) [2 reports].

Table 2: Financial performance measures

	<i>2005-06 Target</i>	<i>2005-06 Actual</i>	<i>Variance %</i>
Profitability			
Return on Assets	0	0	0
Return on Equity	-0.02	-0.49	See note below
Profit Margin	0	0	0
Liquidity			
Current Ratio	2.7	1.6	40.7
Cash Position	0.39	0.73	87
Receivables Turnover	6.6	17.8	169
Financial Stability			
Debt Ratio	0.43	0.58	34
Capital Ratio	0.75	1.4	87

- *Return on Assets=(operating result b.t. + interest expense)/average total assets for period*
- *Return on Equity=operating result b.t./equity*
- *Profit Margin=operating result b.t./(Govt & Non-Govt user charges + taxes, fees and fines)*
- *Current Ratio=current assets/current liabilities*
- *Cash Position=(cash + current investments)/total assets*
- *Receivables Turnover=(Govt & Non-Govt user charges + taxes, fees & fines)/average receivables for period*
- *Debt Ratio=total liabilities/total assets*
- *Capital Ratio=total liabilities/equity capital*

Notes to Financial performance indicators

Return on equity – The return on equity is the contribution the operating result makes to equity at the end of 2005/06. The operating result in 2005/06 was less than the target (deficit), as a result of lower levels of cost recoverable activity in the year and therefore a lower result. The level of the commission's activity is uncertain in any year and particularly in years where there is a low level of demand for the commission's services. The commission is a cost recovery agency and there is no annual return on equity as there is no surplus of funds at the end of the year from which a return on equity might be drawn.

Current ratio - The difference in the current ratio between the budgeted and actual outcomes reflects an decrease in actual current over the budgeted current assets and

an increase in the level of actual current over current liabilities, due to lower levels of receivables at the end of the financial year and a higher level of employee benefit liabilities.

Cash position - The cash position was higher than budgeted because a higher than budgeted level of licence fee revenue was held, increasing the amount of cash as a proportion of total assets at the end of the period.

Receivables turnover – This measure reflects delays experienced in payment of accounts and a consequent build up of receivables that would otherwise have been reported as cash. In 2005-06, the level of cash decreased and the average level of receivables substantially increased.

Debt ratio – Total liabilities were proportionately greater than total assets in actual terms compared to the budgeted outcome: there was less activity in the non-government sector than in previous years and therefore lower levels of revenue in either cash or receivables and an increase in the level of liabilities particularly in employee benefits.

Capital ratio – the ratio results from a fall in net assets, reflecting the decline in cost recoverable activity, and an increase in total liabilities, as a result of an increase in actual employee benefit liabilities compared to budgeted employee benefit liabilities.

Appendix 2 Legislative report

The Commission has core responsibilities under the following legislation:

- *Independent Competition and Regulatory Commission Act 1997*
- *Utilities Act 2000.*

The Commission also has obligations under a range of other Acts and codes, including:

- National Electricity Code
- National Gas Code
- *Electricity (Greenhouse Gas Emissions) Act 2004*
- *Financial Management Act 1996*
- *Annual Reports (Government Agencies) Act 1995*
- *Government Procurement Act 2001*
- *Public Access to Government Contracts Act 2000*
- *Public Sector Management Act 1990*
- *Territory Records Act 2002.*

Appendix 3 Legislative Assembly committee inquiries and reports

The following committee report refers to the operations of the Commission in the 2005–06 financial year: Legislative Assembly of the ACT, *Estimates Committee Report: 2005–06 Budget*.

Appendix 4 Contact officers, website address and other sources of information

Information about the Commission, particular inquiries, competitive neutrality complaints, advice on government-regulated activities and utility licensing and compliance may be found on the Commission's website, at www.icrc.act.gov.au. Alternatively, the Commission may be contacted on (02) 6205 0799, or via the contact officers for particular subjects of interest, as set out below.

Subject	Contact name and details
Staffing issues	Ian Primrose
Overview of Commission performance	(02) 6205 0799
Freedom of information	(02) 6207 5887 fax
Report 10 of 2006: <i>ACT Ambulance Service fees and charges</i>	ian.primrose@act.gov.au www.icrc.act.gov.au
Reports 5 and 16 of 2005: <i>Review of efficiency and service standard incentive mechanisms</i>	John Logan
Reports 6, 10 and 17 of 2005: <i>Regulation of greenfield electricity infrastructure development</i>	(02) 6207 0694 (02) 6207 5887 fax john.logan@act.gov.au www.icrc.act.gov.au
Reports 9 and 15 of 2005: <i>Review of metrology procedures</i>	www.icrc.act.gov.au
Report 12 of 2005 and reports 2 and 8 of 2006: <i>Retail prices for non-contestable electricity customers</i>	Simon Farnbach
Report 6 of 2006: <i>Water and wastewater annual price reset 2006–07</i>	(02) 6207 0890 (02) 6207 5883 fax simon.farnbach@act.gov.au www.icrc.act.gov.au
Report 8 of 2005: <i>Utilities performance report for 2003–04</i>	Susan Faulbaum
Reports 3 and 11 of 2006: <i>Prepayment meters draft industry code</i>	(02) 6205 2773
Report 4 of 2006: <i>Utilities compliance report for 2004–05</i>	(02) 6207 5887 fax
Report 14 of 2005: <i>Compliance and Audit Framework</i>	susan.faulbaum@act.gov.au www.icrc.act.gov.au
Procurement practice and procedures	Rod Woolley
Information management	(02) 6205 5460
Reports 7 and 11 of 2005: <i>Associate contracts between ActewAGL Distribution and ActewAGL Retail</i>	(02) 6207 5887 fax rod.woolley@act.gov.au www.icrc.act.gov.au
Report 13 of 2005 and Reports 1 and 7 of 2006: <i>Competition inquiry into Capital Linen Service</i>	
Reports 5, 9 and 12 of 2006: <i>Determination of ACTION bus prices for 2006–07</i>	

Glossary and abbreviations

ACCC	Australian Competition and Consumer Commission
ACT	Australian Capital Territory
ACTEW	ACTEW Corporation, utilities provider owned by the ACT Government
ActewAGL	utilities provider, owned jointly by ACTEW Corporation and Australian Gas Light Company (AGL)
ACTION	the ACT's public bus service
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
COAG	Council of Australian Governments
Commission, the	Independent Competition and Regulatory Commission
CPI	consumer price index
EEO	equal employment opportunity
ESCC	Essential Services Consumer Council
FRC	full retail contestability
ICRC Act	<i>Independent Competition and Regulatory Commission Act 1997</i>
IT	information technology
MCE	Ministerial Council on Energy
NECA	National Energy Code Authority
NEMMCO	National Electricity Market Management Company
OH&S	occupational health and safety
ORS	Office of Regulatory Services
price direction	statement issued by the Commission, setting price paths and revenue caps for a utility for a specified period
Utilities Act	<i>Utilities Act 2000</i>
utility services	electricity supply and network operations, gas supply and network operations and water and sewerage supply—in some cases, also includes public transport

Compliance index

Transmittal certificate	iii
PART A: Chief Executive review	
The organisation	1
Overview	4
Highlights	5
Outlook	7
PART B: Agency performance	
Analysis of agency performance	9, 26
Human Rights Act	27
Access to Government Strategy	26
Community engagement	26
Multicultural framework	26–27
Aboriginal and Torres Strait Islander reporting	27
ACT Women’s Plan	27
PART C: Management of the organisation	
Managing our people	29–30
HR performance	29
Staffing profile	29
Culture and values	30
Workplace diversity	31
Workplace health and safety	32
Learning and development	32
Workplace relations	33

Governance	33
Internal accountability	33–35
Fraud prevention	35
Risk management and internal audit	35–37, 43–45
External scrutiny	37
Reports required by legislation:	
Freedom of information	38
Public interest disclosure	39
Territory records	39
Sustainability and environment	40
Commissioner for the Environment	40
Ecologically sustainable development	40–41
Strategic bushfire management plan	not applicable
PART D: Analysis of financial performance	43
Management discussion and analysis	4–5, 45–50
Financial report	45–50
Statement of performance	45–50
Strategic asset management	51
Capital works	not applicable
Government contracting	51–52
Appendices	
Financial statement and auditor’s statement	53–97
Legislative report	98
Legislative Assembly committee inquiries and reports	99
Contact details	100

Alphabetical index

- Access to ACT Government Strategy, 26
- ACT Ambulance Service (ACTAS), inquiry into fees and charges, xv, 6, 17–18
- ACT Greenhouse Strategy, 40
- ACT Public Service Code of Conduct, 30
- ACTEW, review into pricing of water and wastewater, 10, 17
- ActewAGL
 - and new national arrangements, xiii
 - review into pricing, 10
 - and supply of electricity and gas, 18
- ActewAGL Distribution
 - associate contracts with ActewAGL Retail, 12
 - and greenfield electricity distribution, 11
- ActewAGL Retail, associate contracts with ActewAGL Distribution, 12
- ACTION buses
 - price direction, 6, 16
 - review of pricing, 7, 16
- Agreement to Implement the National Competition Policy and Related Reforms, vii
- asset management, 51
- assets *see* total assets
- associate contracts between ActewAGL Distribution and ActewAGL Retail, 12
- audit framework, compliance and performance of utilities, 24
- Auditor-General, and external scrutiny, 37
- auditor's statement, 54
- Aurora Energy, and prepayment electricity meters, 6, 23, 24
- Australian Centre of Regulatory Economics (ACORE), 33
- Australian Competition and Consumer Commission (ACCC), xiv
 - and energy market regulation, vii, ix
- Australian Energy Market Commission (AEMC), vi, vii, ix, xi, xii
- Australian Energy Regulator (AER), vi, vii, ix, xi, xii, 11
 - and the Commission, 4, 7
- budget, comparison to
 - assets, 49
 - expenses, 46
 - revenue, 47–48
- budget process, 5
- Capital Linen Service (CLS), competition inquiry into, xv, 6, 15–16
- certified agreement, 33
- Chief Executive Officer, 34
- clients and stakeholders, 4
- climate change *see* global warming
- Code of Conduct *see* ACT Public Service Code of Conduct
- the Commission
 - ACT Public Service changes and, xv
 - corporate objectives, 34
 - and energy regulation, 5
 - external scrutiny, 37–38
 - financial performance, 43–52
 - financial position, 48–51
 - financial report and audit report, 53–97
 - governance, 33–39
 - meetings attendance, 7
 - objectives, 1–2, 9, 43

- performance against objectives *see*
under performance
- and provision of advice, xv, 9
- responsibilities, xiv, xv, 9
- role and functions, 1–2
- structure, 3
- and transfer process to national
regulation, 4
- values, 2
- and water and wastewater services
regulation, 5
- Commissioner for the Environment,
40
- Commissioners, 34
- community engagement, 26
- competition
 - in electricity supply market, 14–15
 - inquiry into Capital Linen Service,
xv, 6, 15–16
 - reform, vii–x, xiii
- Competition Principles Agreement,
vii, 9, 16
- compliance and performance
monitoring, 24
- compliance and performance reports
for utility services, 7–8
- Conduct Code Agreement, vii
- consultants, 29, 51–52
 - risk management, 44
- Consumer Protection Code, 6, 23
- contact officers, website address and
other sources of information, 38,
100
- contestability of electricity supply, 14
- contract staff, 29, 51–52
 - risk management, 44
- corporate objectives, 34
- Council of Australian Governments
(COAG)
 - and microeconomic reforms re
competition, vii–viii
 - and national energy utility
regulation, xii, 4
- culture and values, 30–31
 - see also* values of the Commission
- Deloitte Touche Tohmatsu, and
internal audit, 37
- Department of Justice and
Community Safety, xv, 5, 45
- disabilities, people with, 26
- Door-to-Door Trading Act 1991*, 23
- ecologically sustainable development,
40–41
- electricity distribution network
services, reset of prices, 7
- Electricity (Greenhouse Gas
Emissions) Act 2004*, 25, 43
- electricity market
 - management *see* National
Electricity Market Management
Company (NEMMCO)
 - national, viii
 - new structure, vi–vii
 - separation of component elements,
x–xi
- electricity meters *see* prepayment
electricity meters (PPMs); smart
meters
- electricity network price direction, 6
- electricity reform timetable, viii–ix
- electricity supply contestability, 14–
15, 18
 - see also under* full retail
contestability (FRC) of energy
markets
- energy market
 - changes, xiii
 - government policy, v, vi
- energy utility regulation
 - changes, v–xv
 - cost, v, vi–vii, xii
 - and jurisdictional duplication, v–
vi, xi
 - national arrangements, xi–xiii
 - see also* independent regulation;
state-based model for price and
industry regulation
- equal employment opportunity
(EEO), 31

- Essential Services Consumer Council (ESCC), 9
and the Commission, 2
Estimates Committee, 37
expenses *see* total expenses
external scrutiny, 37–38
- Fair Trading Act 1992*, 23
Financial Management Act 1996, 34
financial performance, 45–48
financial position, 48–51
financial report and audit report, 53–97
financial risk, 44–45
franchise tariff arrangement for non-contestable retail electricity customers, 6
fraud prevention, 35, 36–37, 45
freedom of information, 38
Freedom of Information Act 1989, 38
full retail contestability (FRC) of energy markets, 18
electricity, 14, 18–20
gas, 20–21
functions and role of the Commission, 1–2
- gas access, reset of prices, 7
Gas Code, x
gas market, vi
compared with electricity market, ix–x
management, xi
national, viii
separation of component elements, x
Gas Market Company, vi
Gas Pipelines Access Act 1998, 12
gas supply contestability, 18
see also under full retail contestability (FRC) of energy markets
global warming, xiii, xiv
governance, 33–39
Government Audit Office, 35
government contracting, 51–52
- ‘green choice’ electricity, 40
greenfield electricity infrastructure development regulation, 11
Greenhouse Gas Abatement Scheme, 25, 40
greenhouse gas emissions, xiii, xiv, 5, 8, 25
see also ACT Greenhouse Strategy
- highlights, 5–7
Hilmer committee on competition, vii
human resources *see* consultants; contract staff; staff; workforce planning, attraction and retention
- income *see* total income
Independent Competition and Regulatory Commission Act 1997 (ICRC Act)
and the Commission, 1, 9, 34, 43
review, 37
Independent Competition and Regulatory Commission (ICRC) *see* the Commission
Independent Pricing and Regulatory Tribunal (IPART) [NSW], xiv
independent regulation
promotion, 25
state-based, xiii–xv
industry codes and guidelines, prepayment electricity meters, 23–24
information sources *see* contact officers, website address and other sources of information
inquiry into ACT Ambulance Service fees and charges, xv, 6, 17–18
internal accountability, 33–35
internal audit, 37
investment in infrastructure, xi–xii
- jurisdictional duplication, energy utility regulation, v–vi
- learning and development, 32–33

- Legislative Assembly committee inquiries and reports, 99
- legislative report, 98
- liabilities *see* total liabilities
- licence fees, 9
- licences *see* utilities licences
- liquidity, 49–50

- market rules *see* rules
- metrology procedures, review, 12–14
- Ministerial Council on Energy (MCE), vi, vii, ix, xi, xii
 - and smart meters, 6
 - and Utility Regulators Forum, 25
- multicultural framework, 26–27
 - see also* workplace diversity

- national competition payments, viii
- National Competition Policy, v, vii
 - agreements forming, vii–viii
- National Electricity Code, ix, 12
- National Electricity Code Administrator, 13
- National Electricity Law, ix
- National Electricity Market Management Company (NEMMCO), vi, ix, xi
 - and review of metrology, 13
- National Electricity Rules, 12
- National Energy Code Authority (NECA), vi, ix
- National Grid Management Council, viii
- National Third Party Access Code for Natural Gas Pipeline Systems, 12
- negotiated contracts, retail electricity, 19–20
- New South Wales, and contestability in retail energy market
 - electricity, 19
 - gas, 20
- ‘no waste’ policies, 40
- non-contestable electricity retail customers
 - franchise tariff arrangement for, 6
 - prices for, 14–15
- objectives of the Commission, 1–2, 9, 43
 - performance against *see under* performance
- occupational health and safety (OH&S), 7, 32
 - workplace risks, 36, 44
- Office of Regulatory Services (ORS), xv, 5, 47
- outlook, 7–8
- overview, 4–5

- Parer Review, vi, xii, 4
- performance
 - against Commission objectives, 9–25
 - financial, 45–48
 - against government-wide objectives, 26–27
- prepayment electricity meters (PPMs), 6, 23–24
- promotion of independent regulation, 25
- public interest disclosure, 39
 - Public Interest Disclosure Act 1994*, 38, 39

- records management, 36, 38, 39
 - risk management, 44
- regulation of greenfield electricity infrastructure development, 11
- regulatory codes, changes to, 6
- reports, papers and advice published, 4–5, *5
 - compliance and performance of utilities, 24
 - required by legislation, 38
 - see also* Legislative Assembly committee inquiries and reports
- retail prices for non-contestable electricity customers, 14–15
- review of ACTION buses pricing, 7, 16
- review of efficiency and service standard incentive mechanisms, 10–11

- review of metrology procedures, 12–14
- risk management, 35–37, 43–45
- role and functions the Commission, 1–2
- rules, v, vi, ix
 - administration of *see* Australian Energy Regulator (AER)
 - amendments, electricity, 13
 - making of *see* Australian Energy Market Commission (AEMC)
 - see also* Gas Code; National Electricity Code; National Electricity Rules
- Section 7 statement, 38
- Section 8 statement, 38
- Section 79 statement, 38
- Senior Commissioner’s review, 1–8
- separation of component elements of energy businesses, x
- smart meters, 6
 - see also* prepayment electricity meters (PPMs)
- South Australia, and contestability in retail energy market
 - electricity, 19
 - gas, 21
- staff
 - losses, 5
 - profile, 29–30
 - see also* learning and development; workforce planning, attraction and retention; workplace diversity
- stakeholders *see* clients and stakeholders
- Standing Committee of Officials (of MCE), xii
- state-based model for price and industry regulation, ix
- structure of the Commission, 3
- Studies Assistance Program, 33
- Take the LEAD public management program, 33
- taxi fares
 - examination of, 7
 - price direction, 6
- Territory records, 39
- Territory Records Act 2002*, 36, 39
- total assets, 48–50
- total expenses, 45–47
- total income, 47–48
- total liabilities, 50–51
- Trade Practices Act 1974* (Cwth), 23
- training *see* learning and development
- transitional franchise tariff, electricity supply, 14, 15
- transport services, pricing, 7
- Utilities Act 2000*
 - and the Commission, 1, 2, 9, 43
 - and compliance and performance of utilities, 24
 - and Consumer Protection Code, 23
 - review, 37
- utilities licences
 - applications, 22
 - fees, 23, 48
 - granted, 22
 - variations, 22
 - see also* compliance and performance monitoring
- Utility Regulators Forum, 25
- utility services, regulation, 9
- values of the Commission, 2
 - see also* culture and values
- Victoria, and contestability in retail energy market
 - electricity, 19
 - gas, 20–21
- wastewater
 - price direction, 6
 - reset of prices, 7, 17
- water
 - price direction, 6
 - reset of prices, 7, 17

website address, 38, 100
workforce planning, attraction and
retention, 29
workplace diversity, 31
workplace health and safety, 32
workplace relations, 33