



# ICRC

independent competition and regulatory commission

## Annual Report **2007–08**

**September 2008**

## **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 Utilities 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 may be contacted at:

GPO Box 296  
CANBERRA ACT 2601

Level 2, 12 Moore Street, CIVIC ACT 2601

Phone: (02) 6205 0799

Fax: (02) 6207 5887

Email: [icrc@act.gov.au](mailto:icrc@act.gov.au)

Website: [www.icrc.act.gov.au](http://www.icrc.act.gov.au)

## Transmittal certificate

Mr Simon Corbell MLA  
Attorney General  
ACT Legislative Assembly  
CANBERRA ACT 2601

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 2007-2010 Annual Reports Directions. 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 2007 to 30 June 2008 has been included and that it complies with the Chief Minister's Annual Reports Directions.

We also certify that fraud prevention has been managed in accordance with Public Sector Management Standard 2, Part 2.4.

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

 Shelley Schreiner  
Chief Executive Officer

23 September 2008



**ICRC**  
independent competition and regulatory commission

GPO Box 296 Canberra City ACT 2601

Phone 02 6205 0799 Fax 02 6207 5887  
[www.icrc.act.gov.au](http://www.icrc.act.gov.au) [icrc@act.gov.au](mailto:icrc@act.gov.au)

ABN 88 647 013 391

# Contents

<b>Foreword</b>	<b>vi</b>
<b>Senior Commissioner's comments</b>	<b>vii</b>
Urban water pricing—achieving a market solution	vii
Competition in the retail energy market	xx
<b>Part A Performance and financial management reporting</b>	<b>1</b>
A.1 The organisation	1
A.2 Overview of performance in 2007–08	6
A.3 Highlights of performance in 2007–08	6
A.4 Outlook	14
A.5 Management discussion and analysis	16
A.6 Financial report	21
A.7 Statement of performance	21
<b>Part B Commission's performance on consultation and scrutiny</b>	<b>23</b>
B.1 Community engagement	23
B.2 Internal and external scrutiny	24
B.3 Legislative Assembly committee inquiries and reports	24
B.4 Legislation report	24
<b>Part C Legislative and policy-based reporting</b>	<b>25</b>
C.1 Risk management and internal audit	25
C.2 Fraud prevention	25
C.3 Public interest disclosure	26
C.4 Freedom of information	26
C.5 Internal accountability	27
C.6 Human resources performance	29
C.7 Staffing profile	29
C.8 Learning and development	30
C.9 Workplace health and safety	30
C.10 Workplace relations	30
C.11 Strategic Bushfire Management Plan	30
C.12 Strategic asset management	31
C.13 Capital works	31
C.14 Government contracting	31
C.15 Community grants, assistance and sponsorship	32
C.16 Territory records	32
C.17 <i>Human Rights Act 2004</i>	32
C.18 Commissioner for the Environment	32
C.19 ACT Multicultural Strategy	32
C.20 Aboriginal and Torres Strait Islander reporting	32

C.21	Ecologically sustainable development	32
C.22	ACT Women's Plan 2004–2009	33
<b>Appendixes</b>		<b>34</b>
	Appendix 1 Financial report and audit report	34
	Appendix 2 Statement of Performance	61
	Appendix 3 Contact officers, website address and other sources of information	65
<b>Glossary and abbreviations</b>		<b>66</b>
<b>Compliance index</b>		<b>67</b>
<b>Alphabetical index</b>		<b>69</b>

## Foreword

The *Independent Competition and Regulatory Commission Act 1997* (the ICRC Act) sets high-level objectives in relation to the Commission's activities. These are to promote effective competition in the interests of consumers, to facilitate an appropriate balance between efficiency and environmental and social considerations, and to ensure non-discriminatory access to monopoly and near-monopoly infrastructure.

In this context, the Commission's annual reports have been introduced by a brief essay on matters relevant to the Commission's high-level objectives. This complements the mandatory reporting information later in the report.

This year, the essay is in two parts. The first addresses the issue of market-determined prices for water, and identifies the broad steps that need to be taken if a 'market' solution as advocated by a number of commentators is to become a practical reality. The second part comments on the state of competition in the ACT retail energy market, including the impact of regulating retail electricity tariffs (the so-called transitional franchise tariff, or TFT) and draws attention to issues raised by the Commission in its recent decision on a TFT for 2008–09.

The annual report then addresses the wide range of operational and mandatory reporting requirements as specified in the ICRC Act, and the Chief Minister's 2007–2010 Annual Report Directions.

Although a relatively small agency within the ACT public sector, the Commission plays a significant role in the operationalising of competition reform across the critical energy and water/wastewater sectors. The 2007–08 year has been a further period of change as the national energy regulatory arrangements are formally adopted and begin to take effect. At the same time, the tasks before the Commission have required an intense period of activity involving two major inquiries and ongoing administrative changes, including the review of codes and licences and the transfer of staff from the Commission to the Australian Energy Regulator and other jurisdictional regulators.

The Senior Commissioner acknowledges the effort and commitment of the Commission staff to the successful outcome of the year's activities, and also acknowledges the support and assistance that has been received from other government agencies and from those entities and interested parties that have been involved in one or more of the many activities undertaken by the Commission over the 12 months.

# Senior Commissioner's comments

## Urban water pricing—achieving a market solution

### Introduction

Water, including its availability, efficient consumptive use, environmental requirements, and future supply, has in the past 10 years become perhaps the major focus for policy development and the planning of Australia's long-term economic future. It seems that everyone has a view on this matter. Certainly, everyone is affected by the projected water availability and the impact of the drought conditions and climate change currently being experienced in Australia.

At a national level, a number of significant steps have been taken to address this issue, while within the ACT the government has undertaken a number of studies and released several related policy statements and plans, including the *Think Water, Act Water* statement and the *Weathering the Change* strategy.

Securing our water requirements and using the available water resources in the most environmentally appropriate and economically efficient manner has become the mantra that has captured the attention of this generation. And everyone seems to know how to do it. Or at least that is what they will tell you.

### Pricing water

Much of the accepted wisdom and solutions to the water issue have focused upon 'price'—that is, the price that is paid for water for consumptive use. Get the price right, it is argued, and market interference such as water restrictions and other interventions on the ability of consumers to make informed decisions about when to use or not use water will effectively disappear. As has been publicly espoused by politicians, public officials and private sector interests, 'Let the market determine the price'.

Unfortunately, Australia does not have well-functioning markets for the supply of water, and thus a simplistic approach based on 'letting the market decide' is not a practical solution to a much more complex problem. Furthermore, the market for water is not a single homogeneous entity where buyers and sellers are readily identifiable, there is free and ready access to information on supply, demand and price, and market imperfections such as government regulation and intervention do not exist. The fact is, we do not have well-functioning water markets!

Nevertheless, it is in this less-than-perfect market environment that jurisdictional regulators, including the Commission, have been tasked to determine prices for water. In an imperfect world, what steps can an independent prices regulator take to provide some rationality in the pricing of water, and thus influence future water use and supply?

The Commission is responsible for determining urban water prices in the ACT. Under the provisions of the Commonwealth *Water Act 2007*, the Australian Competition and Consumer Commission (ACCC) has a role in providing advice on matters relating to bulk water sales and associated arrangements for irrigation water. The following discussion will focus upon urban water matters, which have some unique features that are not as relevant to irrigation water, for which there has been a form of 'market' operating for a number of years.

### Establishing the base price

One of the first points that needs to be made in any discussion on pricing for water is that, in terms of urban water in particular, the regulator is usually called upon not to determine the value

of the water per se, but rather to set the price needed to recover the (efficient and prudent) costs of the water treatment and reticulation utility. These costs may include the costs of the capture and storage of the water, but they do not usually include any allowance for the intrinsic economic or scarcity value of the water itself. It is important that this point is understood, because it is often argued that the prices that are set by regulators should reflect some underlying value of the water, and that the prices should, for example, include an allowance for the scarcity value of the water itself. Commentators on water pricing can confuse the role and powers of the prices regulators on this matter, as they often want regulators to equate the prices that are set to an economic price that includes not only the scarcity value of the water but also the intangible and external costs (including the environmental costs) that arise from the abstraction of water from streams and waterways for consumptive purposes. The recently released paper from the National Water Commission (NWC), *Urban Water Pricing*<sup>1</sup>, suffers in part from this misunderstanding.

As a consequence, many of the proposals and policy initiatives proposed by agencies responsible for water policy incorporate elements that cannot be readily adopted under the current regulatory arrangements. Furthermore, while it is possible to make changes to these regulatory arrangements (as the NWC position paper is foreshadowing), there is a need to consider the implications of changes that could effectively undermine the Council of Australian Governments (COAG) Competition Principles that have been embodied in the pricing methodologies used by regulators such as the Commission.

The responsibility of the prices regulator is usually to assess the efficient costs of the water utility that gathers, treats and reticulates the potable water used in urban areas. The objective is to develop a price path or revenue cap that will allow the utility to recover those costs (including an appropriate return on the investment involved) from the prices that are charged over the regulatory period. Thus, the prices regulator naturally considers in some detail the costs that are incurred in this process (including the capital investment costs), forms a view as to whether the expenditure involved is prudent and efficient, and then establishes an appropriate price structure that will allow the recovery of those costs in the revenues collected by the utility over the regulatory period.

In this process, the regulator will want to consider in some detail issues such as the need for the capital investment being proposed; the extent of any efficiency savings that have been made and how those savings should appropriately be shared between the utility and customers; the likely level of demand over the relevant regulatory period, so that informed decisions can be made regarding the recovery of costs through the prices that are set; and the appropriate amortisation and handling of intergenerational costs, be they capital equipment costs or investments in skills and expertise that will have benefits that extend beyond the regulatory period.

The proposals made by some that regulators should set water prices that incorporate scarcity values and allow for externalities in terms of costs that are not an expense of the water utility raise serious questions as to the ability to incorporate what might otherwise be considered to be 'good practice' objectives in a price path that is designed to allow the water utility to recover its efficient cost (as distinct from wider costs that are not incurred by the utility).

The Hilmer Report competition reform recommendations, upon which the general Competition Principles for pricing of public utility services are based, gave particular attention to the removal of the powers of public monopolies to capture monopoly profits as a consequence of their position as sole suppliers of water to urban consumers. Notwithstanding the progress that has been made in meeting this objective, there is still a public concern in certain jurisdictions that governments are using their state-owned monopoly utility service providers to capture monopoly profits. Any proposal that an independent regulator would knowingly or willingly allow the recovery of 'costs' that are not incurred by the regulated utility would be inconsistent with the role and

---

<sup>1</sup> NWC, *Urban Water Pricing: National Water Commission Position*, 2 July 2008



responsibilities of the independent regulator and, in the case of the Commission, would be contrary to the provisions of the *Independent Competition and Regulatory Commission Act 1997* (the ICRC Act).

Thus, in establishing the base price (that is, the price that the utility needs to charge to recover its efficient costs), the regulator needs to give careful consideration to proposals that would allow the regulated utility to make adjustments to its prices to reflect scarcity or wider environmental cost issues when those adjustments do not reflect costs that the utility has to incur. If these mechanisms are to be used, then there is a need for a separation of the revenue generated by these arrangements from that required by the utility to meet its efficient costs. Furthermore, consumers need to be convinced that the 'scarcity pricing' or broader 'environmental cost surcharges' are not simply ways for the utility owner (often the relevant jurisdictional government) to generate revenue for other purposes.

## Determining the required revenue

The function of the regulator is to seek to match efficient costs in delivering the regulated service with the price that consumers are required to pay. The first step is to establish the efficient costs that the regulated entity will incur in delivering the service. These costs will comprise operating costs, a return of the capital invested in delivering the service (depreciation) and a return on the investment made in providing the service.

The task of the regulator is to assess whether the costs that are being identified by the regulated entity are both prudent and efficient in delivering the regulated service. This usually involves obtaining expert advice from engineers, cost accountants, and others who are able to provide independent assessments of the costs that the regulated entity is claiming need to be incurred. The regulator will also need to determine an appropriate rate for the recovery of the value of investment in assets over the economic life of the asset, and the rate of return that should be applied to the investment in the business so that the revenue requirement will reflect a business that is generating a fair profit on its activities.<sup>2</sup>

There has been general acceptance of the Capital Asset Pricing Model (CAPM) as the way to calculate a weighted average cost of capital (WACC) for regulated entities. There have been some differences between regulators in terms of how they have calculated some of the elements of the CAPM, but in general the level of consensus has reached a stage where the only real issue of difference between regulators has been whether to use a pre-tax or post-tax model.

More recently, there has been a revival of interest in some aspects of the way in which the CAPM is calculated, and in particular whether or not there is systemic bias in the estimates used for the risk-free interest rate. An argument has been advanced that the real risk-free rate that regulators have been using for the CAPM has been underestimating the true risk-free rate. The significance of this debate can be readily seen when it is noted that, for a business with an asset base of \$1 billion, for every increase of 10 basis points in the WACC, the regulated entity can increase its revenue by \$1 million per annum. Thus, the argument is well worth having!

In the context of views expressed by some that water prices are too low, it must be considered whether debating elements of the WACC calculation should be a matter of concern for the regulator. However, under the legislation which determines the actions of regulators, and reflecting the principles derived from the Hilmer competition reform process, there is a need to maintain the integrity of the independently determined prices charged by monopoly utility businesses. Rather than simply adopting unsubstantiated information and estimates in the price

---

<sup>2</sup> Under the incentive form of regulation used, the projections of the return on investment which are included in the revenue requirement may not actually be the return that the business achieves. The objective is to give the business the incentive to achieve this return, but not guarantee the return if the business fails to perform efficiently.

determination process, albeit for a ‘good reason’ (to address perceived underpricing of water), such an approach would undermine the overall integrity of monopoly price regulation.

Turning to the asset value to which the WACC is applied, it is generally acknowledged that the existing water reticulation infrastructure, even for ‘new’ cities like Canberra, has been primarily funded by previous generations of consumers or by direct government funding of dams, pipelines, treatment works and the like. In a purely theoretical sense, at the time of the introduction of independent price-setting arrangements based on the COAG Competition Principles, those existing water assets could have been valued at zero, reflecting the ‘sunk cost’ nature of the investments that had been made in the past.

In its 2008 water and wastewater price determination, the Commission addressed the issue of a request from ACTEW Corporation (ACTEW) that the value of its regulated asset base (RAB) be increased above the adjustment that would normally be allowed for new net investment over the past five years and a revaluation of the asset base to take inflation into account. ACTEW sought to have the asset base revalued using an optimised depreciated replacement cost (ODRC) approach, the overall effect of which would have been a doubling of the asset value (with significant flow-on effects in terms of profit return to the business and the prices paid by ACT consumers<sup>3</sup>). In the ACT, the Commission determined an initial RAB for ACTEW in 1999 when it commenced a more formal price determination process.<sup>4</sup> At that time, the Commission used a return on assets test (RAT) approach to determine the optimised deprival value (ODV) of the assets (the greater of the economic value based on the discounted projected income stream from the business assuming no further new investment, and the scrap value of the assets).

The Commission recognised at that time that the appropriate asset value was somewhere between the ODRC and the historical written-down book value. By adopting what was effectively the economic value, the Commission adopted this value as a ‘line in the sand’ for an asset that had been funded by the Australian Government over many years and had been passed across to the ACT Government and ultimately to ACTEW at a relatively low price. Indeed, the Commission could have taken the position that all previous investment was effectively a ‘sunk cost’ and started from a nil RAB, but this was not consistent with the desire to set prices for the reticulation and water treatment services provided by ACTEW that reflected their economic costs. Each year, the RAB is indexed for inflation and net new investment is added to the RAB, thereby ensuring that the business is earning a return on effectively what will become the indexed and depreciated replacement cost of the assets.

In general, regulators have not looked favourably upon proposals to change over time the basis upon which the RAB has been set, and in particular to adopt a significant change in the asset value of the type being proposed by ACTEW. The dangers of making these changes are only too obvious. Already there is a strong body of opinion that state governments have effectively used their various water and wastewater utilities as ‘cash cows’ which can be milked by adjusting the prices of water and flowing the benefits back to state treasuries by way of dividend payments.

Current attempts to develop an agreed national code for the determination of urban water prices could founder on this point, as they did in the mid-1990s when attempts to develop a standard pricing code for water similar to that for electricity and gas failed to materialise. There is already evidence that cash-strapped state governments might be tempted, under the guise of ‘making necessary increases in the price of water as a scarce commodity’, to endorse an asset valuation adjustment mechanism which would have the effect of simply increasing water utility profits without any benefit to consumers.

---

<sup>3</sup> ACT consumers already have the highest priced urban water for a major city in Australia, with prices more than double the rate in some state capitals.

<sup>4</sup> Previously the Commission had set prices on a short-term annual basis, but after the introduction of relevant legislation, the Commission moved to the more standard form of multi-year price path determinations.

## Funding of new investment

It has been argued that the adoption of scarcity pricing for water will give clear indications to the water utility of what additional investment is required to address supply limitations while at the same time encouraging restraint on behalf of consumers. Without pricing signals, the regulator is forced to make decisions about what new investment is required and should be included in the price path for funding from revenues generated.

The approach that the Commission has adopted in the ACT has been to review the proposed new investment projected for the next period, assess whether or not it can be considered to be prudent, consider whether the expenditures projected are reflective of efficient costs (in as much as they can be determined in advance), and then roll the value of the new investment (less any allowance for depreciation on existing equipment) into the RAB.

The Commission would normally also undertake an ex-post event evaluation of the actual investment that has been undertaken over the previous period. In effect, this means that if the regulated entity has needed to spend more than was originally allowed in the price path for the previous period, provided the expenditure was regarded as being prudent and efficient, the additional amount would be added to the RAB going forward.

Assessment in advance of whether a new investment is prudent and cost efficient raises many practical problems for the regulator. Technical assistance from engineers is usually sought during this stage, although the regulator might not accept the advice that the engineers provide. The regulator usually faces two critical issues:

- Is the project really necessary to meet the stated objectives, or can other solutions resolve the problem that is being addressed?
- Is the regulated entity able to manage and undertake an investment/capital expenditure budget of the size being proposed?

In the ACT, as in many other jurisdictions, the drought has had a significant impact upon the planning of the water entity, the ACT Government and the public in general. Essentially the public is looking for some degree of certainty for its water supplies while at the same time accepting that some level of long-term reduction in the use of water is required in the changed climatic conditions currently facing Australia. The government has set a number of targets for reduced water consumption<sup>5</sup> and has also set targets for the reuse of water in the ACT.

Unlike some of the coastal cities and urban areas in Australia, the ACT does not have ready access to a desalination option when seeking additional water supplies. As a result, ACTEW has advanced a significant new capital works program for the next five years (amounting to approximately four times the dollar value of the investment program undertaken in the previous period). ACTEW is also considering a number of additional investment options, one of which is a major water reuse treatment works which would take water from the bottom end of the ACT's wastewater treatment works and return it to one of the territory's storage dams. This 'water reuse' project is an extremely costly process, not only in terms of its construction but also in terms of its ongoing operation.

Some of these proposals, including the water reuse option, are controversial and are not favoured by all in the community. At the same time, these options at least need to be explored as ways of ensuring access to the water needed to meet the ongoing requirements of the territory. Because of the evolving nature of these proposals, the Commission has not been in a position to include expenditure on these future options projects in the forward capital works budget used to set the current price path for water. In these circumstances, the Commission has had to consider what

---

<sup>5</sup> Many of the short-term objectives have now been met, well in advance of the original target dates.

forms of on- and off-ramps it might apply so that, as debate and analysis on these projects proceeds over the five years, and to the extent that there is a need to commence work on any of the projects, some arrangement can be in place which will allow the inclusion of prudent and efficient expenditure on the projects. In setting up these on- and off-ramps, the Commission has to guard against the possibility that the ‘incentive’ nature of the form of price regulation used in Australia is not lost simply by allowing the regulated entity to make changes to forward opex and capex when and how it likes and fully recover the cost of the changes.

In this process, the Commission has taken the step of making a very strong statement on its willingness to allow the inclusion of some of these supply options in the costs to be recovered from users. The Commission has stated its view that, consistent with its requirement to consider whether proposed expenditure is prudent and efficient, there must be clear and decisive cost–benefit evaluations of the options that show that the favoured options represent the best solution for the ACT before the Commission will allow the costs to flow through into prices. This places a very strong onus on the water utility to complete its cost–benefit assessments and consider the wide range of economic, technical, health and environmental issues in comparative assessments with other water supply options when seeking to demonstrate the most efficient and cost-effective supply option.

Effectively, this approach ensures that the community has an opportunity to make its views known in an open and transparent manner on options that are in some circumstances controversial. The reliance simply upon a ‘market solution’ will not necessarily provide this opportunity, especially if the market itself is not fully operational and some of the costs involved are not directly being incurred by the water utility or identified in any cost–benefit evaluation.

## **Environmental costs**

The most obvious example of costs not directly incurred by the regulated utility (or, if they are incurred, do not embrace all the costs that the taking of water for consumptive purposes creates for the environment and for society as a whole), are environmental costs occurring both within the ACT and elsewhere within the Murray–Darling Basin.

Some environmental costs are captured in the costs that the water utility incurs and which are incorporated in the cost build-up outlined above. These are usually costs associated with the disturbance of the environment for the installation of pipes, treatment works, pump stations and the like. Those costs would normally be captured in the price that consumers will pay.

However, it is unlikely that all the environmental costs associated with the impact of the offtake of water for consumptive purposes have been factored into water prices for most urban areas. Management of waterways to allow certain minimum amounts of flow to meet environmental requirements is not a response to accounting for this cost and including it in the costs that users pay for water. Rather, to the extent that governments at various levels and bodies such as the Murray–Darling Basin Commission seek to resolve issues such as the silting of rivers, high salt problems, and the impact on flora and fauna dependent on the flow of water from rivers that are dammed for catchment and water supply purposes, those costs are not included in the costs that the water utility is normally required to pay and which are included in the utility’s revenue requirements.

From a pricing regulator’s perspective, unless those costs are identified and incurred by the regulated entity, no allowance for them will be made in the prices that the regulated entity is allowed to charge. Simply increasing the price paid by the consumer to cover costs that are not paid for by the utility, while potentially attractive from the perspective of sending a pricing signal regarding the use of water, will simply result in an increase in the revenue collected by the regulated entity. Without a corresponding expense, this will then flow directly into the profits of the business or possibly encourage less efficient expenditures elsewhere.

In the ACT, the government has attempted to address this issue by the use of a water abstraction charge (WAC). When the Commission was asked to advise on the composition of the WAC in 2003, it recommended that the charge include costs that the government was meeting for various water management purposes and that were not recovered from other sources, an allowance for the scarcity value of water (based on the traded price for water on the Murrumbidgee River), and the environmental costs that were not being met by ACTEW or the ACT Government and, indeed, were possibly occurring further downstream and outside of the ACT. The logic behind this approach was that the government would collect this charge from ACTEW (rather than ACTEW retaining the funds as an addition to its profits) and the revenues raised could be used to address some of the environmental and longer term impacts. In turn, ACTEW would recover the cost of the charge from water consumers.

The potential for using some form of WAC has been considered by other jurisdictions, but not adopted. From a regulator's perspective, the setting of a charge for otherwise unaccounted-for costs (such as environmental costs) has merit, as it retains the integrity of the price that is charged by the water utility for the water treatment and reticulation services that it provides, while still incorporating in the price of water some value for the environmental impact of taking the water for consumptive use. The difficulty with the approach, however, is that (at least in the ACT) the use of the WAC has gone beyond the simple concept of recovery of costs that the Commission originally envisaged, and has now become a price that has been placed by government upon access to the water. Thus, there is no attempt to link the WAC back to the cost of the environmental impact that the taking of water for consumptive purposes has had<sup>6</sup>, or to take account of any other 'cost' that might not be reflected in the actual costs incurred by the water utility. Rather, the government has made clear its view that part of the WAC is to 'provide a return on a valuable resource and assist in managing demand'.<sup>7</sup>

There is no generally accepted method for addressing 'hidden' and unaccounted-for costs, such as environmental costs. A move towards carbon trading will address this issue to the extent that it applies to the generation of electricity and that electricity is used in the treatment or even creation of potable or other forms of water. For example, the desalination plants (with high energy inputs) currently favoured in some jurisdictions will incur additional costs from a carbon trading scheme. That cost will then be reflected in the price for water that is created using desalination technology. Similarly, the adoption of technologies that will take wastewater and convert it to potable (or secondary use) water will incur a carbon trading cost impact to the extent that energy-intensive technologies are involved.

However, for riverine environmental costs, there is no agreed mechanism whereby those costs are identified, valued and included as part of the cost of supplying water. This problem cannot be readily resolved at an individual state or territory level; nor is it resolved simply by letting the market determine prices. It requires direct action to identify those costs and for them to be incorporated in the prices that water utilities need to recover from consumers. This, in turn, will require joint action as part of the National Water Initiative.

The ACT experience has demonstrated that it is possible to incorporate an allowance for these types of costs in a charge that is recovered from water consumers. From a practical perspective, it is possible to put in place a cost-recovery arrangement that will address the issue of hidden costs, such as environmental costs.<sup>8</sup> However, this also raises questions about how those 'recovered

---

<sup>6</sup> Previously in the ACT, the Commission had advised on the setting of the environmental cost based on estimates of the cost to the environment of the abstraction of water from the Murray–Darling Basin on a per giga-litre basis.

<sup>7</sup> ACT Treasurer's response to Question on Notice No. 60 during the 2006 Select Committee on Estimates hearings, ACT Legislative Assembly.

<sup>8</sup> It is noted that there is currently a legal challenge to the WAC charge as it applies to Queanbeyan, which is across the border from Canberra but supplied with water by ACTEW. The Commission has elsewhere highlighted the potential for challenge to this form of charge, and has recommended that a national approach be adopted to avoid legal challenges of this type.

costs' are actually spent, and whether or not they will simply be treated as another form of revenue raising by governments, without having any real regard for the restitution of the environmental damage that can and has been caused to our nation's waterways.

## Form of price regulation

Having established the revenue requirements of the regulated entity by assembling the various cost elements that the regulated entity needs to recover, the regulator must decide what form of regulation to apply; that is, whether to apply a price cap, a revenue cap or some variation of the two. Consideration of this issue takes the regulator into the complex area of the social and welfare impacts of the pricing of water—an area that usually attracts most of the comments from the community and commentators on 'good practice' water pricing.

Most regulators have a legislated requirement to consider the social and welfare impacts of their decisions. Even where that requirement is not embodied in the enabling legislation used to establish the regulators, invariably the jurisdictional governments concerned include in references on water pricing a requirement for the regulator to consider the wider social and welfare effects of a pricing determination.

The task for the regulator is to find some mechanism which allows the regulated entity to recover the required revenue (with an appropriate sharing of risk with consumers), sends appropriate pricing signals for the use of this scarce resource, and allows the community to meet the basic hygiene and health requirements of 'washing the kids, washing the spuds, and flushing the loo'.

The tariff structure is usually based on the volume of water consumed. From a perspective of pure economic efficiency, the adoption of a price which reflects the marginal cost of providing that water should be the approach. In recognition that there are a number of costs which are primarily fixed regardless of the volume of water used, it is usual also to have some form of fixed connection charge which is designed to recover those fixed costs. From the same perspective of economic efficiency, a standard single rate per kilolitre of water consumed would be the appropriate form of price regulation to apply. To the extent that this raises welfare and social equity concerns, the purely theoretical approach would be for the government concerned to provide appropriate welfare payment to compensate those consumers who have financial difficulties in purchasing sufficient water to meet their basic health and hygiene needs. This is broadly the approach that has been supported by the NWC in its July 2008 position paper on urban water pricing.<sup>9</sup>

While in theory this is generally accepted as the correct approach to structure the tariffs, in practice the 'welfare state' system of community service obligations (CSOs) and government welfare payments does not work as well as one might hope. In the ACT, it has taken three years to devise a welfare payment arrangement to compensate needy families for a new tax on the pipeline and distribution wires and pipes that supply water, electricity and gas in the ACT. These are not unsolvable administrative matters, but they are administrative arrangements which seem to be always in 'catch up' mode. Thus, to address the need for a pricing regime, there has been a tendency to adopt a less than theoretically optimal approach to the form of tariff structure: the multi-step inclining block tariff approach.

The inclining block tariff approach effectively seeks to provide a certain minimum level of water at a price below the marginal cost; then, as consumption passes predetermined levels on an annual basis, the rate per kilolitre increases.<sup>10</sup> It is acknowledged that this approach fosters a

---

<sup>9</sup> The NWC has favoured a two-part tariff, with a fixed connection charge to recover fixed costs, and a variable charge set at the marginal cost of the water and its delivery to the consumer.

<sup>10</sup> In the ACT from 1 July 2008, we moved to a 'daily pricing' arrangement, which effectively apportions the use of water on an average daily basis, and applies the different block tariff rates on a daily basis rather than having the block tariffs move up to higher levels as the year progresses. The potential advantage of this arrangement is that it averages

cross-subsidisation of users of small amounts of water by those who consume larger quantities. The justification used is that this assists those facing financial difficulties and ensures that everyone has sufficient water to meet basic health and hygiene requirements. However, clearly this is a ‘blunt’ instrument to achieve a social welfare objective, especially as a growing proportion of the population comprises ‘dual income, no kids’ families who tend to live in apartments and inner city townhouses, and who benefit from these lower prices because of their lower water consumption. Simply put, regulators (and water utilities) are not able to direct the intended social welfare benefits to those in need, given the types of water meters and the information on household composition and location currently available.

A further complication in setting the individual prices once the revenue requirement is known is determining the volume of water that is likely to be sold over the period. This can affect attempts to calculate both the marginal cost (as volume projections are needed to determine the marginal cost of the next increment of water supplied) and the use of some other form of pricing, such as an inclining block tariff. Essentially, the regulator is seeking to set a price that allows the regulated utility to recover its efficient cost, but reliance on the cost of the next increment of water supplied or the average cost given the volume to be supplied in the regulatory period only creates possible problems of under- or over-recovery of costs by the utility.

In the years prior to the current drought, it was relatively simple to determine a revenue cap or a price cap built around generally accepted and stable assumptions about the volume of water that would be available and consumed over the regulatory period. However, with a prolonged period of drought and signs of a significant shift in climate affecting longer term water availability, all parts of Australia are looking at a paradigm shift in their water supply and usage patterns. This affects the ability of the regulator to forecast the volume of water that can be applied to the revenue requirement and thus set the tariffs that are to be applied.

Some regulators have opted for a form of regulation which effectively sets the actual year-on-year price for water for the regulatory period (up to 10 years in Western Australia). The use of a price path usually takes the form of a CPI +/- X adjustment type<sup>11</sup>, with the possibility for off- and on-ramps to take into account extraordinary events that could not have been foreseen at the time the price path was set. Subject to the nature of the off- and on-ramps, this form of price cap can effectively transfer much of the risk of changes in the availability of water to the water utility. That is, if the projected available supply upon which the tariff has been predetermined is not realised, the utility will possibly not recover all its revenue. Alternatively, if the available supply of water is sufficient to allow increased sales of water, the utility may be able to recover more than the revenue requirement determined under the building block approach.

Provision can exist under this arrangement for some form of catch-up at the end of the period. If this allows for a full catch-up, the price-capping arrangements effectively become a revenue cap; that is, the regulator is guaranteeing the entity the revenue that has been determined as being required under the building block approach. However, this may be counterproductive in the sense that the incentives for the entity to ensure that service delivery objectives and security of water supply are met are no longer present (other than possibly in the form of a moral obligation that the entity might feel). The entity is guaranteed its required revenue whatever the outcome.

Setting a price path for the regulatory period will require projections of likely water supply and demand for that period. Given uncertainty about the availability of water and changing climate patterns, this can present a problem for the regulator. The regulated entity will want to have this

---

out the cost of water to consumers over the year, rather than having prices increase in the later quarters even though on a quarter-by-quarter basis consumption may not have risen.

<sup>11</sup> That is, the price each year is adjusted by a formula based on movement in inflation plus or minus some factor (X).

projection set as low as possible, as that effectively increases the price per kilolitre; and, if there is a greater supply of water than projected, the entity has the opportunity to generate revenues above the level determined as necessary to recover costs using the building block methodology.

The regulator will also want to ensure that all the risk of water security is not passed through to the consumer. The regulated entity needs to be carrying its fair share of the risk. This will particularly be the case where, as in the ACT, there is a significant increase in new capital works proposed to improve the security of the water supply. If consumers are being asked to fund additional infrastructure to improve water security, then they should not also have to carry the additional risk of prices rising above those required to recover the cost-reflective revenue simply because the water security measures have not delivered the extra security envisaged.

Clearly, the water utility does not have the ability to determine whether rain will fall, particularly in a period of unprecedented drought and a possible significant shift in our rainfall patterns in future. However, regulators have come more to the view that, if the water utility is to have any incentive to take every reasonable step to ensure that reliable water supplies are available for urban areas, the utility has to have a financial incentive to deliver those water requirements. In the same way that service standards apply for the repair of broken water mains and the quality of the water delivered, so there need to be enforceable service standards for the reliability of supplies. Consumers should not expect to have to pay for infrastructure works that are designed to improve the reliability of supply, and then still carry the extra costs of paying higher prices for water<sup>12</sup>, simply so that the water utility can recover all its revenue requirements when the additional water security has not been provided.

The other alternative is to set the expected volumes of supply and demand on an annual basis and calculate the tariffs for the coming year from those estimates. It is argued that this has the benefit of allowing the most up-to-date information on climatic conditions, dam levels and current usage to be taken into account when setting the price. While at first glance this can be seen to be a price cap, to the extent any form of catch-up is allowed it effectively becomes a revenue cap.

In the ACT this approach was used for the four years to June 2008. However, it has been difficult to administer. Annual projections are often no easier to determine than five-year projections and, despite the availability of the 'latest data', it is not clear that this provides a better base from which to calculate the next year's available supplies or likely demand. The inclusion of a catch-up arrangement also adds confusion to the price signals sent to consumers, who find it difficult to understand that, having made the effort to restrict their water consumption under the water restriction rules and voluntary arrangements, they are still required to pay more as part of a catch-up of the revenue requirements of the water utility.

To avoid the possible need for a catch-up, while at the same time providing greater certainty to the water utility about the recovery of the revenue requirements determined using the building-block approach, it has been suggested in the ACT that some form of 'drought pricing' arrangement be adopted. Essentially this works on the basis that, as stored dam levels fall or rise beyond certain trigger points (usually determined on the basis of megalitres per head of population), prices will be adjusted up or down. This would act as an incentive to reduce demand in a period of falling reserves and would ensure that the water utility recovers required revenue notwithstanding the reduction in the supply of water it is able to provide.

There is a degree of attraction to this proposal, and it has some parallels in the pricing proposals being favoured by the NWC. It is generally thought that water prices are too low (although that discussion usually confuses the pricing of the service of water treatment and reticulation with the intrinsic value of the water), and a mechanism that self-adjusts with available supply might help

---

<sup>12</sup> And at the same time, incurring all the hidden costs of dealing with water restrictions, the costs of which are never factored into prices that water utilities actually charge.



to alleviate the need to use the less efficient form of rationing (that is, water restrictions). However, it is not clear that the proposal would achieve either of those aims.

Studies undertaken in the ACT as part of the most recent price determination for water, and using data which has reflected a tripling of the price of water over the five years to 30 June 2008, do not suggest a strong link between the increase in water prices and demand. Rather, the impact of restrictions and voluntary restraint in times of deepening drought has been shown to be the reason for the reductions in demand across the territory. Based on this evidence, there is little likelihood that price adjustments linked to storage levels would discourage consumption to the extent that water restrictions would no longer be required. Indeed, it is likely that all that would be achieved would be a guarantee to the water utility that its revenue requirements would be met. Little other benefit would seem likely from the drought pricing arrangement.

From an administrative perspective, it is not a simple matter to apply this arrangement. Agreement must first be reached on the level of water use from which the adjustments could occur. Given the marked shift in the availability of water in the Canberra catchments, it is not possible simply to use the levels of average consumption over the past decade or more. At the same time, data for the past couple of years (during which there were high-level water restrictions) would not seem to be the appropriate base from which to make adjustments to prices as storage levels fall (or, indeed, as stored supply increases as it did over the first half of 2008).

Finally, there are fundamental questions about whether households have the capacity to make further reductions in demand in response to scarcity-based price increases (at least in the ACT, where there have already been significant reductions in per capita use of water). There is a fundamental health and welfare issue here that potentially means that the pricing of water for household use needs to be considered separately from the pricing of water for industrial or agricultural irrigation use, where scarcity pricing adjustments might have more immediate effects on demand.

### **Let the market decide**

Taking into consideration all the issues that a regulator must address, the market determination option has a number of attractions. To allow a 'market' to develop for urban households, one option might be to allocate a minimum amount of water to each household, and then allow trading between households for purchases of additional water or to dispose of water that is not required by households. This would allow those who wish to pay for additional water to be able to 'purchase' an additional entitlement, and those who do not need all of the entitlement to be able to trade it at a market-determined price. Thus, the volume of water to be made available could be held within supply availability, but water could be directed to those in the community who have a greater need and are prepared to pay a premium on the price of the basic entitlement in order to meet that need.

There are variations on this type of proposal, and the assumptions incorporated in its design need careful consideration before it is endorsed as an appropriate market response to the pricing of water. The first assumption is that an informed decision can be taken as to the base entitlement of water that should be allocated to each household. Even if agreement could be reached on the minimum amount of water required per person to meet basic health and hygiene requirements, there is the fundamental practical problem of determining how many people actually reside in each dwelling. One cannot simply rely on ABS Census data or some other periodic survey for that information, as people move or change their living arrangements so that the number of people in a dwelling can change quite rapidly. To allocate simply on the basis of the same number of kilolitres per year per dwelling would be to severely disadvantage some households while advantaging others.

A further practical problem is the metering arrangements. Not all dwellings are individually metered. Some, such as groups of townhouses or blocks of flats, are metered on a group basis. While a total water allocation could be made to the existing single meter, the ability of the residents in such dwellings to participate in the market arrangements would be severely restricted.

The 'market' arrangement would also not address the issue of the reticulation and treatment costs, which are effectively the costs that are currently subject to regulation. Thus, while it might help to set a value on the additional water that a consumer might wish to purchase, it would not be useful in determining treatment, transport and delivery costs. That task would still need to be performed (presumably by a regulator), and the costs recovered from consumers based on the level of their initial water allocation.

Finally, transaction costs would need to be considered. If the market is large and active, transaction costs could be expected to become very small for each kilolitre of water traded. However, on a per kilolitre basis, they might initially be significant and a barrier to the market becoming fully functional.

None of the problems listed above are insurmountable, but they are not readily resolvable in the short term. Indeed, even with the 'smart metering' trial that ACTEW is undertaking for Canberra over the next few years (in line with recommendations from the NWC), the data needed to allow a market of this type to be established and operate equitably would not be available.<sup>13</sup> Therefore, much more work needs to be undertaken before these types of proposals are viable and administratively practical.

As noted at the beginning of this article, the question for Australia should not be whether a market-based solution (with appropriate safeguards) would be a better method for water allocation, pricing and dealing with scarcity. Rather, the question should be 'What needs to be done to start a process of moving towards a market-based solution?' This is the issue to be resolved in the immediate future. It is only then that 'market determined' prices might become viable alternatives to artificial restrictions on the availability of water and allow a more efficient allocation and use of water at the urban level.

Three main areas of activity, as follows, need to be addressed to resolve the issue of water pricing:

### **1. Develop and agree a design for a national market for water**

- No individual state or territory can resolve the design of the market alone. It must be a national initiative and national solution.
- In the same way that the design for a national market for electricity and gas required lengthy debate and consideration of all the issues, so a similar debate is required for water.
- The design of a national market will require the separation of the capture and supply of untreated water from the treatment and reticulation of potable and reuse water, and potentially from the retailing of water. There will need to be the potential for competition at the water capture and supply level, with alternative forms of water capture and creation being able to enter the market at appropriate prices, in much the same way as the electricity market operates.
- The special nature of water will need to be recognised in the design of the market, both in terms of its health and hygiene implications, and the limited ability to create new water in certain circumstances.

---

<sup>13</sup> For example, smart metering will not resolve the problem of household sizes changing at irregular and unpredictable times, thereby reducing the value of the historical demand data that a smart meter might collect.

## **2. Develop an appropriate regulatory framework**

- The monopoly activities of reticulation and water treatment businesses will need to be regulated, although there may need to be special provisions for competition between reuse water and other different grades of water supply. Options for competition at the retail and water creation/capture level would be desirable, and possibly also for the reticulation of different grades of water, where feasible,
- The work of the NWC is a first step in developing a national water regulatory framework, but is at an early stage and will take a number of years to complete and be accepted by all jurisdictions.
- The regulatory framework will need to address health and associated hygiene safety standards, and will also need to provide a practical means to resolve the social and welfare issues with appropriate safeguards and support mechanisms to ensure that people have access to some minimum level of water for health and hygiene purposes.

## **3. Operationalise the national market and regulatory arrangements**

- In the restructuring and reform of the electricity and gas markets, the ability to coordinate and bring into effect all elements of the reformed industry and regulatory structure has been hampered by the inability of the federal, state and territory governments to agree on various practical and operational issues. The process to effect these reforms in electricity and gas continues, notwithstanding that it is 15 years since the Hilmer Report and the COAG Competition Principles were agreed and the formal process of implementing the new reforms began.
- It may require a further round of national competition policy payments to encourage the various jurisdictions to take on the challenges that face Australia in operationalising the national market and regulatory arrangements for water. This might be an appropriate area for funding under the National Water Initiative.

## **Concluding comments on water market and regulatory arrangements**

We are living in a period of significant change in terms of our access to water, the security of supply that can be provided to urban and rural dwellers, the reliance upon artificial constraints on the use of water at a time of prolonged drought, and the pricing of water and its supply for irrigation, industrial/commercial and household consumption. The current pricing regulatory arrangements for water recirculation and treatment have evolved over the past 15 years to the point that there is now much greater independence in the determination of those prices. That does not mean that all the points of difference between the water utilities and the regulator have been solved. Rather, it is an indication that much has happened to move pricing of urban and irrigation water infrastructure into methodologies that are more transparent and open to public scrutiny than has been the case in the past.

However, there is still a reliance on water restrictions to address scarcity of supply, particularly during this period of prolonged drought. In addition, in most jurisdictions there is little evidence that the prices being paid for urban water reflect the scarcity value of the water or the environmental costs that the extraction of water for consumptive purposes has created.

With the current high level of public awareness and focus on water issues, there is a tendency for the media and the general public to favour what are seen as being simply solutions to our water supply and reliability problems. However, while there are clearly better options for water pricing and allocation than we have today, to suggest that we can jump from one system to another overnight is clearly misleading.

A market-based system for valuing water and driving efficiencies in the use of water (both at the irrigator level and the urban consumer level) clearly offers some benefits to the economy and to

consumers, but a move to such a system is not achievable even in the short term. The process of reform that is required will take as at least as long as it took to develop a working market in the reform of the electricity and gas industry (nearly two decades).

Federal Treasury Secretary Ken Henry, in his wide-ranging Little Memorial Address in March 2008, sought to tell us what Treasury knows about water. What Secretary Henry had to say was what you would expect of the Federal Treasury; that is, 'If only we had a well-functioning water market, all our problems would be solved.'

To some extent, that is stating the obvious. The real challenge is to do something about it. That is the challenge for governments today, so that not too far into the future we will have some hope of having an appropriate market for water in Australia. This is where 'the rubber hits the road', and it will be interesting to see whether governments have the courage to take on the challenge, or whether we continue with a half-hearted response and second best solutions.

## **Competition in the retail energy market**

A major objective of the Commission's enabling legislation is the promotion of effective competition in the interests of consumers. This has been an important issue for the energy market. The Commission has publicly stated its support for full retail competition (FRC) in the energy market. In the ACT, government has allowed FRC for gas, but for electricity has required the retention of a TFT arrangement for customers consuming less than 100 MWh/year, should such consumers not wish to enter into a negotiated contract with one of the competing electricity retailers.

In recent years, the Commission has determined the price for electricity to be supplied under the TFT to residential and small business customers of ActewAGL Retail who have not taken up competing electricity supply offers from the other licensed electricity retail suppliers in the ACT. The key issue here has been to determine a price which reflects a recovery of the efficient costs by ActewAGL Retail while at the same time not setting that price so low as to prevent competition in the market for retail electricity supply.

### **Full retail contestability in energy markets**

The ACT Government implemented a program of retail contestability for retail electricity and gas services from the late 1990s. FRC allows customers the freedom to choose their electricity and gas retailers. There are currently 18 licensed electricity retailers in the ACT, although not all are active in the smaller residential customer market. For the gas sector, there are currently eight licensed retailers.

The Commission continues to set licence conditions and establish various industry codes (such as the Consumer Protection Code) which set the framework within which competing licensed energy suppliers operate in the ACT. The Commission maintains close supervision of the competing retailers, similar to that maintained by regulators in other jurisdictions.

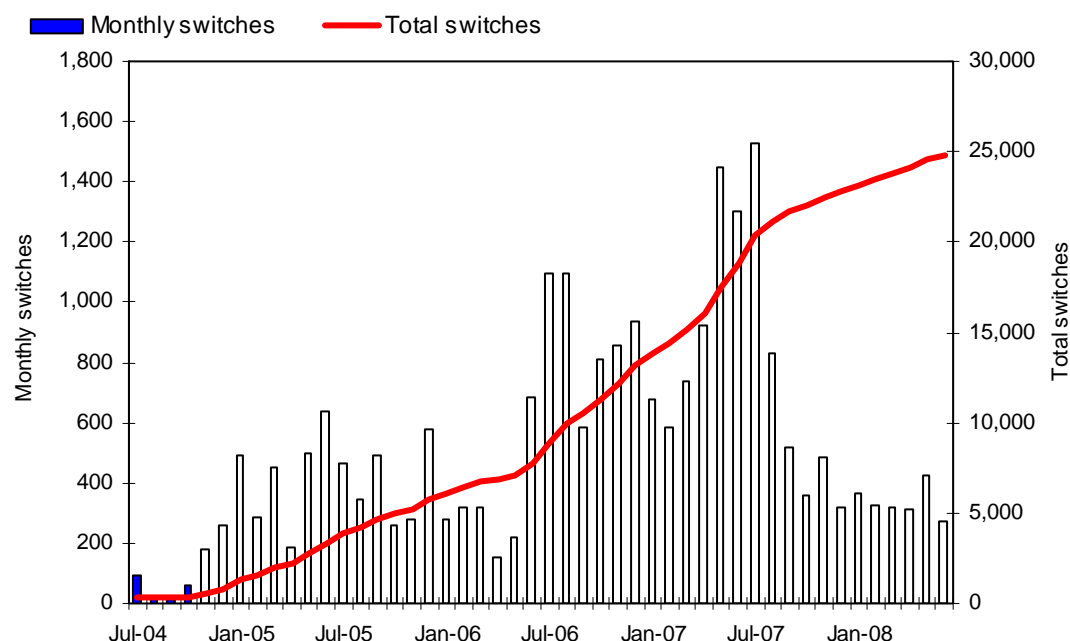
### **Electricity**

In the ACT, the electricity retail market has been open for competition since 1998 for large customers using more than 160 MWh a year, and open since 1 July 2001 for customers using more than 100 MWh a year. On 1 July 2003, FRC was extended to all retail customers.

The Commission has monitored the performance of the electricity market, particularly in the context of the government's decision to retain a TFT for those consumers not wishing to accept a competitive negotiated contract. With the exception of a short period in 2006, the number of ACT customers switching retailers in response to competitive supply offers has generally followed an

increasing trend. In 2007–08, that trend reversed and only 6,051 customers changed retailers, compared to 11,040 in 2006–07 (see Figure 1).

Figure 1 ACT electricity customers transferring to new retailers, July 2004 to June 2008



It should be noted that there has been a greater move away from the regulated retail tariff than Figure 1 shows, as the figure does not include those customers who have remained with ActewAGL but have moved to negotiated contracts. Current estimates indicate approximately 33,000 residential customers are on negotiated contracts, representing about a quarter of the total residential customers in the ACT. This is a slight reduction in the number of customers on negotiated contracts than in 2006–07, indicating that a number of the residential customers have taken the opportunity to return to a franchise tariff over the last twelve months.

The reduction in customer switching has not been confined to the ACT market, as shown in Table 1.

Table 1 Customers switching electricity retailers 2006–07 and 2007–08

	Switches 2007–08	Switches 2006–07	Change in 2007–08 (%)
Australian Capital Territory	6,051	11,040	-45.2
New South Wales	327,706	388,309	-15.6
South Australia <sup>a</sup>	148,439	96,251	-35.2
Victoria	625,464	559,303	-10.6

<sup>a</sup> NEMMCO data is available only for October 2006 onwards. 2006–07 and 2007–08 figures in the table are therefore for October to June in order to enable a comparison to be made.

Source: NEMMCO.

The reasons for the market-wide easing in contestable activity may be several. One contributing factor is the high volatility and increased level of wholesale energy (generation) costs in late 2007. This may have pushed the level of regulated franchise tariffs close to the possible market-based levels, thus reducing the opportunity for retailers to attract customers away from the franchise tariff with price discounts and additional service features.

The wholesale price volatility might also have deterred risk-averse retailers from competing in the market. For example, at least one retailer in the ACT decided not to accept new residential customers in 2007–08. During the year, one retailer was also forced to withdraw from the market, requiring retailer-of-last-resort measures to be activated (although only one customer in the ACT was affected by this action).

This is not an ACT-specific phenomenon, and the Commission notes that during 2007–08 the Australian Energy Market Commission (AEMC) completed a review of energy retail competition in Victoria.<sup>14</sup> In its report, the AEMC noted that during 2007, when wholesale energy costs rose significantly, one retailer indicated that it ceased to market retail offers actively in the Victorian market as franchise tariffs had failed to align with the rising costs. The AEMC also noted that price regulation in an effectively competitive market is costly in terms of administration, compliance and the distortions it imposes on the effective functioning of the market to the detriment of consumers. It therefore made a number of recommendations on the way to remove retail price regulation in Victoria.

Nevertheless, as shown in Table 1, the reduction in market activity was more pronounced in the ACT than elsewhere. During the Commission’s review of electricity franchise tariffs in May–June 2008, some retailers suggested that the lower activity in the ACT market was due to the comparatively low retail margins embedded in the franchise tariffs in the ACT compared to other jurisdictions.<sup>15</sup> The Commission notes that ActewAGL has continued to offer tariffs (particularly those included as part of a ‘bundled’ service) at a discount to franchise tariffs. This suggests that the threat of competition has continued to promote contestable market behaviour. The Commission’s decision to increase franchise tariffs from 1 July 2008 in response to the higher energy costs, and after allowing for an increase in the retail margin, should encourage greater market participation (although this was not the primary objective of the Commission’s June 2008 decision).

## Gas

The government introduced FRC for gas in the ACT on 1 January 2002. Market activity in the gas market is typically less than that in the electricity market, with fewer licensed retailers and a lower percentage of customers switching retailers.

As shown in Table 2, the number of gas customers switching retailers in the ACT in 2007–08 compared to 2006–07 declined by almost exactly the same percentage as the decline in the number of electricity customer switches. This was also the case in New South Wales. The reason for this decline is not immediately obvious. Although wholesale gas prices generally increased in 2007–08, there are no franchise gas tariffs in the ACT (unlike in the electricity market) and it is less clear why retailer margins would be ‘squeezed’. The reduction in gas customer switching may reflect the fact that all gas retailers in the ACT are also electricity retailers and that gas is often offered as a ‘bundled’ product with electricity. Hence, the decline in retailer activity in the electricity market may also have had a spillover effect in the gas market.

Customer switches in Victoria increased in 2007–08 compared to 2006–07. Victoria is generally regarded as having the most active gas market in the world.

---

<sup>14</sup> AEMC Second Final Report, 29 February 2008, p. vii.

<sup>15</sup> ICRC, *Retail prices for non-contestable electricity customers*, Report 4, June 2008.

Table 2 Customers switching gas retailers 2006–07 and 2007–08

	Switches 2007–08	Switches 2006–07	Change in 2007–08 (%)
Australian Capital Territory	3,335	6,058	-44.9
New South Wales	51,795	61,178	-15.3
Victoria	413,701	381,184	+8.5

Source: NSW and ACT figures from Logica (as agent for Gas Market Company). Victorian figures from VENCORP, July 2008, Gas Market Report.

### General comments on energy market competition

The events in the electricity generation market in 2007–08, which resulted in significant increases in the wholesale price of electricity, highlight the potential dangers of a continuation of the current TFT arrangements in the ACT. Over the years in which the wholesale price has remained reasonably stable, both the retailers and consumers have been able to enter the competitive market with some confidence about how prices will perform, and the regulator has been able to set a TFT price based on a reasonable expectation of the likely wholesale price for the year or years in question. However, once this degree of confidence about future movements in the wholesale price is removed or weakened, the regulator is placed in the difficult position of making a ‘guesstimate’ of the forward wholesale price, and in so doing may inadvertently set a TFT which lessens the opportunity for competition between retail suppliers.

It is of concern to the Commission that the competitive electricity prices offered by retailers in the ACT (and in other jurisdictions) are based on a discount on the TFT or its equivalent. This implies that the prices will move in line with the TFT price set by the regulator, which may or may not be the price that a market in active competition would set. The Victorian Government has recently adopted a revised retail competition policy for electricity which removes the role of the regulator in setting a TFT-equivalent price, but requires wide publication of the prices being offered, sets a requirement that prices cannot be changed more frequently than once every six months, and allows the jurisdictional regulator the power to determine prices if the AEMC subsequently determines that retail competition is no longer effective. This decision is in response to the recommendations of the AEMC that the barriers to FRC should be removed in Victoria. The AEMC is undertaking a similar study in South Australia at this time, and will study and advise on the ACT market in 2009–10 at the same time that it reviews the NSW market.

In the meantime, the Commission notes that the very policies that have been adopted to phase in FRC for electricity in the ACT may now be acting contrary to the best interests of consumers, who currently pay a price that is either the TFT set by the regulator or a discount on that price. Thus, whatever decision is taken by the Commission about the future wholesale price for electricity and the associated mark-ups that should apply, this effectively is replicated in the prices offered both to franchise customers and (after a discount ) to negotiated contract customers. If the regulator gets that TFT price wrong—and some would argue that the price in 2007–08 was too low in the market circumstances at that time—this can result in retailers withdrawing from the market temporarily or, in an extreme case, leaving the industry completely, thereby reducing the level of competition in the market. Further consideration needs to be given to this issue, as the long-term continuation of a market in which the regulator is such a major influence on the final retail price in what is meant to be a competitive arrangement is not sustainable or economically efficient. The Victorian model perhaps provides a starting point for consideration of what should be the next step to achieve full retail competition in the ACT.





## Part A Performance and financial management reporting

Section 9 of the Independent Competition and Regulatory Commission Act 1997 (the ICRC Act) requires the Commission to prepare a report under the Annual Reports (Government Agencies) Act 2004. The Chief Minister's 2007–2010 Annual Report Directions set out the issues against which the Commission is required to report. In addition, the ICRC Act requires the Commission to report on the following matters:

- investigations
- final reports and special reports
- price directions
- advice about proposed access agreements
- the number of access agreements notified
- arbitration disputes
- determinations of arbitration disputes
- the number of notices issued under section 41 (Provision of information to commission)
- the general use made by the commission of information and documents obtained as a result of notices issued under section 41
- any other functions exercised by the commission.

### A.1 The organisation

This section deals with the Commission's role and functions, values, structure, and clients and stakeholders.

#### A.1.1 Role and functions

The Commission's roles and responsibilities are established under the *Independent Competition and Regulatory Commission Act 1997* (ICRC Act) and the *Utilities Act 2000* (Utilities Act).

The Acts together set out 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 services.

In addition to those functions, the Commission is the regulator under the *Electricity (Greenhouse Gas Emissions) Act 2004*. That role requires the Commission to establish emission benchmarks for scheme participants each year and to monitor and report on compliance with the benchmarks.

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 section 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.

Section 3 of the Utilities Act reinforces those objectives and adds others, 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 that the government's programs concerning the provision of utility services are properly addressed
- to give effect to directions of the minister under section 19 (which may only be given to ensure the achievement of the objects set out in the subsections above).

The legislative report in Section B.4 of this report lists other legislation under which the Commission has obligations.

### **A.1.2 Values**

The Commission is committed to ensuring that the ACT Government receives the best possible return from the resources it devotes to the Commission, through efficient and business-like management of those resources and prudent management of financial risk.

A key element of prudent management involves ensuring that staff are aware of the values and principles that guide public administration, which are set out in the *Public Sector Management Act 1994* and underpin the ACT Public Service Code of Ethics. These principles are:

- service to the public
- responsiveness to the government and the needs of the public
- accountability
- fairness and integrity
- efficiency and effectiveness.

The Commission seeks to foster a culture that is 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.

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

- to use our professional skills, expertise, experience and professional judgment to promote efficient competition in the ACT economy in the interests of consumers

- to use our professional experience and mature judgment to achieve a sustainable balance between efficiency and environmental and social needs
- 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 under the Administrative Arrangements Orders.

Figure 2 shows how the Commission was structured at the beginning of the 2007–08 financial year; Figure 3 shows the structure at 30 June 2008.

Reflecting changes in the Commission's responsibilities and work load, the staff establishment has been reduced over recent years. At the beginning of 2006–07, the Commission had 5.8 full-time equivalent staff (FTE); at the beginning of 2007–08, there were 3.2 FTE. At the end of 2007–08, this had risen to 6.2 FTE. Of these, three staff (equivalent to 2.4 FTE) were on long-term personal or maternity leave), and one was appointed on a non-ongoing basis.<sup>16</sup>

The Commission makes periodic use of external consultants and fixed-term appointments to complement the capabilities of Commission staff and ensure that it is able to meet its ongoing responsibilities.

---

<sup>16</sup> The Senior Commissioner is not a public servant and is not included in FTE counts.

Figure 2 Organisational structure at 30 June 2007

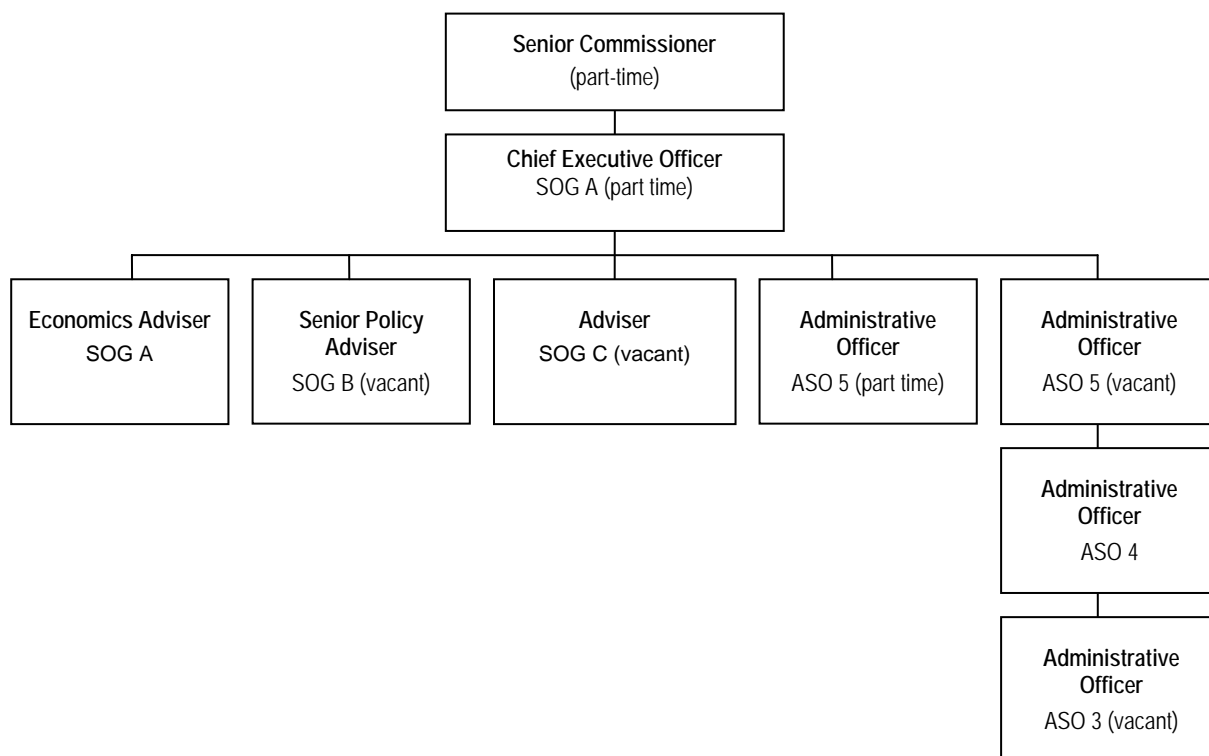
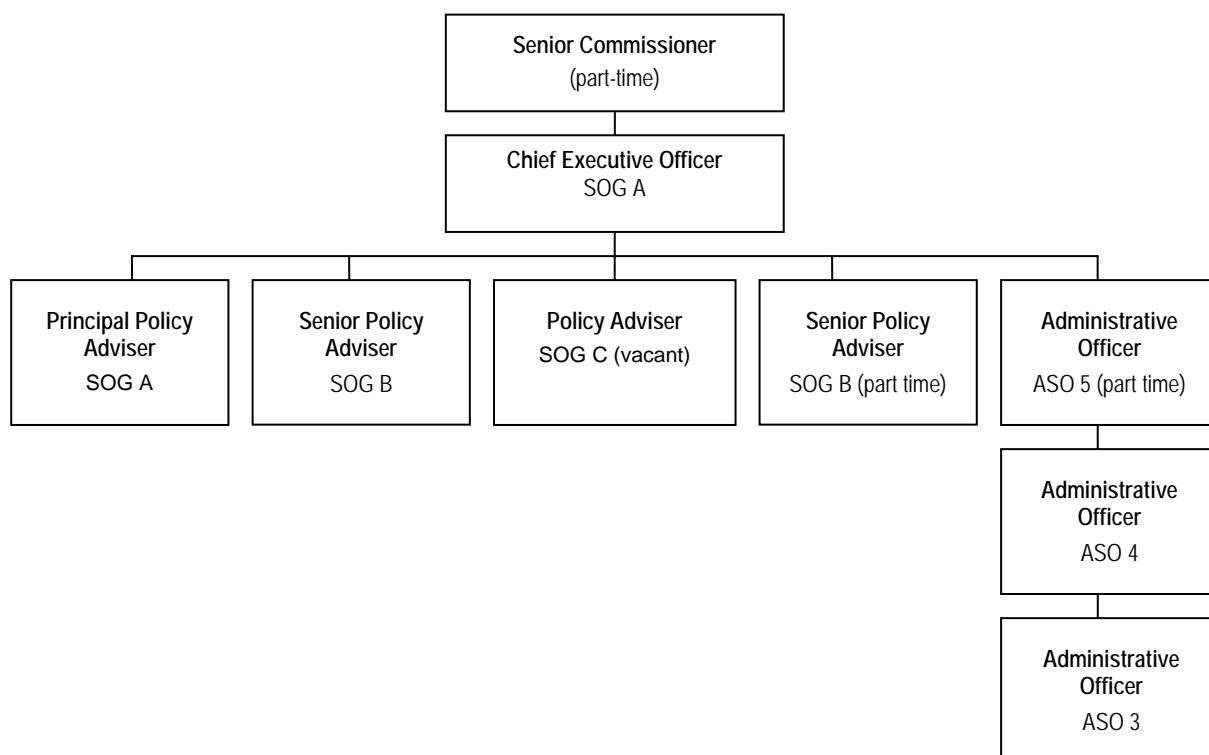


Figure 3 Organisational structure at 30 June 2008



Note: The Senior Commissioner is not a public servant and is not included in FTE counts.  
 ASO = Administrative Service Officer; SOG = Senior Officer Grade

#### **A.1.4 Clients and stakeholders**

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

## A.2 Overview of performance in 2007–08

### A.2.1 Overview

In 2007–08, the Commission continued to implement the intentions of the ICRC Act and the Utilities Act to realise the government’s objectives. The Commission’s main activities included:

- inquiring into prices for water and wastewater services and the making of a price direction for the period from 2008–09 to 2013–14
- determining retail prices for non-contestable electricity customers for the 2008–09 year
- overseeing the utility services licensing regime established under the Utilities Act
- monitoring licensed electricity, gas and water and wastewater utility compliance and performance
- regulating the ACT’s Greenhouse Gas Abatement Scheme
- working cooperatively with the national energy regulator (the Australian Energy Regulator, or AER) to effect the orderly transfer of responsibilities.

Section A.3 provides more detailed information on the highlights of performance in 2007–08.

### A.2.2 The transfer of energy regulation to the national regulator

In recent years, energy policy reform in Australia has focused on the development of a national regulatory framework. Governments established two national bodies in 2005—the AER and the Australian Energy Markets Commission (AEMC). The AER took over responsibility as the regulator of the wholesale market and transmission networks in the National Electricity Market (NEM) in July 2005. It is progressively assuming responsibility for the economic regulation of the NEM energy sector. Responsibility for the economic regulation of distribution of electricity in the ACT was transferred from 1 January 2008.<sup>17</sup> It is envisaged that other functions, in particular electricity and gas retail licensing and related matters, will transfer sometime in 2010.

The Commission has worked together with the AER through this early transitional period, particularly in relation to the orderly transfer of economic regulation of distribution. There is further discussion of this national shift in Section A.4 (Outlook).

## A.3 Highlights of performance in 2007–08

*Reports and documents relating to the activities described below can be read in full on the Commission’s website ([www.icrc.act.gov.au](http://www.icrc.act.gov.au)). Contact details for staff who can provide more information on the Commission’s activities are provided in Appendix 3.*

### A.3.1 Inquiry into prices for water and wastewater services

The Commission is responsible for regulating ACTEW Corporation Ltd’s (ACTEW’s) monopoly water reticulation and wastewater treatment services in the ACT, including determining regulated prices, and for conducting periodic reviews to determine the revenue requirement for the provision of each utility service.

In February 2007, the Attorney-General referred to the Commission the matter of an investigation into, and the making of a price direction for, regulated water and sewerage services provided by ACTEW for the period from 2008–09 to 2013–14.

---

<sup>17</sup> Responsibility for the economic regulation of natural gas distribution pipelines in the ACT was transferred from 1 July 2008, which is outside this reporting year.

In April 2008, the Commission released its final decision and price determination for ACTEW water and wastewater services for the five years from 1 July 2008. The decision came after an 18-month period of review, analysis and consultation, during which the Commission released three discussion papers, a ‘working conclusions’ paper and a draft report, received submissions and held a public hearing.

In recent years, water and wastewater customers in the ACT have endured both substantial price increases and water shortages. ACTEW Corporation’s urban water prices are currently the highest in Australia, and Stage 3 restrictions remain in place. In 2007–08, larger water customers (those using more than 300 kilolitres a year) paid more than double the price for water they did in 2004–05. The higher prices and restrictions are primarily due to factors that could not reasonably be foreseen. Bushfires in 2003 and an unprecedented drought have imposed additional costs on ACTEW Corporation and substantially reduced supply.

The determined price path means a significant combined price increase of 8% to 16% (depending on the volume of water consumed) for water and wastewater services in the first year (2008–09)—an increase of \$3 per week for the average household—and then annual increases of 1% plus CPI in water prices and 4.76% plus CPI for wastewater services for the following four years.

The price increases will help fund a fourfold increase in investment in new water capture and treatment infrastructure designed to provide greater long-term water security in the ACT. ACTEW Corporation is shortly to commence work on the expanded Cotter Dam and is expected to finalise arrangements for the construction of a pipeline connecting the Murrumbidgee River at Angle Crossing to the Googong Reservoir, allowing for the transfer and storage of water.

In terms of the pricing structure adopted, the Commission moved from a two-step tariff structure to a single step. The determined tariff sets the price for the first 200 kilolitres of water at half the price per kilolitre (\$1.75) charged for all consumption above that point (\$3.50).

### **A.3.2 Review of retail prices for non-contestable electricity customers**

Full retail contestability (FRC) for electricity retail services to customers consuming less than 100 megawatt hours of electrical energy per year was introduced from 1 July 2003. This tranche of customers includes all residential customers and most small to medium businesses. While FRC enabled such customers to choose to enter negotiated contracts with licensed retailers, transitional arrangements offered some protection to customers unfamiliar with a competitive energy market. The transitional arrangements provided for customers on negotiated contracts to return to standard customer contracts and a regulated price (the transitional franchise tariff or TFT) determined by the Commission. The arrangements were to apply for three years, subject to a further review to determine whether the market was sufficiently competitive to permit the removal of the transitional regulatory arrangements and the TFT.

In 2006, the government extended the transitional arrangements for a further year, and the Commission determined a regulated price to apply in the period to 30 June 2007. In 2007, the transitional arrangements were again extended to 30 June 2008. In February 2008, the Attorney-General again referred the provision of a price direction for the supply of electricity to franchise customers to the Commission. The direction is for the period 1 July 2008 to 30 June 2009.

In April 2008, the Commission released a draft decision that proposed a regulated maximum tariff. In June 2008, the Commission released the Final Report and Price Direction on Retail Prices for Non-contestable Electricity Customers in the ACT. The Commission approved a 7.11% increase in the annual average transitional franchise tariff price cap.

For the average household, the new tariff means an increase of around \$85 on a total annual bill in 2007–08 of \$1,300. To help address the issue of pricing for households with different energy

needs, the Commission adopted a form of average price cap regulation. This allows ActewAGL Retail to provide a suite of tariffs that address the particular energy needs of consumers.

The Commission's final decision discusses the difficulties associated with the Government's one-year reference for the price decision. The short reference period has constrained the Commission in how it was able to allow cost changes resulting from wholesale electricity market supply-demand imbalance to be passed through to consumers by the incumbent retailer. The short reference period meant the Commission was unable to transition any price changes over a longer period, as has been adopted in some other jurisdictions.

In coming to its final decision, the Commission was mindful of the impacts of continuing and multiple price rises on less well-off ACT consumers. The final decision reiterated the Commission's position that the transitional franchise tariff was never intended to be a safety net measure for more vulnerable customers. That said, the final decision provides a degree of certainty and stability for consumers' likely electricity costs over the next 12 months and the price increases that will be experienced in the ACT for electricity as a result of the Commission's determination will be at a lower rate than that applying in NSW. Prices for electricity in the ACT will still be lower than those applying in areas surrounding the ACT.

The Commission's final decision encouraged all consumers at present on the regulated retail tariff to exercise their choice of retailer and to seek lower prices for electricity supply, where these are available. The Commission recognises, however, that major shifts in the underlying generation costs will flow through to retail prices at all levels and that there has been a reduction in number of competitive suppliers offering contracts for residential customers in the ACT market.

### **A.3.3 Electricity distribution services—annual price reset**

In March 2004, the Commission made a final decision in relation to its investigation of prices for electricity distribution services in the ACT. The decision was for a regulatory control period of five years from 1 July 2004 to 30 June 2009 and provided for four annual price resets subject to submission by ActewAGL Distribution of an annual pricing report to the Commission. In March 2008, the Commission approved ActewAGL Distribution's proposed tariffs for the 2008–09 financial year, which were found to be in accordance with the 2004 price determination.

### **A.3.4 Other regulatory activities under the ICRC Act**

#### **Access agreements**

Part 5 of the ICRC Act sets out the Commission's responsibilities for access agreements in relation to infrastructure facilities. During 2007–08, the Commission did not provide advice on any proposed access agreements, and no access agreements were notified to the Commission.

#### **Arbitration of disputes**

Part 6 of the ICRC Act provides for the referral to the Commission of disputes in relation to an access regime for arbitration. During 2007–08, no disputes were referred to the Commission.

#### **Notices issued under section 41**

Section 41 of the ICRC Act provides that the Commission can, by written notice, require a person to give it information or a document that may assist it in exercising its functions. The Commission did not issue any notices under section 41 during 2007–08.

#### **Competitive neutrality complaints**

There were no competitive neutrality complaints in 2007–08.



## Other functions exercised by the Commission

No inquiries into other government-regulated activities were undertaken in 2007–08.

### A.3.5 GreenPower Direction

On 22 January 2008, the Minister for Environment, Water and Climate Change made Utility (Electricity Retail) Licence Conditions Direction 2008 (No. 1)<sup>18</sup>, directing the Commission to give effect to a GreenPower scheme through suitable variations to the licence conditions of electricity retailers issued under the Utilities Act.

The scheme is intended to promote ecologically sustainable development in the provision of utility services and implements one of the objectives of *Weathering the Change—The ACT Climate Change Strategy 2007–2025*. The scheme requires licensed retailers to have access to a green energy product accredited through the National GreenPower Accreditation Program. The product must be the first offering of electricity to new and reconnecting customers. The product must also be offered and made available to existing customers at their request. All retailers must commence the offering of an accredited product to all classes of customer no later than 1 January 2009.

During the second half of 2007–08, the Commission commenced work to implement the GreenPower scheme. The licences of electricity retailers will be varied before the end of 2008 to include new licence conditions to give effect to the scheme.

### A.3.6 Utility licensing issues

#### Licence applications

In 2007–08 the Commission received and approved applications from Dodo Power & Gas Pty Ltd<sup>19</sup> and Australian Power & Gas Pty Ltd<sup>20</sup> for licences to provide electricity supply services and licences to provide gas supply services in the ACT. The Commission also received and approved an application from ERM Power Retail Pty Ltd<sup>21</sup> for a licence to provide electricity supply services.

Dodo Power & Gas Pty Ltd intends to retail to small–medium residential and business customers, Australian Power & Gas Pty Ltd intends to operate in a similar market (that is, the sub-160 MW/h and sub-1 TJ markets), and ERM Power Retail Pty Ltd intends to market to large non-domestic customers only. The licences for Australian Power & Gas Pty Ltd commenced on 1 July 2008.

#### Licence variations

The Commission approved a licence variation to reflect changes of a company name from Powerdirect Australia Pty Ltd to AGL Sales (Queensland Electricity) Pty Ltd. All other details remain the same.<sup>22</sup>

#### Licence exemptions

Section 21 of the *Utilities Act 2000* (ACT) states that a person must not provide a utility service except in accordance with a licence. Under section 22 of the Act, the Minister may, in writing, exempt a person from the requirement to hold a licence in relation to a utility service.

<sup>18</sup> DI2008–10

<sup>19</sup> 12 September 2007, NI2007–285

<sup>20</sup> 30 May 2008, NI2008–194

<sup>21</sup> 5 December 2007, NI2007–414

<sup>22</sup> 14 September 2007, NI2007–296

In 2007–08 the Minister granted three exemptions.<sup>23</sup>

- CC Jeffrey Pty Ltd was exempted from the requirement for a licence in relation to a water utility service for the Tharwa community.
- Mr Bruce Gibbs was exempted from the requirement for a licence in relation to a water utility service for the South Tharwa community for one year.
- Active Utilities Pty Ltd was exempted from the requirement for a licence to supply electricity on behalf of Direct Factory Outlet Canberra Pty Ltd.

### **Licence suspensions**

On 22 June 2007, Energy One was suspended from trading in the National Electricity Market (NEM). Consequently, Energy One could not supply electricity in the ACT, or in any other jurisdiction in which it is licensed. The suspension by the National Electricity Market Management Company (NEMMCO) triggered a ‘retailer-of-last-resort’ event in the ACT. On 19 October 2007, Energy One’s licence was suspended for the breach of a licence condition in respect of its ability to meet the Commission’s technical and prudential criteria as required under its licence.

### **Licensees at 30 June 2008**

Table 3 shows the utility licences that were current at 30 June 2008.

---

<sup>23</sup> Subject to the conditions set out in DI2007–169, DI2007–255, and DI2007–287.

Table 3 Utilities licence holders, at 30 June 2008

Service	Licensees
Electricity distribution and connection	ActewAGL Distribution
Electricity supply	ActewAGL Retail AGL Sales Pty Ltd AGL Sales Queensland Electricity Pty Ltd Aurora Energy Australian Power and Gas Pty Ltd Country Energy Dodo Power and Gas Pty Ltd Energy Australia EnergyOne ERMPower Retail Pty Ltd Integral Energy Australia Jackgreen Pty Ltd Electricity Licence Origin Energy Electricity Ltd Powerdirect Red Energy SUN Retail TRUenergy Pty Ltd TRUenergy Yallourn Pty Ltd
Gas transmission	East Australian Pipeline Ltd
Gas distribution and connection	ActewAGL Distribution
Gas supply	ActewAGL Retail Australian Power and Gas Pty Ltd Country Energy Dodo Power and Gas Pty Ltd Energy Australia Jackgreen Pty Ltd Gas Licence SUN Retail TRUenergy Pty Ltd
Water supply	ACTEW Corporation Ltd
Sewerage	ACTEW Corporation Ltd

### Licence fees

The Commission is authorised by the Utilities Act to determine licence fees annually for all providers of electricity, gas and water and wastewater utility services in the ACT. Licence fees recover ‘a reasonable contribution towards the costs incurred’ in regulating utilities during the year. For 2007–08, the total amount of licence fees determined by the Commission was \$2,108,070 of which \$668,875 was to recover the costs of the Commission, \$808,000 was to recover the costs of the technical regulator (ACT Planning and Land Authority) and \$631,195 was to recover the costs of the Essential Services Consumer Commission.

### Energy industry levy

In May 2007, the ACT Legislative Assembly passed the *Utilities (Energy Industry Levy) Amendment Act 2007*. The Act amended the Utilities Act by inserting Part 3A to provide for a new energy industry levy. The legislation came into effect on 1 July 2007 with the effect of progressively replacing licence fees for prescribed energy utilities. The legislation provides for a determination of levies payable by energy utilities to cover national and local regulatory costs incurred by the Territory in relation to the energy industry sectors. The levies are determined by a Levy Administrator appointed under the Act. The Chief Executive Officer of the Commission was appointed as the Levy Administrator in July 2007.

The levy provisions are subject to ACT tax law under the *Taxation Administration Act 1999*, and payment of levies is made to the ACT Commissioner for Revenue. For the 2007–08 year, a levy

was determined only for national costs. Separately, the Commission continued to determine licence fees for local regulatory costs. For the 2008–09 levy year, determinations will cover both national and local regulatory costs. The Commission will not determine licence fees for prescribed energy utilities for 2008–09 but will determine the energy industry levy.

### **A.3.7 Industry codes and guidelines**

#### **Gas Network Capital Contributions Code**

On 14 August 2007, the Commission approved the Gas Network Capital Contributions Code.<sup>24</sup> The code applies to gas distributors and suppliers and outlines the principles and procedures by which they may impose capital contribution charges on customers to develop or augment their gas network. It clarifies that the payment of the capital contribution charge does not confer any ownership in the asset.

The code defines a ‘basic connection to a gas network’ which a gas distributor must install free of charge. It also describes the situations in which a gas distributor may charge, and a customer must pay, a capital contribution charge for the development or augmentation of a gas network undertaken at the request of that customer. The code outlines how that charge should be calculated.

#### **Electricity Network Capital Contributions Code**

On 14 August 2007, the Commission approved the Electricity Network Capital Contributions Code.<sup>25</sup> The code applies to electricity distributors and outlines the principles and procedures by which an electricity distributor may impose capital contribution charges on customers to develop or augment a electricity network. It clarifies that the payment of the capital contribution charge does not confer any ownership in the asset.

The code defines what basic infrastructure an electricity distributor must install free of charge. It also describes the situations where an electricity distributor may charge, and a customer must pay, a capital contribution charge for the development or augmentation of a electricity network undertaken at the request of that customer. The code outlines how that charge should be calculated.

#### **Electricity Network Use of System Code**

On 14 August 2007, the Commission approved the Electricity Network Use of System Code.<sup>26</sup> The code requires electricity distributors and suppliers to enter into agreements that address certain prescribed terms. Prior to this variation, the code did not specify a time in which agreements must be reached or for the Commission to intervene in the event that agreement cannot be reached. The code was varied to provide more structure and guidance to the consultation and agreement process. The variation also established a ‘default agreement’ where agreement cannot be reached between the parties.

#### **Consumer Protection Code**

The Consumer Protection Code is an industry code under part 4 of the Act. The code outlines the basic rights of customers and consumers and utilities with respect to access to, and provision of, utility services. Utilities are obliged to give effect to these rights primarily through customer contracts. The code also deals with the general conduct of utilities (and their agents) in the delivery of utility services.

---

<sup>24</sup> The approval (DI2007–203) clarified the status of the code of the same title approved earlier.

<sup>25</sup> The approval (DI2007–204) clarified the status of the code of the same title approved earlier.

<sup>26</sup> DI2007–212

In November 2007, the Commission commenced public consultation on its intention to vary the Consumer Protection Code and called for comments. The Commission published a public notice, wrote to stakeholders and put a notice on its website. The Commission is working through a number of issues and expects to make a decision on the proposed variation before the end of 2008.

### A.3.8 Standard customer contract variations

The Commission approved variations to the schedules of charges in the ActewAGL Retail's standard customer contract for electricity supply services, ActewAGL Distribution's standard customer contract for gas connection and supply services, ACTEW Corporation's standard customer contract for water and sewerage services, and ActewAGL Distribution's standard customer contract for electricity connection and distribution services. The new charges were effective from 1 July 2008.

### A.3.9 Compliance and performance monitoring

The Commission is responsible under the Utilities Act for ensuring that licensed utilities in the ACT comply with the Act, utility licences, and relevant codes of practice. The Commission makes its assessment primarily through information provided to it through annual performance and compliance reports. In addition, the Commission seeks the advice of other government agencies that may be in a position to comment on the performance of utilities. As a condition of their licences, utilities must also report material breaches of licence conditions, legislation, codes of practice, directions or guidelines as soon as they become aware of them.

The annual compliance and performance reports are the principal means by which the Commission monitors licensees' compliance with their obligations under the Utilities Act and subordinate conditions included in their licences.

The annual compliance report for utility services for 2005–06 was released in November 2007. The Commission anticipates finalisation of the performance report for 2005–06 in the first part of 2008–09. Work on the 2006–07 performance and compliance reports commenced during 2007–08.

### A.3.10 Greenhouse Gas Abatement Scheme

The ACT Greenhouse Gas Abatement Scheme was established in the ACT through the *Electricity (Greenhouse Gas Emissions) Act 2004* (the Act) and commenced on 1 January 2005. The scheme is designed to reduce or offset greenhouse gas emissions associated with the production of electricity.

The ACT scheme mirrors the NSW Greenhouse Gas Reduction Scheme administered by the Independent Pricing and Regulatory Tribunal (IPART). The NSW scheme commenced in January 2003. The NSW and ACT schemes are, in many respects, operated as a single scheme. Under this arrangement, NSW IPART administers the overall scheme and accredits abatement projects, while the Commission is the regulator of the scheme in the ACT<sup>27</sup>.

The Commission has a number of functions as regulator. These include:

- determining the greenhouse gas reduction target, or electricity sector benchmark, for the ACT in any given year<sup>28</sup>

<sup>27</sup> Act, s 49.

<sup>28</sup> The benchmark for 2007 to 2020 is 7.27 tonnes of carbon dioxide (CO<sub>2</sub>) equivalent per capita. The electricity sector benchmark was set at 2,372,928 tonnes of CO<sub>2</sub> equivalent in Electricity (Greenhouse Gas Emissions) Determination 2006 NI2006–431.

- allocating a share of the benchmark to participants based on their market share of electricity sales in the ACT
- ensuring that electricity retailers in the ACT meet legislated targets for offsetting emissions.

Under the scheme, electricity suppliers reduce or offset a portion of their greenhouse gas emissions through the purchase and surrender of NSW Greenhouse Gas Abatement Certificates (NGACs). A per capita cap on emissions establishes how many NGACs each electricity supplier must surrender.

In June 2008, the Commission provided the Minister for the Environment, Water and Climate Change with the third annual report on the operation of the scheme. The report covered the 2007 compliance year. The Commission assessed that all but one ACT benchmark participants met their obligations under the scheme in the 2007 compliance year. All benchmark participants surrendered enough Greenhouse Gas Abatement Certificates to cover their liabilities. Four benchmark participants had no, or minimal, sales in the ACT in 2007 and were not required to surrender any abatement certificates.

## **A.4 Outlook**

*This section of the report focuses on future priorities for the Commission, likely trends and changes in the operating environment, and risks and issues facing the Commission in the immediate future.*

### **A.4.1 Progress on the transfer of energy regulation**

The transition to a national energy regulatory regime is outlined in Section A.2.2. The Commission notes that significant progress has been made in the transfer of responsibilities to the national regulator (in particular, the transfer of responsibility for the economic regulation of distribution networks). Nonetheless, the pace of the transfer has been much slower than was anticipated in earlier years, and this has made it difficult for the Commission to chart its future path.

Completing the transfer and working through the range of matters which must be addressed is also a considerable task for the ACT Government. This can only be done once there is certainty on the final form of the national retail and consumer protection framework for energy utilities and on the timeframe for its implementation.

It is clear, however, that implementation of the retail and consumer protection framework will require a major rethink of the current framework for utilities regulation in the ACT. This will, without doubt, affect the role of the Commission. A particular concern is to ensure that the present regulatory framework remains effective until the time that the transition is achieved. Ensuring the ongoing capability of the Commission during this period of change will be critical.

### **A.4.2 Responsibilities under the ICRC Act**

During 2008–09, the Commission will continue to discharge a number of important responsibilities under its enabling legislation, in particular:

- administering the water and wastewater tariff and regulatory determination, including making the adjustments under the determination for prices to apply from 1 July 2009
- considering other issues that may arise from the determination (such as questions relating to the water reuse project and the Tantangara Reservoir project)
- undertaking the annual oversight of ACTEW's annual capital expenditure program, as provided for under the current price determination

- determining electricity retail prices (the transitional franchise tariff or TFT), depending on whether the government issues further terms of reference for a determination from 1 July 2009
- providing advice on any other matters which might be referred to the Commission, or on complaints which require investigation or arbitration.

#### **A.4.3 Responsibilities under the Utilities Act**

During 2008–09, the Commission will continue to discharge important responsibilities under the Utilities Act, in particular:

- monitoring, enforcing and reporting on utility compliance and performance
- managing the utility licensing regime, including assessing applications to provide services, variations and exemptions, and changes to standard customer contracts
- reviewing industry codes
- determining licence fees and the energy industry levy.

#### **A.4.4 Responsibilities for the Greenhouse Gas Abatement Scheme**

During 2008–09, the Commission will continue to discharge responsibilities under the Electricity (Greenhouse Gas Emissions) Act, in particular:

- setting annual per capita benchmarks for greenhouse gas emission reductions
- ensuring that electricity retailers in the ACT meet legislated targets for offsetting emissions
- reporting on compliance outcomes to the portfolio minister (the Minister for Environment, Water and Climate Change).

The Commission observes that the implementation of a national emissions trading scheme (the Carbon Pollution Reduction Scheme) will have longer term consequences for the future of the ACT's Greenhouse Gas Abatement Scheme.

## A.5 Management discussion and analysis

*This discussion and analysis provides a high-level narrative of the Commission's financial results. It explains the significance of key financial information presented in the annual financial report and has been prepared in conjunction with that report. The audited report is reproduced in Appendix 1. The discussion also outlines key areas of risk and the strategies the Commission has in place for their management.*

### A.5.1 General overview

#### Risk management

The Commission has identified risk in several areas:

- consultant risk
- operational risk
- information risk
- workplace safety and related employee risks
- financial risk.

These risks continue to be assessed as low and are actively monitored and managed by the Commission. Comment on each of these areas is provided below.

#### Consultant risk

The Commission has reduced contractual risk through the appointment of a panel of expert advisors for a period of five years (through mid-2008). Each participating expert has been pre-assessed in terms of risks. The risks associated with non-performance of contracts for expert advice are also considered low because the Commission manages consulting contracts closely during their course. There were no incidents of contract non-performance in 2007–08.

#### Operational risk

The operational risk faced by the Commission concerns the adequacy of its workforce, in terms of both size and expertise. Although this is a government-wide issue, the highly specialised nature of the Commission's work makes it more difficult to attract and retain suitably qualified staff than in many other government agencies. To a large extent, the Commission manages the risk by outsourcing work where it has neither the level of resources nor specialist skills required. This is the case, for example, in relation to pricing reviews. Similarly, from time to time the Commission relies on contractors and non-ongoing appointments to the Commission's secretariat when additional resources are needed.

A significant reduction in the Commission's permanent staff over the past two years, coupled with the current skills shortage, places the Commission at greater risk than in earlier years of having inadequate human resources to perform fully its core functions. However, the risks have been reduced by the measures outlined above.

#### Information risk

Risks arising from inappropriate treatment of information are addressed in the Commission's 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 and secure physical storage of information. Where applicable, the Commission is guided by the 2007 ACT Protective Security Policy and Guidelines. The Commission specifically addresses information management issues by compliance with the ACT public sector policies and practices on records management.



Over 2007–08, the Commission began reviewing and updating office management procedure documentation with a view to improving routine business practices and reducing business continuity risks.

### **Workplace safety and related employee risks**

Workplace risks are managed on a daily basis. Management has close oversight of employee work practices, and office facilities. Responsibility for occupational health and safety representation is shared across the Commission’s team. A staff member is a trained fire warden. In the absence of the Commission’s first aid officer, an agreement with adjoining offices has been put in place for this responsibility. Responsibility for physical safety and security is supported through the Department of Justice and Community Safety, which manages accommodation services on the Commission’s behalf.

During 2007–08, no occupational health and safety incidents or dangerous occurrences were notified. The Commission provides a high level of support for staff and promotes work–family balance practices.

### **Financial risk**

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 adequate separation of powers, appropriate to a small office, and regular monitoring of accounts. Most revenue transactions 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).

## **A.5.2 Financial performance**

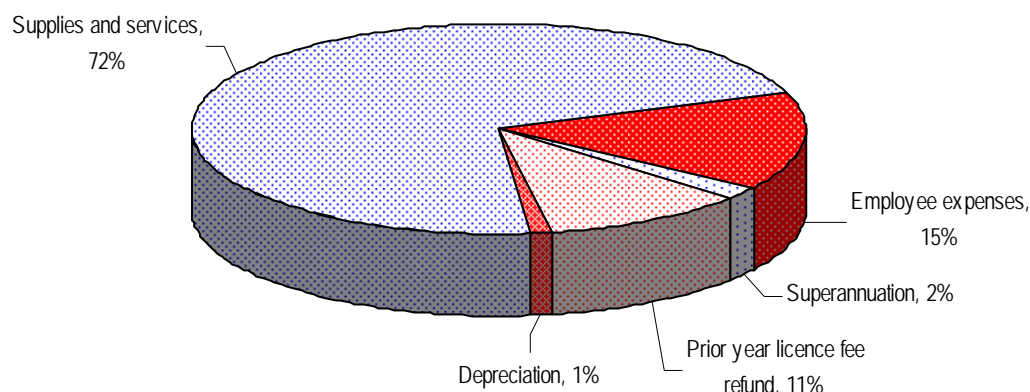
The following financial information is based on the Commission’s audited financial statements for 2006–07 and 2007–08, and the forward estimates contained in 2007–08 Budget Paper No. 4.

### **Total expenditure**

#### **Components of expenditure**

Figure 4 indicates the components of the Commission’s expenditure for 2007–08. The largest component of expenditure was supplies and services, which represented 72% of expenditure on ordinary activities or \$2.34 million. This year’s expenses also include a prior year licence fee rebate of \$0.349 million which was not present in 2006–07.

Figure 4 Components of expenditure 2007–08



### Comparison to budget

Total expenditure of \$3.245 million was \$1.285 million higher than the budgeted figure of \$1.960 million. This increase in expenditure was attributable mostly to a higher than expected cost of supplies and services, in particular increased expenditure incurred on external consultants used on the water and wastewater review.

### Comparison to 2006–07 actual expenditure

Total expenditure was \$1.466 million or 82% higher than the 2006–07 actual result. As outlined in the 2006–07 annual report Management Discussion and Analysis, a heavy reliance on the expertise of external consultants was needed to conduct the water and wastewater review. Professional services expenditure increased from \$0.135 million in 2006–07 to \$1.109 million in 2007–08.

The costs of other ACT Government agencies administering their responsibilities under the Utilities Act also increased by \$0.143 million or 19% in 2007–08 compared to 2006–07.

### Future trends

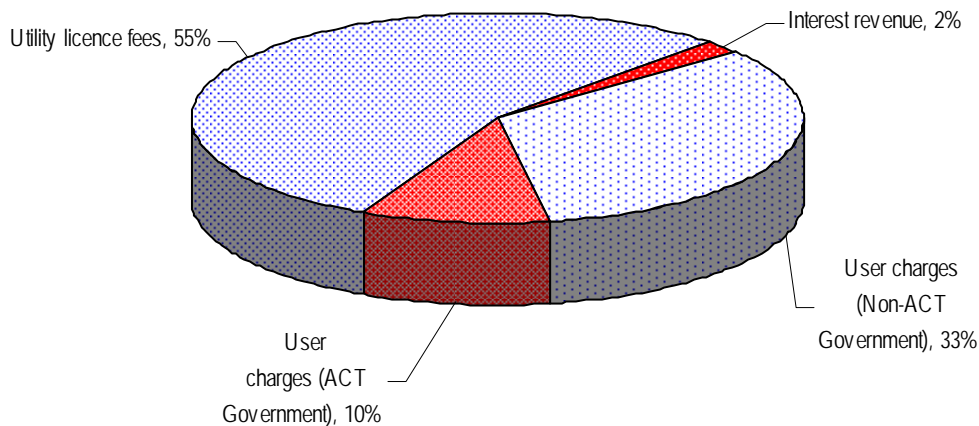
In anticipation of new national arrangements for the regulation of energy (gas and electricity) utilities, a new arrangement for the funding of regulatory responsibilities will come into effect through the introduction of the energy industry levy during 2008–09. The levy replaces the utility licence fees for the energy sector. The Commission will no longer collect or disburse licence fee revenue for energy regulation, but will continue to do so for water and wastewater licensing. In previous years, overall outgoings reflected the disbursement of fees collected on behalf of other government agencies. Over 2008–09, the Commission will have continued carriage of utilities licensing and compliance oversight.

## Total income

### Components of income

Figure 5 shows that the main source of income for the Commission is utilities licence fees of \$2.133 million (55% of total revenue). Non ACT Government user charges increased significantly during 2007–08 due to the Commission undertaking the water review and the recovery of associated costs.

Figure 5 Components of income 2007–08



### Comparison to Budget

Revenue for the year was \$3.847 million, \$1.872 million higher than expected. Utilities licence fee revenues were greater due to expected higher costs of regulation.

Overall user charges were greater due to the water review recovery of costs. Interest revenue was 102% greater due to an increase in interest rates on deposits and levels of cash reserves on hand.

### Comparison to 2006–07 actual income

Total revenue in 2007–08 was up \$1.499 million compared to the previous financial year (\$2.348 million). Utilities licence fee income increased 9%, user charges increased 392% and interest revenue increased from \$0.076 million to \$0.093 million in 2007–08.

### Future trends

The discussion of future trends in relation to expenditure is also relevant in the context of income.

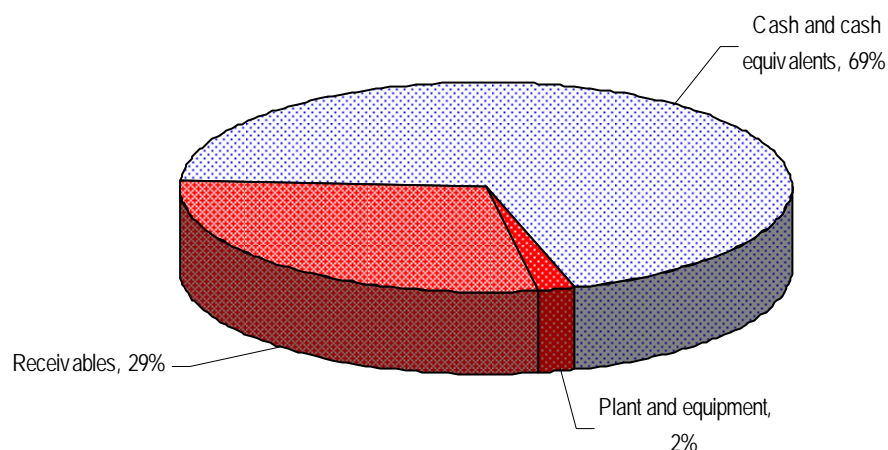
## A.5.3 Financial position

### Total assets

#### Components of total assets

Figure 6 shows that the Commission continued to hold the majority of its assets in cash reserves. Ninety-eight per cent of total assets are cash and receivables, while the remainder is plant and equipment.

Figure 6 Total assets as at 30 June 2008



### Comparison to Budget

The total asset position as at 30 June 2008 was \$2.26 million. This was \$1.198 million or 113% higher than the budgeted position due to higher cash reserves and receivables at year end. Total current assets were higher than anticipated (\$1.023 million budget compared to \$2.221 million actual).

### Comparison to 2006–07 actuals

The Commission's total asset position at 30 June 2008 was higher than at the end of 2006–07 because of higher receivables at year end. Total assets were \$2.26 million compared to \$1.687 million at 30 June 2007 (up \$0.573 million).

'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 compares the ability to fund short-term liabilities from short-term assets. A ratio of less than 1-to-1 may indicate a reliance on the next financial year's user charges (ACT Government) to meet short-term debts. Table 4 indicates the liquidity position of the Commission.

Table 4 Current ratio

Description	Prior year actual \$'000 2006–07	Current year budget \$'000 2007–08	Current year actual \$'000 2007–08	Forward year budget \$'000 2008–09	Forward year budget \$'000 2009–10	Forward year budget \$'000 2010–11
Current assets	1,635	1023	2221	1057	1101	1145
Current liabilities	673	615	623	619	620	620
Current ratio	2.4:1	1.7:1	3.6:1	1.7:1	1.8:1	1.9:1

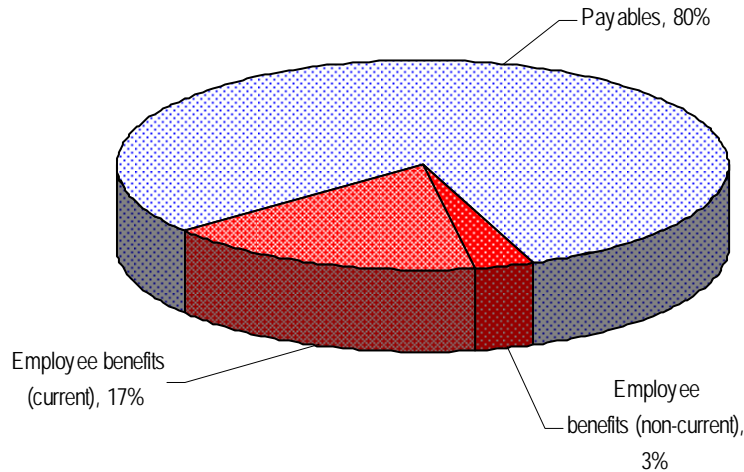
The Commission's current ratio for 2007–08 was 3.6 to 1, which was an increase from the budgeted current ratio of 1.7 to 1. The difference is reflected mainly in the lower than expected level of employee benefits at year end.

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

## Total liabilities

Figure 7 below indicates that the majority of the Commission's liabilities relate to payables (80%).

Figure 7 Total liabilities as at 30 June 2008



The Commission's total liabilities for the year ended 30 June 2008 of \$0.644 million were \$0.016 million or 2.5% higher than budget and \$0.029 million or 4% lower than the level for the year ended 30 June 2007. The decrease relates to payables, particularly amounts to other ACT Government departments. As anticipated, employee benefits have increased, but not to the extent expected.

## A.6 Financial report

The Commission has prepared financial statements for 2007–08 in accordance with the relevant accounting standards. The statements were independently audited as required by the *Financial Management Act 1996*, ACT Accounting Standards and the Chief Minister's 2007–2010 Annual Report Directions. The audit opinion, financial statements and accompanying notes to the statements are in Appendix 1.

## A.7 Statement of performance

Each year, the Commission provides a set of performance objectives in Budget Paper No. 4. The measures indicate the expected outputs for each year, noting that the actual outputs are subject to considerable volatility. Much of the Commission's workload is reactive, responding to matters at the request of members of the community, ministers, members of the Legislative Assembly or government agencies. Other outputs, such as utility pricing decisions, are determined in laws such as the National Electricity Law and National Gas Law and their attendant codes.

In 2007–08, the Commission substantially met or exceeded its performance measures, except for preparation of the annual performance report for utilities licensed under the Utilities Act. The performance report was largely completed at 30 June 2008; publication was expected early in the 2008–09 financial year.

The statement of performance and the auditor's opinion and statement of responsibility are included in Appendix 2 of this annual report.



## Part B Commission's performance on consultation and scrutiny

### B.1 Community engagement

In the fulfilment of its statutory responsibilities and organisational objectives, the Commission is committed to full and open consultation with the community on matters under investigation. The Commission encourages and provides opportunities for participation at all stages of its inquiries by individuals and 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, and submissions from interested parties are encouraged. Where public hearings are held, members of the public are invited to attend to make personal submissions.

During 2007–08, the Commission undertook two important inquiries into regulated industries:

- inquiring into prices for water and wastewater services and the making of a price direction for the five-year period from 2008–09
- determining retail prices for non-contestable electricity customers for the 2008–09 year.

For the water and wastewater inquiry, the Commission prepared three discussion papers, a working conclusions paper and a draft report before releasing a final report. The draft report was also the subject of a public hearing and there were also separate meetings with interested community and industry groups on matters raised in the Commission's discussion papers on this matter. A draft report on the retail prices for non-contestable electricity customers was released for consultation prior to preparation of the final report. Copies of all submissions received in relation to inquiries are published on the Commission's website, with the exception of those identified as confidential by the submitter.<sup>29</sup> A transcript of the water and wastewater inquiry hearing is publicly available.

All licensing and code decisions and many of the issues associated with their making are publicly notified and all are available through the Commission's website.

In addition, the Commission plays an important role in informing the debate on regulatory issues in the broader community. In 2007–08, the Commission continued to provide information to the community through presentations at meetings, conferences and seminars, and through media interviews.

All documents generated by the Commission (except those deemed confidential to protect the legitimate interests or privacy of firms or individuals) are 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](http://www.icrc.act.gov.au)).

---

<sup>29</sup> Submissions on the water and wastewater inquiry were received from 19 parties. In some cases, a party made two or more submissions. Submissions on the retail electricity tariff were received from five parties. Eight parties made verbal presentations at the public hearing.

## B.2 Internal and external scrutiny

### B.2.1 Auditor-General's reports

The Commission was included in the Auditor-General's report on annual financial statements for the year ended 30 June 2008. The Auditor-General gave an unqualified opinion on the Commission's financial statements and statement of performance. The Commission has maintained an unbroken record of unqualified audit opinions since it was first subject to the audit requirement in 2000. The Commission's unqualified audited financial statements for 2007–08 appear in Appendix 1.

### B.2.2 ACT Ombudsman's reports

During 2007–08, the Commission was not the subject of any complaint to or investigation by the ACT Ombudsman.

## B.3 Legislative Assembly committee inquiries and reports

The Commission was not the subject of a review by a Legislative Assembly committee in 2007–08. The Commission participated in Legislative Assembly Estimates Committee and Public Accounts Committee reviews of Budget estimates for the period to 30 June 2008 and annual reports for the period to 30 June 2007.

## B.4 Legislation report

During 2007–08, the Commission's principal responsibilities were under the:

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

The Commission also had obligations under a range of other laws, including:

- *Electricity (Greenhouse Gas Emissions) Act 2004*
- *Electricity (National Scheme) Act 1997*<sup>30</sup>
- *Financial Management Act 1996*
- *Gas Pipelines Access (ACT) Act 1998*<sup>31</sup>
- *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*.

The Commission does not have policy carriage for the enactment of legislation, but is responsible for the approval of a number of statutory instruments. These include industry codes under the Utilities Act. Detailed information on codes is provided in Section A.3.7.

---

<sup>30</sup> This Act gives force in the ACT to the National Electricity Rules.

<sup>31</sup> This Act was repealed by the *National Gas (ACT) Act 2008* with effect from 1 July 2008.



## Part C Legislative and policy-based reporting

### C.1 Risk management and internal audit

Commission discussion of its approach to risk management is in Section A.5 (Management discussion and analysis). The discussion covers:

- consultant risk
- operational risk
- information risk
- workplace safety and related employee risks
- financial risk.

As noted in Section A.5, these risks continue to be assessed as low and are actively monitored and managed by the Commission. Notwithstanding, the Commission is committed to ongoing improvement of its approach to risk management.

The Commission notes that it is a very small organisation, and the establishment of a formal internal audit committee of the type envisaged in the Annual Report Directions is not appropriate. While this is the case, the Commission is attentive to the need for strong internal audit controls.

In 2007–08, for example, the Commission engaged KPMG to undertake an independent tax compliance review. This entailed:

- a high-level review of the systems used by the Commission to capture and report the goods and services tax, fringe benefits tax, pay-as-you-go tax payments, and the superannuation guarantee
- identification of high-risk areas of non-compliance with those tax and superannuation obligations
- identification of areas for improvement in the management of reporting obligations (including for business activity statements).

The review found that the Commission had adequate systems in place to capture relevant information.

### C.2 Fraud prevention

The Commission's financial risk management practices are designed to prevent financial fraud. The Commission restricts control of financial transactions, invoicing, payments and banking to reduce fraud and mishandling of funds. Similar tight controls are applied to cash; no cash, other than petty cash, is kept in the Commission. Immediate lines of supervision ensure that information is not used for private advantage or fraudulent purposes. The Senior Commissioner maintains regular and frequent oversight of activities and principal transactions.

In relation to contract tendering, all members of tender evaluation teams are asked to disclose any conflict of interest or association they might have with the respondents for proposed projects. No member has disclosed that he or she has any conflicts of interest or associations justifying declaration with any of the respondents. Evaluation processes are conducted in accordance with endorsed procedures and legislative requirements, and in close liaison with ACT Procurement Solutions.

## C.3 Public interest disclosure

Like other government agencies, the Commission has 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 Government, including those 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 Commission's procedures are publicly available.

During 2007–08, the Commission received no public interest disclosure requests, and was involved in no incidents involving public interest disclosure.

## C.4 Freedom of information

### C.4.1 Section 7 statement

Section 7 of the *Freedom of Information Act 1989* (FOI Act) sets out requirements for the publication of information concerning functions and documents of agencies. The Commission is also subject to requirements under both the ICRC Act and the Utilities Act to make public all decisions, submissions to inquiries, reports, draft reports and reasons for the Commission's decisions. Guidelines about information access and confidentiality are available on the Commission's website ([www.icrc.act.gov.au](http://www.icrc.act.gov.au)).

### Organisational functions and powers

A summary of the Commission's organisational functions is set out in Section A.1.1. A list of legislation under which the Commission exercises statutory powers is in Section B.4.

### Public participation in decision making

An account of the Commission's activities and obligations under legislation to promote public participation in decision making is set out in Section B.1.

### Categories of documents

The Commission holds several basic categories of documents:

- those that are freely available on request and without charge
- all other kinds of documents that may be available under the FOI Act.

No documents produced by the Commission are sold.

### Documents available on request and without charge

Documents within this category include draft and final reports on investigations on all issues relating to prices, access disputes, access arrangement proposals, and decisions on utilities

licensing, and approval of industry codes and code variations. These documents are distributed from the Commission's office, are made available to libraries throughout the ACT, and are available on the Commission's webpage and/or the ACT Legislation Register.

### **Documents of other kinds that may be available under the FOI Act**

Documents of other kinds that may be available under the FOI Act include:

- general files including internal, interagency and public documents, minutes of meetings, agendas and background papers
- financial and accounting records
- details of contracts and tenders
- utility licensing-related files
- utility performance and compliance data and records
- inquiry-specific files, including analyses and modelling, and stakeholder submissions.

### **Access arrangements**

People seeking information are encouraged to seek access through contact with the Commission before initiating formal access through the FOI Act.

The Chief Executive Officer of the Commission is the contact for requests of this type.

The Commission's offices at 12 Moore Street, Canberra City are wheelchair accessible. Public parking is nearby, including a public car park on Marcus Clarke Street. Public transport is readily available.

#### **C.4.2 Section 8 statement**

Section 8 provides for making available documents which guide decision making. The Commission promotes transparency in decision making. These documents are available on request. In addition, the Commission's policies on the treatment of confidential and personal information under the ICRC Act and its determined disclosure guidelines are available on the Commission's website.

#### **C.4.3 Section 79 statement**

During 2007–08, the Commission received no requests for information disclosure under the terms of the FOI Act.

### **C.5 Internal accountability**

*The structure of the Commission is set out in Figure 3 in Section A.1.3 of this annual report.*

During 2007–08, Paul Baxter was the Senior Commissioner (appointed 1996; reappointed 2004; term expires 30 June 2009). Under the ICRC Act, the Senior Commissioner is responsible for the good management of the Commission. The ICRC Act requires that the Commission be composed of at least three commissioners. In June 2006, the appointments of the two standing commissioners ceased. Replacement commissioners had not yet been appointed as of 30 June 2008.

From 1 July 2007 to mid-January 2008, the Commission's chief executive officer was Dr Susan Faulbaum. Ms Shelley Schreiner was appointed chief executive officer from 14 January 2008.

As set out in the ICRC Act, the Senior Commissioner is 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 that 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 equal employment opportunity.

During 2007–08, the Senior Commissioner continued to provide a high level of corporate governance oversight of the Commission.

Remuneration for the Senior Commissioner is subject to determination by the ACT Remuneration Tribunal.

Section 10B of the ICRC Act sets out the functions of the chief executive officer as follows:

- ensuring, as far as practicable, that the Commission's statement of intent is implemented effectively and efficiently
- managing the day-to-day operations of the commission secretariat in accordance with applicable governmental policies (if any) for the Commission; the policies set by the Commission (if any); and each legal requirement that applies to the Commission
- regularly advising the Commission about its operation and financial performance.

Given the size of the Commission, there are no formally constituted senior management committees.

The Commission continued to pursue best practice in its corporate governance and management, including by implementing relevant recommendations on governance made by the ACT Auditor-General's 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 opportunities for public consultation.

The Commission promotes appropriate ethical standards to guide conduct. Staff are aware of the expectations of government and the community for professionalism and probity in the ACT Public Service, and of the ethical framework of values and principles developed under the *Public Sector Management Act 1994* that underpin public administration.

## C.6 Human resources performance

*This section describes the Commission's approach to human resources management and workforce planning, including the alignment of the workforce profile to meet its objectives and responsibilities.*

The Commission's continuing approach to managing human resources efficiently and effectively is to maintain a core permanent staff with critical skills and experience. Areas of expertise include areas regulatory economics, regulatory law and policy, and administrative support. The Commission also employs a strategy of accessing specialist skills through contract and non-ongoing staff and consultants (see Section C.14 for details of such consultancies in 2007–08). This strategy recognises the need for the Commission to respond when references or other requests require additional capacity. It provides the flexibility to respond to future challenges, particularly in an environment in which the future regulatory framework has yet to be finalised.

The Commission also seeks to work collaboratively with other parties within the ACT Government and other Australian regulatory bodies to ensure that it is able to make use of work being undertaken elsewhere and avoid unnecessary duplication.

The Commission aims to sustain community confidence in its work through high-quality work and processes that emphasise transparency and consultation. In 2007–08, the Commission was proud of the achievements and productivity of its staff.

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 constraints imposed on a small organisation with few permanent staff have resulted, over time, in relatively high staff turnover, particularly as the key capability areas identified above are ones in high demand Australia-wide. On the other hand, the Commission's small scale, which provides opportunities for broad experience and substantial responsibility for outcomes, is a factor that may attract staff to the organisation.

Given its small size, the Commission has not implemented any specific employment strategies, including for people with a disability, apprenticeships and traineeships.

## C.7 Staffing profile

Table 5 provides details of the Commission's staffing profile at 30 June 2008.

Table 5 Staffing profile of the Commission at 30 June 2008

Level	Number	Full-time		Part-time	
		Female	Male	Female	Male
SES	0				
SOG A	2	1	1		
SOG B	2	1			1
SOG C	0				
ASO 5	1			1	
ASO 4	1	1			
ASO 3	1	1			
<b>Total</b>	<b>7</b>	<b>4</b>	<b>1</b>	<b>1</b>	<b>1</b>

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

Note: The table includes full-time permanent and part-time contract staff. This relates to 'head count'; The FTE count is in Section A.1.3. The Senior Commissioner is not included in the table.

## **C.8 Learning and development**

*This section outlines how learning and development programs and activities have ensured skills and knowledge are retained and enhanced within the Commission.*

During 2007–08, the Commission was guided by the objectives for learning and development in the Department of Justice and Community Safety’s Union Collective Agreement 2007–2010. The Commission was supported in this by the department and was able to access learning and development opportunities for staff. The department launched its Personal Achievement and Development Policy and Framework in November 2007. Information on the department’s programs and initiatives is available separately in its 2007–08 annual report.

In addition to this support, the Commission encouraged staff to take advantage of other learning and development opportunities, including attendance at conferences, seminars and training sessions and programs relevant to the Commission’s specific responsibilities.

## **C.9 Workplace health and safety**

*This discussion complements that in Section A.5.1 on risk management, which was prepared as part of the management discussion and analysis supporting the audited annual financial report.*

The Commission was a signatory to the ACT public sector injury prevention policy and agreement in 2003. The policy is still in place.

During 2007–08, Commission staff were able to access wellness programs provided through the Department of Justice and Community Safety, including flu vaccinations and health assessments.

Within the office environment, work to mitigate the temporary nature of the accommodation and to provide an enhanced work environment free of obstructions and potential hazards was undertaken, including clearing furniture and stored papers.

There were no accidents or dangerous occurrences which required the giving of notices under section 204 of the *Occupational Health and Safety Act 1989* (OHS Act).

There were no investigations conducted during 2007–08, and there were no notices given under sections 146 (improvement notices), 155 (prohibition notices) and 212 (notices of noncompliance by Territory entities) of the OHS Act.

## **C.10 Workplace relations**

Staff of the Commission are covered by the Department of Justice and Community Safety Union Collective Agreement 2007–10.

One staff member was covered by a Special Employment Arrangement. There were no Australian Workplace Agreements in place.

There was no Special Employment Arrangement providing for a privately plated vehicle.

## **C.11 Strategic Bushfire Management Plan**

The Commission has no reporting obligations under the Strategic Bushfire Management Plan.

## C.12 Strategic asset management

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

## C.13 Capital works

The Commission did not undertake capital works in 2007–08. The Commission has no capital assets, other than the furniture and fittings referred to above.

## C.14 Government contracting

*This discussion complements that in Section A.5.1 on risk management, which was prepared as part of the management discussion and analysis supporting the audited annual financial report.*

The Commission confirms that during 2007–08 selection and management processes complied with the *Government Procurement Act 2001* and the *Government Procurement Regulation 2007*. The Commission worked closely with ACT Procurement Solutions on procurement processes.

Table 6 lists consultants and contractors involved in the Commission's operations during 2007–08.

**Table 6 Contractor and consultant services, 2007–08**

Consultant/contractor <sup>a</sup>	Description of service (date contract let)	Value \$ <sup>b</sup>
Careers Unlimited	Provision of staff placement services (July 2007)	7,730
Deloitte Touche Tohmatsu	Provision of regulatory analysis and advice (water and wastewater inquiry) (May 2007)	145,599
Halcow Pacific	Provision of regulatory analysis and advice (water and wastewater inquiry) (March 2008)	51,209
Independent Pricing and Regulatory Tribunal	Provision of regulatory analysis and advice (water and wastewater inquiry) (March 2007)	10,000
Jaikrish Pty Ltd	Provision of regulatory analysis and advice (water and wastewater inquiry) (June 2007)	114,730
Jindabyne Business Services	Provision of financial management and accounting services (Rollover of contract—July 2006)	50,600
KPMG Consulting	Provision of regulatory analysis and advice (utilities 2005–06 performance report) (November 2007)	43,863
Mercer (Australia) Pty Ltd	Provision of position assessment services	1,886
MMA	Provision of regulatory analysis and advice (water and wastewater inquiry) (May 2008)	280,142
PricewaterhouseCoopers (PWC)	Provision of regulatory analysis and advice (water and wastewater inquiry) (May 2008) (regulated retail electricity pricing review 2007–08) (April 2008) (regulated retail electricity pricing review 2008–09) (April 2008)	370,144
Primrose and Associates Pty Limited	Provision of regulatory advice and administrative services (April 2007)	6,834
WordsWorth Writing	Provision of editorial and design services	26,212

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.

## **C.15 Community grants, assistance and sponsorship**

The Commission neither provided community grants, assistance or sponsorship nor administered grants, assistance or sponsorships on behalf of government agencies.

## **C.16 Territory records**

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 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.

The Commission's approved records disposal schedule are found on the ACT Legislation Register (*see* Territory Records (Records Disposal Schedule – Independent Competition and Regulation Records) Approval 2006 (No 1) Notifiable instrument NI2006—28).

The Commission holds no records subject to Part 3 (Access to records) of the Territory Records Act.

## **C.17 Human Rights Act 2004**

The Commission has no specific activities to report in relation to the *Human Rights Act 2004*.

## **C.18 Commissioner for the Environment**

The Commission responded to the request by the Commissioner for the Environment for information on energy use in the ACT as part of the preparation of the 2007–08 *State of the Environment Report*.

## **C.19 ACT Multicultural Strategy**

The Commission has no specific activities to report in relation to the ACT Multicultural Strategy.

The Commission encourages access to its processes by all members of the community. The Commission does not provide its reports in languages other than English, as the cost would be prohibitive. Where appropriate, the Commission will assist members of the community through use of, or referral to, translation services.

## **C.20 Aboriginal and Torres Strait Islander reporting**

The Commission has no specific activities to report in relation to Aborigines and Torres Strait Islanders.

## **C.21 Ecologically sustainable development**

In the delivery of its core responsibilities, the Commission continued to further objectives of the ACT Greenhouse Strategy, in particular through its role as compliance regulator for the ACT Greenhouse Gas Abatement Scheme, and through its responsibility for implementing the GreenPower scheme.



In its operations, the Commission encourages staff to manage resource use responsibly. Consistent with the government's 'no waste' policies, the Commission continued its commitment to reducing the amount of paper it uses and increasing its recycling activities. The Commission will participate in the Department of Justice and Community Safety's commingled recycling initiative commencing in 2008–09.

The Commission receives corporate support for accommodation through the department. Commission consumption data is aggregated with that of the department and is reported in the department's annual report.

Table 7 summarises Commission paper consumption data in 2007–08. Table 8 summarises the Commission's ecological sustainability priorities.

**Table 7** Commission paper consumption data, 2007–08

Resource	Size/Amount	Collection	Total annually
Secure paper	1 x 240 litre bin	Every 8 weeks / upon request	9 x 240 litre bins
Non-secure paper	1 x 240 litre bin	Upon request	5 x 240 litre bins
Paper (used)	2.6 reams	Weekly	137 reams

**Table 8** Commission activities supporting ecologically sustainable development, 2007–08

Issue	Activity	Outcome
<i>Core business</i>		
Compliance regulation	Establishing benchmarks, monitoring compliance and penalising non-compliance under the ACT Greenhouse Gas Abatement Scheme, and implementation of the GreenPower 'opt-out' 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	Reduced print runs and mail-outs of published documents, complemented by greater reliance on website availability	Reduced resource use
Consumables	Recycling of used fax, printer and copier cartridges	Improved recycling practices
Disposables	Paper and cardboard recycling	Reduced impact on landfill
Energy use	Encourage shutdown of PCs	Reduced energy use

## C.22 ACT Women's Plan 2004–2009

The Commission has no specific activities to report in relation to the ACT Women's Plan.

# Appendixes

## Appendix 1 Financial report and audit report

### Independent Competition and Regulatory Commission

#### Financial Report

For the year ended 30 June 2008

## Auditor's opinion on the Financial Statements



**ACT AUDITOR-GENERAL'S OFFICE**



### INDEPENDENT AUDIT REPORT

#### Independent Competition and Regulatory Commission

To the Members of the ACT Legislative Assembly

#### Audit Opinion

In my opinion, the financial report of the Independent Competition and Regulatory Commission (the Commission) for the year ended 30 June 2008:

- (i) is presented in accordance with the *Financial Management Act 1996*, Accounting Standards and other mandatory financial reporting requirements in Australia; and
- (ii) presents fairly the financial position of the Commission as at 30 June 2008 and the results of its operations and its cash flows for the year then ended.

This audit opinion should be read in conjunction with the following information.

#### Responsibility for the Financial Report

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

#### Contents of the Financial Report

The financial report is comprised of the Operating Statement, Balance Sheet, Statement of Recognised Income and Expense, Cash Flow Statement and accompanying notes.

#### The Auditor's Responsibility

My responsibility is to express an opinion on the financial report as required by the *Financial Management Act 1996*.

#### The Audit Scope

My audit was conducted in accordance with Australian Auditing Standards to provide reasonable assurance as to whether the financial report is free of material misstatement.

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](mailto:actauditorgeneral@act.gov.au)

I formed the audit opinion by performing procedures to assess whether, in all material respects, the financial report presents fairly, in accordance with the *Financial Management Act 1996*, Accounting Standards and other mandatory financial reporting requirements in Australia, a view that is consistent with my understanding of the financial position and performance of the Commission.

The nature of an audit is influenced by factors such as the use of professional judgement, selective testing, the inherent limitations of internal control and, in many cases, the availability of persuasive rather than conclusive evidence. Therefore, an audit cannot guarantee that all material misstatements have been detected.

My procedures included:

- (i) examining, on a test basis, evidence supporting the amounts and other disclosures in the financial report; and
- (ii) evaluating accounting policies and significant accounting estimates used in the preparation of the financial report.

I considered the effectiveness of internal controls when determining the nature and extent of my procedures, however, the audit was not designed to provide assurance on internal controls.

My audit was also not designed to provide assurance on the appropriateness of the budget information included in the Commission's financial report or to evaluate the prudence of decisions made by the Commission.

### **Electronic Presentation of the Audited Financial Report**

Those viewing an electronic presentation of this audited financial report should note that this audit does not provide assurance on the integrity of information presented electronically and does not provide an opinion on any other information which may have been hyperlinked to or from this report. If users of the report are concerned with the inherent risks arising from the electronic presentation of information, they are advised to refer to the printed copy of the audited financial report to confirm the accuracy of this electronically presented information.

### **Independence**

In conducting my audit, I followed applicable independence requirements of Australian professional ethical pronouncements.

Tu Pham  
Auditor-General  
5 August 2008

## Statement of responsibility

**Independent Competition & Regulatory Commission  
Financial Report  
For the Year Ended 30 June 2008**

---

### Statement of Responsibility

In my opinion, the financial report is in agreement with the Commission's accounts and records and fairly reflects the financial operations of the Commission for the year ended 30 June 2008, and the financial position of the Commission on that date.

Shelley Schreiner  
Chief Executive Officer  
Independent Competition & Regulatory  
Commission

4 August 2008

## Independent Competition and Regulatory Commission

### Territory Authority financial report for the year ended 30 June 2008

#### Operating Statement for the year ended 30 June 2008

	Note No.	Actual 2008 \$'000	Budget 2008 \$'000	Actual 2007 \$'000
<b>Income</b>				
<i>Revenue</i>				
User Charges—ACT Government	4	378	839	314
User Charges—Non-ACT Government	5	1,263	–	19
Fees	6	2,113	1,090	1,939
Interest	7	93	46	76
<i>Total Revenue</i>		<u>3,847</u>	<u>1,975</u>	<u>2,348</u>
<b>Total Income</b>		<b><u>3,847</u></b>	<b><u>1,975</u></b>	<b><u>2,348</u></b>
<b>Expenses</b>				
Employee Expenses	8	473	742	486
Superannuation Expenses	9	72	151	96
Supplies and Services	10	2,338	1,054	1,184
Prior Year Licence Fee Refund	11	349	–	–
Depreciation and Amortisation	12	13	13	13
<b>Total Expenses</b>		<b><u>3,245</u></b>	<b><u>1,960</u></b>	<b><u>1,779</u></b>
<b>Operating Surplus</b>		<b><u>602</u></b>	<b><u>15</u></b>	<b><u>569</u></b>

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

## Independent Competition and Regulatory Commission

### Balance Sheet as at 30 June 2008

	Note No.	Actual 2008 \$'000	Budget 2008 \$'000	Actual 2007 \$'000
<b>Current Assets</b>				
Cash and Cash Equivalents	15	1,562	796	1,586
Receivables	16	659	227	49
<b>Total Current Assets</b>		<b>2,221</b>	<b>1,023</b>	<b>1,635</b>
<b>Non-Current Assets</b>				
Plant and Equipment	17	39	39	52
<b>Total Non-Current Assets</b>		<b>39</b>	<b>39</b>	<b>52</b>
<b>Total Assets</b>		<b>2,260</b>	<b>1,062</b>	<b>1,687</b>
<b>Current Liabilities</b>				
Payables	18	513	374	582
Employee Benefits	19	110	239	91
Income Tax Payable		–	2	–
<b>Total Current Liabilities</b>		<b>623</b>	<b>615</b>	<b>673</b>
<b>Non-Current Liabilities</b>				
Employee Benefits	19	21	13	–
<b>Total Non-Current Liabilities</b>		<b>21</b>	<b>13</b>	<b>–</b>
<b>Total Liabilities</b>		<b>644</b>	<b>628</b>	<b>673</b>
<b>Net Assets</b>		<b>1,616</b>	<b>434</b>	<b>1,014</b>
<b>Equity</b>				
Accumulated Funds	20	1,616	434	1,014
<b>Total Equity</b>		<b>1,616</b>	<b>434</b>	<b>1,014</b>

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

## Independent Competition and Regulatory Commission

### Statement of Recognised Income and Expenses for the year ended 30 June 2008

	Note No.	Actual 2008 \$'000	Budget 2008 \$'000	Actual 2007 \$'000
<b>Balance at the Beginning of the Reporting Period</b>	20	1,014	419	445
<i>Accumulated Funds</i>				
Operating Surplus		602	15	569
<b>Total Income and Expense Recognised Directly in Equity for the Reporting Period</b>		<b>602</b>	<b>15</b>	<b>569</b>
<b>Balance at the End of the Reporting Period</b>	20	<b>1,616</b>	<b>434</b>	<b>1,014</b>

The above Statement of Recognised Income and Expenses should be read in conjunction with the accompanying notes.



## Independent Competition and Regulatory Commission

### Cash Flow Statement for the year ended 30 June 2008

	Note No.	Actual 2008 \$'000	Budget 2008 \$'000	Actual 2007 \$'000
<b>Cash Flows from Operating Activities</b>				
<b>Receipts</b>				
Fees		1,765	1,090	1,938
User Charges—ACT Government		378	839	516
User Charges—Non-ACT Government		886	–	19
Interest Received		94	46	71
Goods and Services Tax Collected from Customers		93	–	22
Other Tax Credits		104	83	23
<b>Total Receipts from Operating Activities</b>		<b>3,320</b>	<b>2,058</b>	<b>2,589</b>
<b>Payments</b>				
Employee		679	880	317
Goods and Services Tax Remitted to Australian Tax Office		22	–	13
Goods and Services Tax Paid to Suppliers		183	–	65
Superannuation		95	–	63
Supplies and Services		2,365	1,047	1,314
<b>Total Payments from Operating Activities</b>		<b>3,344</b>	<b>2,025</b>	<b>1,772</b>
<b>Net Cash (Outflows)/Inflows from Operating Activities</b>	23	<b>(24)</b>	<b>33</b>	<b>817</b>
<b>Net (Decrease)/Increase in Cash Held</b>		<b>(24)</b>	<b>33</b>	<b>817</b>
Cash and Cash Equivalents at the Beginning of the Reporting Period		1,586	763	769
<b>Cash and Cash Equivalents at the End of the Reporting Period</b>	23	<b>1,562</b>	<b>796</b>	<b>1,586</b>

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 2007

### Note index

Note 1	Objectives of Independent Competition and Regulatory Commission
Note 2	Summary of significant accounting policies
Note 3	Change in accounting policies
<b>Income notes</b>	
Note 4	User charges—ACT Government
Note 5	User charges—Non-ACT Government
Note 6	Fees
Note 7	Interest
<b>Expense notes</b>	
Note 8	Employee expenses
Note 9	Superannuation expenses
Note 10	Supplies and services
Note 11	Prior year licence fee refund
Note 12	Depreciation
Note 13	Act of Grace payments
Note 14	Auditor's remuneration
<b>Asset notes</b>	
Note 15	Cash and cash equivalents
Note 16	Receivables
Note 17	Plant and equipment
<b>Liabilities notes</b>	
Note 18	Payables
Note 19	Employee benefits
<b>Equity note</b>	
Note 20	Equity
<b>Other notes</b>	
Note 21	Financial instruments
Note 22	Commitments
Note 23	Cash flow reconciliation
Note 24	Events occurring after balance date
Note 25	Contingent liabilities

## Notes to and forming part of the Financial Report

### Note 1 Objectives of Independent Competition and Regulatory Commission

#### Operation and principal activities of Independent Competition & Regulatory Commission

The Independent Competition and Regulatory Commission (the Commission) 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; and
- to ensure non-discriminatory access to monopoly or near monopoly infrastructure.

In the *Utilities Act 2000*, the 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 the Commission by the Essential Services Consumer 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; and
- 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* issued under the Act, 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 Recognised Income and Expense for the year;
- (iv) a Cash Flow Statement for the year;
- (v) a summary of the significant accounting policies adopted for the year; and
- (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, comprising accounting standards and UIG interpretations issued by the Australian Accounting Standards Board; and
- (ii) ACT Accounting Policies.

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 assets which were valued in accordance with the (re)/valuation policies applicable to the Commission during the reporting period.

The Commission is an individual reporting entity.

#### **(b) The reporting period**

This financial report states the financial performance, changes in equity and cash flows of the Commission for the reporting period from 1 July 2007 to 30 June 2008 together with the financial position of the Commission as at 30 June 2008.

#### **(c) Comparative figures**

##### *Budget figures*

The *Financial Management Act 1996* requires the statements to facilitate a comparison with the Statement of Intent. Budget information provided for 2007–08 matches the budget information contained in the Commission's 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 is 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 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 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 were less than the licence fees collected, the 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) Taxation**

The Commission activities are exempt from all forms of taxation except Fringe Benefits Tax and Goods and Services Tax.

**(g) Current and non-current items**

Assets and liabilities are classified as either current or non-current in the Balance Sheet. Assets are classified as current where they are expected to be realised within twelve months after the reporting date. Liabilities are classified as current when they are due to be settled within twelve months after the reporting date or the Commission does not have an unconditional right to defer settlement of the liability for at least twelve months after the reporting date.

**(h) 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 which are subject to an insignificant risk of changes in value. Cash equivalents include short-term investments held in the Cash Enhanced Portfolio with the Territory Banking Account. Investments in the Cash Enhanced Portfolio are measured at fair value. Bank overdrafts are included in cash and cash equivalents in the cash flow statement but not in the Balance Sheet.

**(i) Receivables**

Accounts receivable (including both trade receivables and other receivables) are initially recognised at fair value and are subsequently measured at amortised cost, with any adjustments to the carrying amount going through the Operating Statement.

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.

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

**(j) Acquisition and recognition of plant and equipment**

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 plant and equipment is acquired at no, or minimal cost, it is recognised at fair value.

Non-current plant and equipment with a minimum value of \$5,000 is capitalised.

**(k) Depreciation of non-current assets**

Non-current assets, with a limited useful life, are systematically depreciated 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.

Depreciation for non-current assets is determined as follows:

<i>Class of asset</i>	<i>Depreciation method</i>	<i>Useful life (years)</i>
Office furniture and equipment	Straight line	10 Years

**(l) Payables**

Payables are a financial liability and are measured at the fair value of the consideration received with initially recognised and at amortised cost subsequent to initial recognition, with any adjustments to the carrying amount going through the operating statement. All amounts are usually settled within 30 days after an invoice is received.

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 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 Commission.

**(m) Leases**

The Commission has entered into operating leases.

*Operating Leases*

Operating leases do not effectively transfer to the Commission substantially all of 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.

**(n) 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 is 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. 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 classified as current liabilities in the Balance Sheet where there are no unconditional rights 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 is classified as a non-current liability in the Balance Sheet.

**(o) Superannuation**

Superannuation expense payments to the Territory Banking Account each year, to cover the Commission's superannuation liability for the Commonwealth Superannuation Scheme (CSS) and the Public Sector Superannuation Scheme (PSS). This payment covers the CSS/PSS employer contributions but does not include the productivity component. The productivity component is paid directly to Comsuper by the Commission. The CSS and PSS are defined benefit superannuation plans, meaning that the defined benefits received by employees of the Commission are based on the employee's years of service and average final salary.

Superannuation expense payments have also been made directly to superannuation funds for those members of the Public Sector who are part of superannuation accumulation schemes. This includes the Public Sector Superannuation Scheme Accumulation Plan (PSSAP) and schemes of employee choice.

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. The productivity component payments are calculated by taking the salary level, at an employee's anniversary date, and multiplying it by the employer contribution rate (approximately 3%) for each employee. Superannuation payments for the PSSAP are calculated by taking the salary level, at an employee's anniversary date, and multiplying it by the appropriate employer contribution rate. Superannuation payments for fund of choice arrangements are calculated by taking an employee's salary each pay and multiplying it by the appropriate employer contribution rate.

A superannuation liability is not recognised in the Balance Sheet as the Superannuation Provision Account recognises the total Territory superannuation liability for the CSS and PSS and Comsuper and the external schemes recognises the superannuation liability for the PSSAP and other schemes respectively.

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 from the Superannuation Provision Account.

**(p) Insurance**

The 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 Commission.

**(q) Significant accounting estimates and judgements**

*(i) Employee benefits*

Note (n) 'Employee Benefits' disclose that the liability for employee benefits is measured at the estimate amounts expected to be paid when the liability is settled.

This estimate requires an assessment of each employee future salary levels and the timing of the settlement of this liability.

*(ii) Employee benefits—amounts payable within 12 months and after 12 months*

Note 19: 'Employee Benefits' provides information on employee benefits estimated to be payable within 12 months and after 12 months.

This estimate requires an assessment of the timing of the settlement of this liability.

**(r) Utility licence fee adjustments**

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 3 Change in accounting policies**

There have been no major changes to accounting policies applicable for the 2007–08 financial year.

**Note 4 User charges—ACT Government**

User Charges—ACT Government revenue is derived by providing services to other ACT Government agencies. This revenue is received from providing reviews or inquiries when requested and also from an ongoing Service Purchase Agreement with the Department of Treasury.

	<b>2008</b>	<b>2007</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>User Charges—ACT Government</b>		
User Charges—ACT Government	378	314
<b>Total User Charges—ACT Government</b>	<b>378</b>	<b>314</b>



**Note 5 User charges—non-ACT Government**

User charge revenue is derived by providing services to the public. User Charge revenue is not part of government appropriation and is paid by the user of the goods or services. This revenue is driven by consumer demand and is commercial in nature.

	<b>2008</b>	<b>2007</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>User Chargers—Non ACT Government</b>		
Service Receipts (Non ACT Government)	1,263	19
<b>Total User Charges—Non ACT Government</b>	<u><u>1,263</u></u>	<u><u>19</u></u>

Increase in User Charges due to the Commission undertaking the Water and Waste Water review.

**Note 6 Fees**

	<b>2008</b>	<b>2007</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>Revenue from Regulatory Activities</b>		
Fees	2,113	1,939
<b>Total Fees</b>	<u><u>2,113</u></u>	<u><u>1,939</u></u>

The increase in Licence Fee revenue is in line with expected increase in regulatory costs.

**Note 7 Interest**

	<b>2008</b>	<b>2007</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>Revenue from Other Sources</b>		
Interest Received from Commonwealth Bank	93	76
<b>Total Interest Received from Other Sources</b>	<u><u>93</u></u>	<u><u>76</u></u>
<b>Total Interest</b>	<u><u>93</u></u>	<u><u>76</u></u>

**Note 8 Employee expenses**

	<b>2008</b>	<b>2007</b>
	<b>\$'000</b>	<b>\$'000</b>
Wages and Salaries	429	479
Annual Leave/Long Service Leave	37	1
Fringe Benefits Tax	7	6
<b>Total Employee Expenses</b>	<u><u>473</u></u>	<u><u>486</u></u>

**Note 9 Superannuation expenses**

The Commission makes payments on a fortnightly basis to the Territory Banking Account for its portion of the Territory's annual superannuation liability.

	<b>2008</b>	<b>2007</b>
	<b>\$'000</b>	<b>\$'000</b>
Superannuation Contributions to the Territory Banking Account	72	96
<b>Total Superannuation Expenses</b>	<b><u>72</u></b>	<b><u>96</u></b>

**Note 10 Supplies and services**

	<b>2008</b>	<b>2007</b>
	<b>\$'000</b>	<b>\$'000</b>
Leased Equipment and Charges	41	38
Professional Services*	1,109	135
Staff Development	4	23
Travel and Accommodation	7	8
Postage and Printing	32	17
Fees to Commissioner	133	70
Advertising	4	14
Utilities Act—Administration Expenses **	894	751
Rent/Occupation Expenses	54	52
Other	60	76
<b>Total Supplies and Services</b>	<b><u>2,338</u></b>	<b><u>1,184</u></b>

\* Increase due Water and Waste Water review.

\*\* Increase due to higher cost of regulation.

**Note 11 Prior year licence fee refund**

	<b>2008</b>	<b>2007</b>
	<b>\$'000</b>	<b>\$'000</b>
Licence Fee Rebate Applied	349	—
<b>Total Licence Fee Rebate</b>	<b><u>349</u></b>	<b><u>0</u></b>

See also Note 2 (r).

**Note 12 Depreciation**

	<b>2008</b>	<b>2007</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>Depreciation</b>		
Office Furniture and Equipment	13	13
<b>Total Depreciation</b>	<u>13</u>	<u>13</u>
<b>Total Depreciation</b>	<u>13</u>	<u>13</u>

**Note 13 Act of Grace payments**

There were no Act of Grace payments made during the financial year pursuant to Section 130 of the *Financial Management Act 1996* (2006–07: Nil).

**Note 14 Auditor's remuneration**

Auditor's remuneration includes financial audit services provided to the Commission by the ACT Auditor-General's Office. No other services were provided by the ACT Auditor-General's Office.

	<b>2008</b>	<b>2007</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>Audit Services</b>		
Audit Fees Paid to the ACT Auditor-General's Office	6	7
<b>Total Auditor's Remuneration</b>	<u>6</u>	<u>7</u>

**Note 15 Cash and cash equivalents**

The Commission holds a number of bank accounts with the Commonwealth Bank as part of the whole-of-government banking arrangements. As part of these arrangements, the Commission receives interest revenue on these accounts.

	<b>2008</b>	<b>2007</b>
	<b>\$'000</b>	<b>\$'000</b>
Cash at Bank	1,562	1,586
<b>Total Cash and Cash Equivalents</b>	<u>1,562</u>	<u>1,586</u>

**Note 16      Receivables**

	<b>2008</b>	<b>2007</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>Current Receivables</b>		
Trade Receivables	–	1
Accrued Revenue*	609	–
Accrued Interest	9	10
Net GST Receivable	41	35
Other Current Receivables	–	3
<b>Total Current Receivables</b>	<u><b>659</b></u>	<u><b>49</b></u>
<b>Total Receivables</b>	<u><b>659</b></u>	<u><b>49</b></u>

\* Increase in Accrued Revenue due to Water and Waste Water review costs & Utilities Fees recovery.

**Aging of Receivables**

Receivables are Aged as Follows:

Not Overdue	659	49
Overdue for less than 30 Days	–	–
Overdue for 30 to 60 Days	–	–
Overdue for more than 60 Days	–	–
<b>Total Receivables</b>	<u><b>659</b></u>	<u><b>49</b></u>

**Split of Government/Non-Government Receivables****Receivables with Other ACT Government Agencies**

Accrued Revenue	232	–
Other Receivables	–	–
<b>Total Receivables with Other ACT Government Agencies</b>	<u><b>232</b></u>	<u><b>–</b></u>

**Receivables with Entities Outside Government**

Accrued Income	377	1
Accrued Interest	9	10
Net GST Receivable	41	35
Other Current Receivables	–	3
<b>Total Receivables with Entities Outside Government</b>	<u><b>427</b></u>	<u><b>49</b></u>
<b>Total Receivables</b>	<u><b>659</b></u>	<u><b>49</b></u>

**Note 17      Plant and equipment**

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

	<b>2008</b>	<b>2007</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>Plant and Equipment</b>		
Plant and Equipment at Cost	129	129
Less: Accumulated Depreciation	(90)	(77)
	<hr/>	<hr/>
<b>Total Written Down Value of Plant and Equipment</b>	<b><u>39</u></b>	<b><u>52</u></b>
Check Total		—
	 <b>2008</b>	 <b>2007</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>Reconciliation of Plant and Equipment</b>		
<b>Carrying Amount at the Beginning of the Reporting Period</b>	52	65
Depreciation	(13)	(13)
	<hr/>	<hr/>
<b>Carrying Amount at the End of the Reporting Period</b>	<b><u>39</u></b>	<b><u>52</u></b>

**Note 18 Payables**

	<b>2008</b>	<b>2007</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>Current Payables</b>		
Trade Payables	230	111
Accrued Expenses	283	471
<b>Total Current Payables</b>	<u><b>513</b></u>	<u><b>582</b></u>
<b>Total Payables</b>	<u><u><b>513</b></u></u>	<u><u><b>582</b></u></u>
 <b>Payables are aged as follows:</b>		
Not Overdue	503	572
Overdue for Less than 30 Days	–	10
Overdue for 30 to 60 Days	2	–
Overdue for More than 60 Days	8	–
<b>Total Payables</b>	<u><u><b>513</b></u></u>	<u><u><b>582</b></u></u>
 <b>Split of Government/Non-Government Payables</b>		
<b>Payables with Other ACT Government Agencies</b>		
Trade Payables	10	85
Accrued Expenses	240	463
<b>Total Payables with Other ACT Government Agencies</b>	<u><b>250</b></u>	<u><b>548</b></u>
 <b>Payables with Entities Outside ACT Government</b>		
Trade Payables	220	26
Accrued Expenses	43	8
<b>Total Payables with Entities Outside ACT Government</b>	<u><b>263</b></u>	<u><b>34</b></u>
<b>Total Payables</b>	<u><u><b>513</b></u></u>	<u><u><b>582</b></u></u>

**Note 19 Employee benefits**

	<b>2008</b>	<b>2007</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>Current Employee Benefits</b>		
Annual Leave	63	44
Long Service Leave	40	43
Accrued Salaries and Superannuation	7	4
<b>Total Current Employee Benefits</b>	<b>110</b>	<b>91</b>
<b>Non-Current Employee Benefits</b>	<b>21</b>	<b>–</b>
<b>Total Employee Benefits</b>	<b>131</b>	<b>91</b>

<i>For Disclosure Purposes Only</i>		
<b>Estimate of when Leave is Payable</b>	<b>2008</b>	<b>2007</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>Estimated Amount Payable within 12 Months</b>		
Annual Leave	63	44
Long Service Leave*	–	43
Accrued Salaries and Superannuation	7	4
<b>Total Employee Benefits Payable within 12 Months</b>	<b>70</b>	<b>91</b>
<b>Estimated Amount Payable after 12 Months</b>		
Annual Leave	–	–
Long Service Leave*	61	–
<b>Total Employee Benefits Payable after 12 Months</b>	<b>61</b>	<b>0</b>
<b>Total Employee Benefits</b>	<b>131</b>	<b>91</b>
* No Long Service Leave expected to be taken by staff during the next 12 months		

**Note 20**      **Equity**

	<b>2008</b>	<b>2007</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>Total Equity at the End of the Reporting Period</b>		
Accumulated Funds	1,616	1,014
<b>Total Equity</b>	<u><u>1,616</u></u>	<u><u>1,014</u></u>

**Movements in Equity during the Reporting Period****Accumulated Funds**

Balance at the Beginning of the Reporting Period	1,014	445
Operating Surplus	602	569
<b>Balance at the End of the Reporting Period</b>	<u><u>1,616</u></u>	<u><u>1,014</u></u>

**Note 21**      **Financial instruments****Interest rate risk**

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates.

The Commission has a significant portion of financial assets held in floating interest rate arrangements, and has no financial liabilities subject to floating interest rates. This means that the Commission is not exposed to movements in interest payable, however, it is exposed to movements in interest receivable. Interest rates increased in 2007–08 and as such have resulted in a favourable effect on the amount of interest received.

Interest rate risk for financial assets is managed by the Commission by only investing in floating interest rate investments that are low risk. Interest rate risk for financial liabilities are not actively managed as there are no financial liabilities which are exposed to a floating interest rate. There have been no changes in risk exposure or processes for managing risk since last year.

*Sensitivity analysis*

A sensitivity analysis has not been undertaken for interest rate risk as it has been determined that the possible impact on profit and loss or total equity from fluctuations in interest rates is immaterial.

**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 Commission's credit risk is limited to the carrying amount of the financial assets it holds. Credit risk is managed by only investing surplus funds with the Commonwealth Bank resulting in an insignificant credit risk. These funds are held in demand deposits.



The Commission's receivables are spread over a number of entities and are split fairly evenly between other government agencies and entities external to the ACT Government, however, these receivables are unsecured. The Commission expects to collect all financial assets. No significant concentration of credit risk has been identified by the Commission.

The Commission also manages credit risk for receivables by undertaking an analysis of the concentration of credit risk to ensure that it is not too high. No concentration of credit risk was identified in this analysis. There have been no changes in risk exposure for managing risk since last year.

### Liquidity risk

Liquidity risk is the risk that the Commission will encounter difficulty in meeting obligations associated with financial liabilities. To limit its exposure to liquidity risk, the Commission ensures that at any particular point in time it has a sufficient amount of current financial assets to meet its current financial liabilities.

The Commission's exposure to liquidity risk and the management of this risk has not changed since last financial year.

### Price risk

Price risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices, whether these changes are caused by factors specific to the individual financial instrument or its issuer, or factors affecting all similar financial instruments traded in the market.

A sensitivity analysis has not been undertaken for the price risk of the Commission as it has been determined that the possible impact on profit and loss or total equity from fluctuations in price is immaterial.

### Fair value of financial assets and liabilities

The fair value of cash and cash equivalents is the carrying value recorded in the Balance Sheet.

The carrying amounts and fair values of financial assets and liabilities at the end of the reporting period are:

	<b>Carrying Amount 2008 \$'000</b>	<b>FairValue 2008 \$'000</b>	<b>Carrying Amount 2007 \$'000</b>	<b>FairValue 2007 \$'000</b>
<b>Financial Assets</b>				
Cash and Cash Equivalents	1,562	1,562	1,586	1,586
Receivables	659	659	49	49
<b>Total Financial Assets</b>	<b>2,221</b>	<b>2,221</b>	<b>1,635</b>	<b>1,635</b>
<b>Financial Liabilities</b>				
Payables	513	513	582	582
<b>Total Financial Liabilities</b>	<b>513</b>	<b>513</b>	<b>582</b>	<b>582</b>

The following table sets out the Commission's maturity analysis for financial assets and liabilities as well as the exposure to interest rates, including the weighted average interest rates by maturity period as at 30 June 2008. All financial assets and liabilities which have a floating interest rate or are non-interest bearing will mature in 1 year or less. All amounts appearing in the following maturity analysis are shown on an undiscounted cash flow basis.

**2008**

<b>Financial Instruments</b>	<b>Note</b>	<b>Floating Interest Rate \$'000</b>	<b>Fixed Interest maturing in:</b>				<b>Non- Interest Bearing \$'000</b>	<b>Total \$'000</b>
			<b>1 Year or Less \$'000</b>	<b>Over 1 Year to 5 Years \$'000</b>	<b>Over 5 Years \$'000</b>			
<b>Financial Assets</b>								
Cash and Cash Equivalents	15	1,562	–	–	–		1,562	
Receivables	16	–	–	–	–	659	659	
<b>Total Financial Assets</b>		<b>1,562</b>	<b>–</b>	<b>–</b>	<b>–</b>	<b>659</b>	<b>2,221</b>	
Weighted Average Interest Rate		6.66%						
<b>Financial Liabilities</b>								
Payables	18	–	–	–	–	513	513	
<b>Total Financial Liabilities</b>		<b>–</b>	<b>–</b>	<b>–</b>	<b>–</b>	<b>513</b>	<b>513</b>	
Weighted Average Interest Rate								
<b>Net Financial Assets/(Liabilities)</b>		<b>1,562</b>	<b>–</b>	<b>–</b>	<b>–</b>	<b>146</b>	<b>1,708</b>	

The following table sets out the Commission's maturity analysis for financial assets and liabilities as well as exposure to interest rates, including the weighted average interest rates by maturity period as at 30 June 2007. All financial assets and liabilities which have a floating interest rate or are non-interest bearing will mature in 1 year or less. All amounts appearing in the following maturity analysis are shown on an undiscounted cash flow basis.

**2007**

Financial Instruments	Note	Floating Interest Rate \$'000	Fixed Interest maturing in:				Non- Interest Bearing \$'000	Total \$'000
			1 Year or Less \$'000	Over 1 Year to 5 Years \$'000	Over 5 Years \$'000			
<b>Financial Assets</b>								
Cash and Cash Equivalents	15	1,586	–	–	–	–	1,586	
Receivables	16	–	–	–	–	49	49	
<b>Total Financial Assets</b>		<b>1,586</b>	<b>–</b>	<b>–</b>	<b>–</b>	<b>49</b>	<b>1,635</b>	
Weighted Average Interest Rate		5.99%						
<b>Financial Liabilities</b>								
Payables	18	–	–	–	–	582	582	
<b>Total Financial Liabilities</b>		<b>–</b>	<b>–</b>	<b>–</b>	<b>–</b>	<b>582</b>	<b>582</b>	
Weighted Average Interest Rate								
<b>Net Financial Assets/(Liabilities)</b>		<b>1,586</b>	<b>–</b>	<b>–</b>	<b>–</b>	<b>(533)</b>	<b>1,053</b>	

**Note 22 Commitments**

	2008 \$'000	2007 \$'000
<b>Capital Commitments—Plant and Equipment</b>		
Non-Cancellable operating lease commitments are payable as follows:		
Within one year	35	32
Later than one year but not later than five years	26	25
<b>Total Capital Commitments—Plant and Equipment</b>	<b>61</b>	<b>57</b>

**Note 23 Cash flow reconciliation****(a) Reconciliation of Cash and Cash Equivalents at the end of the reporting period in the Cash Flow Statement to the equivalent items in the Balance Sheet.**

	<b>2008</b>	<b>2007</b>
	<b>\$'000</b>	<b>\$'000</b>
Total Cash and Cash Equivalents Recorded in the Balance Sheet	1,562	1,586
<b>Cash and Cash Equivalents at the End of the Reporting Period as Recorded in the Cash Flow Statement</b>	<b>1,562</b>	<b>1,586</b>

**(b) Reconciliation of Net Cash (Outflows)/Inflows from Operating Activities to the Operating Surplus**

Operating Surplus	602	569
<b>Add/(Less) Non-Cash Items</b>		
Depreciation of Property, Plant and Equipment	13	13
<b>Cash Before Changes in Operating Assets and Liabilities</b>	<b>615</b>	<b>582</b>
<b>Changes in Operating Assets and Liabilities</b>		
Decrease/(Increase) in Receivables	(610)	178
Increase/(Decrease) in Payables	(69)	190
Increase/(Decrease) in Employee Benefits	40	(133)
<b>Net Changes in Operating Assets and Liabilities</b>	<b>(639)</b>	<b>235</b>
<b>Net Cash (Outflows)/Inflows from Operating Activities</b>	<b>(24)</b>	<b>817</b>

**Note 24 Events occurring after balance date**

Some of the Commission's responsibilities for energy regulation will transfer to the Australian Energy Regulator in 2008. 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 25 Contingent liabilities**

There are no known contingent liabilities as at 30 June 2008.

## Appendix 2 Statement of Performance

### Auditor's opinion of the Statement of Performance



**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 indicate that the Statement of Performance of the Independent Competition and Regulatory Commission (the Commission) for the year ended 30 June 2008 does not fairly present the performance of the 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 procedures used to measure the results reported in the Statement of Performance.

##### **Contents of the Statement of Performance**

The Statement of Performance consists of the performance measures included in the Commission's Budget and Statement of Intent.

##### **The Auditor's Responsibility**

My responsibility is to provide a Report of Factual Findings on the performance measures included in the Commission's Statement of Performance as required by the *Financial Management Act 1996* and the *Financial Management (Statement of Performance Scrutiny) Guidelines 2008*.

##### **Scope**

I have reviewed the Statement of Performance of the Commission for the year ended 30 June 2008, in order to report on whether any matters have come to my attention

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](mailto:actauditorgeneral@act.gov.au)

that would indicate that the Statement of Performance is not fairly presented in accordance with the *Financial Management Act 1996*.

My review was conducted in accordance with Australian Auditing Standards applicable to review engagements. A review is primarily limited to inquiries of the Commission's representatives, analytical and other review 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 inherent subjectivity of these explanations.

### **Electronic Presentation of the Reviewed Statement of Performance**

Those viewing an electronic presentation of the reviewed Statement of Performance should note that this review does not provide assurance on the integrity of information presented electronically and does not provide an opinion on any other information which may have been hyperlinked to or from this Report of Factual Findings. If users of the Report of Factual Findings are concerned with the inherent risks arising from the electronic presentation of information, they are advised to refer to the printed copy of the reviewed Statement of Performance, to confirm the accuracy of this electronically presented information.

### **Independence**

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

Tu Pham  
Auditor-General  
12 August 2008

## Statement of responsibility

### **Independent Competition & Regulatory Commission Statement of Performance For the Year Ended 30 June 2008**

---

#### **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 2008 and also reflects the judgements exercised in preparing them.

Shelley Schreiner  
Chief Executive Officer  
Independent Competition & Regulatory  
Commission

4 August 2008

## Non-financial performance

**Table A1 Statement of performance: non-financial measures (estimates compared to actual measures)**

Item	Notes	Measure	Actual result	Var %
Water pricing		1 paper 1 draft decision 1 final price determination	2 papers 1 draft decision 1 final price determination	0
Utilities compliance		1 report	1 report	0
Utilities performance	1	1 report	0	(100)
Greenhouse gas emissions benchmarks		1 benchmark decision	1 benchmark decision	0
Greenhouse gas emissions compliance		1 report	1 report	0
Utility licence fees		1 decision	2 decisions	0
Advice on referred matters	2	2 reports (1 draft decision, 1 final price determination)	2 reports	0

**Notes:**

The items and measures against which the actual performance is reported refers to the information in the Commission's Statement of Intent for 2007–08, Part 3A, Key Performance Indicators]

The utilities performance report for 2005–06 was still in progress at 30 June 2008.

On 7 February 2008, the Attorney-General, Simon Corbell MLA, referred the provision of a price direction for the supply of electricity to franchise customers for the period 1 July 2008 to 30 June 2009 to the Commission.

**Table A2: References for statement of performance: non-financial measures (actual measures)**

Item	Actual result	Reference
Water pricing	2 papers 1 draft decision 1 final price determination	Report 8 of 2007, Water and Wastewater Discussion Paper 3, August 2007 Report 9 of 2007, Water and Wastewater Price Review Working Conclusions, September 2007 Report 11 of 2007, Water and Wastewater Price Review: Draft Report and Price Determination, 14 December 2007 (NI2007–437) Report 1 of 2008, Water and Wastewater Price Review: Final Report and Price Determination, 11 April 2008
Utilities compliance	1 report	Report 10 of 2007, Licensed Electricity, Gas, Water and Sewerage Utilities: Compliance Report for 2005–2006, November 2007
Utilities performance	0	—
Greenhouse gas emissions benchmarks	1 benchmark decision	Electricity (Greenhouse Gas Emissions) Determination 2007 No 1, 4 December 2007 (NI2007–407)
Greenhouse gas emissions compliance	1 report	Report 3 of 2008, Compliance report for the operation of the ACT Greenhouse Gas Abatement Scheme (2007 compliance year)
Utility licence fees	2 decisions	Utilities (Annual Licence Fees) Determination No 1, 6 December 2007 (NI2007–409) Utilities (Annual Licence Fees) Determination No 2, 10 December 2007 (NI2007–415)
Advice on referred matters	2 reports	Report 2 of 2008, Draft Decision: Retail Prices for Non-Contestable Electricity Customers, 23 April 2008 (NI2008–129) Report 4 of 2008, Final Decision and Price Direction: Retail Prices for Non-Contestable Electricity Customers, 20 June 2008



## Appendix 3 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 ([www.icrc.act.gov.au](http://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	Shelley Schreiner
Overview of Commission performance	(02) 6205 2773
Freedom of information	(02) 6207 5887 fax shelley.schreiner@act.gov.au www.icrc.act.gov.au
Report 8 of 2007: <i>Water and Wastewater Discussion Paper 3</i>	John Logan
Report 9 of 2007: <i>Water and Wastewater Price Review Working Conclusions</i>	(02) 6207 0694
Report 11 of 2007: <i>Water and Wastewater Price Review: Draft Report and Price Determination</i>	(02) 6207 5887 fax john.logan@act.gov.au www.icrc.act.gov.au
Report 1 of 2008: <i>Water and Wastewater Price Review: Final Report and Price Determination</i>	
Report 10 of 2007: <i>Licensed Electricity, Gas, Water and Sewerage Utilities: Compliance Report for 2005–2006</i>	Shelley Schreiner
Utilities licensing	(02) 6205 2773 (02) 6207 5887 fax shelley.schreiner@act.gov.au www.icrc.act.gov.au
Greenhouse Gas Abatement Scheme	Kirsten Musgrove
	(02) 6205 3163 (02) 6207 5887 fax kirsten.musgrove@act.gov.au www.icrc.act.gov.au

## Glossary and abbreviations

ACCC	Australian Competition and Consumer Commission
ACTEW	ACTEW Corporation Ltd.
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
capex	capital expenditure
CAPM	capital asset pricing model
COAG	Council of Australian Governments
Commission, the	Independent Competition and Regulatory Commission
CSO	community service obligation
CSS	Commonwealth Superannuation Scheme
ESCC	Essential Services Consumer Council
FRC	full retail contestability
ICRC Act	<i>Independent Competition and Regulatory Commission Act 1997</i>
NEMMCO	National Electricity Market Management Company
NGAC	New South Wales Greenhouse Gas Abatement Certificate
NWC	National Water Commission
ODRC	optimised depreciated replacement cost
OHS	occupational health and safety
ODV	optimised deprival value
opex	operational expenditure
price direction	statement issued by the Commission, setting price paths and revenue caps for a utility for a specified period
PSSS	Public Sector Superannuation Scheme
RAB	regulated asset base
regulated industry	an industry declared by the Minister to be a ‘regulated industry’ under s. 4 of the ICRC Act
RAT	return on assets test
TFT	transitional franchise tariff
utility services	electricity supply and network operations, gas supply and network operations and water and sewerage supply
WAC	water abstraction charge
WACC	weighted average cost of capital

# Compliance index

Reporting requirement	Page
Transmittal certificate	iii
<b>Section A: Performance and financial management reporting</b>	
A.1 The organisation	1
A.2 Overview of performance in 2007–08	6
A.3 Highlights of performance in 2007–08 <i>Note that major challenges are discussed in Section A.4.1.</i>	6
A.4 Outlook	14
A.5 Management discussion and analysis	16
A.6 Financial report	21
A.7 Statement of performance	21
A.8 Strategic indicators <i>This section has been omitted as it does not apply to the Commission.</i>	
A.9 Analysis of agency performance <i>This section is addressed in other sections of the report, in particular A.2, A.3, and A.5.</i>	
<b>Section B: Consultation and scrutiny reporting</b>	
B.1 Community engagement	23
B.2 Internal and external scrutiny	24
B.3 Legislative Assembly committee inquiries and reports	24
B.4 Legislative report	24
<b>Section C: Legislative and policy based reporting</b>	
C.1 Risk management and internal audit	25
C.2 Fraud prevention	25
C.3 Public interest disclosure	26
C.4 Freedom of information	26
C.5 Internal accountability <i>Note that the required organisational structure chart is located in A.1.3.</i>	27
C.6 Human resource performance	29
C.7 Staffing profile <i>Note that the small size of the Commission and the need to protect personal information has led to the omission of detailed information on age and length of service.</i>	29

C.8	Learning and development	30
C.9	Workplace health and safety <i>see also Management discussion and analysis, A.5.1, in its discussion of workplace safety and related employee risk.</i>	30
C.10	Workplace relations	30
C.11	Strategic Bushfire Management Plan	30
C.12	Strategic asset management	31
C.13	Capital works	31
C.14	Government contracting <i>see also Management discussion and analysis, A.5.1 in its discussion of consultant risk.</i>	31
C.15	Community grants, assistance and sponsorship	32
C.16	Territory records	32
C.17	<i>Human Rights Act 2004</i>	32
C.18	Commissioner for the Environment	32
C.19	ACT Multicultural Strategy	32
C.20	Aboriginal and Torres Strait Islander reporting	32
C.21	Ecologically sustainable development	32
C.22	ACT Women's Plan 2004–2009	33

# Alphabetical index

Aboriginal and Torres Strait Islander reporting	32	Learning and development	30
Access agreements	8	Legislation report	24
Arbitration of disputes	8	Legislative Assembly committee inquiries and reports	24
Asset management	31	Management discussion and analysis	16
Auditor-General's opinions:		Multicultural Strategy	32
Financial report	35	Notices under section 41, ICRC Act	8
Statement of performance	64	Ombudsman reports	24
Auditor-General's reports	24	Organisation	1
Australian Energy Regulator	6, 14	Clients and stakeholders	5
Capital works	31	Role and functions	1
Commissioner for the Environment	32	Staffing profile	29
Community engagement	23	Structure	3
Community grants, assistance and sponsorship	32	Values	2
Competition in the retail energy market	xx	Outlook	14
Competitive neutrality complaints	8	Performance	6, 21
Compliance and performance monitoring	13	Financial report	21, 34
Consultants and contractors	31	Highlights	6
Contact officers, website address and other sources of information	65	Overview	6
Ecologically sustainable development	32	Outlook	14
Electricity distribution services—annual price reset	8	Statement of Performance	21, 61
Energy industry levy	11, 18	Public interest disclosure	26
Financial performance	17	Retail prices for non-contestable electricity customers inquiry	7
Expenditure	17	Risk management	16, 25
Income	18	Consultant risk	16
Financial position	19	Financial risk	17
Assets	19	Information risk	16
Liabilities	21	Operational risk	16
Financial report	21, 34	Workplace safety and related employee risks	17
Financial report and audit report	34	Senior Commissioner's comments	vii
Fraud prevention	25	Competition in the retail energy market	xx
Freedom of information	26	Urban water pricing—achieving a market solution	vii
Section 7 statement	26	Staffing profile	29
Section 8 statement	27	Standard customer contract variations	13
Section 79 statement	27	Strategic Bushfire Management Plan	30
Full retail contestability	xx	Territory records	32
Government contracting	31	Transfer of energy regulation to national regulator	6, 14
Greenhouse Gas Abatement Scheme	13, 15	Transitional franchise tariff (electricity)	xx, 7
GreenPower Direction	9	Urban water pricing – achieving a market solution	vii
Human resources performance	29	Utilities Act responsibilities for 2008-09	15
Human Rights Act 2004	32	Utilities licensing	9
ICRC Act responsibilities for 2008-09	14	Applications	9
Industry codes and guidelines	12	Exemptions	9
Consumer Protection Code	12	Licence fees	11
Electricity Network Capital Contributions Code	12	Licensees at 30 June 2008	10
Electricity Network Use of System Code	12	Suspensions	10
Gas Network Capital Contributions Code	12	Variations	9
Inquiries	6	Water and wastewater services inquiry	6
Electricity distribution services—annual price reset	8	Website address	65
Retail prices for non-contestable electricity customers	7	Women's Plan	33
Water and wastewater services inquiry	6	Workplace health and safety	30
Internal accountability	27	Workplace relations	30
Internal and external scrutiny	24		
Auditor-General's reports	24		
Internal audit	25		
Ombudsman reports	24		