# INDEPENDENT COMPETITION AND REGULATORY COMMISSION

# **ANNUAL REPORT**

1 JULY 2001 to 30 JUNE 2002

September 2002

# The Independent Competition and Regulatory Commission

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

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

The Commission has three standing commissioners:

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# **Transmittal letter**



INDEPENDENT COMPETITION AND REGULATORY COMMISSION

Mr Ted Quinlan MLA Treasurer ACT Legislative Assembly London Circuit CANBERRA ACT 2601

Dear Treasurer

I am pleased to submit to you the Annual Report of the Independent Competition and Regulatory Commission for the year ending 30 June 2002.

I certify that this Report is a fair and honest account of the operations of the Commission in the reporting period. This Report has been prepared in response to section 9 of the *Independent Competition and Regulatory Commission Act 1997*, which requires the Commission to report in accord with section 8(5)(a) of the *Annual Reports (Government Agencies) Act 1995*. The Report conforms to the requirements in the Chief Minister's Annual Report Directions.

Section 14 of the *Annual Reports (Government Agencies) Act 1995* requires that a copy of the Annual Report is laid before the Legislative Assembly within six sitting days of receiving the Report.

Yours sincerely

Paul Baxter Senior Commissioner 6 September 2002



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# Overview and major achievements

# Organisational profile

# **Objectives**

The objectives of the Independent Competition and Regulatory Commission (the Commission) are defined in the *Independent Competition and Regulatory Commission Act 1997* (the ICRC Act) and the *Utilities Act 2000* (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. The objectives in section 7 of the Act are to:

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

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

- (a) to encourage the provision of safe, reliable, efficient and high quality utility services at reasonable prices
- (b) to minimise the potential for misuse of monopoly power in the provision of utility services
- (c) to promote competition in the provision of utility services
- (d) to encourage long-term investment, growth and employment in utility services
- (e) to promote ecologically sustainable development in the provision of utility services
- (f) to protect the interests of consumers
- (g) to ensure that advice given to ICRC by the council, or the chief executive under Part 5 (Technical Regulation), is properly considered
- (h) to ensure the Government's programs about the provision of utility services are properly addressed
- (i) to give effect to directions of the Minister under section 19 [section 19 directions may only be given to ensure the achievement of the objects set out in the subsections (a) to (h) above].

## Legislative framework and operational environment

The parameters under which the Commission operates are determined by the ICRC Act and the Utilities Act. The Acts describe the Commission:

- 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.

# **Highlights**

The Commission's highlights for 2001–02 included:

- issuing 20 utility licences
- fully implementing the Utilities Act
- developing industry codes under the Utilities Act
- introducing an equitable process for determining utility licence fees
- approving the Standard Customer contracts for supply of utility services to franchise customers
- approving the Gas Network Operating Standards
- issuing price direction for taxi services to apply for two years
- investigating and advising the Government on reforms for the taxi and hire car industries, including vehicles seating up to nine people
- Investigating and advising the Government on making the retail electricity market fully contestable
- investigating and advising the Government on the allocation of Wheelchair Accessible Taxi licences to a single network
- investigating and providing advice on petrol pricing in the ACT.

Also, the Commission gave substantial effort to developing administrative policies and procedures for dealing with inquiries and other aspects of the Commission's charter. The appointment of two new Commissioners late in 2000–01 brought a heightened focus to the quality of the administration of the Commission during 2001–02, with an unstated but nonetheless evident goal of achieving and maintaining best practice in regulatory performance.

# **Senior Commissioner's summary**

The structural changes that marked the first five years of the Commission's life were less evident in the 2001–02 financial year than in previous years. There were no new functions or obligations imposed upon the Commission, but the existing functions were more fully explored than they had been in the past and the Commission consciously sought to introduce internal changes aimed at achieving a best practice organisation. The Commission is satisfied that in 2001–02 it continued to produce outputs of high quality. At the same time, it embraced a more accountable, public and structured set of internal processes than previously. Those processes included developing internal controls and procedures that reflect accounting and auditing best practice and that provide the community with a transparent independent advisory and regulatory body. That positive development was reflected in the Auditor-General's unqualified audit opinions in 2000–01 and 2001–02.

#### Development of the Commission

The Commission was established in 1996 as the Energy and Water Charges Commission, by regulation under the *Energy and Water Act 1988*. With the passage of the *Independent Pricing and Regulatory Commission Act 1997*, the Commission became a statutory authority. In March 2000, the Commission's name was changed to reflect additional and broader responsibilities. The Commission became responsible for determining prices for regulated industries, advising on access regimes for utility infrastructure, and examining and advising on competitive neutrality complaints and government regulated activities. In December 2000, the passage of the Utilities Act gave the Commission responsibility for licensing utility services and regulating compliance with licence conditions and the obligations contained in utility industry codes.

The permanent secretariat commenced activity in March 2000 and the Commission's offices were officially opened in July 2000.

# Human resources changes

The Commission remains a small agency in terms of the number of staff it employs. The Commission is aware of the need to balance the efficient use of its human resources with its desire to provide consistently high quality services across a broad range of responsibilities. The Commission expects that staff numbers will grow slowly in future years, to match demand for services and the availability of suitable skilled resources.

In 2001–02 staff numbers increased overall by one staff member and two Commissioners compared to 2000–01. In 2002–03 the Commission will seek to employ at least one additional senior analyst. The Utilities Act makes provision for the Commission to appoint inspectors to assist in gathering data, carrying out audits and overseeing compliance with licence conditions. In 2001–02 the inspection powers were considered but further development is required before a charter is drawn up and appointments are considered. The development of the inspectorate is an issue the Commission will seek to resolve in 2002–03.

The presence of the three Commissioners meant that the Commission was able to formalise many aspects of its administration, such as the allocation of responsibilities between the Commissioners and formalising meeting arrangements including determining decision making and recording processes. The three Commissioners' met monthly as the Board of Management (the Board) during the year, to discuss issues arising from references and activities in relation to utilities, and administrative issues in relation to the management of the financial and human resources of the secretariat.

The Commission appointed several officers on a permanent basis who had initially joined it as contractors and several staff members left the Commission to take up opportunities in other agencies. The operational core of the secretariat remains at seven staff, with one member unavailable on leave without pay. The staff member on leave without pay, gaining regulatory experience in New Zealand, is due to return to the secretariat in March 2003. When the Commission's staff numbers in 2000–01 and 2001–02 are compared, it is evident that the Commission has grown slightly over the past year – the number of staff at 30 June 2001 was seven, while at the end of 2001–02 it was eight. During the year major changes were made to the classification of staff, and an additional Administrative Service Officer Grade 3 (ASO 3) was engaged as an administrative assistant.

#### Achieving the Commission's objectives under the ICRC Act

ICRC Act performance objectives in the Statement of Intent

As described above, the ICRC Act and the Utilities Act provide the broad outline of the Commission's objects. The Commission's annual Statement of Intent provides a set of more immediate measures. The Statement of Intent is tabled each year as part of the Budget process and provides the basis for the assessment of performance carried out by the Auditor-General. The Commission's Statement of Intent for 2001–02 included the following suggested performance measures in relation to the ICRC Act:

- provide reports to government in response to all competitive neutrality complaints
- provide reports on all government regulated activity matters referred to the Commission
- provide directions for all price references
- provide reports in relation to all access issues referred to the Commission.

The Commission met the measures in relation to the ICRC Act as follows.

An effective competitive neutrality complaints mechanism

While no new competitive neutrality complaints were lodged or raised with the Commission during 2001–02, the Commission continued to investigate a complaint raised in 2000–01 regarding the use of the Government owned horse paddocks in the Australian Capital Territory (ACT). The Commission observes, in general, that the National Competition Council's view of the purpose of competitive neutrality complaints is partly to address distortions in allocative efficiency and partly to identify areas in which further efficiency improvements may be made. Limited use of the Commission's competitive neutrality review capacity may reflect a lack of knowledge in the wider community about this provision of the ICRC Act. The Commission will be examining this matter further in 2002-03.

Advising on government regulated activities

In 2001–02, the Commission received two references under the regulated industry provisions of its legislation and conducted inquiries in relation to two areas of government regulated activities – petrol, and wheelchair accessible taxis. Both references were completed and the reports were tabled in the Legislative Assembly during the year.

Providing price directions for regulated industries

In 2001–02, there was a single reference to the Commission requiring a price direction in relation to the price of taxi services in the ACT. While there was only one price direction, the Commission reset prices for electricity, gas, water, sewerage and travel on ACTION buses in 2001–02. The price resetting process is not a full price direction inquiry but a process by which the price path previously determined in a direction is implemented. Each price direction spans a number of years and is usually based on an incentives based formula that incorporates adjustments for changes in the consumer price index (CPI) and operating efficiencies. In the price resetting process, the Commission reviews the application of the agreed price path formula for the year to ascertain that the formula has been applied consistently and within the requirements of the price direction.

The Commission also addressed a number of other pricing requests during the year. The Commission considered an application from *ActewAGL* for pass through of costs associated with making the retail gas market fully contestable to consumers. The retail gas market opened to full retail contestability from 1 January 2002 and the increased costs associated with opening the market were allowed to pass through to consumers' accounts from March 2002.

There were no access issues raised with the Commission in the year under review.

Utilities Act performance objectives in the Statement of Intent

The Statement of Intent included the following suggested performance measures in relation to the Utilities Act:

- provide decisions on applications for utility licences
- report to government on the level of compliance with the licence conditions and industry codes applying to utilities
- report on all licences cancelled or amended during 2001–02
- publish a report on utility performance at least once a year
- approve annual price adjustments for gas, electricity, water and sewerage services.

In relation to the Utilities Act, the Commission met its targets in 2001–02 as follows.

#### Licensing utilities

The Commission issued 24 licences for the provision of utility services in the ACT, including network and retail services in electricity, gas, water and sewerage. The Commission cancelled no licences in 2001–02. Three gas distribution and gas retail licences were amended to require the utilities concerned to participate in the Gas Market Company's Scheme or some other scheme which the Commission deems to be equivalent. The variation was made to give effect to a direction by the Minister for Urban Services under section 19 of the Utilities Act.

# Reporting utility performance

The Commission intended to publish a utility performance report during 2001–02, as a precursor to the implementation of a full reporting regime in 2002–03. The Commission ultimately deferred publication of the 2001-02 report to provide industry with sufficient time to collect and provide data on operations. The first compliance reports are due in October 2002.

During the year the Utility Regulators' Forum also agreed to nationally consistent regulatory reporting arrangements to apply from 1 July 2002. Initial reports under this arrangement will be due in 2002.

#### Developing contestable markets

In associated decisions, the Commission agreed to market rules for gas retailers to support the functioning of the gas market operator – the party responsible for effecting customer transfers and settlements in the contestable area of the gas market. The Commission also gave effect to the Minister's direction, under section 19 of the Utilities Act, that all gas retailers must be associated with a gas market management service (a market system operator). In 2001–02 the sole market operator was the Gas Market Company (GMCO), based in New South Wales but developed in consultation with ACT energy policy officials and the Commission. GMCO is essentially an industry based organisation that other states and territories increasingly rely on to provide market management services.

#### Reporting and accountability

In addition, in 2001–02, the Commission fully participated in the reporting and accountability processes common to ACT Government authorities, such as:

- monthly reporting on financial performance to the ACT Treasury
- reporting on financial issues as part of the Commonwealth Grants Commission process
- entering into a purchase agreement with the ACT Treasury, linked to the obligations in the Commission's Statement of Intent for 2001–02.

In its 2000–01 Annual Report, the Commission indicated that it would further develop its administrative arrangements in the 2001–02 financial year. These changes were, in part, to support

the new standing Commissioners and the decision-making processes they were likely to require, and in part to increase the consistency of decision making and the quality of the Commission's outputs.

#### Governance arrangements

The Commissioners agreed to a set of governance arrangements that should provide consistent and accountable decision making, including the following.

- The Commissioners, as the Board of Management, meet monthly to consider items on the business agenda.
- The agenda is structured to include standing items (financial performance and cash position of the Commission, accommodation, staffing, occupational health and safety, and relationships with issues relating to internal and external stakeholders and the broader regulatory community) and items dealing with current inquiries or issues arising from administration of the Utilities Act.
- In addition to an approach where consensus is sought in making more routine decisions, the Commissioners have adopted a formal resolution process for those decisions where the Commission's responsibilities require a higher level of agreement and the creation of a more clearly documented audit trail than usual.
- One Commissioner has responsibility for an audit committee to oversight internal and external audit matters.
- Commission policies and processes are being developed and documented, to assist in succession planning and achieving consistency in practice.

#### Recruiting the right people

The Commission continued the process of identifying and retaining appropriately qualified and experienced staff. The Commission has experienced a problem that is common to all small agencies – the size of the organisation provides too few opportunities for advancement and is not competitive in a market where competing employers have larger budgets and more flexible remuneration and reward systems. The problem is exacerbated to the extent that economic regulation, while neither new nor unimportant, is a relatively small field with a small pool of potential recruits. In past years the Commission has entertained the prospect of arranging for secondments or loan of staff, but in practice the opportunities for such programs appear to be limited.

During 2001–02 the Commission sought to identify staff that would be effective resources, would stay for several years, and would bring a variety of skills. Since the Commission's inception, its rate of staff turnover has been proportionately quite high, albeit from a small base number of staff. Staff turnover is a matter of concern. The turnover has occurred because staff contracted to the Commission have found alternative permanent places, staff have required long periods of leave, and permanent staff have sought other opportunities more consistent with their expertise after a short time with the Commission.

In 2001–02 the Commission found Senior Officer Grade C level staff were difficult to recruit and to retain. The Commission created an ASO 3 position to provide administrative support for the analysts on staff, but that position was vacant and recruitment action was in progress at the end of the year. Volatility in staffing is a may be an indicator of structural weakness or poor management performance. However, on the basis of feedback from exit interviews the Commission was satisfied that the reason for turnover in 2001–02 was not systemic but, rather, reflected the fact that alternative opportunities offered potential career enhancements that the Commission was unable to provide.

#### Becoming more effective

In its 2000–01 Annual Report, the Commission indicated its desire to explore more fully its objectives and functions as described in its legislation. The references issued for the inquiries into

petrol pricing and the competitiveness of the petroleum industry, and the competitiveness of the wheelchair accessible taxi fleet enabled the Commission to begin that process. The number of issues referred to the Commission grew in 2001–02, and the Commission was satisfied with that growth generally. The range of functions available under the ICRC and Utilities Acts is so extensive that the Commission is capable of providing greater recourse to this independent source of advice. The Commission continues to look forward to expanding its opportunities to play a role in advising government on regulated activities and on a range of other matters, including:

- the efficiency of agencies in delivering services
- the competitiveness of industry sectors in the ACT
- research and debate on issues relating to the Commission's objectives and functions
- the quality and reliability of regulatory impact statements
- the national alignment of reporting requirements for gas as well as electricity
- the development of the debate on economic regulatory issues
- the efficient administration of utilities under the Utilities Act, including the development of the ICRC inspectorate.

The Commission had anticipated contributing to reviews of the ICRC Act and the Utilities Act in the later stages of 2001–02; those reviews have been delayed until 2002–03.

# **Operations**

# Implementing competition policy

## Full retail contestability (FRC) in electricity and gas

In December 2001, the Treasurer issued a reference for the Commission to inquire into and provide advice to the Government on the benefits of extending competition in the retailing of electricity to all customers in the ACT. The reference directed the Commission to consider a range of matters including the costs and benefits of implementing FRC, with particular attention on the impact the decision would have on the competition payments that the ACT receives as a continuing participant in the Commonwealth Government's National Competition Policy reforms.

The Commission released an issues paper in January 2002 and a draft report in May 2002, and will release a final report in July 2002, as required by the reference.

In the draft report the Commission recommended that retail competition be introduced for all customers using less than 100 Megawatt hours per annum. Customers using more than that volume of electricity are already subject to competition. the present minimum limit for retail contestability. The entire ACT retail electricity market would then be fully contestable, bringing it into line with the New South Wales and Victoria's electricity markets, and the ACT gas market.

The Commission recommended that retail competition be introduced from 1 January 2003. A significant public information campaign will be required as part of the FRC implementation to allow adequate time for information to be provided to the community and to ensure that all the necessary systems will be in place for a smooth transition to competition.

The Commission identified the need for continued government support for the Essential Services Consumer Council during the process of opening the retail electricity market to competition in order to protect consumers who might suffer hardship as a result of the introduction of FRC. The Council is established under Part 11 of the Utilities Act to facilitate the resolution of complaints about utilities contravening the terms of their customer contracts, in cases of hardship where a utility

service is withdrawn, complaints about network operations and issues arising from the use of personal information. The Council is independent of the Commission, with its own Board and administration, funded from annual utility licence fees.

The Commission found that the costs of adopting the full metering approach to FRC were too high and that deemed metering was an effective and inexpensive alternative option. However, as the costs of full metering continue to fall it is important that the Commission, in its role as metrology coordinator, has opportunities to revisit the issue of which form of metering is most efficient. It is envisaged that FRC, combined with full metering, will allow consumers to receive accurate and timely price information, sending them strong price signals that will enable them to regulate their electricity consumption behaviour.

Subject to the Government's decision on the adoption of FRC, in 2002–03 the Commission expects to be involved in the public information campaign designed to prepare the community for the opening of the electricity market to FRC.

#### Preparation for fully contestable retail energy market

During the latter part of the year in preparing for full retail contestability in the gas market, standards for Gas Network Operations for the ACT's gas distributor and gas retailers were issued. The standards are intended to facilitate and regulate aspects of the customer transfer process in the contestable gas market. Drafts of a transfer code for electricity customers and ring-fencing guidelines were prepared. Ring fencing separates associated network and retail businesses in competitive markets so that in the retail market competition is fair, not distorted by one retailer benefiting from the market power of the associated network businesses.

Reviews of the ACT's retailer of last resort arrangements and the Consumer Protection Code also commenced. The retailer of last resort arrangement safeguard supply of electricity for customers of a retailer that fails and is unable to continue to supply energy. In the event of a retailer failing, the customers of that retailer are transferred to the retailer of last resort. Subsequently, customers may choose another retailer to supply their future energy needs.

FRC for natural gas services in the ACT commenced on 1 January 2002. This meant that all retail customers were no longer tied to *ActewAGL* for their natural gas energy supplies and were able to choose another retail supplier.

#### Competitive neutrality

Clause 3 of the Competition Principles Agreement, one of the three National Competition Policy Agreements signed by the ACT and other Australian Governments in 1995, requires the Territory to provide a mechanism to deal with competitive neutrality complaints. The ACT Competitive Neutrality Statement in 1996 provided an initial mechanism operating from the then Office of Financial Management. In 2000, responsibility for inquiring into and providing advice on competitive neutrality complaints transferred to the Commission.

The objective of competitive neutrality policy is to eliminate resource allocation distortions that arise out of government ownership of entities engaged in business activities. The Competition Principles Agreement (CPA) calls for an appropriate level of corporatisation of government businesses, at least requiring such businesses to pay all Commonwealth, State and Territory taxes, be financially independent in relation to government, and be subject to the same regulations as private sector competitors. Further, the policy seeks to eliminate subsidisation of prices by moving to full cost recovery pricing. The policy, like all of the competition policy agreements, relies on the benefits of moving to a competitively neutral environment outweighing the associated costs.

In September 2000, the ACT Sustainable Lands Group wrote to the Commission claiming that the operation of government horse paddocks was not competitively neutral and asking the Commission to investigate the claim. The complaint was assessed against the tests in the ICRC Act and accepted. The Commission expects to provide its report on this inquiry in September.

#### Regulating and setting prices for utilities

# Licensing

In the first quarter of the financial year the Commission focused on implementing the new regulatory framework established under the Utilities Act. The Act came fully into effect on 1 July 2001 with the licensing of utilities providing electricity, gas, water and sewerage services in the ACT, as set out in Table 1.

Table 1: Licensed utilities as of 1 July 2001

Service	Licensed supplier
Electricity distribution and connection	ActewAGL Distribution
Electricity supply	ActewAGL Retail
	CitiPower Proprietary Limited
	Country Energy
	ENERGEX Retail Proprietary Limited
	EnergyAustralia
	Ergon Energy Proprietary Limited
	Ferrier Hodgson Electricity Proprietary Limited
	Integral Energy Australia
	Origin Energy Electricity Limited
	Pulse Energy Proprietary Limited
	TXU Electricity Limited
	Yallourn Energy Limited (trading as 'AusPower')
Gas transmission	East Australian Pipeline Limited
Gas distribution and connection	ActewAGL Distribution
Gas supply	ActewAGL Retail
	ENERGEX Retail Proprietary Limited
Water supply	ACTEW Corporation
Sewerage	ACTEW Corporation

A licence to supply electricity was subsequently also issued to AGL Electricity Limited, taking effect on 6 September 2001.

#### Exemptions from licensing

A number of utility service providers were also exempted from having to hold licences in the ACT. Country Energy was exempted from the requirement to hold a licence to provide electricity distribution and connection services for approximately 12 kilometres of electricity distribution line on the New South Wales and ACT border. Queanbeyan City Council was also granted an exemption for the sewerage treatment facility and sewer trunk that it operates in Oaks Estate. The

exemptions were granted on the basis that these particular utility services were exceptional and anomalous.

# Standard customer contracts and industry codes

Standard customer contracts were approved for *ActewAGL*'s electricity and gas distribution, connection and supply services, and for ACTEW Corporation's water supply and sewerage services. Two new industry codes were approved, the Electricity Capital Contributions Code and the Gas Capital Contributions Code, taking the number of codes administered by the Commission to eight.

#### Regulatory reporting requirements

The Commission decided that utilities would not be required to provide full compliance reports in the first year of their operation under the Utilities Act. Rather, utilities were asked to provide some general information about customer numbers and services, to facilitate the transition to full reporting under the Utilities Act and to help build up a picture of the ACT utilities market. A compliance and performance reporting program for successive years was developed in consultation with licensees. Reporting will be against compliance with the various obligations under the Act, codes of practice and licences, and a number of key performance indicators.

# Alleged breaches of the Utilities Act

A number of allegations of breaches of the Utilities Act's provisions prohibiting selling electricity without a licence came to the Commission's attention during the year. The Commission investigated the allegations, as the Act gives the Commission powers to investigate utilities' breaches of the Act as well as more general breaches. The Commission found that breaches had in fact occurred; two of those breaches were satisfactorily resolved and the other one was unresolved at the time of reporting.

#### Electricity and water prices

Electricity, water and sewerage prices were set by the Commission in the Price Direction issued in May 1999, which covered the five-year period from 1 July 1999 to 30 June 2004. The Price Direction set a revenue cap enabling each service to recover reasonable capital and operating costs and meet demand for services. The revenue caps are adjusted each year in line with inflation (as measured by the CPI) and to encourage efficiency improvements which are shared with consumers.

*ActewAGL* (electricity) and ACTEW Corporation (water and sewerage) are permitted to adjust tariffs each year provided they remain within the revenue caps. New and revised tariffs require the approval of the Commission. The approved new tariffs for 2001–02 were introduced by *ActewAGL* and ACTEW Corporation on 1 July 2001.

Applications were again submitted to the Commission by *ActewAGL* and ACTEW Corporation in May and June 2002 seeking approval to reset tariffs from 1 July 2002. The proposed tariffs were examined in detail and found by the Commission to comply with the 1999 Price Direction. The 2002–03 approved tariffs for electricity, water and sewerage services are displayed on *ActewAGL*'s website <www.actewagl.com.au>.

In April 2002, ACTEW Corporation sought approval from the Commission to vary its standard customer contract for water connection and supply services to address transitional revenue arrangements. The change to the contract was necessary to coordinate water billing periods extending past the end of the financial year and the introduction of the approved new water prices.

The Commission examined ACTEW Corporation's request and determined that the request was reasonable. The Commission approved the variation to ACTEW Corporation's standard customer contract. This approval was published as Notifiable Instrument NI2002 – 189 on the ACT Legislation Register <www.legislation.act.gov.au/ni>. In approving the variation, the Commission informed ACTEW Corporation that changes to its billing system to address the transitional revenue arrangement would be required prior to the commencement of the next price path period, being from 1 July 2004.

#### Natural gas prices

Natural gas reference tariffs (prices) for access to the distribution network by retailers are set out in *ActewAGL's* Access Arrangement which was approved by the Commission in January 2001. This covers the period to 30 June 2004. Following a similar model to the tariffs for the electricity distribution network, the gas reference tariffs were designed to achieve revenue based on *ActewAGL*'s capital and operating costs and sales.

ActewAGL's Access Arrangement sets out the charges for network access and metering services for each year of the regulatory period to 30 June 2004. These charges are adjusted in line with inflation. New charges for 2001–02 were introduced by ActewAGL on 1 July 2001. In June 2002, ActewAGL advised the Commission of the adjustment it sought apply to set the 2002–03 charges. The Commission agreed that the adjustments sought complied with the Access Arrangement.

Prices for natural gas supply are set out in the Price Direction issued by the Commission in May 2001. This covers the three-year period 1 July 2001 to 30 June 2004. The Price Direction sets price caps for each service. Again, the prices are adjusted each year in line with inflation (the CPI) and to encourage efficiency improvements which are shared with consumers. New and revised prices require the approval of the Commission. The approved prices for 2001–02 were introduced by *ActewAGL* on 1 July 2001.

In December 2001, *ActewAGL* sought approval from the Commission to adjust both the prices for access to the distribution network and for retail natural gas supply, to reflect the cost of extending full retail contestability (FRC) in the ACT gas market to all customers. The Commission approved an interim adjustment to prices and the new prices commenced on 1 May 2002.

In May 2002, *ActewAGL* applied to the Commission seeking approval to reset natural gas retail prices from 1 July 2002. *ActewAGL* sought approval to reset prices by the approved adjustment mechanism and to take account of the full cost of FRC and additional costs associated with transporting gas to the ACT network. The proposed prices were examined in detail and found by the Commission to be reasonable and to comply with *ActewAGL*'s Access Arrangement and the 2001 Price Direction. The 2002–03 approved prices for natural gas retail services are displayed on *ActewAGL*'s website <www.actewagl.com.au>.

#### 2004 utility network price review

The current Price Directions for electricity, water, sewerage and natural gas retail services and *ActewAGL*'s Access Arrangement expire on 30 June 2004. New price paths for these services will be required to cover the period from 1 July 2004.

During the year, the Commission commenced the process for the 2004 Price Review. The Commission's first decision was whether to change the form of economic regulation it would use for the 2004 Price Direction for the electricity distribution network. The Commission decided to continue the current form of regulation, that is a revenue cap. This approach is well understood and administratively simple, and maintains a light-handed approach to price regulation.

Over the next two years, the Commission will undertake a detailed review of all aspects of the operation of the electricity, water and gas businesses in the ACT. For electricity and gas, the reviews will be undertaken in the context of the National Electricity Code and the National Gas Code. The Commission will consult with all interested parties as part of the 2004 Price Review taking into account the statutory objectives imposed on the Commission.

# Inquiring into industry regulation and price setting

#### Motor vehicle fuel prices

In April 2001, the Treasurer issued a reference for an inquiry into motor vehicle fuel prices. The reference was made in response to a motion of the Legislative Assembly. The reference required the Commission to examine:

- the efficiency of fuel prices in the ACT
- the cost of fuel in the ACT compared with its cost in Queanbeyan and Sydney
- the levels of competition and tied arrangements in the petroleum wholesaling and retailing industry sectors
- retail price fluctuations
- fuel price regulations being considered or introduced in other jurisdictions.

The Commission released an issues paper in May 2001 and a final report in September 2001, as required by the reference.

The Commission found that fuel prices at the pump in the ACT were largely made up of international fuel costs and domestic taxation payments. High fuel prices in the first half of 2001 were caused by international factors, including a low-value Australian dollar and high refined fuel costs in major markets, such as Singapore. Domestic retailing and wholesaling costs represented a very small part of the overall price ACT motorists paid at the pump and were not the primary cause of the high prices paid earlier in the year 2001. The domestic side of the industry appeared to be efficient, delivering consumers pre-tax prices that were low by world standards. There was evidence of competition in the fuels market and no collusion was uncovered.

As part of the reference, the Commission examined average fuel price differentials between the ACT, Sydney and Queanbeyan. The price differentials uncovered were largely explained by transport costs and a 1 cent per litre Commonwealth subsidy on fuel sales in regional areas such as Queanbeyan. The Commission found that short-term price fluctuations occurred in reasonably regular cycles of around a week's duration and were a direct result of competition in the ACT market. While price rises were often associated with public service paydays they did not appear to be attempts by industry participants to gain excessive profits, but instead were caused by regular competitive price discounting cycles. At the bottom of these cycles, fuel might be sold at or below cost recovery levels.

The Commission urged caution in terms of the ACT Government taking any unilateral decision on the regulation of fuel prices, as this could have the effect of distorting prices in the ACT in comparison to those in surrounding areas. Rather, the Commission's recommendations included a public information strategy to assist consumers to understand the cause of price movements, and the introduction of ongoing monitoring of fuel prices in the ACT and nearby centres, to be undertaken by the Commission.

#### Taxi services

In September 2001, the Commission was issued a reference by the then Minister for Urban Services for an investigation into taxi fares for the period 1 July 2002 to 30 June 2004. In January 2002, the new Minister for Urban Services issued a reference for the Commission to investigate the future direction of the ACT taxi and hire car industry. The references required the Commission to consider the degree of competition within the market and the matters referred to in section 20 of the ICRC Act.

The Commission released an issues paper in February 2002, a draft report in April 2002, and a final report in June 2002.

The Commission recommended that government restrictions on the numbers of taxi and hire car plates on issue be removed, and that new plates be issued in response to market demand. As part of this reform, the Commission proposed that the regulation of taxi fares also be removed after a transitional period. The Commission's recommendations provide for an environment in which there will be relatively free entry into and exit from the taxi and hire car industry.

The Commission noted that there had been a significant reduction in demand for taxis over the last six years and that this decline in demand was showing no signs of abating. The Commission highlighted what it believed to be a continuing shift towards the use of public transport in the ACT. The Commission highlighted the implications of these developments for the taxi industry, which meant many operators had paid substantial amounts to enter the industry and were finding difficulty in exiting the market without severe financial hardship.

To assist those currently in the industry that may wish to withdraw as a result of the effects of deregulation, the Commission recommended a safety net or structural adjustment payment to be made to current plate owners.

The Commission believes that continued regulation of driver and car standards will be vital to the successful transition to an open market.

Other proposed reforms outlined in the report included:

- making a payment of \$5 to wheelchair accessible taxis (WAT) for each pick up of a disabled person, to be funded directly by the Government
- increasing the micro-management of WAT bookings
- including vehicles that can seat up to nine persons in an 'all other public vehicles' category of the public motor vehicle licence
- permanently adopting the practice (trialled in 2001–02) of allowing Queanbeyan taxis to access the ACT market
- deregulating the issue of both taxi and hire care licences
- adopting more cost reflective taxi and hire car registration fees.

The Commission released details of its proposed adjustment in fares for taxis for the years 2002–03 and 2003–04. Taxi prices will rise by 3 per cent from 1 July 2002 under the terms of the Price Direction issued by the Commission. The Commission developed a pricing model which it proposes to apply over the next two years and, depending upon Government decisions regarding the future regulation of the taxi industry, could continue to use for the next five years. The pricing model used by the Commission recognises the relative movement in costs such as fuel, motor vehicle repairs and tyres, together with changes in the value of the vehicles themselves, movements in average weekly wage rates and interest rate changes.

#### Wheelchair accessible taxi services

In August 2001, Mr John Hargraves MLA issued the Commission with a reference to examine the competitive implications of the proposed allocation of WAT licences to a single network.

The Commission issued a final report in October 2001.

In reaching its conclusions, the Commission considered submissions from Canberra Cabs and Yellow Cabs, the Department of Urban Services and a number of other interested parties. The Commission considered the issues raised in Schedule 1A of the ICRC Act, in relation to removing anti-competitive elements in legislation and the tests to be applied when restrictions on competition are to be introduced.

The Commission considered that while the Government's policy of requiring all WAT licences to be allocated to a single network does not increase competition in the short term, in the long term it would tend to increase competition. Competition for taxi services generally would be increased with the introduction of a second taxi network to compete with the network monopoly currently operating in the ACT. Establishing a second network in the ACT would have been facilitated by allocating WAT licences to the new network for a short time, providing the critical economic mass to ensure survival. The Commission accepted the Government's view that the allocation was an initial step in bringing a greater level of competition into the taxi market and that the monopoly provision of WAT services would be removed in future. Removing the monopoly for WAT services ultimately would provide greater choice of service for users and taxi operators.

The Commission suggested a number of conditions to assist the Government deliver the desired benefits to users and operators in the long term, including having the Commission review the strategy's progress after a period of time and be involved in ensuring that the costs of transition to the new arrangements were fair and evenly distributed.

# **Corporate management**

#### **Human resource management**

# Workforce planning and retention

The Commission's staff numbers increased by one during the year but saw some change in staff holding particular positions. It became evident during the year that in periods of higher demand the Commission's resources were stretched. Where that additional pressure is efficient and does not reduce the quality of the Commission's outputs the resource shortfall can be tolerated. However, questions remain about the point at which the quality of the Commission's advice will be compromised by limitations in available in-house resources, and how to recognise that point when it is approached.

The Commission remains convinced that core staff numbers should not increase substantially and that the preferred approach to managing resources is to employ contract staff and consultants to increase the resources available as they are needed. The Commission is aware, however, of the constraints imposed by a small organisation with few permanent staff and is careful in its allocation of scarce resources, both human and financial. Consequently, the Commission will over the next 12 months consider adding to the core staff, to build skills in critical areas, such as legal and econometric skills. There may also be an argument for adding a person with skills in marketing or public relations to the core staff, to develop opportunities for greater community consultation on issues and the more effective use of the Commission's electronic communications.

The observations made in last year's report about the drawbacks of having a small core secretariat have been borne out this year. The Commission has experienced the turnover in staff that was foreseen, when the Commission indicated a concern about the limits that may be imposed by small core staff numbers:

the operating model is likely, over time, to produce relatively high staff turnover as staff seek alternative experience and opportunities for advancement that are unavailable within the Commission.

And, regardless of what opportunities may be available for involving staff in processes and with issues that they would not be exposed to:

these opportunities are unlikely in the long run to be adequate substitutes for a defined career path in the Commission.

The Commission continues to seek opportunities for senior policy officers to build networks with other regulatory bodies that might facilitate some interchange between officers. For example, during 2002–03 and 2003–04 there will be opportunities for Commission staff to work in Sydney with staff of the New South Wales Independent Pricing and Regulatory Tribunal in developing a network price direction for electricity, gas and water services.

The Commissioners are an essential ingredient in the human resources available to the Commission. The Commissioners are an invaluable resource not only because they provide expertise that would be both difficult and expensive to acquire elsewhere when needed but also because they provide a substantial level of mature experience and judgement in relation to the management of the Commission. The Board played an important role in guiding and developing the Commission during the 2001–02 year.

#### Training and development

Staff attended conferences and seminars on relevant industry regulatory issues as the major training activity during the year. At present the Commission does not budget for any particular level of overall training expenditure as a proportion of general expenditure, but has an informal internal target of between 2 per cent and 5 per cent. In 2001–02 the training expenditure was about 2 per cent. The Commission continued to encourage staff to pursue further education by supporting the StudyBank Program. One staff member participated in that program in 2002–03 and more may access that support in 2002–03.

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

In addition, the Commission continued to be involved in the developing debate on regulatory issues in the broader community. The Commission both sought ways to provide information on specific issues to the community and remained active in speaking at conferences and seminars. The Senior Commissioner presented a paper to the Second Utility Regulation Conference in Melbourne in May 2002, having participated in the inaugural conference in 2001. In April, the Chief Executive Officer presented a paper to the New Zealand Utility Regulators Conference in Wellington.

#### Salaries reviews and agreements

In 2001–02 there were no major changes to the Australian Workplace Agreements (AWAs) and certified agreements applying to the Commission. Renegotiation of a government-wide certified agreement commenced in July 2001; the final agreement will have effect from July 2002. In accordance with the Government's policy, no new AWAs will be negotiated for Commission staff. Staff on existing AWAs will revert to the certified agreement once the AWAs cease in 2003. Two officers in the Commission are under AWAs, one of whom is on leave without pay until March 2003. All other staff, except the Chief Executive Officer who is under an executive contract, will be subject to the certified agreement. Commission staff are participating in the agreement negotiations.

# Commitment to occupational health and safety

As indicated above, the Commission has made a substantial commitment to OH&S to ensure a safe and secure workplace. The Commission remained acutely aware of the value of ensuring that the workplace was safe and healthy. The Commissioners considered OH&S issues monthly and all office accommodation was monitored to ensure that any emerging risks were identified early and appropriate action was taken to reduce or eliminate such risks. In future, the Commission may audit OH&S risk management performance as an indicator of the effective implementation of appropriate internal controls. The Commission continues to implement and abide by the OH&S policies applicable to all ACT Government agencies.

The Commission notes with satisfaction that the year was free of workplace injury or complaints. OH&S is an important issue for the Commission, not only because the loss of a staff member would seriously weaken the Commission and be costly in terms of both replacement expenses and time – such a loss would also be a failure against the Commission's policy of ensuring a safe and healthy workplace. OH&S issues and complaints are standing items on the Board's agenda for its monthly meeting and for regular staff meetings.

#### Equal employment opportunity and diversity

The Commissioners are conscious of the importance of both equal employment opportunity (EEO) and diversity in determining the organisational health of the Commission. The Commission is an equal opportunity employer. Table 2 illustrates the EEO and equity composition of the Commission's staff as at 30 June 2002.

Table 2: EEO and equity composition of the Commission, 30 June 2002

Level	Number	Gei	nder	ATSI <sup>(a)</sup>	Disability	NESB <sup>(b)</sup>
		F	M			
Commissioners	3	1	2	_	_	_
SES 1.1	1	_	1	_	_	_
SOG A	1	_	1	_	_	_
SOG C	2	1	1	_	_	_
ASO 6	2	_	2	_	_	_
ASO 5	1	1	_	_	_	_
ASO 3	1	1	_	_	_	_
Total	11	4	7	_	_	-

<sup>(</sup>a) 'ATSI' indicates employees from Aboriginal or Torres Strait Islander backgrounds.

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

<sup>(</sup>b) 'NESB' indicates employees who have non-English speaking backgrounds.

The gender balance in the Commission has altered during the year, which is a common occurrence in small organisations where the emphasis is on attracting and retaining highly skilled staff rather than maintaining a proportion of staff by reference to gender. In 2001–02 the gender proportions of non-Board staff members consistently were three females and five males, compared to a more equal proportion in 2000–01. The gender distribution of the Board remained the same as for 2000–01, at two males and one female. Overall, the Commission retained a good gender balance, although there was a reduction in the proportion of females in higher level positions.

There is also a spread of age in the Commission. The ethnic diversity of the staff was less broad than previously was the case, with all staff in the year having English as their first language. The Commission claims a healthy staff diversity.

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

#### **External and internal reviews**

#### External reviews

The Commission was considered together with other ACT Government agencies in the Auditor-General's *Report on Annual Reports for the year ending 30 June 2001*. The Auditor-General found the Commission had complied with all the requirements of the Chief Minister's Annual Reports Directions in 2000–01. The Commission was not the subject of other reports from the Auditor-General during the year.

The Commission was available for scrutiny by the Committees of the Legislative Assembly, but was required to appear only at the Estimates Committee in relation to the Budget Estimates for the financial year 2002–03. The Committee was satisfied that the Commission's estimates were satisfactory and its operations appropriately conducted.

As mentioned above, the Commission had expected the Utilities Act and the ICRC Act to be reviewed in 2001–02; those reviews will occur in 2002–03. The Commission was not the subject of any other external reviews during the reporting year.

The Commission's audited Financial Statements for the year 2001–02 are attached at the end of this report.

# Risk management

The Commission, of its own initiative, commissioned a review of its internal risk-management controls; the outcome of the review was to identify areas of risk and to implement a planned process for reducing the level of risk. Also, the review of internal controls was to develop an audit process to review continuously aspects of the Commission's operations to ensure that risks are properly identified and controlled and that high priority risks were reviewed more frequently than lesser risks.

Deloitte Touche Tohmatsu audited the Commission's internal control arrangements in early 2002, making a number of recommendations on minor changes to record keeping, decision making and recording and succession planning processes. The Board accepted the recommendations of the audit. A substantial proportion of the recommendations were implemented in the last quarter of the financial year, with the remainder to be implemented during 2002–03. The Board established an audit committee under the supervision of a Commissioner to oversight the implementation of the recommendations and to conduct audits of internal control risks planned for 2002–03.

The Commission identified few high priority risks. The Commission's physical assets consist of furniture and fittings and leased equipment. Daily management is exercised over their use and maintenance. Cash assets are controlled by separation of powers. Only two people are involved in cash handling and banking, and financial records are prepared by one person with direct oversight from the Chief Executive Officer. The Board receives monthly reports on financial performance, cash position, age of debtors and creditors and performance against budget for the period and year to date. All contracts are let and managed by the Chief Executive Officer subject to the Board's direction and control.

The handling, storage and retrieval of information is a high risk area for the Commission. The Board has drawn attention to risks inherent in the current system for managing and accessing information. Information storage and retrieval systems are being reformed to control those risks and make information more readily and reliably accessible. The audit committee will participate in the reform process as part of its program for 2002–03.

#### Links with financial reporting

The Commission relies on a combination of ACT Government appropriations and earned income for its funding in any year. In 2001–02 the Commission exercised careful management over its financial resources, ending the year with a small net surplus. The Commissioners were satisfied with the Commission's financial performance during the year and expect the Commission to remain financially viable in future.

Although the Commission is not a trading entity, both the Utilities Act and the Commission's principal legislation, the ICRC Act, provide for the recovery of reasonable costs of regulation. The Commission has no source of operating funds than that which is appropriated each year and the costs it recovers from regulated industries and utilities licensed under the Utilities Act. In 2001–02 the Commission's appropriation, like those of all other ACT Government agencies, was reduced by 2 per cent to reflect productivity gains to government.

During 2001–02, the Commission had responsibility for setting licence fees for utility services under the Utilities Act. Licence fee revenue collected during the year is raised to meet the cost of regulating utilities licensed to supply services in the ACT. 'Utility services' covers electricity supply and network operations, gas supply and network operations and water and sewerage supply. The Utilities Act provides for the reasonable costs of regulation to be recovered from suppliers of utility services. The Commission collects the revenue, then transfers part of the revenue to each of the agencies responsible for regulation of utilities under the Act (namely, the Essential Services Consumer Council and the technical regulator identified under Part 5 of the Utilities Act).

The Commission's ability to provide advice over the wide range of its functions as nominated in the ICRC Act continues to depend upon adequate support from the ACT Budget. Revenue from inquiries is sufficient to meet the costs of acquiring external expertise for the purposes of regulation; to ensure the Commission is able to meet ordinary operating costs of revenue is provided by appropriation in the annual Territory Budget and from utility licence fees.

In previous years the Commission has raised the need for some funding to be made available to finance a range of research and other activities that would enhance the operations of the Commission, independent of a specific inquiry reference to initiate the activity. The Commission views independent research and debate on issues as potentially healthy and a beneficial contribution to the development of public policy in the ACT, but is unable to plan for or undertake such activity without the flexibility that some financial capacity excess to ordinary operating demands would provide.

# Whole of government issues

# **Key issues**

#### **Customer service statement**

The Commission's 'customers' include the ACT Government, the general ACT community and whatever members of the utilities and business sectors come under the Commission's scrutiny for various reasons. The Commission recognises that its responsibilities to its customers, as clearly set out in the ICRC Act and the Utilities Act, are central to all its functions, and views consumers' interests as paramount in formulating its recommendations.

Among the services to customers guaranteed by the Commission's governing legislation are:

- taking into account matters of social, economic and environmental concern in all the Commission's investigations
- publishing all proceedings of investigations and processes associated with the granting and oversight of licences for the provision of utility services
- disseminating public notices, inviting contributions to the Commission's processes, in relation to all reviews or other inquiries
- making all reports and advice issued by the Commission available to the public in a range of formats, including in hard copy and on the Commission's website, <www.icrc.act.gov.au>.

The Commission's responsibilities under both the ICRC Act and the Utilities Act direct the Commission to consider consumers' interests as paramount. Consequently the Commission is required to publish all proceedings of investigations and processes associated with the granting and oversight of licences for the provision of utility services. Public notices inviting public contributions to the Commission's processes are provided for all reviews or other activities undertaken by the Commission. All reports and advice arising from the Commission's activities are publicly available, both in hard copy and on the Commission's website.

The ICRC Act mandates that all investigations address matters of social, economic and environmental concern. The Commission's commitment to customer service is implicit in the nature of its activities and responsibilities.

# **Royal Commission into Aboriginal Deaths in Custody**

The Commission is not obliged to undertake any actions in relation to the findings of the Royal Commission. The issues raised in the Royal Commission Report into Aboriginal Deaths in Custody have no application to the responsibilities of the Commission in either of the Acts relevant to it.

#### Fraud prevention

As stated above, the Commission views its risk of being defrauded as low, especially in the area of physical assets, given the smallness of the Commission and relatively low level of assets under its control. Nonetheless, the Commission has measures in place to protect against fraud, particularly in the areas of confidentiality of information and financial management.

In both cases, the Commission's main defence against fraud is limiting exposure and maximising accountability by making the smallest possible number of people responsible for transactions. In the case of commercially sensitive information, for example, access to databases and authority to

release information are directly supervised by the Senior Commissioner and the Chief Executive Officer.

In the case of financial and administrative processing, the small size of the Commission's office and the strong ethics of the Commission's staff foster an environment of probity. Structures are in place to reinforce that ethos, for example:

- access to the Commission's information technology is password controlled
- the Commission's bank accounts are accessible only to two signatories, who must jointly authorise all instruments
- the Commission operates only two credit cards, and those are controlled by the Commissioner and Chief Executive Officer alone
- many administrative and banking processes are submitted to checking by third parties not otherwise involved in those processes.

These mechanisms are periodically subject to internal review; in 2002–03, for example, the Commission's audit committee will undertake a fraud risk assessment. Should the size of the Commission or the scale of its resources grow significantly, the Commission would formulate and adopt a fraud control plan.

# **Equity and diversity**

See commentary about EEO issues in the text at page 17.

#### Resource issues

# Ownership agreement

The Commission's services are provided subject to an annual Statement of Intent, required in section 58 of the *Financial Management Act 1996*. In relation to the Statement of Intent the Act provides that:

- statements shall be provided in relation to each financial year
- statements shall be in form the Treasurer requires
- statements shall include
  - the financial statements required under the financial management guidelines
  - a statement of the objectives of the Commission for the year
  - a statement of the nature and scope of the activities to be carried out in the year
  - performance criteria and other measures by which performance may be assessed, and
  - any other information the Treasurer directs.

In 2001–02, the Commission provided a Statement of Intent meeting the requirements of the Act as defined in the Treasury guidelines. The Commission's Statement of Intent was tabled in the Legislative Assembly as part of the 2001–02 Budget process. The objectives of the statement are referred to elsewhere in this report; the Financial Statements are at the back of the report.

#### **Certified agreements**

At 30 June 2002, the Commission had four staff members under the certified agreement applying to the ACT Public Service. At the end of the financial year, the Commission had no reporting commitments associated with the agreement. The Commission is involved in the negotiation of the whole of government certified agreement to be agreed to in 2002–03.

# Staffing profile

The Commission's staff profile changed during the year in both numbers, increasing from seven staff to eight, and the mix of gender and part- and full-time staff. At the beginning of the year the staff consisted of a SOG A (Head of Secretariat) and an ASO 4 (Personal Assistant). At the end of the year staff numbers had increased with the addition of a permanent full time administrative assistant position, at the ASO 3 level. The SOG A position was temporarily vacant; at the end of the year the position had been filled on a temporary basis. The Chief Executive Officer position was reclassified to the Senior Executive Level 1.1. The original ASO 4 position was upgraded to an ASO 5. The permanent full-time ASO 6 who was on leave without pay for 12 months ending in March 2003 was replaced with a full-time temporary officer. Recruitment action is pending for the second ASO 6 position.

The senior staff have relevant tertiary qualifications and the two officers managing the Commission's finances are members of the Australian Society of Certified Practising Accountants. The ASO 5 is currently enrolled in post-graduate certificate level training in marketing.

At the end of the year the Commission was seeking to appoint a permanent SOG C and ASO 3 to assist with policy advice and administrative tasks respectively.

In addition the number of standing commissioners increased from one part-time commissioner at the beginning of the financial year to three part-time commissioners at the end of the year.

# Workers' compensation

There were no workers' compensation claims during the financial year. The Commission is part of the ACT Government's workers' compensation insurance arrangements. The Commission maintains workers' compensation matters as a standing item on the agenda for the Commissioners' Board meetings and staff meetings.

#### Training and development

The Commission provided training for staff during the year by supporting attendance at relevant conferences. Also the Commission supported staff, through the StudyBank Scheme, in the acquisition of skills that will ultimately benefit the Commission. In the second half of the financial year the Commission agreed to one StudyBank application, agreeing to support 65 per cent of the course cost for one staff member. The Commission also supports other staff members undertaking study by agreeing to flexible hours where needed. Further assistance to staff through the StudyBank arrangements is expected to be offered in the 2002–03 financial year.

## **Consultancy and contractor services**

Table 3 shows the involvement of consultants and contractors in the Commission's operations during financial year. The Commission continued to use expert consultants to assist with the conduct of inquiries and other processes. The approach adopted by the Commission provided low cost access to bodies of significant relevant expertise otherwise unavailable to the Commission. The approach, in the Commission's case, provided for a flexible and highly skilled workforce at an efficient cost. The skill base of the Commission was therefore, in a practical sense, wider than the Commission would otherwise be able to afford, and provided opportunities for core staff to expand their skills and experience with skills transfer.

Table 3: Contractor and consultant services in 2001–02

Consultant/Contractor <sup>(a)</sup>	Service	Value (\$) <sup>(b)</sup>
Hays Accountancy Placements	Provide accounting services	14,956
Jindabyne Business Services	Provide accounting services	13,333
Court Reporting Service Proprietary Limited	Transcribe taxi and hire car inquiry public hearing records	1,598
Independent Pricing and Regulatory Tribunal (New South Wales)	Provide consulting services to the inquiry into reforms to the taxi and hire car industries in the ACT	161,212
Independent Pricing and Regulatory Tribunal (New South Wales)	Provide consulting services to the inquiry into taxi industry pricing	119,367
KPMG	Provide advice to the review of utility licence fees	2,895
PB Power	Provide advice to the review of gas FRC costs	14,768
PricewaterhouseCoopers	Provide advice to the inquiry into FRC in electricity in the ACT	40,000
Allen Consulting Group	Provide advice to the wheelchair accessible taxi inquiry	22,727
Deloitte Touche Tohmatsu	Conduct the internal controls audit	15,950
Minter Ellison	Provide legal advice on Constitutional issues relating to utility licence fees	33,971

<sup>(</sup>a) Only contractors and consultants external to the ACT Government are included.

#### Capital works management

Minor capital works expected in 2001–02 were not completed by 30 June 2002. The Board agreed to the costing of a range of floor plan options for additional office space late in 2002. The cost of the fit out has been included in the Commission's 2002–03 Budget.

#### **Asset management**

The Commission has no capital assets other than furniture and fittings and short-term cash assets. The cash assets managed are operational appropriations, provided quarterly, that attract interest at the bank determined rate. There is little capacity to invest funds over the medium or longer term at this stage, although in future if cash reserves are built up an investment strategy will be developed and implemented.

# Statutory requirements

#### Occupational health and safety

The Commission has adopted the OH&S policies applying in the ACT public sector and is advised on OH&S issues by the Corporate Services Branch of the Chief Minister's Department under a service level agreement.

<sup>(</sup>b) All figures are goods and services tax exclusive and rounded to whole dollars.

In addition, the Commission is aware of the need for ongoing OH&S risk management. OH&S issues are a standing item for both staff meetings and meetings of the Commissioners.

The Commission has a fully trained and certified first aid officer and participates in the fire safety and evacuation practices for Eclipse House tenants. The Commission has a fire warden in the office and regularly practices fire drills.

There were no OH&S complaints or injuries during the financial year.

#### Commissioner for the Environment

The Commission has made no reports to, nor received requests for information from, the Commissioner for the Environment.

#### Public interest disclosure

There were no incidents requiring disclosure during the financial year.

#### Government Contractual Debts (Interest) Act 1994

In the financial year 2001–02, the Commission did not pay any interest under the provisions of this Act. The Commission continued to pursue its policy of compliance with the Act by paying creditors' accounts in the 28-day period provided for in the Act.

#### Freedom of Information Act 1990

The Commission received no requests for information disclosure under the terms of the *Freedom of Information Act 1990*.

The ICRC Act and the Utilities Act both require the Commission to make public all decisions, submissions to inquiries, reports and draft reports and reasons for the Commission's decisions. The Commission's final reports on investigations on all issues relating to prices, access disputes, access arrangement proposals, and decisions on the issue and revocation of utility licences, and application of conditions to utility licences are all publicly available. The Commission makes information publicly available through published reports and the Commission's website, and at the Commission's office.

#### **Ecologically sustainable development**

The Commission continued its ongoing review of operations in support of the principles of ecologically sustainable development (ESD) in 2001–02. The review will include in 2002–03 consideration of options for waste minimisation, using 'green choice' electricity or at least some mix of traditionally generated and 'green choice' electricity, and more efficient power usage in relation to lights and computers.

The Commission, consistent with the Government's 'no waste' policies, continued its commitment to producing zero waste by 2010 by attempting to reduce the amount of paper it uses and increasing the amount of its waste that is recycled. As part of its ongoing review the Commission is aiming to re-use paper products before recycling them. It is hoped that the impact of these policies will include a reduction in the space required for landfill, and consequential reductions in greenhouse gases.

See Table 4 for a visual summary of the Commission's ESD priorities.

Table 4: Commission activities supporting ecologically sustainable development, 2001–02

Item	Description	Environmental/economic/social outcome
	Office base	d activities
Energy	Utility use policies reducing reliance on electric lighting	Reduction of energy consumption and greenhouse emissions
Consumables	Use of recycled paper and other consumables (such as printer toner)	Improvement in recycling practices, thereby reducing greenhouse gas emissions
Disposables	Recycling	Reduced impact on landfill, and consequent reductions in greenhouse gases
	Service	delivery
Inquiries	Consideration of 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	Consideration of social and environmental costs	Service pricing for regulated industries that reflects full costs including environmental costs and the social impact of prices

#### **Appended information**

#### **Reports by the Auditor-General**

The following report refers to the operations of the Commission in the 2001–02 financial year:

Auditor-General of the ACT, Report on Annual Reports for the period ending 30 June 2001.

#### Reports by the Ombudsman

The Commission made no reports to the Ombudsman, and was referred no complaints or questions by the Ombudsman.

#### Legislative Assembly committee inquiries and reports

Legislative Assembly of the ACT, Estimates Committee Report: 2001–02 Budget.

#### Legislation

The Commission has responsibilities under the following legislation:

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

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

- Financial Management Act 1996
- Annual Reports (Government Agencies) Act 1995
- Government Procurement Act 2001
- Public Access to Government Contracts Act 2000
- National Electricity Code
- National Gas Code
- Public Sector Management Act 1990.

#### Regulatory activities

The Commission had no regulatory activities to report on in 2001–02 other than those reported on in the body of the annual report.

#### Advisory and consultative boards and committees

The Commission had no advisory boards or consultative committees associated with its activities in 2001–02. Nor did it participate as a member of such bodies during the year.

## Service purchasing arrangements/community grants/assistance/sponsorship

The Commission undertook no activities in these categories in 2001–02.

#### **Community consultation**

The Commission consults and advises the community in relation to all inquiries referred to the Commission. Public notices are published seeking input in relation to all references received for price and regulatory inquiries. Many issues raised in the granting of utility licences and approval of industry codes and standards are publicly notified, and many decisions are gazetted.

Where public hearings are held members of the public are invited to attend to make personal submissions. For example, in 2001–02 a public hearing was held in relation to the inquiry into pricing and reform in the taxi and hire car industries, to which members of the community and businesses made oral submissions.

#### Other sources of information

Information about the Commission, particular inquiries, competitive neutrality complaints, advice on government regulated activities and utility licensing and compliance may be found on the Commission's website at <www.icrc.act.gov.au>. Alternatively, the Commission may be contacted on 02 6205 0799.

#### Requirements of the ICRC Act

Section 9 of the ICRC Act requires the Commission to report under the *Annual Reports* (Government Agencies) Act 1995 and mandates reporting on the following:

- investigations (four investigations: petroleum fuels, WATs, FRC in electricity, and reform in the taxi and hire car industries)
- final reports and special reports (four final reports: petroleum fuels, WATs, FRC in electricity, and a joint final report on taxi prices and reform in the taxi and hire car industries; no special reports were released but the final reports were preceded by draft reports)
- price directions (one price direction: taxi service prices)
- advice about proposed access agreements (nil)
- the number of access agreements notified (nil)
- arbitration disputes (nil)
- determinations of arbitration disputes (nil)
- the number of notices issued under section 41 (nil)
- the general use made by the Commission of information and documents obtained as a result of notices issued under section 41 (nil)
- any other functions of the Commission.

Detailed reports on the Commission's reportable activities are provided above.

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#### Glossary and abbreviations list

Term or	abbreviation	Definition
16111101	abbieviation	Dellillidoll

ACT Australian Capital Territory

ACTION Australian Capital Territory Internal Omnibus Network, the ACT's public bus

service

ASO Administrative Service Officer

ATSI Aboriginal and Torres Strait Islander
AWA Australian Workplace Agreement

Commission, the Independent Competition and Regulatory Commission

competitive neutrality policy to eliminate resource allocation distortions that arise out of government

policy ownership of entities engaged in business activities

CPI consumer price index

EEO equal employment opportunity

ESD ecologically sustainable development

FRC full retail contestability

gas market operator the party responsible for effecting customer transfers and settlements in the

contestable part of the gas market

GMCO Gas Market Company, the ACT's gas market operator

ICRC Act Independent Competition and Regulatory Commission Act 1997

MLA Member of the Legislative Assembly
NESB non-English speaking background
OH&S occupational health and safety

Price Direction statement issued by the Commission, setting price paths and revenue caps for

a utility for a specified period of years

revenue cap upper limit on revenue, set by the Commission, to allow utility service

providers to recover reasonable capital and operating costs

SOG Senior Officer Grade
Utilities Act Utilities Act 2000

utility services electricity supply and network operations, gas supply and network operations

and water and sewerage supply

WAT wheelchair accessible taxi

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#### AUDITOR-GENERAL



Australian Capital Territory

A02/48

Mr Paul Baxter Senior Commissioner Independent Pricing & Regulatory Commission GPO Box 975 Civic Square ACT 2601

Dear Mr Baxter

Audit Report on the Independent Competition & Regulatory Commission's Financial Statements for the Year Ended 30 June 2002

The audit of the financial statements of the Independent Competition & Regulatory Commission for the year ended 30 June 2002 has been completed.

Attached are the audited financial statements together with an unqualified audit report. A copy of these financial statements together with an unqualified report has been provided to the Chief Minister.

Particular attention is drawn to the control weaknesses identified in an ICRC internal audit report<sup>1</sup> issued in July 2002. Even though the internal audit concluded that, given the size of the ICRC, the ICRC system of internal controls was 'satisfactory' a number of weaknesses in the ICRC's financial controls were identified. It was noted that management agreed to implement the recommendations of the internal audit.

<sup>&</sup>lt;sup>1</sup> Independent Competition and Regulatory Commission, Final Internal Audit Report prepared by Deloitte Touche Tohmatsu dated July 2002

#### INDEPENDENT COMPETITION & REGULATORY COMMISSION FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2002

#### Statement of Responsibility

In my opinion, the accompanying financial statements of the Independent Competition & Regulatory Commission for the year ended 30 June 2002 consisting of the:

- Statement of Financial Performance;
- Statement of Financial Position;
- Statement of Cash Flows;
- · Notes to and forming part of the Financial Statements; and
- · Statement of Performance

show fairly the financial operations and service performance of the Independent Competition & Regulatory Commission during the year to which they relate and the financial position of the Independent Competition & Regulatory Commission at the end of the year.

I accept responsibility for the preparation of the financial statements and the judgements exercised in preparing them.

Paul Baxter Senior Commissioner Independent Competition & Regulatory Commission

Dated: \7 81 0 -

Ian Primrose

Chief Executive Officer 7 UNITED Independent Competition & Regulatory Commission

#### INDEPENDENT COMPETITION & REGULATORY COMMISSION

# **STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2002**

		Notes	Actual 2002 \$'000	Budget 2002 \$'000	Actual 2001 \$'000
		110005	<b>*</b> ***********************************	<u> </u>	<b>**</b>
REVENUE FROM ORDINARY ACTI	VITIES				
Fees	3.3	1,159	500	36	
User Charges – ACT Government	3.1	785	650	558	
User Charges – Non ACT Government		3.2	11	450	192
Interest			30	-	3
Other					7
<b>Total Revenue from Ordinary Activiti</b>	es		1,985	1,600	796
EXPENSES FROM ORDINARY ACT	<b>FIVITIES</b>	2.7	13		
Depreciation and Amortisation Employee Expenses		4.1	386	380	- 244
Superannuation Superannuation		4.1	26	64	18
Administrative Expenses		4.3	1,147	1,148	491
Total Expenses from Ordinary Activit	ies		1,572	1,592	753
OPERATING SURPLUS					
FROM ORDINARY ACTIVITIES		_	413	8	43
1.1.1.1.1.1 Change in Equity other than t from Transactions with Owners as Ov		ulting	413	8	43
Increase in Net Assets from Administrat	ive				
Restructure		6	-	-	129

**Total Change in Equity including those Resulting** 

from Transactions with Owners as Owners

6 413 8 172

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

# INDEPENDENT COMPETITION & REGULATORY COMMISSION STATEMENT OF FINANCIAL POSITION

#### **AS AT 30 JUNE 2002**

			Actual	Budget	Actual
			2002	2002	2001
		Notes	\$'000	\$'000	\$'000
CURRENT ASSETS					
Cash			772	118	62
Receivables	5.1	224	133	229	
Prepayments		5.2	-	-	3
Other			1	<u> </u>	
<b>Total Current Assets</b>		_	996	252	294
NON-CURRENT ASSETS					
Property, Plant and Equipment		5.3	117	_	129
<b>Total Non-Current Assets</b>			117	-	129
Total Assets			1,113	252	423
CURRENT LIABILITIES					
Creditors		5.4	404	158	189
Employee Entitlements		5.5	59	25	29
<b>Total Current Liabilities</b>			463	183	218
NON-CURRENT LIABILTIES					
Employee Entitlements		5.5	65	57	33
Other			2		
<b>Total Non-Current Liabilities</b>		_	65	59	33

NET ASSETS		585	10	172
REPRESENTED BY:				
Accumulated Funds	6	585	10	172
Total Equity		585	10	172

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

# INDEPENDENT COMPETITION & REGULATORY COMMISSION STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2002

	Actual	Budget	Actual
	2002	2002	2001
Notes \$'000 \$'000 \$'000	2002	2002	2001
Cash at the Beginning of the Financial Year	62	112	-
CASH FLOWS FROM OPERATING ACTIVITIES			
RECEIPTS			
Fees	1,161	450	-
User Charges	879	1,075	557
Interest	26	-	3
Other	22	48	7
<b>Total Receipts from Operating Activities</b>	2,088	1,573	567
PAYMENTS			
Related to Employee Expenses	316	438	183
Related to Superannuation Expenses	27	-	17
Related to Administrative Expenses	1,035	1,081	305
Other		48	<u>-</u>
<b>Total Payments from Operating Activities</b>	1,378	1,567	<u>505</u>
Net Cash Inflow from Operating Activities	7 <b>710</b>	6	62
Net Increase in Cash Held	710	6	62
Cash at the End of the Financial Year	772	118	62

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

#### **NOTES**

#### 1 SUMMARY OF OBJECTIVES AND FUNCTIONS

#### 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

- 2.1 Basis of Accounting
- 2.2 Definition of Cash
- 2.3 Employee Entitlements
- 2.4 Taxation
- 2.5 Superannuation
- 2.6 Property, Plant and Equipment
- 2.7 Depreciation and Amortisation of Non-Current Assets
- 2.8 Transactions with the Government as Owner
- 2.9 Economic Dependency
- 2.10 Insurance
- 2.11 Rounding

#### 3 REVENUE FROM ORDINARY ACTIVITIES

- 3.1 User Charges ACT Government
- 3.2 User Charges Non-ACT Government
- 3.3 Fees

#### 4 EXPENSES FROM ORDINARY ACTIVITIES

- 4.1 Employee Expenses
- 4.2 Superannuation Expenses
- 4.3 Administrative Expenses

#### 5 ASSETS AND LIABILITIES

- 5.1 Receivables
- 5.2 Prepayments
- 5.3 Property, Plant and Equipment
- 5.4 Creditors
- 5.5 Employee Entitlements

#### 6 ACCUMULATED FUNDS

- 7 RECONCILIATION OF OPERATING SURPLUS TO NET CASH INFLOW FROM OPERATING ACTIVITIES
- 8 AUDITOR'S REMUNERATION
- 9 AVERAGE STAFFING LEVELS
- 10 FINANCIAL INSTRUMENTS
- 11 RELATED PARTY DISCLOSURES
- 12 COMMITMENTS
- 13 SUBSEQUENT EVENTS
- 14 UTILITY LICENCE FEE ADJUSTMENTS

#### **Objectives**

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

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

In the *Utilities Act 2000*, the ICRC 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 ICRC by the council, or the Chief Executive under Part 5 (Technical Regulation), is properly considered;
- to ensure the Government's programs about the provision of utility services are properly addressed; and
- to give effect to directions of the Minister under Section 19.

#### **Functions**

Section 8 of the *Independent Competition and Regulatory Commission Act* requires that the ICRC provide the following functions:

- provide price directions;
- provide recommendations about price regulation;
- provide advice to the Minister about proposed access agreements;
- maintain a register of access agreements;

- arbitrate disputes about access to services under access regimes;
- investigate and report on matters referred by the Minister and other referring authorities;
- investigate and report on competitive neutrality complaints;
- investigate and report on government-regulated activities;
- any other function conferred by this or another law of the Territory; and
- any function incidental to a function mentioned above.

The *Utilities Act 2000* refers to a number of responsibilities in relation to the licensing of utility services and ensuring compliance with the Act in relation to the provision of these services.

#### NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A summary of the significant accounting policies adopted by the ICRC are set out in this Note.

#### 2.1 Basis of Accounting

The financial statements are required by Section 59 of the *Financial Management Act 1996* and are a general purpose financial report.

The Statement of Financial Performance and Statement of Financial Position have been prepared on an accruals basis and are in accordance with historical cost convention. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

Assets and liabilities are recognised in the Statement of Financial Position when and only when it is probable that future economic benefits will flow and the amounts of the assets and liabilities can be reliably measured.

Revenue and expenses are recognised in the Statements of Financial Performance when and only when the flow or consumption or loss of economic benefits has occurred and can be reliably measured.

#### 2.2 Definition of Cash

For the purposes of the Statement of Cash Flows, cash includes cash on hand, in banks, cash equivalents and investments readily converted to cash and are subject to an insignificant risk of changes in value.

#### 2.3 Employee Entitlements

#### Wages and salaries and annual leave

Liabilities for wages and salaries and annual leave are recognised and are measured as the amount unpaid at the reporting date, at current pay rates in respect of employees' services up to that date.

#### Long service leave

A liability for long service leave is recognised and is measured as the present value of future payments to be made in respect of services provided by employees up to the reporting date. Consideration is given to expected future wages and salary levels, past experience of employee departures and periods of service. Accordingly, a provision is recognised on a pro-rata basis for long service leave for all employees with more than 5 years of service, even though there is no legal entitlement until 7 years of service has been provided.

#### 2.4 Taxation

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

No liability for Fringe Benefits Tax arose in the financial year.

#### 2.5 Superannuation

#### Superannuation Contributions

The liability for superannuation payments (other than productivity contributions), is assumed by the Commonwealth. The ACT, through the Superannuation Unit has a liability to reimburse the Commonwealth for the emerging superannuation liability related to ACT employment. ICRC is required to make payment to the Superannuation Unit for ICRC's share of the annual superannuation liability for staff who are members of the Public Sector Superannuation Scheme (PSS). The superannuation expense paid by ICRC to Superannuation Unit for this financial year was \$25,069 (last year, \$23,826).

The amount provided to be paid to other superannuation funds for short term contracted employees as per Superannuation Guarantee Legislation was \$1,395 (last year, \$1,825).

#### Superannuation Guarantee Legislation

The Independent Competition and Regulatory Commission provides a superannuation benefit for various categories of temporary and casual staff under the Superannuation Guarantee Levy provisions. For 2001-02 the charge was 8%.

#### 2.6 Property, Plant and Equipment

All non-current depreciable assets with a historical cost equal to or in excess of \$1,000 are capitalised in the year of acquisition and included in the financial statements. Purchases costing less than \$1,000 are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

#### 2.7 Depreciation and Amortisation of Non-Current Assets

Leasehold improvements are amortised on a straight-line basis over the lesser of the estimated useful life of the improvements, the unexpired period of the lease or a depreciation rate of 10%.

#### 2.8 Transactions with the Government as Owner

Net assets received under a restructuring of administrative arrangements are designated as contributions by owners and adjusted directly against equity. Net assets relinquished are designated as distributions to owners. Net assets transferred are initially recognised at the amounts at which they were recognised by the transferring agency immediately prior to the transfer.

#### 2.9 Economic Dependency

The continued existence of ICRC is dependent on continued funding provided by the ACT Government for its operations.

#### 2.10 Insurance

From 1 July 2001 Independent Competition and Regulatory Commission was insured for any losses through the ACT Government Risk Management Fund. The insurance levy is intended to cover the full cost of all claims made and losses arising from 1 July 2001. The insurance levy paid by ICRC for this financial year was \$2,851. The total insurance expense for the year was \$2,851 (last year, \$2,856).

#### 2.11 Rounding

Amounts have been rounded to the nearest \$1,000.

#### **NOTE 3 – REVENUE FROM ORDINARY ACTIVITIES**

	Actual 2002 \$'000	Actual 2001 \$'000
3.1 User Charges – ACT Government	\$ 000	\$ 000
Appropriations received	400	400
Payments from the Government for services provided	385	158
Total User Charges – ACT Government	785	558

	Actual 2002 \$'000	Actual 2001 \$'000
3.2 User Charges – Non-ACT Government		
Inquiries	-	174
Consultancies	11	18
Total User Charges – Non-ACT Government	11	192
3.3 Fees		
Utilities Licence Fees	1,159	36
Total Fees	1,159	36
NOTE 4 – EXPENSES FROM ORDINARY ACTIVITIES  4.1 Employee Expenses		
Salaries and Wages	326	190
Annual Leave	28	21
Long Service Leave	32	33
Total Employee Expenses	386	244
4.2 Superannuation Expenses		
Superannuation	26	18
<b>Total Superannuation Expenses</b>	26	18
4.3 Administrative Expenses		
Utilities Act – Administrative Costs	464	-
Property and Equipment	91	68
Professional Services	392	300
Staff Development	6	6
Travel & Accommodation	8	13

<b>Total Administrative Expenses</b>	1,147	491
Other Expenses	62	22
Advertising	12	14
Fee to Commissioner	100	55
Postage & Printing	12	13

#### **NOTE 5 – ASSETS AND LIABILITIES**

5.1 Receivables	Actual 2002 \$'000	Actual 2001 \$'000	
Current Accrued Revenue			
Internal to ACT Government	-	-	
External to ACT Government	3	1	
Debtors – Current (less than 30 days)			
Internal to ACT Government		213	56
External to ACT Government	8	172	
Total Receivables	224	229	
5.2 Prepayments			
Prepaid Insurance		3	
5.3 Property, Plant and Equipment			
Movement Summary 2001-02 for all assets irrespective of valuation	basis		
Leasehold Improvements At Cost			
Gross Value as at Beginning of Year	129	-	
Additions: Assets transferred in	-	129	
Gross Value as at End of Year	129	129	

Depreciation/amortisation charged	12	-	
Accumulated Depreciation/Amortisation as at End of Year		12	
Net Book Value at the End of Year	117	129	
Not Rook Value at the Reginning of Voor	120	0	

		2002	2001
		\$'000	\$'000
5.4 Creditors			
Current Trade Creditors			
Internal to ACT Government	35	42	
External to ACT Government	33 78	136	
External to ACT Government	78	130	
Accruals & Other			
Internal to ACT Government	130	5	
External to ACT Government	161	6	
Total Creditors	404	189	
5.5 Employee Entitlements			
Current			
Salaries and Wages	10	7	
Annual Leave	48	21	
Superannuation	1	1	
Total Current Employee Entitlements	59	29	
Non-Current			
Long Service Leave	65	33	
Total Non-Current Employee Entitlements		65	33
Town You Current Employee Enducements		<u> </u>	
Aggregate Employee Entitlements Liability		124	62
NOTE 6 – ACCUMULATED FUNDS			
Balance at the Beginning of the Financial Year		172	-
Operating Surplus from Ordinary Activities	413	43	
Increase in Net Assets from Administrative Restructure			129

Actual

Actual

Balance at the End	d of the	<b>Financial</b>	Year
--------------------	----------	------------------	------

## NOTE 7– RECONCILIATION OF OPERATING SURPLUS TO NET CASH INFLOW FROM OPERATING ACTIVITIES

		Actual 2002 \$'000	Actual 2001 \$'000
<b>Operating Surplus from Ordinary Activities</b>		413	43
Changes in Assets and Liabilities			
(Increase)/Decrease in Receivables	5	(229)	
(Increase)/Decrease in Current Assets	3	(3)	
Decrease in Non Current Assets	12	-	
Increase in Creditors and Accruals	215	189	
Increase in Employee Entitlements	62	62	
Net Changes in Assets and Liabilities	297	19	
Net Cash Inflow from Operating Activities		710	62

#### **NOTE 8 – AUDITOR'S REMUNERATION**

The estimated audit fee for this year's audit by the ACT Auditor-General was \$5,720 including GST (last year, \$5,500). No other services were provided by the auditors.

NOTE 9 – AVERAGE STAFFING LEVELS	<b>Actual Actual</b>	
	2002	2001
The average levels for the ICRC during the year were:	5	3

#### **NOTE 10 – FINANCIAL INSTRUMENTS**

#### (a) Terms, Conditions and Accounting Policies

The ICRC's accounting policies and the terms and conditions of each class of financial asset and liability are as follows:

Recognised Financial Instruments	No te	Accounting Policies	Terms and Conditions
Financial Assets			
Cash		Cash is stated at its nominal amount. Interest is recognised in the Statement of Financial Performance when earned.	Interest is earned on this bank account at 4.4% pa w/average (last year, 5.7% pa)
Receivables	5.1	Receivables are recognised at the nominal amount less any provision for bad and doubtful debts.	Credit terms are 30 days.
Financial Liabilities			
Creditors	5.4	Liabilities are recognised for amounts to be paid in the future for services received, whether or not billed to the entity.	Creditors are normally settled within 30 days.

#### (b) Net Fair Values of Financial Instruments

Financial assets and liabilities are carried at their net fair value at balance date. The net fair value of financial assets and liabilities approximate their carrying value reported in the Statement of Financial Position because of:

- (i) the short term to maturity or realisation for *cash* and *investments*; and
- (ii) the expected short term to payment for *creditors*.

#### (c) Unrecognised Financial Instruments

There were no unrecognised financial assets or liabilities.

## (d) Credit Risk Exposure

The credit risk on the financial assets of ICRC is the carrying amount of the financial assets.

	Actual	Actual
	2002	2001
	\$'000	\$'000
Receivables	224	229

### (e) Interest Rate Exposure

The exposure to interest rate risk and the effective weighted average interest rate for each class of financial assets and liabilities is set out below.

2002		Floating interest rate	Fixed interest rate	Non-interest bearing	Total
	Notes	\$'000	\$'000	\$'000	\$'000
<b>Financial Assets</b>					
Cash		772	-	-	772
Receivables	5.1	-	-	224	224
Total Financial Assets		772		224	007
		772	-	224	996
Weighted average interest rate		4.4%	-%	-%	
Financial Liabilities					
Creditors	5.4	-	-	404	404
Total Financial Liabilities		-		404	404
Weighted average interest rate		-%	-%	-%	
Net Financial Assets		772	-	(180)	592

## (f) Interest Rate Exposure (cont.)

2001		Floating interest rate	Fixed interest rate	Non-interest bearing	Total
	Notes	\$'000	\$'000	\$'000	\$'000
<b>Financial Assets</b>					
Cash		62	-	-	62
Receivables	5.1	-	-	229	229
Total Financial Assets		62	-	229	291
Weighted average interest rate		5.7%	-%	-%	
Financial Liabilities					
Creditors	5.4	-	-	189	189
Total Financial Liabilities		-	-	189	189
Weighted average interest rate		-%	-%	-%	
Net Financial Assets		62	-	40	102

## **Reconciliation of Net Financial Assets to Net Assets**

	Actual 2002	Actual 2001	
	Notes	\$'000	\$'000
Net Financial Assets as per the above table		592	102

Net Assets as per Statement of Financial Position	_	585	172
Employee Entitlements	5.5	(124)	(62)
Property, Plant and Equipment	5.3	117	129
Prepayment		-	3

### NOTE 11 - RELATED PARTY DISCLOSURES

The names of the directors who have held office during the financial year are:

Paul Baxter (Senior Commissioner)

Peter McGhie

Robin Creyke

All the commissioners commenced their appointments with the Commission prior to 1 July 2001.

	Actual 2002	Actual 2001 \$'000	\$'000
Income paid, or otherwise made available, to commissioners an	d		
related parties in connection with the management of affairs of			
the Commission.	100	55	

Income Band	Number	Number
\$0 - \$9,999	1	
\$10,000 - \$19,999	1	
\$50,000 - \$59,999	-	1
\$70,000 - \$79,999	1	
Total	3	1

### **NOTE 12 – COMMITMENTS**

There were no commitments for ICRC as at 30 June 2002.

### **NOTE 13 – SUBSEQUENT EVENTS**

There were no subsequent events for ICRC.

#### NOTE 14 – UTILITY LICENCE FEE ADJUSTMENTS

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

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

Where, in the previous year, the costs of regulatory services was less than the licence fees collected, the 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 cost 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.

In 2001-2002, the cost of regulation was less than the licence fees collected. In 2002-2003, the licence fees for each utility have been offset by a proportion of the unexpended licence fees for that utility at the end of 2001-2002.

In future years the Commission's financial statements will show the amount of the licence fee variations as a provision (liability/asset) in the accounts.

1.1.1.1.1.1.1 Table 5: Statement of Performance for the year ending 30 June 2002

Performance measures	Notes	Target	Result	Var %
Provide reports to government in response to all competitive neutrality complaints		2	1	-50
Horse Agistment	1	2 reports	1 report in progress	
Provide reports on all government activity matters referred to the Commission:	2	2 reports	4 reports	100
Wheelchair Accessible Taxis	2	2 reports	1 reports	100
Taxi and Hire Car Reforms			1 report	
• Full Retail Competition in Electricity			1 report	
Motor Vehicle Fuels			1 report	
Provide directions for all price references				
Taxi service pricing	3	2 reports	1 report	-50
Provide reports in relation to all access issues referred to the Commission	4	2 reports	_	-100
Provide decisions on applications for utility licences				
		23 decisions	23 decisions	_
Report to government on the level of compliance with the licence conditions and industry codes applying to utilities				
unities	5	1 report	_	-100
Report on all licences cancelled or amended during				
2001–02	6	1 report	_	-100
Publish a report on utility performance at least once a				
year	7	1 report	_	-100
Approval of annual price adjustments for utility pricing for gas, electricity, water and sewerage	8	3 decisions	5 decisions	166
Approval of annual price adjustments for regulated industries				
• ACTION	9	1 decision	1 decision	_

Note: The above statement should be read in conjunction with the accompanying notes

## Notes to the Statement of Performance for the Independent Competition and Regulatory Commission for the year ending 30 June 2002

1. The Commission advanced its investigation of the horse agistment complaint during the year. The Board has considered the draft report of the investigation. The Board had not agreed to the

final report by 30 June 2002. The complaint remains in-progress until the Board is satisfied with the final draft of the report and submits it to the Minister.

No other complaints were lodged with the Commission in the 2001–02 financial year. Complaints are driven by references from the community about potential instances of competitive neutrality. The Commission is unable to determine what number of complaints will occur in a year, or whether any will occur.

- 2. The Statement of Intent for 2000–01 did not foreshadow investigations into specific matters but made a provision for two references being issued to the Commission during the course of the year. At the end of the year the Commission had concluded a number of matters including:
- finalising the investigation into motor vehicle fuels commenced in 2000–01
- an investigation into the competition issues relating to Wheelchair Accessible Taxis
- an investigation into Full Retail Contestability in Electricity in the ACT
- an investigation into reform of the taxi and hire car industries in the ACT.

The number of investigations exceeded the level of activity estimated in the Statement of Intent for the financial year.

- 3. The Commission received one reference for a price inquiry in the financial year, in relation to the price of taxi services. The investigation was to establish if possible a price path for taxi services over three years. In its final report, the Commission established a price path over two years, ending on 30 June 2003. In 2002–03 the Commission will reset prices under the determination made in this yea
- 4. The Statement of Intent forecast two reports in relation to access issues in 2001–02. No access matters were raised in the course of the year.
- 5. The Utilities Act requires that licensed utilities report annually to the Commission on compliance with the conditions of their licences. The first annual reporting obligation will occur in October 2002. Guidelines have been prepared and agreed by the Commission Board, after extensive consultation with industry.
- 6. In its 2001–02 Statement of Intent, the Commission made provision for reporting to the Minister on instances of licences being revoked or amended. During the year no licences were revoked. The two retail gas licences were amended, to require the licensees to access a transfers and settlements system to enable the contestable retail gas market to operate. The Commission did not issue a report to the Minister on these amendments as they were made at the direction of the Minister under section 19 of the *Utilities Act 2000*, and the changes were limited in scope and application. The Commission's will report on these issues in its Annual Report for the period ending 30 June 2002. In 2002–03 the Commission has foreshadowed amending utility licences. For example, the Commission is consulting on new retailer of last resort arrangements in

electricity and gas and changes to the Consumer Protection Code reflecting the opening of the electricity market to full retail competition that may require licence conditions to be amended.

- 7. The Commission anticipated producing a utilities performance report in 2001–02 as a precursor to the initial utilities compliance reporting period in October 2002. Lack of resources and commitment to other higher priority activities in the second half of the financial year prevented the Commission from allocating resources to the project. In 2002–03, following the first annual licence compliance reporting process, the Commission expects to produce a performance report for public release.
- 8. The Statement of Intent included 3 decisions on price adjustments in 2001–02. The measure assumed that both gas and electricity retail utility services would be fully contestable from 1 January 2002. However, while gas was contestable from 1 January 2002, electricity remains subject to regulated retail prices. Consequently, the three decisions relating to network prices for gas, electricity and water and sewerage has actually increased to 4 decisions, reflecting the Commissions decision to reset prices for electricity retail services
- 9. The reference to price adjustments for regulated industries relates to the reset of ACTION prices subject to the determination made in 2000–01. In 2002–03 the Commission will undertake a determination of prices for ACTION services for the period commencing 1 July 2003.

## Management discussion and reporting analysis

### **General overview**

The Independent Competition & Regulatory Commission has operated as an independent body since July 2000. During 2001-02, a number of inquiries and investigations were referred and undertaken, subject to the *Independent Competition & Regulatory Commission Act 1997* and other work undertaken under the obligations in the *Utilities Act 2000*.

Unlike other ACT Government agencies or authorities, the Independent Competition & Regulatory Commission's operating results are based either upon revenue from licence fees determined under the Utilities Act or revenue arising from referrals for investigation or inquiry received. These referrals may come from members of the ACT Legislative Assembly, private or public corporations or members of the general public.

The Independent Competition & Regulatory Commission normally operates on a direct cost recovery basis. That is, any direct costs incurred in undertaking an investigation are recovered from the corporation or industry to which the inquiry relates. No additional amounts are charged to cover overhead, occupancy or staffing costs. These costs are covered by funds appropriated to provide for the Independent Competition & Regulatory Commission and subject to a purchase agreement with the Department of Treasury.

The 2001-02 Financial Year also saw revenue for the first time from the issue of Utility Licences under the *Utilities Act 2000*. These licence fees generated almost 60% of the Commission's revenue for the period. Fee revenue is distributed between the Commission, ACT Workcover, BEPCON and the Essential Services Consumer Council, all of

whom are required to provide services under the Utilities Act, the costs of which are covered by the licence fees collected.

The Commissioners note the strong financial position of the Independent Competition & Regulatory Commission as at 30 June 2002. This positive outcome is a result of sound cash management and financial policies implemented throughout the year. The Commission received an Unqualified Audit Report issued by the Auditor-General in respect to 2001-02.

# Commission financial performance

The following financial information is based upon audited Financial Statements for 2000-01 and 2001-02 and the forward estimates contained in Budget Paper No 4 2002.

### **Operating result**

The operating result for the 2001-02 Financial Year is an operating surplus of \$0.413m. This result was better than the original budget mainly due to a greater amount of utility licence fees collected and the lower costs of initially providing services under the *Utilities Act 2000*.

This is an increase of \$0.370m from the previous year's result of \$0.043m, which was the Commission's first year of operations.

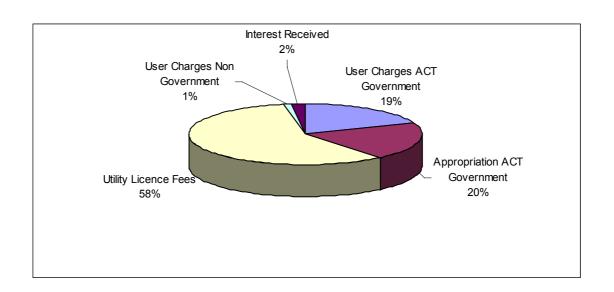
#### **Total revenue**

The Commission's total revenue for the 2001-02 financial year totalled \$1.985m. This was 24% higher than the 2001-02 budget.

1.1.1.1.1.1.1.2 Figure 1: Components of revenue 2001-02

No interest income had been budgeted in 2001-02, but this amounted to \$0.030m. Cash reserves accumulated from Utility Licence Fees before distribution to other ACT Government departments resulted in the interest income.

### **Total expenditure**



Utility Licence Fee collections accounted for 58% of the Commission's revenue. This amount was \$1.159m, with the original budget being \$0.50m.

User Charges – ACT Government was 21% greater than budget. Total revenues from inquiries amounted to \$0.385m for the year. Over half of this revenue stream came from the inquiry into the ACT Taxi & Hire Car industry. The remainder of User Charges – ACT Government was from Government appropriation.

User Charges – Non ACT Government amounted to \$0.011m for the period, well down from the estimated \$0.45m. With the Commission's resources fully employed with the implementation of the *Utilities Act* and the Taxi & Hire Car Industry inquiry, the scope to take on extra work was limited.

Actual expenditure for the period was very much in line with budget. An actual figure of \$1.572m against a budget figure of \$1.592m was recorded for the financial year.

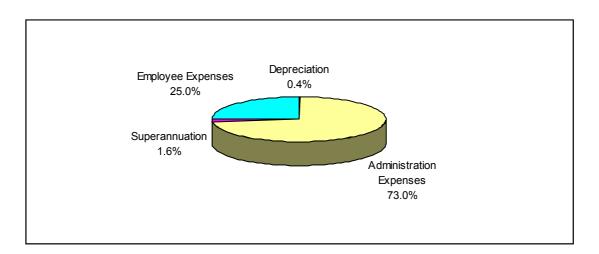
As anticipated, a large increase in administrative expenses (\$1.147m 2001-02 vs \$0.491m 2000-01) for the year was largely due to the costs associated with providing services as required under the *Utilities Act*. These services are provided by other ACT Government agencies as mentioned previously. The cost of these services provided for the first time in this financial year totalled \$0.464m. This cost was covered by the licence fees levied on utility providers.

Employee and Superannuation Expenses for the year was slightly lower than expected. Actual expenditure of \$0.412m compared to budget of \$0.444m was due to lower than expected employee on-costs.

The Commission has very few capital assets employed in revenue generation. Its main asset consists of leasehold improvements and furniture and fittings in the office it occupies. The historical cost of these assets total \$0.129m and, therefore, depreciation expense for the period was only \$0.013m.

Overall, the Commission is in a very strong and financially sound position. This position is expected to remain well into the next financial period.

### Liquidity



1.1.1.1.1.1.1.2.1 Figure 2: Components of Expenditure 2001-02

### **Financial position**

The Net Asset position of the Commission as at 30 June 2002 is very strong. Budgeted Current Assets at year end was \$0.253m with the actual result being \$0.996m, almost 4 times greater than expected. Of this result, \$0.772m was Cash at Bank (budget \$0.118m) and Receivables \$0.224m (budget \$0.133m). Total Assets at year end totalled \$1.113m, \$0.861m greater than budget.

Total Liabilities were higher than expected at 30 June 2002. Actual result booked Total Liabilities at \$0.528m compared to \$0.242 budgeted. The increase was a result of costs associated with providing services under the *Utilities Act* and amounts unpaid at year end for external consultants pertaining to the Taxi & Hire Car inquiry which had been expected to be finalised prior to year end.

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 less than 1:1 may indicate a reliance on the future revenue to satisfy current liabilities and debts.

**Table 6: Liquidity Data and Ratios** 

	Prior Year
	Actual
	\$'000
	2000-01
Total Current Assets	294
Total Current Liabilities	218
Current Ratio	1.4:1

## **Long Term Liabilities**

The Commission has no Long Term Liabilities pertaining to borrowings or Non-Current Asset purchases. An amount of \$0.065m as been recognised in the accounts as future Long Service Leave Employee Entitlements.