



ICRC

independent competition and regulatory commission

Annual Report **2008–09**

September 2009

The Independent Competition and Regulatory Commission

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

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

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Transmittal certificate

Mr Simon Corbell MLA
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Dear Attorney

This report has been prepared under section 6(1) of the *Annual Reports (Government Agencies) Act 2004* and in accordance with the requirements referred to in the *Chief Minister's 2007-2010 Annual Report Directions*. It has been prepared in conformity with other legislation applicable to the preparation of the Annual Report by the Independent Competition and Regulatory Commission.

We hereby certify that the attached Annual Report is an honest and accurate account and that all material information on the operations of the Independent Competition and Regulatory Commission during the period from 1 July 2008 to 30 June 2009 has been included and that it complies with the Chief Minister's Annual Report Directions.

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

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

Yours sincerely

Paul Baxter
Senior Commissioner

Jan Primrose
Acting Chief Executive Officer

23 September 2009



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Foreword

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

The ICRC Act provides for the Commission's key functions, and for open and accountable processes for their discharge. These are to regulate pricing access and other matters in relation to industries involving the provision of water, electricity and sewerage services, and other industries, and to investigate competitive neutrality complaints and government-regulated activities. These roles were established in the context of the introduction of the National Competition Policy in the ACT, and remain important supports for the ACT's competition framework.

Over time, other functions and objectives have been added to those in the ICRC Act. The introduction of the *Utilities Act 2000* (the Utilities Act) brought responsibilities for licensing utility services, and for monitoring and reporting to the Commission on compliance and performance of utilities. The Commission's roles were further expanded with the enactment of the *Electricity (Greenhouse Gas Emissions) Act 2004* (the Greenhouse Gas Emissions Act) under which the Commission is the administrator for the Greenhouse Gas Abatement Scheme. The Commission sets annual greenhouse gas benchmarks under the Act for participating utilities, monitors compliance and determines penalties for non-compliance.

While the Greenhouse Gas Abatement Scheme role represents a shift into the area of climate change and environmental policy that was not foreseen when the Commission was established, that trend has continued. The *Electricity Feed-in (Renewable Energy Premium) Act 2008* (Feed-in Tariff Act) established the Electricity Feed-in Scheme. The Feed-in Tariff Act provides a role for the Commission in providing advice to the minister about the premium rate to be charged for electricity fed into the network by relevant small-scale generators. The Commission also has a role in monitoring compliance with the Electricity Feed-in Scheme through licence conditions for electricity suppliers and for ActewAGL Distribution.

The widening of the Commission's roles in relation to utilities in the context of the climate change agenda provides important signals about its future once the transition to national regulation of energy utilities is completed over the course of the next few years. While the Commission's important role as the regulator for energy utilities will diminish over time to a smaller set of functions supporting the national regulatory framework, there is potential for new and different roles to develop around a wider set of issues facing the ACT community. At the same time, the Commission's critical responsibilities for the economic and non-economic regulation of water and sewerage services will continue to be delivered. These too will raise important environmental considerations.

The report which follows observes the continuing challenges facing the Commission and the continuing roles it plays in energy and water regulation. It also recognises that climate change and environmental sustainability are important areas of policy and administration for both the Commission and the community as a whole. The report details not only the change the Commission is experiencing but the widening opportunities for providing advice to government and supporting the process of policy development. On a number of issues during the past year, the Commission has assisted policy formation with expert and salient advice.

Underscoring the contribution that it continues to make, the Commission meets its challenges with minimal resources and with a small financial impact on the community. In 2007–08, the

Commission's base funding shifted from a dependence on utility licence fees and a small contribution for core Commission requirements provided through a Treasury purchase agreement to a mix of licence fees, Budget appropriation following introduction of the energy industry levy, and purchase agreements. The Commission may also receive payments for the reasonable costs of conducting industry and regulatory investigations, and for the provision of assistance to other agencies or bodies.

The Commission's output per head remains substantial by any measure of quality, substance and probity. Its particular strengths lie in its transparency and consultative practices. These community benefits are maintained by the efforts and the commitment of the Commission's staff, which the Commission acknowledges. At the same time, the Commission's success is also dependent on the quality of its interactions with government agencies, for which the Commission is grateful, and on the expertise of external consultants who are periodically engaged to assist the Commission in its various roles.

The report's structure conforms to the *Chief Minister's 2007–2010 Annual Report Directions* and thus addresses a common range of issues consistent with the government's objectives for transparency and accountability. Importantly, the Commission continues to include an introductory essay on a topical issue as a contribution to community understanding of events of economic and regulatory significance. Following on from its essay on aspects of urban water regulation in the 2007–08 report, this year the Commission addresses issues arising from planned adoption of a national emissions trading scheme.

In conclusion, the Commission observes that while 2008–09 has been a year between major utility pricing reviews, there have been pricing issues of moment considered. The Commission anticipates that in the 2009–10 year significant issues relating to water, stormwater, retail electricity pricing and feed-in arrangements will be evident.

I commend the report to the community not only as a record of the Commission's performance in the past year but also as an indicator of the breadth and substance of the roles that the Commission plays as an instrument of good governance in the Territory.

Paul Baxter
Senior Commissioner

Senior Commissioner's comments

Electricity pricing with carbon trading

There is much concern among electricity market participants and regulators about the consequences of introducing the proposed Carbon Pollution Reduction Scheme (CPRS) on the National Electricity Market (NEM). There are numerous examples of this concern. The Australian Energy Market Commission (AEMC), the rule maker and developer for the nation's energy markets, is conducting an extensive review of the potential effects of the CPRS on all aspects of the electricity market.¹ The Energy Retailers Association of Australia has issued a report on the implications of the CPRS on retail price regulation.² The Independent Pricing and Regulatory Tribunal (IPART), the regulator of retail electricity prices in New South Wales, and the Queensland Competition Authority (QCA), the regulator of retail electricity prices in Queensland, are in the process of determining regulated retail prices and are seriously considering the consequences of the CPRS on electricity purchase costs for the retail electricity businesses they regulate.³

The centrepiece of the CPRS is the emissions trading scheme (ETS), creating a market for carbon in the expectation that the price of carbon will flow through to customers who purchase electricity or products that are energy intensive to produce. The resulting increased price of electricity should reduce the final demand for electricity and, as the price of carbon increases, less carbon-intensive means of producing electricity will become economically efficient, ultimately replacing carbon-intensive generation of electricity.

The purpose of this essay is not to comment on the structure or the operational details of the ETS or its effectiveness or efficiency in reducing greenhouse gas emissions. Rather, this essay will review some of the issues that a regulator of retail electricity prices, such as the Commission, faces in the coming years as the ETS is introduced and the price of carbon has an impact on the wholesale price of electricity. In particular, the Commission comments on the likely volatility in wholesale electricity prices, a possible factor in increasing costs to consumers as retailers seek to hedge their supply arrangements and prices paid to generators.

The next section provides a brief overview of the electricity market. Following that is a discussion of the AEMC's review which covers all aspects of the effects of the CPRS on the electricity market, of which the retail sector is only a small part. Finally, the essay examines issues of volatility in the wholesale price of electricity with possible repercussions for the retail price paid by consumers.

Overview of the electricity market

Australia's electricity industry has undergone significant structural change over the past ten years, including full privatisation in the Victorian market and the introduction of full retail contestability in the New South Wales, Victorian, South Australian, Queensland, and Australian Capital Territory markets. Partial privatisation has occurred in Queensland with the retail sector privatised, and prospective privatisation of the generation businesses in New South Wales is contemplated. The introduction of the ETS will result in substantial structural reform to the industry as the price of carbon rises and high carbon-producing generators exit the market and are replaced by low carbon-emitting generators.

¹ The full details of the AEMC's role can be found at <http://www.aemc.gov.au>.

² Farrier Swier Consulting, *Managing CPRS transition: implications for retail price regulation*, Report for the Energy Retailers Association of Australia, June 2009.

³ IPART, *Review of regulated retail tariffs and charges for electricity 2010–2013: Draft methodology paper*, August 2009

The electricity industry comprises the following key players:

- generators—who make electricity and sell it to retailers through the wholesale market
- transmission network service providers—who convey electricity along the high voltage network
- distribution network service providers—who convey electricity from the transmission systems to customers via a lower voltage network
- retailers—who buy electricity from generators in the wholesale market and sell electricity to consumers.

In the ACT, nearly 100% of electricity is ‘imported’ from generators outside the Territory on transmission lines that traverse the surrounding areas of New South Wales and link through to other states. Distribution activities take the electricity from the main connection point with the transmission system at Holt in west Belconnen, and then link to households and commercial premises throughout the Territory. There are currently 19 licensed retailers of electricity in the ACT, although there are four main retailers supplying to households.

The relative proportion of the total cost of providing electricity services to the end users of the electricity illustrates the importance of the wholesale market and the potential for the CPRS to have a significant impact. The Commission completed its review of regulated retail prices for electricity customers in the ACT in June 2009. In that review the Commission found that the purchase cost of electricity accounted for approximately 45% of the total cost of delivering electricity to customers. Network and transmission costs accounted for just over 40% of the total cost, with the costs of retailing electricity accounting for the remainder, just over 10% of the total cost.⁴ Thus, the wholesale cost of electricity is the largest share of the total cost of providing electricity to customers.

Network and transmissions costs are regulated by the Australian Energy Regulator (AER). These are the natural monopoly sectors of the market, which would be too expensive to duplicate to create competition.

Competition and the role of price regulation in the retail electricity market is an issue the Commission has addressed many times over the past seven years. The Commission’s first review of competition in the retail electricity market was conducted in 2002, when the Commission recommended full retail contestability for customers with annual electricity consumption levels below 100 megawatt hours (MWh) per year by 1 January 2003.⁵ Full retail contestability was introduced in the ACT on 1 July 2003 and the Commission released its first price direction for the transitional franchise tariff (TFT) in May 2003.⁶ In 2006, the Commission was asked for advice on whether the TFT should be phased out.

The question asked of the Commission was:

Is there sufficient evidence that the market is suitably competitive to allow a removal of the regulated tariff?

The Commission found there to be sufficient competition to allow for the removal of the regulated tariff and that the TFT should be replaced with a monitoring scheme.⁷ However, that recommendation was not accepted by the ACT Government. The Commission acknowledges this decision and will continue to set regulated retail prices for electricity as directed by the

⁴ ICRC, *Final decision: Retail prices for non-contestable electricity customers 2009–2010*, June 2009. See Table 7.5 on p. 45 for the full determination of electricity costs.

⁵ ICRC, *Final report: Full retail contestability in retail electricity in the ACT*, July 2002.

⁶ ICRC, *Final determination: Investigation into Retail Prices for Non-Contestable Electricity Customers in the ACT*, May 2003.

⁷ ICRC, *Final report: Retail prices for non-contestable electricity customers*, April 2006.

Government. The Commission recently received a reference from the Government to set retail electricity prices for two years from 1 July 2010 to 30 June 2012.⁸

Under the latest terms of reference, the Commission, when making its decision, was asked to take into account:

The need for flexibility in modelling energy purchase costs especially with respect to the commencement of the Carbon Pollution Reduction Scheme and the expanded Renewable Energy Targets proposed by the Australian Government and the decision by the Council of Australian Governments that the direct costs incurred by these schemes, when they are implemented, be passed through in full under regulated tariffs.

The terms of reference also specify that:

The Commission's price direction should examine the balance between encouraging competition in the retail electricity market and the level of the regulated price. Specifically, the Commission should investigate the price level that would facilitate in vigorous competition and the short-run and long-run costs and benefits of instituting such a price and the need to ensure appropriate consumer protection in the evolving electricity market.

As part of the review the Commission will be releasing an issues paper and a modelling report before the end of the calendar year and will be seeking submissions on all aspects of the regulation of retail electricity prices, including the impacts of the Federal Government's proposed CPRS.

AEMC review

The AEMC is currently undertaking a review of the effects of climate change policies on energy markets. The review was initiated by the Ministerial Council on Energy, which issued terms of reference on 13 June 2008. The terms of reference require the AEMC to issue a scoping paper, two interim reports and a final report. The scoping paper was released on 10 October 2008, the first interim report was released on 23 December 2008, and the second interim report was released on 30 June 2009. The final report is due to be released on 30 September 2009. Submissions have been received on the two interim reports, and the AEMC has held public forums with interested parties. The Commission participated in these forums. Several consultant reports have also been sought on all aspects of the electricity market with respect to the effects of climate change policies.⁹

The two interim reports include sections on the effect of climate change policies on the retail segment of the market. The AEMC's review, as it applies to retail regulation, seems to focus on providing retail regulators with guidance on factoring in the effects of climate change policies. Most of the discussion of the first interim report focused on potential regulatory inflexibility, particularly during a normal 12-month regulatory price determination. The second interim report refines the conclusions reached by the AEMC in the first interim report by recommending changes to the frequency of reviews of the regulated retail price. The AEMC states¹⁰:

Under this model regulatory determinations or price control instruments would allow for six monthly regulatory review of carbon costs and carbon inclusive energy costs. If these have moved outside a materiality band, the regulator would be obliged to reset prices based on the revised costs.

⁸ A copy of the terms of reference for this review is available at: <http://www.legislation.act.gov.au/di/2009-196/default.asp>.

⁹ The full list of AEMC reports, consultant reports, submissions and overview of the various forums can be found on the AEMC's website at: <http://www.aemc.gov.au>.

¹⁰ AEMC, *Review of energy market frameworks in light of climate change policies: 2nd interim report*, June 2009.

The implications for the regulator are clear. The regulator faces the problem of determining a regulated price for the duration of the regulatory period, similar to the terms of reference requirement that has been placed on the Commission in the setting of the TFT for the period from 1 July 2010. According to the AEMC, even yearly price reviews face this inflexibility risk, although the longer the regulatory period, the more magnified the effect. Thus, the regulator will be in the position of having to estimate a price for carbon and the subsequent effect on the wholesale price of electricity as the nation moves into the ETS era.

Frontier Economics, in a recently released report to the AEMC review, estimates that the range of increases in electricity prices is from \$10/MWh to \$40/MWh in the first few years of the CPRS.¹¹ The Commission determined the cost of electricity purchased as \$65/MWh in its 2009–10 review of the regulated retail price. Hence, there could be sizable increases in the retail price of electricity as a result of the implementation of the CPRS. Furthermore, if regulators fail to make an appropriate allowance for the ETS, electricity retailers could face significant risks of the wholesale price of electricity exceeding the regulated retail price minus the network costs, causing a situation in which the retailer may prefer to shut down rather than continue to operate at a loss.

Determination of prices in wholesale electricity markets

To consider the potential impact of the ETS on the wholesale price further, it is necessary to consider the characteristics of the wholesale electricity market and the operating arrangements which determine the wholesale price.

The wholesale market for electricity, termed the National Electricity Market (NEM), covers Queensland through to South Australia and Tasmania, and is administered by the Australian Energy Market Operator (AEMO). All generators in the NEM are regulated by AEMO.¹² All electricity generators except exempt generators must register with AEMO.¹³ AEMO has published guidelines on which generators must register with AEMO and the treatment of the generator in the NEM.¹⁴

AEMO's role is to manage the market for electricity and the operation of the NEM under the National Electricity Law. Its mandate is to provide a safe, secure and reliable supply of electricity. AEMO administers the bidding by generators and the scheduling of generation and transmission to meet the electricity demands of electricity retailers and other end users across the total market.

The wholesale electricity market is complex, with intricate rules enshrined in the National Electricity Law.¹⁵ Each day is broken into 288 five-minute periods. Generators bid to serve the electricity demand for each of these five-minute periods. AEMO collects the bids, determines a price, and schedules generators for each five-minute period. Prices are determined on a half-hourly basis, called the spot price of electricity, where the price for each of the 48 half-hourly periods in a day is the average of the price determined in the six five-minute periods in that half hour. Demand can fluctuate significantly within a day and across days based primarily on whether there is considerable variation or volatility in the spot price of electricity. Additionally, if a generator has contracted with a retailer in advance to supply electricity, the price is determined not by the half-hourly spot price but by some agreed forward contracted price. Contracting is done so as to hedge against the price volatility in the spot market.

¹¹ Frontier Economics, *Impacts of climate change policies on electricity retailers*, a report prepared for the Australian Energy Market Commission, May 2009.

¹² AEMO is responsible for scheduling and dispatching generation of electricity in the NEM.

¹³ Small generators with capacity less than 30 MW are generally exempt from AEMO registration and market fees. Generators that sell their entire output to a local retailer may also be exempt.

¹⁴ AEMO, *Generator Registration Guide*, December 2008.

¹⁵ A good description of the NEM and its operation can be found in AEMO, *An introduction to Australia's National Electricity Market*, July 2009.

The participants in the wholesale market are the generators who produce electricity and the retailers who purchase electricity. Consumers of electricity, that is the customers of the retailers, are not participants in the market.¹⁶ Households and most businesses participate in the retail market for electricity and retailers aggregate the demand from householders and businesses that the retailers serve and source electricity from the wholesale market for electricity. Thus, customers of retail electricity businesses do not directly participate in the wholesale market for electricity.

To understand the likely impact on the wholesale market for electricity it is necessary to consider the way in which prices are currently determined under the existing market rules. Over each half-hour period, generators bid into the market to meet a given demand in the following fashion. Each generator submits up to 10 bands of bid and each bid consists of a price and the additional amount of electricity it is offering. Bidders are required to offer bids up to their scheduled capacity subject to any announced down time for maintenance or similar circumstances. The bids of the generators are ordered from the lowest price to the highest price with the price at the level that equates supply to demand becoming the declared price for that time period.

The equilibrium concept that is normally applied in markets such as the wholesale electricity market is the Nash equilibrium concept, proposed by mathematician John Nash.¹⁷ These markets are generally oligopoly markets. The Nash equilibrium requires each participant in the market to choose an optimal outcome given the choices of all other participants. It results in an outcome where no individual market participant has a unilateral incentive to deviate from their chosen strategy. This does not imply that the outcome results in a collusive outcome that mimics what would happen in a monopoly market where there is a sole seller of electricity. Rather, market participants realise the interdependence of participants but do not collude to collectively choose an outcome that maximises profits. On the other hand, the outcome is not a ‘competitive outcome’. A competitive outcome relies on all participants in the market perceiving that they have no effect on market price and thus behaving as price takers. Clearly this is not the circumstance under the NEM rules.

The textbook efficient outcome in a market such as the wholesale market for electricity would be to set a price equal to the marginal cost of producing electricity.¹⁸ The appropriate marginal cost concept to use is the short-run marginal cost.

Generators can be characterised by the maximum amount of energy they can produce and their marginal cost of producing electricity.¹⁹ Ordering generators by their marginal cost from lowest to highest is a useful expository tool. This is termed the ‘merit order’.

To characterise the equilibrium in the wholesale electricity market is beyond the scope of this essay. However, it is possible to simply describe the incentives that generators face when submitting their bidding strategies. If all generators bid their marginal cost up to their maximum capacity, a competitive outcome would occur. However, bidders in the market can exercise market power in two ways.

¹⁶ Some very large users of electricity, such as aluminium smelters, are direct participants in the market.

¹⁷ John Nash was awarded the Nobel Prize in 1994 for his work in game theory.

¹⁸ The efficient outcome is level of output that maximises total surplus, the difference between the value of the good consumed and the cost of producing the good. This presupposes that the least cost method of producing the efficient level of output is utilised. The efficient outcome described here ignores the environmental externality of the carbon produced by the generators. Attaching a price to the production of greenhouse gases internalises this environmental cost and results in the socially optimal outcome.

¹⁹ It is useful to assume that each generator has a constant marginal cost of producing electricity. Relaxing this assumption complicates the analysis as it may be optimal to partially dispatch several generators. For the purpose of the discussion in this section the assumption of constant marginal cost will be maintained.

First, generators can bid some portion of their capacity well above the expected market price. For example, assume that one generator adopts this strategy while all other generators bid their entire capacity at their marginal cost of producing electricity. This changes the order in which generation is scheduled and potentially raises the market price as it changes the marginal generator. The marginal generator is the generator where the bid supply equals the demand for that time period. A generator would be willing to adopt this high-bidding strategy if the gains from increasing the market price by moving to a higher-cost marginal generator outweigh the losses from reducing the amount of electricity it supplies. This is an example of exercising market power by reducing the quantity supplied, thus increasing the market price. All generators that have the capacity to exercise market power in this manner will do so when market conditions are favourable.

Second, generators can exercise market power by bidding above their marginal cost. Again suppose that all generators bid their marginal cost up to their full capacity for a known level of demand. Consider the marginal generator because the marginal generator determines the market price. The marginal generator can bid up to the marginal cost of the next highest marginal cost without losing the bid. Thus, the marginal generator has market power within the bounds of the difference in marginal cost between the marginal generator and the next generator in the merit order.

When taken together, these two potential means of exercising market power contribute to ensuring that the resulting price in any time period is not equal to what would be predicted in a competitive market where all generators act as price takers and the market price is determined strictly from the merit order. The degree to which such market power is exercised depends on the level of demand, which in turn depends on the time of day and the weather. On hot days during the peak electricity consumption periods, generally in the late afternoon, the spot price for electricity can spike to very high levels. In fact, an upper limit of \$10,000/MWh is imposed on the market. (Compare this with the Commission's determination in its recent retail electricity review that the average cost of electricity is \$65/MWh.)

What can be generalised from this discussion of the incentives inherent in the NEM? First, the resulting price set in the market under the NEM rules will generally be referenced by a generator that is not producing any electricity, given the incentives of the marginal generator to bid up to the marginal cost of the next higher marginal cost generator. Second, there are times when the price of electricity will be well above marginal cost due to the strategic quantity bidding of some generators. This occurs on hot days at peak times. Thus, simply relying on a competitive description of the market fails to capture either of these effects. This has important implications for any discussion on the likely effect of the ETS on the wholesale and therefore retail price of electricity in the initial years of scheme implementation.

Before considering this matter further, one question that needs to be addressed is whether this exercising of market power is a bad thing. The answer is no. Commonly, the presence or evidence of market power is a self-correcting mechanism, in that it is the driver that encourages new investment. Potential entrants into the power generation market will only enter if they believe that there are net profits to be earned from entering the market. Thus, evidence of the wholesale price being driven above the short-run marginal cost will of itself attract new entrants to the market with the potential to drive the price down again.

The next step is to discuss how a carbon trading scheme will affect the wholesale market for electricity.

Effects of the ETS on the wholesale market for electricity

The introduction of the ETS will add costs to the production of electricity as the generators of electricity that use carbon-based fuels such as coal or gas will have to presumably purchase

carbon emissions permits to cover their emissions.²⁰ The Commission will be faced with the task of determining how to include the cost of carbon in its modelling of the wholesale price of electricity in the upcoming review of regulated retail tariffs. This section discusses some of the issues that have been raised elsewhere.

The issue faced by the Commission is how to integrate the costs retailers may face from the emerging market for carbon with the cost of electricity as determined in the current NEM-managed wholesale market for electricity. There are two prevailing views. One approach is to consider the carbon market separately from the wholesale electricity market and add the two together. This yields the possibility of modelling them separately. The alternative approach is to build the cost of carbon into the whole price of electricity just like all other inputs into the cost of generating electricity.

Both approaches will result in a modelled wholesale price of electricity that will increase as the price of carbon rises. The distinction between the two approaches comes down to a discussion of the effect of the ETS on the *volatility* in the wholesale price of electricity.

Why does volatility matter? Volatility in the wholesale price of electricity matters to a regulated retail business in terms of any increase in the risk the business faces. This increased risk may increase the costs of hedging and the business may need to be compensated for an increase in hedging costs. This will translate into higher retail prices for electricity.

Currently, the wholesale price of electricity as determined in the NEM varies considerably over time. The variation occurs within any given day and across days. On a daily basis, the spot price is highest during the peak consumption hours and lower during the off-peak hours. This is due to the need for more expensive generation to be brought on line to meet the peak demand. There is also variation across days, as the price is higher on very hot days when capacity is constrained as the demand for electricity soars. The issue then becomes how volatility in the cost retailers face in purchasing electricity will be affected by the introduction of carbon pricing through the ETS.

The first approach of treating the markets separately seems to take the view that volatility in the carbon market should be added to volatility in the wholesale electricity market to derive an estimate of the total volatility the retail business is facing.²¹ The following two quotes from the AEMC's second interim report indicate this point:

Increased uncertainty and volatility in retail costs consequent to the CPRS present significant risks to retail markets where price regulation is retained. The issue is more material if financial instruments that enable retailers to hedge the price risk of (carbon inclusive) energy costs are slow to emerge.²²

The CPRS and expanded RET will result in large and possibly unpredictable cost increases for retailers. These increases predominately flow from increased wholesale energy costs and the direct costs to retailers of climate change policies including acquiring carbon permits and RECs. Increases to prices and price volatility will place pressures on retailers to meet their prudential and credit support requirements in the relevant markets.²³

Without prejudicing the Commission's upcoming review of the regulated retail tariffs in the ACT, there are some potential flaws in this approach. As described in the previous section, there is

²⁰ Even if generators receive free permits, those permits have an opportunity cost equal to the market price, as the generator could sell the permits and forgo the production of the amount of electricity consistent with the permits sold on the market for carbon permits.

²¹ This approach is supported by results in statistics where the variance in the sum of two normally distributed random variables is equal to the sum of the variance of the two individual random variables.

²² AEMC, *Review of energy market frameworks in light of climate change policies: 2nd interim report*, June 2009, p. v.

²³ AEMC, *Review of energy market frameworks*, p. 10.

volatility in the wholesale price of electricity both within a day and across days. Both can be substantial. At the same time, while there is little evidence to draw on for the carbon market, the expectation would be that there would be little variation in the price of carbon per se within *any given trading day for carbon permits* but that there may be variation in *the price of carbon over time*. Therefore, the timing differences in the volatilities of carbon and wholesale electricity prices need to be addressed. It does not appear that they can be merely added together.

The second approach is to consider how the price of carbon will be integrated into the wholesale market of electricity. Different generation technologies will have different underlying carbon costs. For a given cost of carbon emissions, measured in tons of carbon emitted, the cost of generating electricity using fossil fuels will rise while the cost of green energy will not. Different fossil fuel sources will have different carbon costs with the carbon cost of coal-based generation higher than the carbon cost of gas-based generation. A full analysis of the cost of carbon in this case would require a detailed examination of which generators are currently being utilised for each half-hour period for all 365 days in the year and determining how this would result in changes to the wholesale price and the volatility in the wholesale price. This exercise is beyond the scope of this essay but some basic inferences can be drawn.

A reasonable argument can be made that the carbon cost will have the greatest effect when demand is low in off-peak periods and will have little effect on the wholesale price of electricity in peak periods. During off-peak periods, electricity is supplied to the market by baseload generators, which currently are primarily coal-fired power plants. As these are the highest carbon-cost generators, a significant cost of carbon will be passed through to retail electricity businesses during these periods. This is when the wholesale price of electricity is the lowest. Alternatively, during peak periods the marginal generators (or as described above the generator above the marginal generator) are more likely to be lower carbon-cost generators such as gas peaking plants and green energy generators. Thus, when the wholesale price of electricity is high, the carbon cost pass-through may be low.

One possible conclusion is that the intraday variation of the wholesale price of electricity may be reduced as a consequence of the difference in the pass-through of carbon cost depending on what generators are being called upon as the marginal cost generators at the particular time of day. This equates to a reduction in volatility (and consequentially a reduction in the hedging costs incurred by the retailer and ultimately reflected in retail prices). At the same time, volatility across days may rise, implying that the overall impact in the volatility of the wholesale price of electricity may or may not rise. This issue needs to be explored in more detail.

Conclusion

The Commission is beginning its review of regulated retail tariffs under the recently issued terms of reference. An issues paper will be released in October and a draft decision on the modelling approach the Commission will adopt for determining the wholesale price of electricity from 1 July 2010 will be released by the end of the calendar year. The Commission will be seeking community input during the review of regulated retail prices. The Commission is required to produce a two-year price path under the terms of reference with prices in the second year subject to review. The ETS is scheduled to begin in the second year of the Commission's review period. Hence, the impact of the ETS and the best method for the Commission to use to try to anticipate this impact on regulated prices is an issue the Commission must address when modelling the wholesale price of electricity in the review.

On one hand, it appears that the issue of greater volatility in the wholesale electricity price is not necessarily proven; nor is the adoption of an additive approach to derive a regulated retail price for electricity under the CPRS. On the other hand, there may be some extra degree of uncertainty in the wholesale electricity market in the lead-up to the commencement of the ETS. Some of this uncertainty may be imaginary, in the sense that market participants are jockeying for position.

Generators will continue to call for greater support, mainly in the form of free or grandfathered carbon permits, and retailers have an incentive to inflate the level of volatility to increase compensation for hedging costs. Until the Australian Government settles all of the market rules, especially the trading rules for carbon permits, there will be an extra layer of uncertainty. Indeed, the Commission noticed this in the futures market for electricity during its 2009–10 review of the regulated retail price. However, the Commission expects that the market settling-down process will occur quickly once all market participants begin determining their optimal strategic positions under a firm set of market rules.

Part A Performance and financial management reporting

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

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

A.1 The organisation

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

A.1.1 Role and functions

The Commission's primary roles and responsibilities are established under the ICRC Act and the *Utilities Act 2000* (Utilities Act). Together, the Acts set out the functions of the Commission as:

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

In addition to those functions, the Commission is the regulator under the *Electricity (Greenhouse Gas Emissions) Act 2004*. That role requires the Commission to establish emission benchmarks for scheme participants each year and to monitor and report on compliance with the benchmarks. The Commission also has a statutory role under the *Electricity Feed-in (Renewable Energy*

Premium) Act 2008 in providing advice to the minister relevant to the determination of the premium rate payable by electricity suppliers to renewable energy generators.

The Commission's objectives are defined in the ICRC Act and the Utilities Act.

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

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

Section 3 of the Utilities Act reinforces those objectives and adds others, as follows:

- to encourage the provision of safe, reliable, efficient and high-quality utility services at reasonable prices
- to minimise the potential for misuse of monopoly power in the provision of utility services
- to promote competition in the provision of utility services
- to encourage long-term investment, growth and employment in utility services
- to promote ecologically sustainable development in the provision of utility services
- to protect the interests of consumers
- to ensure that advice given to the Commission by the ACT Civil and Administrative Tribunal (the ACAT)²⁴ or the chief executive under Part 5 (technical regulation) is properly considered
- to ensure that the government's programs concerning the provision of utility services are properly addressed
- to give effect to directions of the minister under section 19 (which may only be given to ensure the achievement of the objects set out in the subsections above).

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

A.1.2 Values

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

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

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

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

²⁴ In February 2009, the Energy and Water Consumer Council (EWCC) was subsumed into the ACAT.

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

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

A.1.3 Structure

The Commission is a statutory agency of the ACT Government and reports to the Attorney General under the Administrative Arrangements Orders.

Figure 1 shows how the Commission was structured at 30 June 2008; Figure 2 shows the structure at 30 June 2009.

The Commission secretariat provides the primary support for the Commission's activities and has a core staffing complement of around five or six officers. In addition, the Commission makes periodic use of external consultants and fixed-term appointments to complement the capabilities of Commission staff and ensure that it is able to meet its ongoing responsibilities.

Figure 1 Organisational structure at 30 June 2008

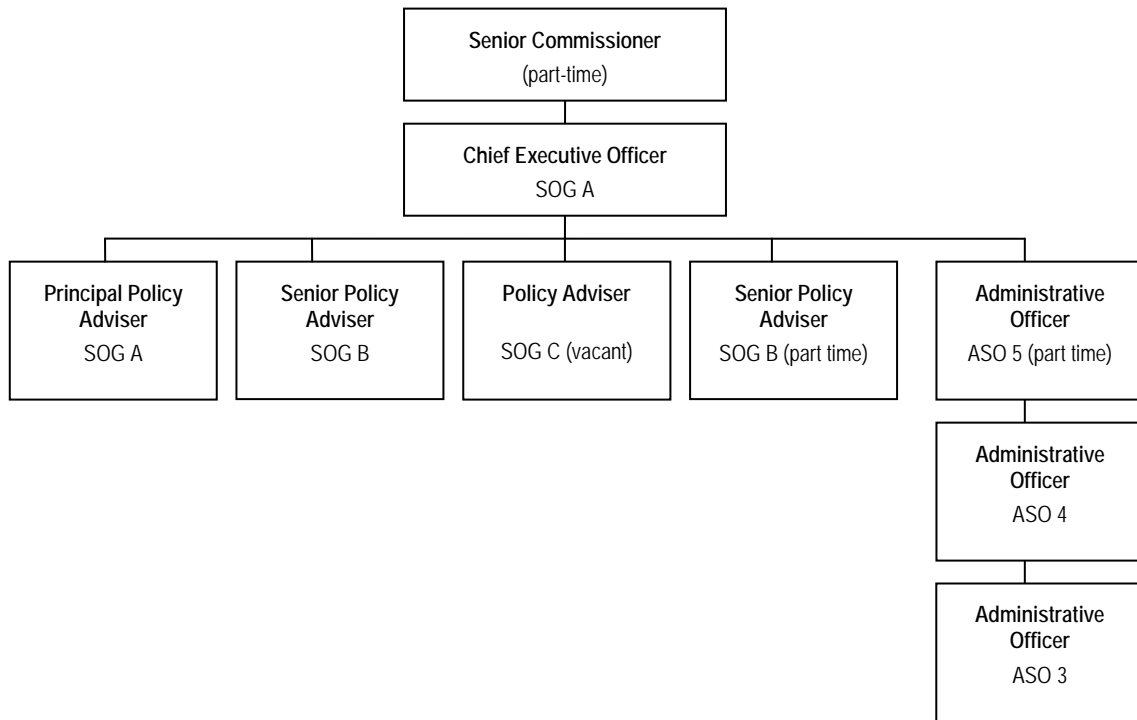
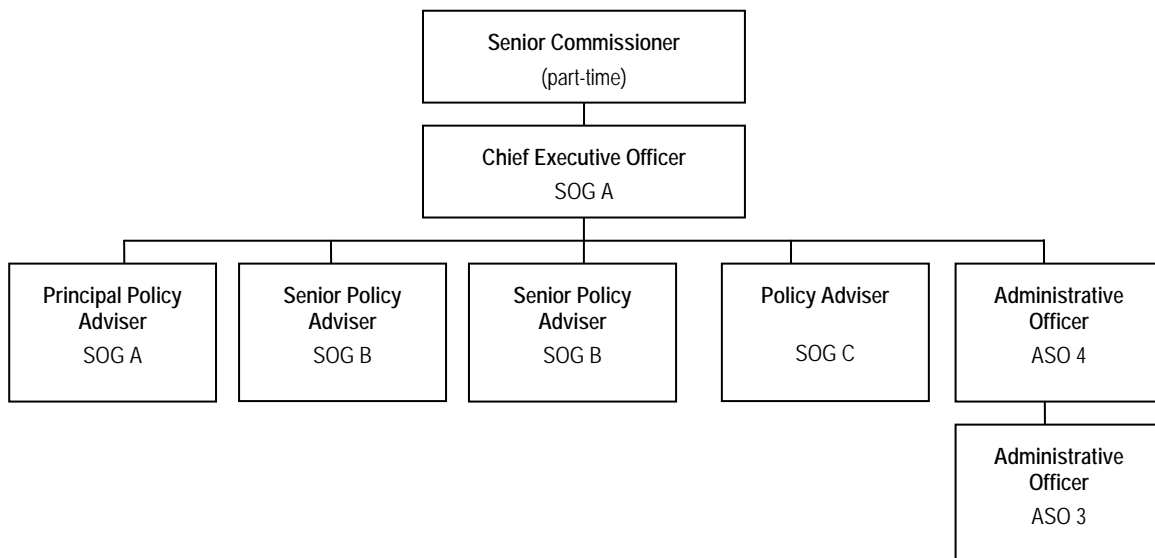


Figure 2 Organisational structure at 30 June 2009



Note: ASO = Administrative Service Officer; SOG = Senior Officer Grade

A.1.4 Clients and stakeholders

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

A.2 Overview of performance in 2008–09

A.2.1 Overview

In 2008-09, the Commission's main activities included:

- determining retail prices for non-contestable electricity customers for the 2009-10 year
- regulating the ACT's Greenhouse Gas Abatement Scheme
- overseeing the utility services licensing regime established under the Utilities Act
- monitoring and reporting on licensed electricity, gas and water and wastewater utility compliance and performance
- assisting with implementation of the *Electricity Feed-in (Renewable Energy Premium) Act 2008*
- advising on a range of water-related issues such as provision of water and sewerage services to Uriarra and stormwater
- working cooperatively with the national energy regulator (the Australian Energy Regulator, or AER) to effect the orderly transfer of responsibilities
- finalising a Business Continuity Plan, a Business Risk Management Plan, and a Fraud Policy and Fraud Control Plan.

A.3 Highlights of performance in 2008–09

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

A.3.1 Transfer of energy regulation to the national regulator

In recent years, energy policy reform in Australia has focused on the development of a national regulatory framework. Governments established two national bodies in 2005—the AER and the Australian Energy Markets Commission (AEMC).

The AER took over responsibility as the regulator of the wholesale market and transmission networks in the National Electricity Market (NEM) in July 2005. Responsibility for the economic regulation of distribution of electricity in the ACT was transferred to the AER from 1 January 2008. On 1 July 2008, responsibility for the economic regulation of natural gas distribution pipelines was transferred from the Commission to the AER. It is envisaged that other functions, in particular electricity and gas retail licensing and related matters, will transfer in the future. The Commission has worked with the AER through this early transitional period, particularly in relation to the orderly transfer of economic regulation of distribution.

The Australian Energy Market Operator (AEMO) was established on 1 July 2009. AEMO is responsible for the operation of electricity and gas markets throughout much of Australia and has assumed the functions of previous market operators. These were, for the ACT, the National Electricity Market Management Company (NEMMCO) and the Gas Market Company. In

preparation for the establishment of AEMO, the Commission varied all gas and electricity supply and distribution licences.

A.3.2 Implementation of the *Electricity Feed-in (Renewable Energy Premium) Act 2008*

During 2008-09, the Commission worked with the Department of the Environment, Climate Change, Energy and Water to assist with the implementation of the *Electricity Feed-in (Renewable Energy Premium) Act 2008*. Activities included:

- co-convening a workshop on the feed-in legislation in December 2008 (attended by representatives of ActewAGL Distribution and most licensed electricity suppliers)
- developing a new industry code under the Utilities Act, the Electricity Feed-in Code
- varying all electricity supply and electricity distribution licences to reflect the requirements of the Electricity Feed-in Act and the Electricity Feed-in Code²⁵
- collecting data from ActewAGL Distribution and all licensed retailers on progress with the scheme for the period from 1 March to 30 June 2009.

A.3.3 Determination of retail prices for non-contestable electricity customers

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

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

In December 2008, a further reference for the provision of a price direction for the supply of electricity for the period 1 July 2009 to 30 June 2010 was given to the Commission.²⁶

An issues paper on this reference was released in February 2009. Following a period of public consultation, consistent with the requirements of the Utilities Act, a draft decision was released in April 2009. The final decision was released in June 2009, with the revised tariffs commencing in July 2009.

²⁵ NI2009-174 for electricity supply and NI2009-175 for electricity distribution and connection.

²⁶ DI2008-305.

A.3.4 Other regulatory activities under the ICRC Act

Access agreements

Part 5 of the ICRC Act sets out the Commission's responsibilities for access agreements in relation to infrastructure facilities. During 2008–09, the Commission did not provide advice on any proposed access agreements, and no access agreements were notified to the Commission.

Arbitration of disputes

Part 6 of the ICRC Act provides for the referral to the Commission of disputes in relation to an access regime for arbitration. During 2008–09, no disputes were referred to the Commission.

Notices issued under section 41

Section 41 of the ICRC Act provides that the Commission can, by written notice, require a person to give it information or a document that may assist it in exercising its functions. The Commission did not issue any notices under section 41 during 2008–09.

Competitive neutrality complaints

There were no competitive neutrality complaints in 2008–09.

Other functions exercised by the Commission

Under section 12 of the ICRC Act, the Commission may enter into assistance arrangements with any agency, body or person with the minister's written approval. In June 2009, the Commission entered into arrangements with the Department of the Environment, Climate Change, Energy and Water in relation to provision of assistance with the review of Stage 2 of the Electricity Feed-in Act.

A.3.5 GreenPower Direction

On 22 January 2008, the Minister for the Environment, Climate Change and Water made Utility (Electricity Retail) Licence Conditions Direction 2008 (No. 1)²⁷, directing the Commission to give effect to a GreenPower scheme through suitable variations to the licence conditions of electricity retailers issued under the Utilities Act. The scheme was intended to promote ecologically sustainable development in the provision of utility services and implements one of the objectives of *Weathering the Change—The ACT Climate Change Strategy 2007–2025*. During the first half of 2008–09, the Commission developed draft variations to licence conditions to give effect to the minister's directions and consulted on these variations with all affected utilities and other stakeholders.

Subsequent to the consultation process, the minister made Utilities (Electricity Retail) Licence Conditions Direction 2009.²⁸ The direction revoked the earlier direction, and directed the Commission to give effect to a revised GreenPower scheme. The scheme requires, among other things, that electricity suppliers offer a GreenPower product to each potential new or reconnecting customer, make each potential new and reconnecting customer of the supplier aware that other products are available to them at the same time as the GreenPower offer, and offer and make a GreenPower product available to all existing customers on request.

²⁷ DI2008–10.

²⁸ DI2009–21.

Consistent with the requirements of the revised direction, the Commission varied all electricity supply licences by the Utilities (Variation of licence) Notice 2009 (No 1)²⁹ with effect from 1 April 2009.

A.3.6 Utility licensing issues

Licence applications and grants

During 2008-09, the Commission received two applications for electricity supply licences. The first was from Sanctuary Energy Pty Ltd; it was granted effective from 1 July 2009.³⁰ The second application was from Momentum Energy Pty Ltd.³¹

Licence variations

As noted above, the Commission varied all gas and electricity supply and distribution licences during 2008-09 to reflect obligations under of the Electricity Feed-in Act, the GreenPower scheme, and the establishment of the Australian Energy Market Operator. The opportunity was also taken to update references to legislation and make a range of other minor corrections to licence documentation.³²

Licence exemptions

On 14 April 2009, the Minister for the Environment, Climate Change, and Water exempted Outward Bound Australia from the requirement to hold a utilities licence to distribute and supply water to the South Tharwa community.³³ The exemption is for a period of one year.

Licence surrenders

On 22 June 2007, Energy One was suspended from trading in the NEM. Consequently, Energy One could not supply electricity in the ACT, or in any other jurisdiction in which it was licensed. On 19 October 2007, Energy One's licence was suspended for the breach of a licence condition in respect of its ability to meet the Commission's technical and prudential criteria as required under its licence.

During 2008-09 the Commission accepted the surrender of Energy One's electricity supply licence. The surrender of licence took effect on 19 December 2008.

Licensees at 30 June 2009

Table 1 lists the holders of utility licences at 30 June 2009.

²⁹ NI2009-174.

³⁰ NI2009-311.

³¹ The application was subsequently granted effective from 7 August 2009 (NI2009-373).

³² NI2009-174, NI2009-175 (electricity supply and distribution), NI2009-315 and NI2009-316 (gas supply and distribution).

³³ DI2009-55.

Table 1 Utilities licence holders, at 30 June 2009

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

Licence fees and energy industry levy

The Utilities Act provides for the determination by the Commission of annual licence fees for utilities. Those fees cover a reasonable contribution towards the costs incurred, or expected to be incurred, by the Commission, the Energy and Water Consumer Council (now the ACT Civil and Administrative Tribunal) and the Technical Regulator (located in the ACT Planning and Land Authority).

In May 2007, the Utilities Act was amended to provide for an energy industry levy to cover the Territory's national and local regulatory costs. The legislation commenced on 1 July 2007 with the effect of progressively replacing licence fees for prescribed energy utilities. The levy provisions in Part 3A are subject to the *Taxation Administration Act 1999*.

The levy administrator, currently the chief executive officer of the Independent Competition and Regulatory Commission, determines applicable regulatory costs for each levy year and for each energy industry sector before 1 October of the levy year. The administrator also determines the number of energy utilities that provide services in the respective energy industry sectors during the levy year. The four energy industry sectors are electricity distribution, electricity supply, gas distribution and gas supply. During 2008–09, the administrator made three determinations consistent with the provisions of the Act.³⁴

³⁴ NI2008–458, NI2008–459 and NI2008–460.

Licence fees were determined by the Commission for utilities involved in gas transmission and in water and sewerage.³⁵

A.3.7 Industry codes and guidelines

Consumer Protection Code

The Commission determined variations to the Consumer Protection Code in May 2009 that were effective from 1 July 2009.³⁶ The determination followed a public consultation process in accordance with the Utilities Act.

The differences between the determined code and the version previously in force included variation of the minimum service standards in the code to require acknowledgement of a complaint in accordance with the relevant Australian standards and updating of legislative references, as well as a number of clarifications relating to matters such as telemarketing, protections accorded to customers using life support equipment, and customer requests for disconnection.

Electricity Feed-in Code

As part of the Commission's role in the implementation of the *Electricity Feed-in (Renewable Energy Premium) Act 1988*, the Commission determined, on 27 February 2009, a new industry code under the Utilities Act, the Electricity Feed-in Code.³⁷ The determination followed a public consultation process in accordance with the Utilities Act.

The code sets out practices and standards for the operation of the scheme for feed-in from renewable energy generators to the electricity network established under the Electricity Feed-in Act. Electricity distributors and suppliers are required to comply with the code. Matters covered include information that must be provided by electricity suppliers to occupiers of premises, dispute resolution, reporting to the Commission, and the applicability of provisions of the Consumer Protection Code to the feed-in scheme.

Utility reporting of material breaches and non-compliance—guidance note

The licences of all utilities licensed under the Utilities Act contain standard requirements for the reporting of material breaches and non-compliance. In March 2009, following consultation with all licensed utilities and other interested parties, the Commission published a guidance note on its expectations in relation to these requirements.

A.3.8 Standard customer contract variations

The Commission approved a number of variations to ACTEW Corporation and ActewAGL standard customer contracts during 2008-09.

In November 2008, the Commission approved variations to standard customer contracts for electricity distribution, electricity supply and gas supply submitted by ActewAGL³⁸, and variations to the standard customer contract for water and sewerage services submitted by ACTEW Corporation.³⁹ A key objective of the more substantive changes was alignment of contract provisions with the Consumer Protection Code or other codes.

³⁵ NI2008-582.

³⁶ DI2009-75.

³⁷ DI2009-23.

³⁸ NI2008-554, NI2008-555 and NI2009-556.

³⁹ NI2008-553.

Schedules of charges form part of utilities' standard customer contracts. In December 2008, the Commission approved variations to the schedule of charges for gas supply submitted by ActewAGL.⁴⁰ In June 2009, the Commission approved variations to schedules of charges for electricity distribution, electricity supply and gas supply submitted by ActewAGL⁴¹, and variations to the standard customer contract for water and sewerage services submitted by ACTEW Corporation.⁴²

A.3.9 Compliance and performance monitoring

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

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

During 2008-09, the Commission published the following compliance and performance reports:

- *Licensed electricity, gas and water and sewerage utilities—Performance report for 2005–06* (Report 5 of 2008, December 2008)
- *Licensed electricity, gas and water and sewerage utilities—Compliance and performance report for 2006–07* (Report 5 of 2009, June 2009)
- *Licensed electricity, gas and water and sewerage utilities—Compliance and performance report for 2007–08* (Report 6 of 2009, June 2009).

A.3.10 Greenhouse Gas Abatement Scheme

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

The ACT scheme mirrors the NSW Greenhouse Gas Reduction Scheme (GGAS) administered by the Independent Pricing and Regulatory Tribunal (IPART). The NSW scheme commenced in January 2003. The NSW and ACT schemes are, in many respects, operated as a single scheme. Under this arrangement, NSW IPART administers the overall scheme and accredits abatement projects, while under section 49 of the *Electricity (Greenhouse Gas Emissions) Act*, the Commission regulates the scheme in the ACT.

As regulator of the scheme, the Commission has a number of functions. These include:

- determining the greenhouse gas reduction target, or electricity sector benchmark, for the ACT in any given year
- allocating a share of the benchmark to participants based on their market share of electricity sales in the ACT
- ensuring that electricity retailers in the ACT meet legislated targets for offsetting emissions.

⁴⁰ NI2008–591

⁴¹ NI2009–268, NI2009–278 and NI2009–292

⁴² NI2009–274

Under the scheme, electricity suppliers reduce or offset a portion of their greenhouse gas emissions through the purchase and surrender of NSW Greenhouse Gas Abatement Certificates (NGACs). A per capita cap on emissions establishes how many NGACs each electricity supplier must surrender. In June 2009, the Commission provided the Minister for the Environment, Climate Change and Water with the fourth annual report on the operation of the scheme. The report covered the 2008 compliance year.

A.3.10 Retailer of last resort arrangements

In May 2009, the Commission agreed a revised protocol with the National Electricity Market Management Company (NEMMCO), consistent with that agreed between NEMMCO and other jurisdictions. The protocol sets out contact officers and procedures at the operational level to assist in effecting information transfer between the electricity market operator and the Commission at short notice during any developing prudential crisis.

A.4 Outlook

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

A.4.1 Progress on the transfer of energy regulation

The transition to a national energy regulatory regime is outlined in Section A.3.1. The Commission notes that significant progress has been made in the transfer of responsibilities to the national regulator (in particular, the transfer of responsibility for the economic regulation of distribution networks). Nonetheless, the pace of the transfer of retail and consumer protection functions to national regulation has been much slower than expected, which has made it difficult for the Commission to chart its future path.

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

As noted in the Commission's 2007–08 report, it is clear that implementation of the retail and consumer protection framework will require a major rethink of the current framework for utilities regulation in the ACT and this will affect the role of the Commission. A particular concern is to ensure that the present regulatory framework remains effective until the time that the transition is achieved. Ensuring the ongoing capability of the Commission during this period of change will be critical.

A.4.2 Responsibilities under the ICRC Act

During 2009–10, the Commission will continue to discharge important responsibilities under its enabling legislation, in particular:

- administering the water and wastewater tariff and regulatory determination, including making the adjustments under the determination for prices to apply from 1 July 2010
- considering other issues that may arise from the determination (such as questions relating to the water reuse project and charges for sewerage services as part of the Uriarra Village development)
- undertaking the annual oversight of ACTEW's annual capital expenditure program, as provided for under the current price determination
- determining electricity retail prices (the transitional franchise tariff or TFT) for the period 1 July 2010 to 30 June 2012

- providing advice on any other matters that might be referred to the Commission, or on complaints that require investigation or arbitration.

A.4.3 Responsibilities under the Utilities Act

During 2009-10, the Commission will continue to discharge responsibilities under the Utilities Act, in particular:

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

A.4.4 Responsibilities for the Greenhouse Gas Abatement Scheme

During 2009–10, the Commission will continue to discharge responsibilities under the Electricity (Greenhouse Gas Emissions) Act, in particular:

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

As noted in the annual report to the minister on the operation of the ACT Greenhouse Gas Abatement Scheme, the NSW scheme, GGAS, was reviewed by the NSW Government in 2008 in the context of the Australian Government’s commitment to a national emissions trading scheme (the CPRS). On 1 July 2009, the NSW scheme was superseded by the Energy Savings Scheme (ESS). The ESS builds on the energy efficiency (demand-side abatement) achievements of GGAS and is administered by IPART.

The ACT Department of the Environment, Climate Change, Energy and Water is considering the longer-term implications of the NSW changes for the future of the ACT scheme. The Commission understands that a review planned for mid-2010 will determine the efficacy of the ACT joining the NSW ESS. The Commission observes that the implementation of a national emissions trading scheme will have longer-term consequences for the future of the ACT scheme.

A.4.5 Responsibilities under the Electricity Feed-in (Renewable Energy Premium) Act

The *Electricity Feed-in (Renewable Energy Premium) Act 2008* was amended with effect from 1 March 2009. The amendments include a new provision requiring the minister to seek the advice of the Commission when determining the premium rate. The Commission also has a role in monitoring compliance with the Electricity Feed-in Scheme through licence conditions for electricity suppliers and for ActewAGL Distribution.

During 2009–10, the Commission will provide the necessary advice when requested by the minister.

A.5 Management discussion and analysis

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

A.5.1 Overview

Risk management

The Commission has identified risk in several areas:

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

These risks continue to be assessed as low and are actively monitored and managed by the Commission. Comments on each of these areas follow.

Consultant risk

The Commission works closely with ACT Procurement Solutions in managing consultancies. The monitoring of consultancies is an ongoing process, and the risks associated with non-performance of contracts for expert advice are considered low. There were no incidents of contract non-performance in 2008–09.

Operational risk

The Commission's operational risk arises from the adequacy of its workforce, in terms of both size and expertise. Although this is a government-wide issue, it is more difficult for the Commission to attract and retain suitably qualified staff than it is for many other government agencies because of the highly specialised nature of its work.

To a large extent, the Commission manages the risk by outsourcing work that requires specialist skills; for example, in relation to pricing reviews. Similarly, the Commission relies on contractors and non-ongoing appointments when additional resources are needed.

The overall number of permanent staff in the Commission, coupled with an ongoing skills shortage, puts constraints on the capacity to provide a career path. This increases the risk of the Commission having inadequate human resources to perform fully its core functions.

Information risk

Risks arising from inappropriate treatment of information are addressed in the Commission's policies in relation to use and disclosure of confidential information, care in relation to the publication of information on the website or in reports, and appropriate and secure physical storage of information. Where applicable, the Commission is guided by the *2007 ACT Protective Security Policy and Guidelines*. The Commission specifically addresses information management issues by compliance with the ACT Public Sector policies and practices on records management.

Workplace safety and related employee risks

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

During 2008–09, no occupational health and safety incidents or dangerous occurrences were notified. The Commission provides a high level of support for staff and promotes practices to achieve a sustainable work–family balance.

Financial risk

Financial risk is identified as a consequence of the Commission receiving revenue and making payments to suppliers. Very low levels of cash are held in the Commission’s office. The risks of mishandling or fraud are actively managed by adequate separation of powers appropriate to a small office, and regular monitoring of accounts. Most revenue transactions are by cheque or by direct credit to the Commission’s accounts. On the payments side, there are no cash payments for services supplied and there is an appropriate authorisation process and separation of account cheque preparation, payment authorisation and signature (including countersigning by two parties).

A.5.2 Financial performance

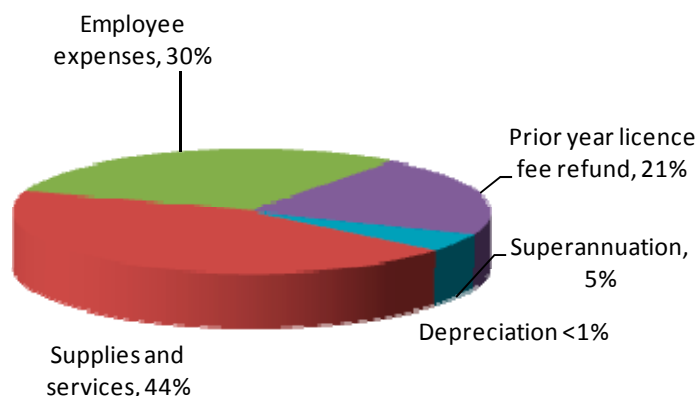
The following financial information is based on the Commission’s audited financial statements for 2007–08 and 2008–09, and the forward estimates contained in 2008–09 Budget Paper No. 4.

Total expenditure

Components of expenditure

Figure 3 indicates the components of the Commission’s expenditure for 2008–09. The largest component of expenditure, supplies and services, represents 44% of expenditure on ordinary activities, or \$0.828 million. This year’s expenses also include a prior year licence fee rebate of \$0.393 million, which was 13% more than in 2007–08 (\$0.349 million).

Figure 3 Components of expenditure 2008–09



Comparison to budget

Total expenditure of \$1.902 million was \$0.034 million higher than the budgeted figure of \$1.868 million. This increase in expenditure was attributable mostly to refunds of utilities licence fee income. Lower costs incurred in utilities regulation activities during 2007–08 resulted in unexpected prior year licence fee refunds of \$0.393 million.

Comparison to 2007–08 actual expenditure

Total expenditure was \$1.343 million, 41% less than the 2007–08 actual result. New national arrangements for the regulation of energy (gas and electricity) utilities came into effect through the introduction of the energy industry levy in 2008–09. As a direct result of these changes, the Commission’s collection of licence fees has significantly decreased. Subsequently, disbursements of utility licence fees to other ACT Government entities were greatly reduced

Expenditure on supplies and services in 2008–09 was \$1.510 million less than in 2007–08. This was mainly due to the reduction in payments to external consultants who provided professional services in the previous year as part of the water and wastewater review.

Future trends

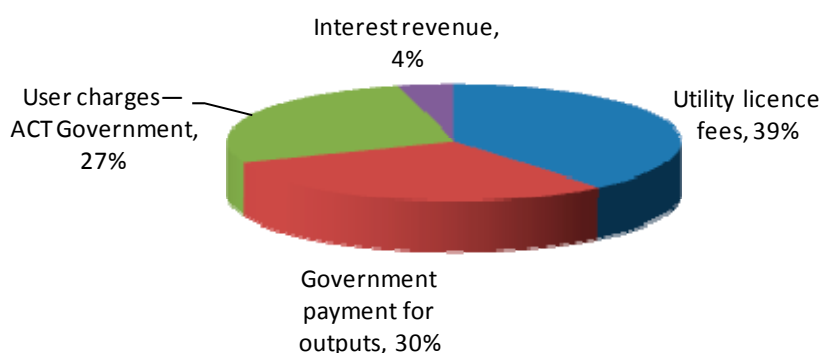
From 2009–10, expenditure arising from energy regulation and the Commission’s other statutory and contract responsibilities is expected to remain relatively constant across the forward estimates, as further transfers to national regulation are unlikely to occur in the near future. However, expenditure may vary over the forward estimates as a consequence of unanticipated references or other demands for services from government and non-government sources.

Total income

Components of income

Figure 4 shows that the Commission’s main source of income in 2008–09 was utilities licence fees of \$0.601 million (39% of total revenue). In 2008–09, there were no non–ACT Government user charges because the Commission undertook no external reviews. Interest revenue was a minor source of the Commission’s income. The new energy levy, which replaced a large percentage of utility licence fee revenue from previous years, accounted for 30% of the Commission’s income.

Figure 4 Components of income 2008–09



Comparison to Budget

Revenue for the year was \$1.557 million, \$0.321 million less than expected. Revenue from user charges (ACT Government) was \$0.428 million (51%) less than budgeted. Revenue of \$0.471 million received from the new energy levy and paid as government payment for output was fully drawn for the year as expected.

Comparison to 2007–08 actual income

Total revenue of \$1.557 million in 2008–09 was \$2.29 million (60%) less than in the previous financial year (\$3.847 million). Utilities licence fee income decreased by 72%. This reduction was due to new national arrangements for the regulation of energy utilities in 2008–09. The average rate of interest on deposits fell by 30%, from 6.66% in 2007–08 to 4.64% in 2008–09. Interest revenue was 26% lower as a result.

Future trends

Implementation of the energy levy arrangements, reflecting the transfer of a number of energy regulatory functions to national regulation in 2008–09, established a structure of future revenue that the Commission expects will persist for some time. With the energy levy replacing prescribed energy utility licence fees, the Commission's revenue sources are more varied, and include licence fees, appropriation, funding for purchased services, and fee-for-service revenue arising from referred or contract services.

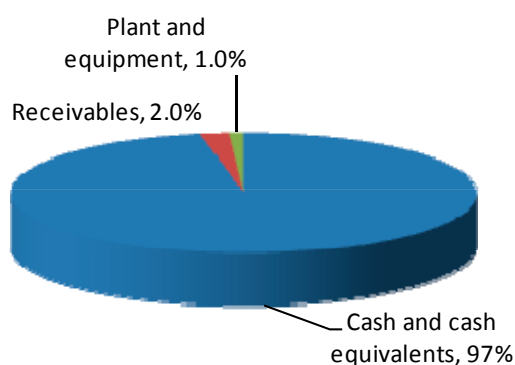
A.5.3 Financial position

Total assets

Components of total assets

Figure 5 shows that in 2008–09 the Commission continued to hold the majority of its assets in cash reserves. Ninety-nine per cent of total assets were cash and receivables; the remainder was plant and equipment.

Figure 5 Total assets as at 30 June 2009



Comparison to Budget

The total asset position at 30 June 2009 was \$1.827 million. This was \$0.100 million, or 5.8%, higher than the budget position expected at 30 June 2009, mainly due to higher than expected cash reserves at year end. Total current assets were also higher than expected (\$1.701 million budget versus \$1.801 million actual).

Comparison to 2007–08 actuals

The Commission's total asset position at 30 June 2009 was lower than at the same time last year due to the reduction in receivables. The total assets position was \$1.827 million compared to \$2.260 million at 30 June 2008 (down \$0.433 million).

Total liabilities at 30 June 2009 were \$0.556 million compared to \$0.644 million at 30 June 2008. The decrease (\$0.088 million) was mainly due to a reduction in payables at year end.

Liquidity

Liquidity is the ability of the Commission to satisfy its short-term debts as they fall due. A common indicator for liquidity is the current ratio, which compares the ability to fund short-term liabilities from short-term assets. A ratio of less than 1-to-1 may indicate a reliance on the next financial year's user charges. Table 2 indicates the liquidity position of the Commission.

Table 2 Current ratio

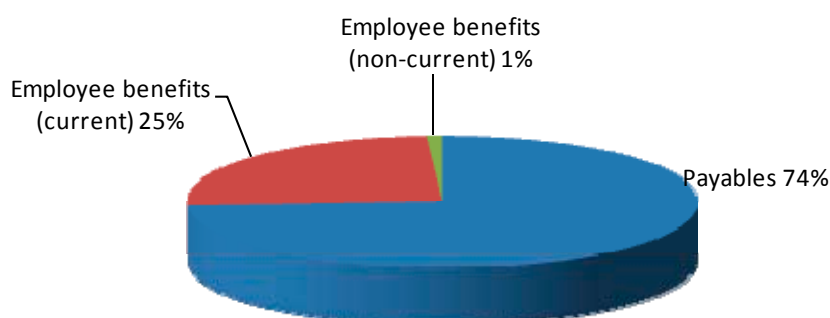
Description	Prior year actual \$'000 2007–08	Current year budget \$'000 2008–09	Current year actual \$'000 2008–09	Forward year budget \$'000 2009–10	Forward year budget \$'000 2010–11	Forward year budget \$'000s 2011–12
Current assets	2,221	1,701	1,801	1,101	1,145	1,833
Current liabilities	623	674	549	620	620	675
Current ratio	3.6:1	2.5:1	3.3:1	1.8:1	1.9:1	2.72:1

The Commission's current ratio for the financial year is 3.3 to 1, which is an increase from the budgeted current ratio of 2.5 to 1. The difference is reflected mainly in the lower than expected level of amounts payable at year end. The Commission is expected to maintain its strong level of liquidity.

Total liabilities

Figure 6 indicates that the majority of the Commission's liabilities relate to payables (74%).

Figure 6 Total liabilities as at 30 June 2009



The Commission's total liabilities for the year ended 30 June 2009 were \$0.556 million, \$0.132 million (19%) lower than budget and \$0.088 million (14%) lower than at 30 June 2008. The decrease relates to amounts payable. Total employee benefits have increased only marginally, reflecting changes in the reporting and measurement of long service leave entitlements offset by an overall reduction in the Commission's annual leave liability as at 30 June 2009.

A.6 Financial report

The Commission has prepared financial statements for 2008–09 in accordance with the relevant accounting standards. The statements were independently audited as required by the *Financial Management Act 1996*, ACT Accounting Standards, and the *Chief Minister's 2007–2010 Annual Report Directions*. The audit opinion, financial statements and accompanying notes to the statements are in Appendix 1.

A.7 Statement of performance

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

In 2008–09, the Commission fully met its performance measures.

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

Part B Commission's performance on consultation and scrutiny

B.1 Community engagement

In the fulfilment of its statutory responsibilities and organisational objectives, the Commission is committed to full and open consultation with the community on matters under investigation. The Commission encourages and provides opportunities for participation at all stages of its inquiries by individuals and by representatives of community groups, industry, peak bodies, regulatory agencies or other interested parties.

Public notices are published seeking input in relation to all references received for price and regulatory inquiries, and submissions from interested parties are encouraged. Where public hearings are held, members of the public are invited to attend to make personal submissions.

During 2008–09, the Commission undertook an important inquiry into the regulated electricity industry to determine retail prices for non-contestable electricity customers for the 2009–10 year. The Commission prepared an issues paper and a draft report before releasing a final report. Consistent with Commission practice, copies of all submissions received in relation to the inquiry were published on the Commission's website, with the exception of those identified as confidential by the submitter.⁴³

The Commission also conducted consultations on a range of other regulatory matters, such the GreenPower scheme and the Electricity Feed-in Code. The Commission has adopted the practice of preparing a statement of reasons for its regulatory decisions and has made this available to interested stakeholders and to the general public by way of its website. All consultation documents and submissions received appear on the Commission's website.

In addition, the Commission plays an important role in informing the debate on regulatory issues in the broader community. In 2008–09, the Commission continued to provide information to the community through presentations at meetings, conferences and seminars, and through media interviews.

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

B.2 Internal and external scrutiny

B.2.1 Auditor-General's reports

The Commission was included in the Auditor-General's report on annual financial statements for the year ended 30 June 2009. The Auditor-General gave an unqualified opinion on the Commission's financial statements and statement of performance. The Commission has maintained an unbroken record of unqualified audit opinions since it was first subject to the audit requirement in 2000. The Commission's unqualified audited financial statements for 2008–09 appear in Appendix 1.

⁴³ Eleven submissions on the retail electricity tariff were received in the course of the inquiry.

B.2.2 ACT Ombudsman's reports

During 2008–09, the Commission was not the subject of any complaint to or investigation by the ACT Ombudsman.

B.3 Legislative Assembly committee inquiries and reports

The Commission was not the subject of a review by a Legislative Assembly committee in 2008–09. The Commission participated in Legislative Assembly Estimates Committee and Public Accounts Committee reviews of Budget estimates for the period to 30 June 2009 and annual reports for the period to 30 June 2008.

The Commission made a submission in June 2009 to the Legislative Assembly Standing Committee on Climate Change, Environment and Water Inquiry into ACT Government Greenhouse Gas Reduction Targets.⁴⁴

B.4 Legislation report

During 2008–09, the Commission's principal responsibilities were under the:

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

The Commission also had obligations under a range of other laws,⁴⁵ including:

- *Electricity (Greenhouse Gas Emissions) Act 2004*
- *Electricity Feed-in (Renewable Energy Premium) Act 2008*⁴⁶
- *Financial Management Act 1996*
- *Annual Reports (Government Agencies) Act 1995*
- *Government Procurement Act 2001*
- *Public Access to Government Contracts Act 2000*
- *Public Sector Management Act 1990*
- *Territory Records Act 2002*.

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

⁴⁴ Accessible at the ACT Legislative Assembly website: www.parliament.act.gov.au.

⁴⁵ The move to national regulation of electricity and natural gas distribution systems has removed previous Commission roles under the *Electricity (National Scheme) Act 1997* and the now repealed *Gas Pipelines Access (ACT) Act 1998*.

⁴⁶ The passage of the *Electricity Feed-in (Renewable Energy Premium) Act 2008* (Feed-in Tariff Act) establishes the Electricity Feed-in Scheme. The Act provides a role for the Commission in providing advice to the Minister about the premium rate to be charged for electricity fed into the network by relevant small-scale generators.

Part C Legislative and policy-based reporting

C.1 Risk management and internal audit

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

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

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

The Commission notes that it is a very small organisation, and the establishment of a formal internal audit committee of the type envisaged in the Annual Report Directions is not appropriate. While this is the case, the Commission is attentive to the need for strong internal audit controls. Against this background, the Commission developed the following plans in 2008–09:

- Business Continuity Plan
- Business Risk Management Plan
- Fraud Policy and Fraud Control Plan.

C.2 Fraud prevention

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

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

To provide a stronger fraud prevention framework, and in response to Auditor-General's management letter comments, the Commission developed in 2008–09 a Fraud Policy and Fraud Control Plan.

C.3 Public interest disclosure

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

The Commission has adopted the procedures established by the ACT Government, including those dealing with:

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

Copies of the Commission's procedures are publicly available.

During 2008–09, the Commission received no public interest disclosure requests, and was involved in no incidents involving public interest disclosure.

C.4 Freedom of information

C.4.1 Section 7 statement

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

Organisational functions and powers

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

Public participation in decision making

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

Categories of documents

The Commission holds several basic categories of documents:

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

Documents available on request and without charge

Documents within this category include draft and final reports on investigations on all issues relating to prices, access disputes, access arrangement proposals, and decisions on utilities licensing, and approval of industry codes and code variations. These documents are distributed from the Commission's office, are made available to libraries throughout the ACT, and are available on the Commission's webpage and/or the ACT Legislation Register.

The Commission does not charge for any of its publications.

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

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

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

Access arrangements

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

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

The Commission's offices at 12 Moore Street, Canberra City, are wheelchair accessible. Public parking is nearby. Public transport is readily available.

C.4.2 Section 8 statement

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

C.4.3 Section 79 statement

During 2008–09, the Commission received no requests for information disclosure under the terms of the FOI Act.

C.5 Internal accountability

The structure of the Commission is set out in Figure 2 in Section A.1.3 of this annual report.

In 2008–09, Paul Baxter was the Senior Commissioner (appointed 1996; reappointed 2004; reappointed for one year from 1 July 2009). From 1 July 2008 to 30 June 2009, the Commission's chief executive officer was Ms Shelley Schreiner.

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

- subject to the ICRC Act, to operate as a businesslike, customer service-oriented entity
- to use benchmarking, to the extent possible for a regulatory agency, in order to operate at least as efficiently as alternative service providers and to provide quality, value-for-money services in all aspects of the Commission's operations
- to use financial practices and maintain accounts and records that satisfy the requirements of the *Financial Management Act 1996*, including the associated ACT Accounting Policy Manual, modelled on the requirements of Australian Accounting Standards, and fairly present

the Commission's financial position and operational and cash flow results for planning and reporting purposes

- to adopt high-standard operating practices to safeguard the environment and health and safety of staff
- to provide a productive and satisfying working environment for staff, and a commitment to high standards of human resource management based on the principles of equal employment opportunity.

During 2008–09, the Senior Commissioner continued to provide a high level of corporate governance oversight of the Commission.

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

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

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

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

The Commission continued to pursue best practice in its corporate governance and management. All determinations, regulatory decisions and advice developed by the Commission, and the processes by which those outputs are developed, remain accessible and transparent and include extensive opportunities for public consultation.

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

C.6 Human resources performance

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

As noted in previous reports, the Commission's approach to managing human resources efficiently and effectively is to maintain a core permanent staff with critical skills and experience. Areas of expertise include regulatory economics and regulatory law and policy. The Commission also employs a strategy of accessing specialist skills through contract and non-ongoing staff and consultants (see Section C.14 for details of such consultancies in 2008-09). This strategy recognises the need for the Commission to respond when references or other requests require additional capacity. It provides the flexibility to respond to future challenges, particularly in an environment in which the future regulatory framework has yet to be finalised.

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

The Commission aims to sustain community confidence in its work through high-quality work and processes that emphasise transparency and consultation.

The Commission's overriding goal is to remain, as far as possible, an 'employer of choice'—that is, one with conditions and practices that attract and retain high-calibre staff.

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

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

C.7 Staffing profile

The following tables provide details of the Commission's staffing profile at 30 June 2009.

Table 3 Full-time equivalent and headcount, as at 30 June 2009

	Male	Female
FTE by gender	3.00	3.00
Headcount by gender	3	3
% of workforce	50.0%	50.0%

Note: The Senior Commissioner is not included in the headcount.

Table 4 Employment type, as at 30 June 2009

Permanent	Temporary	Casual
5	1	0

Table 5 Classifications, as at 30 June 2009

Classification group	Female	Male	Total
Administrative Officers	1	0	1
Senior Officers	2	3	5
Total	3	3	6

Table 6 Employment category by gender, as at 30 June 2009

Employment category	Female	Male	Total
Casual	0	0	0
Permanent full-time	3	2	5
Permanent part-time	0	0	0
Temporary full-time	0	1	1
Temporary part-time	0	0	0
Total	3	3	6

Table 7 Average length of service by gender by age-group, as at 30 June 2009

Average length of service	Female	Male	Total
0-2	2	2	4
2-4	0	0	0
4-6	1	0	1
6-8	0	1	1
8-10	0	0	0
10-12	0	0	0
12-14	0	0	0
14+ years	0	0	0

Table 8 Total average length of service by gender, as at 30 June 2009

Gender	Average length of service
Female	2.53
Male	2.85
Total	2.69

Table 9 Age profile, as at 30 June 2009

Age group	Female	Male	Total
<20	0	0	0
20–24	0	0	0
25–29	0	0	0
30–34	0	0	0
35–39	0	0	0
40–44	0	0	0
45–49	1	0	1
50–54	0	2	2
55–59	1	0	1
60–64	1	1	2
65–69	0	0	0
70+	0	0	0

Table 10 Agency profile, as at 30 June 2009

Branch/Division	FTE	Headcount
ICRC	6	6
Total	6	6

Table 11 Agency profile by employment type, as at 30 June 2009

Branch/Division	Permanent	Temporary	Casual
ICRC	5	1	0
Total	5	1	0

Table 12 Equity and workplace diversity, as at 30 June 2009

Indigenous status	Indigenous percentage	English as a second language (ESL)	ESL percentage	Staff with a disability	Disability percentage	Women	Women percentage	Total paid headcount
0	0.0%	0	0.0%	2	33.3%	3	50.0%	6

C.8 Learning and development

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

During 2008–09, the Commission continued to be guided by the objectives for learning and development in the Department of Justice and Community Safety’s Union Collective Agreement 2007–2010. The Commission was supported in this by the department and was able to access

learning and development opportunities for staff. Information on the department's programs and initiatives is available separately in its annual report.

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

C.9 Workplace health and safety

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

The Commission was a signatory to the ACT public sector injury prevention policy and agreement in 2003. The policy remained in place through 2008–09. More generally, the Commission is supported by the Department of Justice and Community Safety in relation to workplace health and safety planning and initiatives.

During 2008–09, Commission staff were able to access wellness programs provided through the Department of Justice and Community Safety, including flu vaccinations and health assessments.

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

No investigations were conducted during 2008–09, and no notices were given under section 146 (improvement notices), section 155 (prohibition notices) or section 212 (notices of non-compliance by Territory entities) of the OHS Act.

C.10 Workplace relations

Staff of the Commission are covered by the Department of Justice and Community Safety Union Collective Agreement 2007–2010.

In 2008–09, one staff member was covered by a Special Employment Arrangement. There were no Australian Workplace Agreements in place.

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

C.11 Strategic Bushfire Management Plan

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

C.12 Strategic asset management

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

C.13 Capital works

The Commission did not undertake capital works in 2008–09. The Commission has no capital assets, other than the furniture and fittings referred to above.

C.14 Government contracting

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

The Commission confirms that during 2008–09 selection and management processes complied with the *Government Procurement Act 2001* and the *Government Procurement Regulation 2007*. The Commission worked closely with ACT Procurement Solutions on procurement processes.

Table 13 lists consultants and contractors involved in the Commission’s operations during 2008–09.

Table 13 Contractor and consultant services, 2008–09

Consultant/contractor ^a	Description of service (date contract let)	Value \$ ^b
Careers Unlimited	Provision of staff placement services	45,766
Deloitte Touche Tohmatsu	Provision of regulatory analysis and advice (Retail competition and energy industry levy) (August 2008 and September 2008)	8,903
Carisbrooke Consulting	Provision of regulatory analysis and advice (Review of transitional franchise tariffs) (February 2009)	7,969
Jindabyne Business Services	Provision of financial management and accounting services (Rollover of contract—July 2006)	54,582
Primrose and Associates Pty Limited	Provision of regulatory advice (May 2009)	5,000
WordsWorth Writing	Provision of editorial and design services	24,790
Dr E Paul Ratcliffe	Provision of website analysis and advice (May 2008)	3,543
Copyqik	Provision of printing services	24,369

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

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

C.15 Community grants, assistance and sponsorship

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

C.16 Territory records

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

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

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

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

C.17 *Human Rights Act 2004*

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

C.18 Commissioner for the Environment

There were no requests during 2008–09 from the Commissioner for the Environment for staff to assist in the preparation of the State of the Environment report.

C.19 ACT Multicultural Strategy

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

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

C.20 Aboriginal and Torres Strait Islander reporting

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

C.21 Ecologically sustainable development

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

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

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

Table 14 summarises Commission paper consumption data in 2008–09. Table 15 summarises the Commission's ecological sustainability priorities.

Table 14 Commission paper consumption data, 2008–09

Resource	Size/Amount	Collection	Total annually
Secure paper	1 x 240 litre bin	Weekly	9 x 240 litre bins (estimated)
Non-secure paper	1 x 240 litre bin	Weekly	5 x 240 litre bins (estimated)
Paper (used)	2.7 reams	Weekly	140 reams

Table 15 Commission activities supporting ecologically sustainable development, 2008–09

Issue	Activity	Outcome
<i>Core business</i>		
Utility compliance regulation and performance reporting	Establishing benchmarks, monitoring compliance and penalising non-compliance under the ACT Greenhouse Gas Abatement Scheme Implementing the GreenPower scheme and monitoring compliance with the scheme Monitoring compliance with the Electricity Feed-in Code Reporting on a range of environmental indicators in relation to energy and water	Reduced greenhouse gas emissions Improved information on energy and water performance in the Territory
Inquiries	Considering social and environmental impacts, including the application of the precautionary principle	Promotion of sustainability and reflection of the real economic costs and the impact on social costs of market activity
Price setting	Considering social and environmental costs	Service pricing for regulated industries that reflects full costs, including environmental costs and the social impact of prices
<i>Operations</i>		
Consumables	Reducing print runs and mail-outs of published documents, complemented by greater reliance on website availability	Reduced resource use
Consumables	Recycling of used fax, printer and copier cartridges	Improved recycling practices
Disposables	Recycling paper and cardboard	Reduced impact on landfill
Energy use	Encouraging shutdown of PCs	Reduced energy use

C.22 ACT Women's Plan 2004–2009

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

Appendixes

Appendix 1 Financial report and audit report

Independent Competition and Regulatory Commission

Financial Report

For the year ended 30 June 2009

Auditor's opinion on the Financial Statements



ACT AUDITOR-GENERAL'S OFFICE



INDEPENDENT AUDIT REPORT

INDEPENDENT COMPETITION AND REGULATORY COMMISSION

To the Members of the ACT Legislative Assembly

Report on the financial report

I have audited the financial report of the Independent Competition and Regulatory Commission (the Commission) for the year ended 30 June 2009. The financial report is comprised of the operating statement, balance sheet, statement of recognised income and expense, cash flow statement, statement of appropriation and accompanying notes.

Responsibility for the financial report

The Chief Executive Officer of the Commission is responsible for the preparation and fair presentation of the financial report in accordance with the *Financial Management Act 1996*. This includes responsibility for maintaining adequate accounting records and internal controls that are designed to prevent and detect fraud and error and for the accounting policies and estimates used in the preparation of the financial report.

The auditor's responsibility

My responsibility is to express an independent audit opinion on the financial report of the Commission based on my audit as required by the *Financial Management Act 1996*.

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

I formed the audit opinion by performing audit procedures to obtain evidence about the amounts and disclosures in the financial report. As these procedures are influenced by the use of professional judgement, selective testing of evidence supporting the amounts and other disclosures in the financial report, inherent limitations of internal control and the availability of persuasive rather than conclusive evidence, an audit cannot guarantee that all material misstatements have been detected.

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

The audit is not designed to provide assurance on the appropriateness of budget information included in the financial report or to evaluate the prudence of decisions made by the Commission.

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Telephone: 02 6207 0833 | Facsimile: 02 6207 0826 | Email: actauditorgeneral@act.gov.au

Electronic presentation of the audited financial report

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

Independence

I followed applicable independence requirements of Australian professional ethical pronouncements in conducting the audit.

Audit opinion

In my opinion, the financial report of the Commission for the year ended 30 June 2009:

- (i) is presented in accordance with the *Financial Management Act 1996*, Accounting Standards and other mandatory financial reporting requirements in Australia; and
- (ii) presents fairly the financial position of the Commission as at 30 June 2009 and the results of its operations and its cash flows for the year then ended.

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

Tu Pham
Auditor-General
17 August 2009

Statement of responsibility

**Independent Competition and Regulatory Commission
Financial Report
For the Year Ended 30 June 2009**

Statement of Responsibility

In my opinion, the financial report is in agreement with the Commission's accounts and records and fairly reflects the financial operations of the Commission for the year ended 30 June 2009, and the financial position of the Commission on that date.

Ian Primrose CPA JP
Acting Chief Executive Officer
Independent Competition and Regulatory Commission

16 July 2009

Independent Competition and Regulatory Commission

Territory Authority financial report for the year ended 30 June 2009

Operating Statement for the year ended 30 June 2009

	Note No.	Actual 2009 \$'000	Budget 2009 \$'000	Actual 2008 \$'000
Income				
<i>Revenue</i>				
Government Payment for Outputs	4	471	471	–
User Charges—ACT Government	5	416	844	378
User Charges—Non-ACT Government	6	–	–	1,263
Fees	7	601	516	2,113
Interest	8	69	47	93
<i>Total Revenue</i>		1,557	1,878	3,847
Total Income		1,557	1,878	3,847
Expenses				
Employee Expenses	9	575	511	473
Superannuation Expenses	10	93	75	72
Supplies and Services	11	828	1,269	2,338
Prior Year Licence Fee Refund	12	393	–	349
Depreciation and Amortisation	13	13	13	13
Total Expenses		1,902	1,868	3,245
Operating (Deficit)/Surplus		(345)	10	602

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

Independent Competition and Regulatory Commission

Balance Sheet as at 30 June 2009

	Note No.	Actual 2009 \$'000	Budget 2009 \$'000	Actual 2008 \$'000
Current Assets				
Cash and Cash Equivalents	17	1,767	1,653	1,562
Receivables	18	34	48	659
Total Current Assets		1,801	1,701	2,221
Non-Current Assets				
Plant and Equipment	19	26	26	39
Total Non-Current Assets		26	26	39
Total Assets		1,827	1,727	2,260
Current Liabilities				
Payables	20	408	572	513
Employee Benefits	21	141	102	110
Total Current Liabilities		549	674	623
Non-Current Liabilities				
Employee Benefits	21	7	14	21
Total Non-Current Liabilities		7	14	21
Total Liabilities		556	688	644
Net Assets		1,271	1,039	1,616
Equity				
Accumulated Funds	22	1,271	1,039	1,616
Total Equity		1,271	1,039	1,616

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

Independent Competition and Regulatory Commission

Statement of Recognised Income and Expense for the year ended 30 June 2009

	Note No.	Actual 2009 \$'000	Budget 2009 \$'000	Actual 2008 \$'000
Total Equity at the Beginning of the Reporting Period	22	1,616	1,029	1,014
<i>Accumulated Funds</i>				
Operating (Deficit)/Surplus		(345)	10	602
Total Income and Expense Recognised Directly in Equity for the Reporting Period		(345)	10	602
Total Equity at the End of the Reporting Period	22	1,271	1,039	1,616

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

Independent Competition and Regulatory Commission

Cash Flow Statement for the year ended 30 June 2009

	Note No.	Actual 2009 \$'000	Budget 2009 \$'000	Actual 2008 \$'000
Cash Flows from Operating Activities				
Receipts				
Government Payments for Outputs		471	471	–
Fees		460	516	1,765
User Charges—ACT Government		648	844	378
User Charges—Non-ACT Government		377	–	886
Interest Received		74	47	94
Goods and Services Tax Collected from Customers		70	–	93
Other Tax Credits		65	83	104
Total Receipts from Operating Activities		2,165	1,961	3,320
Payments				
Employee		614	500	679
Superannuation		101	75	95
Supplies and Services		1,131	1,254	2,365
Goods and Services Tax Remitted to Australian Tax Office		45	–	22
Goods and Services Tax Paid to Suppliers		69	98	183
Total Payments from Operating Activities		1,960	1,927	3,344
Net Cash Inflows/(Outflows) from Operating Activities	25	205	34	(24)
Net Increase/(Decrease) in Cash and Cash Equivalents Held		205	34	(24)
Cash and Cash Equivalents at the Beginning of the Reporting Period		1,562	1,619	1,586
Cash and Cash Equivalents at the End of the Reporting Period	25	1,767	1,653	1,562

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

Independent Competition and Regulatory Commission

Statement of Appropriation for the year ended 30 June 2009

	Note	Budget 2009 \$'000	Total Appropriated 2009 \$'000	Appropriation Drawn 2009 \$'000	Appropriation Drawn 2008 \$'000
Government Payment for Outputs	4	471	471	471	—
Total Appropriation		471	471	471	—

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

Notes to and forming part of the Financial Report for the year ended 30 June 2009

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Notes to and forming part of the Financial Report for the year ended 30 June 2009

Note 1 Objectives of the Independent Competition and Regulatory Commission

Operation and principal activities of the Independent Competition and Regulatory Commission

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

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

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

- to encourage the provision of safe, reliable, efficient and high quality utility services at reasonable prices;
- to minimise the potential for misuse of monopoly power in the provision of utility services;
- to promote competition in the provision of utility services;
- to encourage long term investment, growth and employment in utility service industries;
- to promote ecologically sustainable development in the provision of utilities services;
- to protect the interests of consumers;
- to ensure the advice given to the Commission by the ACT Civil and Administrative Tribunal, 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.

During 2008–09, a new levy arrangement reflecting the transfer of a number of energy regulatory functions to national regulation came into effect. A Government Payment for Output (Energy Levy) is now received by the Commission in lieu of the reduced Licence Fee revenue to cover costs of the Utilities Act regulatory functions. With the introduction of the energy levy to replace energy licence fees for energy utilities, the Commission's total revenue from this source has reduced.

Under the new arrangements, collection of Utility Licence Fees for electricity and gas retailers and distributors has been removed from the Commission's responsibilities. The distribution to other ACT Government entities that also have responsibilities under the Utilities Act for their share of collected fees, is also no longer.

The Commission continues to collect and distribute Licence Fees for Utilities providing Water and Waste Water Services to ACT consumers and gas transmission within the Territory.

Note 2 Summary of significant accounting policies

(a) Basis of accounting

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

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

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

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

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

The financial report has been prepared using the accrual basis of accounting, which recognises the effects of transactions and events when they occur. The financial report has also been prepared according to the historical cost convention, except for assets which were valued in accordance with the (re)valuation policies applicable to the Commission during the reporting period.

This financial report is presented in Australian Dollars, which is the Commission's functional currency.

The Commission is an individual reporting entity.

(b) The reporting period

This financial report states the financial performance, changes in equity and cash flows of the Commission for the year ending to 30 June 2009 together with the financial position of the Commission as at 30 June 2009.

(c) Comparative figures

Budget figures

The *Financial Management Act 1996* requires the statements to facilitate a comparison with the Statement of Intent. Budget information provided for 2008–09 matches the budget information contained in the Commission's Statement of Intent.

Prior year comparatives

Comparative information has been disclosed in respect of the previous period for all amounts reported in the financial report, except where an Australian Auditing Standard does not require comparative information to be disclosed.

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

(d) Rounding

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

(e) Revenue recognition

Revenue is recognised at the fair value of the consideration received or receivable in the Operating Statement. All revenue is recognised to the extent that it is probable that the economic benefits will flow to the Commission and the revenue can be reliably measured. In addition, the following specific recognition criteria must also be met before revenue is recognised:

Utilities licence fees

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

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

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

(f) Taxation

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

(g) Current and non-current Items

Assets and liabilities are classified as current or non-current in the Balance Sheet. Assets are classified as current where they are expected to be realised within 12 months after the reporting date. Liabilities are classified as current when they are due to be settled within 12 months after the reporting date or the Commission does not have an unconditional right to defer settlement of the liability for at least 12 months after the reporting date. Assets or liabilities which do not fall within the current classification are classified as non-current.

(h) Cash and cash equivalents

For the purposes of the Cash Flow Statement and the Balance Sheet, cash includes cash at bank, cash on hand and demand deposits. Cash equivalents are short-term, highly liquid investments

that are readily convertible to known amounts of cash which are subject to an insignificant risk of changes in value. Bank overdrafts are included in cash and cash equivalents in the cash flow statement but not in the cash and cash equivalents line on the Balance Sheet.

(i) Receivables

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

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

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

(j) Acquisition and recognition of plant and equipment

Plant and equipment is initially recorded at cost. Cost includes the purchase price, directly attributable costs and the estimated cost of dismantling and removing the item where, upon acquisition, there is an obligation to remove the item. Where plant and equipment is acquired at no, or minimal cost, it is recognised at fair value as at date of acquisition.

Plant and equipment with a minimum value of \$5,000 is capitalised.

(k) Measurement of plant and equipment after initial recognition

The Commission measures all Office Furniture and Equipment at Cost.

(l) Depreciation of non-current assets

Non-current assets, with a limited useful life, are systematically depreciated over their useful lives in a manner that reflects the consumption of their service potential. The useful life commences when an asset is ready for use.

Depreciation for non-current assets is determined as follows:

Class of Asset	Depreciation Method	Useful Life (Years)
Office Furniture and Equipment	Straight Line	10 Years

The useful lives of all assets are reassessed on an annual basis

(m) Payables

Payables are a financial liability and are measured at the fair value of the consideration received with initially recognised and at amortised cost subsequent to initial recognition, with any adjustments to the carrying amount being recorded in the Operating Statement. All amounts are usually settled within 30 days after the invoice date.

Payables include Trade Payables and Accrued Expenses.

Trade payables represent the amounts owing for goods and services received prior to the end of the reporting period and unpaid at the end of the reporting period and relating to the normal operations of the Commission.

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

(n) Leases

The Commission has entered into operating leases.

Operating leases

Operating leases do not effectively transfer to the Commission substantially all the risks and rewards incidental to ownership of the asset under an operating lease. Operating lease payments are recorded as an expense in the Operating Statement on a straight-line basis over the term of the lease.

(o) Employee benefits

Employee benefits include wages and salaries, annual leave, long service leave and applicable on-costs. On-costs include annual leave, long service leave, superannuation and other costs that are incurred when employees take annual and long service leave. These benefits accrue as a result of services provided by employees up to the reporting date that remain unpaid. They are recorded as a liability and as an expense.

Wages and salaries

Accrued wages and salaries are measured at the amount that remains unpaid to employees at the end of the reporting period.

Annual and long service leave

Annual leave and long service leave that falls due wholly within the next 12 months is measured based on the estimated amount of remuneration payable when the leave is taken.

Annual and long service leave including applicable on-costs that do not fall due within the next 12 months is measured at the present value of estimated future payments to be made in respect of services provided by employees up to the reporting date. Consideration is given to the future wage and salary levels, experience of employee departures and periods of service. At each reporting date, the estimated future payments are discounted using market yields on Commonwealth Government bonds with terms to maturity that match, as closely as possible, the estimated future cash flows. In 2008–09, the discount factor used to calculate the present value of these future payments is 90.5% (95% in 2007–08).

The long service leave liability is estimated with reference to the minimum period of qualifying service. For employees with less than the required minimum period of 7 years qualifying service, the probability that employees will reach the required minimum period has been taken into account in estimating the provision for long service leave and the applicable on-costs.

The provision for annual leave and long service leave includes estimated on-costs. As these on-costs only become payable if the employee takes annual and long service leave while in-service, the probability that employees will take annual and long service leave while in service has been taken into account in estimating the liability for on-costs.

Annual leave and long service leave liabilities are classified as current liabilities in the Balance Sheet where there are no unconditional rights to defer the settlement of the liability for at least 12 months. However, where there is an unconditional right to defer settlement of the liability for at least 12 months, annual leave and long service leave have been classified as a non-current liability in the Balance Sheet.

(p) Superannuation

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

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

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

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

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

(q) Insurance

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

(r) Significant accounting estimates and judgements

In the process of applying the accounting policies listed in this note, the Commission has made the following judgements and estimates that have the most significant impact on the amounts recorded in the financial report:

Employee Benefits: Significant judgements have been applied in estimating the liability for employee benefits. The estimated liability for employee benefits requires a consideration of the future wage and salary levels, experience of employee departures and periods of service. The estimate also includes an assessment of the probability that employees will meet the minimum service period required to qualify for long service leave and that on-costs will become payable. Further information on this estimate is provided in Note 2(o) *Employee Benefits* and Note 3 *Change in Accounting Estimates and Impact of Accounting Standards Issued But Yet To Be Applied*.

(s) Utility licence fee adjustments

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

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

Licence fees are calculated by reference to the weighted amount of regulatory activity for water supply and sewerage services, and gas transmission. The calculation also takes into account the difference between fixed and variable costs, the latter based on the utility's share of the market.

Note 3 Change in accounting estimates and impact of accounting standards issued but yet to be applied

Change in an accounting estimate

Revision of the methodology used to estimate the liability for employee benefits

This year, the Department of Treasury engaged an actuary to review the methodology used by ACT Government agencies to estimate annual and long service leave liabilities. Following this review, this methodology was revised as follows:

- As disclosed in Note 2(o) *Employee Benefits*, the estimated future payments for annual and long service leave (including applicable on-costs) that do not fall due within the next 12 months are measured at present value.

The estimated future payments are discounted using market yields on Commonwealth Government bonds at the reporting date with terms to maturity that match, as closely as possible, the estimated future cash flows. The rate used to calculate the present value of these estimated future payments has been revised from 95% to 90.5% mainly due to a change in the long-term yields from Commonwealth Government bonds. The revision to the discount rate has resulted in a decrease to the liability for employee benefits and the related expense.

- As disclosed in Note 2(o) *Employee Benefits*, the long service leave liability is estimated with reference to the minimum period of qualifying service. For employees with less than the minimum period of 7 years required qualifying service, the probability that employees will reach the minimum period of qualifying service has been taken into account in estimating the provision for long service leave and the related on-costs.

In previous reporting periods, under the methodology used by ACT Government agencies, this liability was estimated by recognising a 100% liability for employees with 5 or more years of service and 0% for employees with less than 5 years of service. This methodology has been replaced by another methodology, whereby the probability that an employee will reach the minimum service period of seven years is estimated for each completed year of service. The use of this revised methodology has resulted in an increase to the liability for employee benefits and the related expense.

- As disclosed in Note 2(o) *Employee Benefits*, employee benefits include wages and salaries, annual leave, long service leave and applicable on-costs.

In previous reporting periods, all applicable on-costs were not included in the estimated annual and long service leave liabilities due to an omission. The inclusion of these on-costs in the current

reporting period has resulted in an increase to the liability for employee benefits and the related expense.

The above revisions and corrections to the liability for employee benefits has resulted in an increase in the estimate of employee benefits and the related expense of \$23,246 in the current reporting period.

Impact of accounting standards issued but yet to be applied

The following new and revised accounting standards and interpretations have been issued by the Australian Accounting Standards Board but do not apply to the current reporting period. These standards and interpretations are applicable to future reporting periods. The Commission does not intend to adopt these standards and interpretations early. It is estimated that the effect of adopting the below pronouncements, when applicable, will have no material financial impact on the Commission in future reporting periods:

- AASB 1 First-time Adoption of Australian Accounting Standards (application date 1 July 2009);
- AASB 101 Presentation of Financial Statements (application date 1 January 2009);
- AASB 2007-8 Amendments to Australian Accounting Standards arising from AASB 101 (application date 1 January 2009);
- AASB 2007-10 Further Amendments to Australian Accounting Standards arising from AASB 101 (application date 1 January 2009);
- AASB 2008-5 Amendments to Australian Accounting Standards arising from the Annual Improvements Project [AASB 5, 7, 101, 102, 107, 108, 110, 116, 118, 119, 120, 123, 127, 128, 129, 131, 132, 134, 136, 138, 139, 140, 141, 1023 & 1038] (application date 1 January 2009);
- AASB 2008-6 Further Amendments to Australian Accounting Standards arising from the Annual Improvements Project [AASB 1 & AASB 5] (application date 1 July 2009);
- AASB 2008-9 Amendments to AASB 1049 for Consistency with AASB 101 (application date 1 January 2009);
- AASB 2009-2 Amendments to Australian Accounting Standards – Improving Disclosures about Financial Instruments [AASB 4, AASB 7, AASB 1023 & AASB 1038] (application date 1 January 2009);
- AASB 2009-5 Further Amendments to Australian Accounting Standards arising from the Annual Improvements Project [AASB 5, 8, 101, 107, 117, 118, 136 & 139] (application date 1 January 2010);

Note 4 Government payment for outputs

	2009	2008
	\$'000	\$'000
Revenue from the ACT Government		
Government Payment for Outputs	471	–
Total Government Payment for Outputs	471	–

Receipt of Government Payment for Outputs this reporting period is due to new the Utility Licence Fee arrangements implemented for 2008–09. See Note 1, Objectives of the Independent Competition and Regulatory Commission for further details.

Note 5 User charges—ACT Government

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

	2009 \$'000	2008 \$'000
User Charges—ACT Government		
User Charges—ACT Government	416	378
Total User Charges—ACT Government	<u>416</u>	<u>378</u>

Note 6 User charges—Non-ACT Government

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

	2009 \$'000	2008 \$'000
User Charges—Non ACT Government		
Service Revenue (Non-ACT Government)	–	1,263
Total User Charges—Non ACT Government	<u>–</u>	<u>1,263</u>

There was no revenue from Non-ACT Government referred or contract services in 2008–09.

Note 7 Fees

	2009 \$'000	2008 \$'000
Revenue from Regulatory Activities		
Fees	601	2,113
Total Fees	<u>601</u>	<u>2,113</u>

Reduction in Utility Licence Fee revenue is due to the implementation of new fee arrangements for 2008–09

See Note 1, Objectives of the Independent Competition and Regulatory Commission for further details.

Note 8 Interest

	2009	2008
	\$'000	\$'000
Revenue from Non-ACT Government Entities		
Interest Revenue from the Commonwealth Bank	69	93
Total Interest Revenue from Non-ACT Government Entities	69	93
Total Interest Revenue	69	93

Note 9 Employee expenses

	2009	2008
	\$'000	\$'000
Wages and Salaries ^(a)	564	429
Annual Leave Expense ^(b)	(12)	20
Long Service Leave Expense ^(c)	24	17
Fringe Benefits Tax	(1)	7
Total Employee Expenses	575	473

a) The increase in Wages and Salaries is due to an additional senior staff member employed for the full year.

b) The decrease in the Annual Leave Expense is due to staff members using Annual Leave entitlements resulting in an overall reduction in liability at year end.

c) The increase in the Long Service Leave expense is due to the change in the methodology used to estimate the Long Service Leave liability. Refer to Note 3: *Change in Accounting Estimates and Impact of Accounting Standards Issued But Yet To Be Applied* for further details on this change.

Note 10 Superannuation expenses

The Commission makes payments on a fortnightly basis for its liability of the annual superannuation expense.

	2009	2008
	\$'000	\$'000
Superannuation Contributions	93	72
Total Superannuation Expenses	93	72

Note 11 **Supplies and services**

	2009	2008
	\$'000	\$'000
Leased Equipment and Charges	60	41
Professional Services ^(a)	105	1,109
Staff Development	3	4
Travel and Accommodation	5	7
Postage and Printing	26	32
Fees to Commissioner ^(b)	94	133
Advertising	3	4
Utilities Act—Administration Expenses ^(c)	357	894
Rent/Occupation Expenses	50	54
Other	125	60
Total Supplies and Services	828	2,338

- (a) Decrease due to the use of external consultants substantially reduced.
- (b) Reduction due to extended leave taken during 2008–09.
- (c) Decrease due to new Utility Licence Fees arrangements implemented in 2008–09.

See Note 1, Objectives of the Independent Competition and Regulatory Commission for further details.

Note 12 **Prior year licence fee refund**

	2009	2008
	\$'000	\$'000
Licence Fee Rebate Applied	393	349
Total Licence Fee Rebate	393	349

See also Note 2 (s).

Note 13 **Depreciation**

	2009	2008
	\$'000	\$'000
Depreciation		
Office Furniture and Equipment	13	13
Total Depreciation	13	13
Total Depreciation	13	13

Note 14 Waivers, impairment losses and write-offs

Under section 131 of the *Financial Management Act 1996* the Treasurer may, in writing, waive the right to payment of an amount payable to the Territory.

A waiver is the relinquishment of a legal claim to a debt over which the Commission has control. The write-off of a debt is the accounting action taken to remove a debt from the books but does not relinquish the legal right of the Commission to recover the amount. The write-off of debts may occur for reasons other than waivers.

No waivers, impairment losses or write-offs have occurred during the reporting period for the Commission. (2007–08: Nil)

Note 15 Act of Grace payments

There were no Act of Grace payments made during the financial year pursuant to Section 130 of the *Financial Management Act 1996* (2007–08: Nil).

Note 16 Auditor's remuneration

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

	2009	2008
	\$'000	\$'000
Audit Services		
Audit Fees Paid to the ACT Auditor-General's Office	11	6
Total Audit Fees	<u><u>11</u></u>	<u><u>6</u></u>

Note 17 Cash and cash equivalents

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

	2009	2008
	\$'000	\$'000
Cash at Bank	1,767	1,562
Total Cash and Cash Equivalents	<u><u>1,767</u></u>	<u><u>1,562</u></u>

Note 18 Receivables

	2009	2008
	\$'000	\$'000
Current Receivables		
Accrued Revenue ^(a)	–	609
Accrued Interest	4	9
Net GST Receivable	30	41
Total Current Receivables	34	659
Total Receivables	34	659

(a) Reduction to decrease in external reviews undertaken by the Commission during 2008–09 compared to 2007–08. See Note 6

Ageing of Receivables

	Not Overdue \$'000	Past Due			Total \$'000
		Less Than 30 Days \$'000	30 to 60 Days \$'000	Greater Than 60 Days \$'000	
2009					
Not Impaired¹					
Receivables	34	–	–	–	34
Impaired					
Receivables	–	–	–	–	–
2008					
Not Impaired¹					
Receivables	659	–	–	–	659
Impaired					
Receivables	–	–	–	–	–

1) 'Not Impaired' refers to Net Receivables (that is Gross Receivables less Impaired Receivables).

Additional Guidance

The above table must be read in conjunction with the Commission's accounting policy in relation to receivables. The Commission's policy regarding the normal credit terms of receivables is that debtors must pay an invoice within 30 days.

Classification of ACT Government/Non-ACT Government Receivables**Receivables with ACT Government Entities**

Accrued Revenue	–	232
Total Receivables with ACT Government Entities	<u>–</u>	<u>232</u>

Receivables with Non-ACT Government Entities

Accrued Revenue	–	377
Accrued Interest	4	9
Net Goods and Services Tax Receivable	30	41
Total Receivables with Non-ACT Government Entities	<u>34</u>	<u>427</u>
Total Receivables	<u><u>34</u></u>	<u><u>659</u></u>

Note 19 Plant and equipment

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

	2009	2008
	\$'000	\$'000
Plant and Equipment		
Office Furniture and Equipment at Cost	129	129
Less: Accumulated Depreciation	(103)	(90)
Total Written Down Value of Plant and Equipment	<u>26</u>	<u>39</u>

	2009	2008
	\$'000	\$'000
Reconciliation of Plant and Equipment		
Carrying Amount at the Beginning of the Reporting Period	39	52
Depreciation	(13)	(13)
Carrying Amount at the End of the Reporting Period	<u>26</u>	<u>39</u>

Note 20 Payables

	2009	2008
	\$'000	\$'000
Current Payables		
Trade Payables	249	230
Accrued Expenses ^(a)	159	283
Total Current Payables	<u>408</u>	<u>513</u>
Total Payables	<u><u>408</u></u>	<u><u>513</u></u>

(a) Reduction in accrued rental & employee expenses payable to ACT Government Entities.

Payables are aged as follows:

Not Overdue	400	503
Overdue for Less than 30 Days	–	–
Overdue for 30 to 60 Days	–	2
Overdue for More than 60 Days	8	8
Total Payables	<u><u>408</u></u>	<u><u>513</u></u>

Classification of ACT Government/Non-ACT Government Payables**Payables with ACT Government Entities**

Trade Payables	202	10
Accrued Expenses	66	240
Total Payables with ACT Government Entities	<u><u>268</u></u>	<u><u>250</u></u>

Payables with Non-ACT Government Entities

Trade Payables	47	220
Accrued Expenses	93	43
Total Payables with Non ACT Government Entities	<u><u>140</u></u>	<u><u>263</u></u>
Total Payables	<u><u>408</u></u>	<u><u>513</u></u>

Note 21 Employee benefits

	2009	2008
	\$'000	\$'000
Current Employee Benefits		
Annual Leave ^(a)	52	63
Long Service Leave ^(b)	78	40
Accrued Salaries and Superannuation	11	7
Total Current Employee Benefits	141	110
Non-Current Employee Benefits		
Long Service Leave ^(b)	7	21
Total Non-Current Employee Benefits	7	21
Total Employee Benefits	148	131

<i>For Disclosure Purposes Only</i>		
Estimate of when Leave is Payable	2009	2008
	\$'000	\$'000
Estimated Amount Payable within 12 Months		
Annual Leave	52	63
Long Service Leave	27	–
Accrued Salaries and Superannuation	11	7
Total Employee Benefits Payable within 12 Months	90	70
Estimated Amount Payable after 12 Months		
Long Service Leave	58	61
Total Employee Benefits Payable after 12 Months	58	61
Total Employee Benefits	148	131

a) The decrease in the Annual Leave Liability is due to staff members using Annual Leave entitlements resulting in an overall reduced liability.

b) The increase in the Long Service Leave Liability is due to the change in the methodology used to estimate this liability. Refer to Note 3 *Change in Accounting Estimates and Impact of Accounting Standards Issued But Yet To Be Applied* for further details on this change.

Note 22 Equity

	2009	2008
	\$'000	\$'000
Total Equity at the End of the Reporting Period		
Accumulated Funds	1,271	1,616
Total Equity	<u>1,271</u>	<u>1,616</u>

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

Balance at the Beginning of the Reporting Period	1,616	1,014
Operating (Deficit)/Surplus	(345)	602
Balance at the End of the Reporting Period	<u>1,271</u>	<u>1,616</u>

Note 23 Financial instruments**Interest rate risk**

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

Nearly all of the Commission's financial assets are held in floating interest rate arrangements. In contrast, the Commission has no financial liabilities that are subject to floating interest rates. This means that the Commission is only exposed to movements in interest receivable. Interest rates decreased during the year ended 30 June 2009 and this has have resulted in a reduction on the amount of interest received.

Interest rate risk for financial assets is managed by the Commission by only investing in floating interest rate investments that are low risk.

Sensitivity analysis

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

Credit risk

Credit risk is the risk that one party to a financial instrument will fail to discharge an obligation and cause the other party to incur a financial loss. The Commission's credit risk is limited to the amount of the financial assets it holds net of any provision for impairment. Credit risk is managed by only investing surplus funds with the Commonwealth Bank resulting in an insignificant credit risk. These funds are held in demand deposits.

As receivables are not material, there is no other significant concentration of credit risk that has been identified by the Commission for financial assets.

Liquidity risk

Liquidity risk is the risk that the Commission will encounter difficulties in meeting obligations associated with financial liabilities. To limit its exposure to liquidity risk, the Commission ensures that at any particular point in time it has a sufficient amount of funds in bank accounts to meet its current financial liabilities. This is achieved by constantly monitoring receivables and payables levels and ensuring ongoing cash flows meet objectives

The Commission's exposure to liquidity risk and the management of this risk has not changed since last the previous reporting period.

Price risk

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

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

Fair value of financial assets and liabilities

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

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

	Carrying Amount 2009 \$'000	Fair Value 2009 \$'000	Carrying Amount 2008 \$'000	Fair Value 2008 \$'000
Financial Assets				
Cash and Cash Equivalents	1,767	1,767	1,562	1,562
Receivables	34	34	659	659
Total Financial Assets	1,801	1,801	2,221	2,221
Financial Liabilities				
Payables	408	408	513	513
Total Financial Liabilities	408	408	513	513

The following table sets out the Commission's maturity analysis for financial assets and liabilities as well as the exposure to interest rates, including the weighted average interest rates by maturity period as at 30 June 2009. All financial assets and liabilities which have a floating interest rate or are non-interest bearing will mature in 1 year or less. All amounts appearing in the following maturity analysis are shown on an undiscounted cash flow basis.

2009

Financial Instruments	Note	Fixed Interest maturing in:				Non-Interest Bearing	Total
		Floating Interest Rate	1 Year or Less	Over 1 Year to 5 Years	Over 5 Years		
		\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Financial Assets							
Cash and Cash Equivalents	17	1,767	–	–	–	–	1,767
Receivables	18	–	–	–	–	34	34
Total Financial Assets		1,767	–	–	–	34	1,801
Weighted Average Interest Rate		4.64%					
Financial Liabilities							
Payables	20	–	–	–	–	408	408
Total Financial Liabilities		–	–	–	–	408	408
Net Financial Assets		1,767	–	–	–	(374)	1,393

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

2008

Financial Instruments	Note	Fixed Interest maturing in:					Non-Interest Bearing	Total
		Floating Interest Rate	1 Year or Less	Over 1 Year to 5 Years	Over 5 Years			
		\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	
Financial Assets								
Cash and Cash Equivalents	17	1,562	–	–	–	–	1,562	
Receivables	18	–	–	–	–	659	659	
Total Financial Assets		1,562	–	–	–	659	2,221	
Weighted Average Interest Rate		6.66%						
Financial Liabilities								
Payables	20	–	–	–	–	513	513	
Total Financial Liabilities		–	–	–	–	513	513	
Net Financial Assets		1,562	–	–	–	146	1,708	

Carrying Amount of Each Category of Financial Asset and Financial Liability	2009 \$'000	2008 \$'000
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Financial Assets

Loans and Receivables	34	659
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Financial Liabilities

Financial Liabilities Measured at Amortised Cost	408	513
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The Commission does not have any financial assets in the 'Available for Sale' category or the 'Held to Maturity' category and as such these categories are not included above. Also, the Commission does not have any financial liabilities in the 'Financial Liabilities at Fair Value through Profit and Loss' category and, as such, this category is not included above.

Note 24 **Commitments**

	2009	2008
	\$'000	\$'000
Operating Lease Commitments—Plant and Equipment		
Non-Cancellable operating lease commitments are payable as follows:		
Within one year	27	35
Later than one year but not later than five years	11	26
	<hr/>	<hr/>
Total Operating Lease Commitments—Plant and Equipment	38	61
	<hr/> <hr/>	<hr/> <hr/>

Note 25 Cash flow reconciliation

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

	2009	2008
	\$'000	\$'000
Total Cash and Cash Equivalents Recorded in the Balance Sheet	1,767	1,562
Cash and Cash Equivalents at the End of the Reporting Period as Recorded in the Cash Flow Statement	1,767	1,562

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

Operating Deficit/(Surplus)	(345)	602
Add/(Less) Non-Cash Items		
Depreciation of Property, Plant and Equipment	13	13
Cash Before Changes in Operating Assets and Liabilities	(332)	615
Changes in Operating Assets and Liabilities		
Decrease/(Increase) in Receivables	625	(610)
(Decrease)/Increase in Payables	(105)	(69)
Increase in Employee Benefits	17	40
Net Changes in Operating Assets and Liabilities	537	(639)
Net Cash Inflows/(Outflows) from Operating Activities	205	(24)

Note 26 Events occurring after balance date

There were no events occurring after balance date.

Note 27 Contingent liabilities

There are no known contingent liabilities as at 30 June 2009. (Nil: 2007–08)

Appendix 2 Statement of Performance

Auditor's opinion of the Statement of Performance



ACT AUDITOR-GENERAL'S OFFICE



REPORT OF FACTUAL FINDINGS

INDEPENDENT COMPETITION AND REGULATORY COMMISSION

To the Members of the ACT Legislative Assembly

Report on the statement of performance

I have reviewed the statement of performance of the Independent Competition and Regulatory Commission (the Commission) for the year ended 30 June 2009.

Responsibility for the statement of performance

The Chief Executive Officer of the Commission is responsible for the preparation and fair presentation of the statement of performance in accordance with the *Financial Management Act 1996*. This includes responsibility for maintaining adequate records and internal controls that are designed to prevent and detect fraud and error and for the systems and procedures to measure the results reported in the statement of performance.

The auditor's responsibility

My responsibility is to provide a report of factual findings that expresses an independent review opinion on the statement of performance of the Commission as required by the *Financial Management Act 1996* and the *Financial Management (Statement of Performance Scrutiny) Guidelines 2008*.

I have reviewed the statement of performance of the Commission to report on whether any matters came to my attention which indicate that the statement of performance is not fairly presented in accordance with the *Financial Management Act 1996*.

This review was conducted in accordance with the Australian Auditing Standards applicable to review engagements. A review is primarily limited to inquiries of the representatives of the Commission, analytical and other review procedures and the examination of other available evidence. As review procedures do not provide all of the evidence that would be required in an audit, the level of assurance provided is less than given in an audit. I have not performed an audit and have not expressed an audit opinion on the statement of performance.

The review did not include an assessment of the relevance or appropriateness of the performance indicators reported in the statement of performance or the related performance targets.

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I have not expressed an opinion on the accuracy of explanations provided for variations between actual and targeted performance due to the often subjective nature of such explanations.

Electronic presentation of the statement of performance

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

Independence

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

Review opinion

Based on my procedures, no matters have come to my attention which indicate that the statement of performance of the Commission for the year ended 30 June 2009 does not fairly present the performance of the Commission in accordance with the *Financial Management Act 1996*.

Tu Pham
Auditor-General
11 September 2009


Statement of responsibility

**INDEPENDENT COMPETITION AND
REGULATORY COMMISSION**

**Statement of Performance
For the Year Ended 30 June 2009**

Statement of Responsibility

In my opinion, the Statement of Performance is in agreement with the Commission's records and fairly reflects the service performance of the Commission for the year ended 30 June 2009 and also fairly reflects the judgements exercised in preparing it.

Ian Primrose 
Acting Chief Executive Officer
Independent Competition and Regulatory Commission
8 September 2009

Non-financial performance

Description of objectives

To provide economic regulatory services and advice in accordance with the objects set out in the *Independent Competition and Regulatory Commission Act 1997* and the *Utilities Act 2000*, and their associated codes, including licensing utility services, monitoring utility performance and compliance and determining prices for regulated services.

Table A1 Statement of performance for the year ended 30 June 2009

Statement of Intent measures	Original target 2008–09	Actual result 2008–09	% Variance from original target	Explanation of material variances
Water and retail electricity pricing ¹	Annual price adjustments as appropriate	1 adjustment	0	
Utilities compliance ²	2 reports	2 reports	0	
Utilities performance ²	2 reports	2 reports	0	
Greenhouse gas emissions benchmarks ³	1 decision	1 decision	0	
Greenhouse gas emissions compliance ⁴	1 report	1 report	0	
Utility licence fees (water and wastewater) ⁵	1 decision	1 decision	0	
Utility levies (energy sector) ⁶	1 decision	1 decision	0	
Advice on referred matters ⁷	Subject to receipt of references	1 decision	0	

The above Statement of Performance should be read in conjunction with the accompany notes.

Explanation of measures

1. Water and electricity pricing. The Commission determines prices for water and wastewater services under the *Utilities Act 2000* and the *Independent Competition and Regulatory Commission Act 1997*. Water and wastewater prices are determined for a period, usually five years, and are reset within the regulatory period each year. A water and wastewater determination made in 2008–09 for the period to 2012–13 provides that, on or before 1 March each year, ACTEW must submit proposed tariffs for services subject to price controls to the Commission for approval.
2. Utilities performance and compliance measures are requirements arising from the *Utilities Act 2000*, in particular the requirement under section 25(d) for utilities to submit annual reports to the Commission. The Commission assesses utilities' compliance against their statutory obligations (including their licence obligations) and reports on performance against indices established for all utility services, the results of which are consistent in content with other jurisdictions. The reports for 2006–07 and 2007–08 consolidate the information on compliance and performance previously published as separate reports.
3. Greenhouse gas emissions benchmarks are determined annually for each participating electricity utility. The Commission determines the benchmarks, in its role as regulator under the Greenhouse Gas Abatement Scheme. The scheme is set out in the *Electricity (Greenhouse Gas) Act 2004*.
4. Greenhouse Gas Emissions Compliance is monitored annually by the Commission under the *Electricity (Greenhouse Gas) Act 2004*.
5. Utility Licence Fees have been determined by the Commission under the *Utilities Act 2000*, to reflect the cost of providing regulatory services to utilities by the Commission, Administrative and Civil Appeals Tribunal and the technical regulator. From 2008–09 licence fees have been restricted to non-energy utility services such as water and wastewater services. Energy sector costs are currently recovered through the energy levy, which is subject to a separate measure.
6. Under Part 3A of the *Utilities Act 2000*, energy industry levies are imposed on energy utilities to recover the amount of the Territory's national regulatory costs, and local regulatory costs, in relation to the energy industry sectors. Part 3A of the *Utilities Act 2000* is a tax law under the *Taxation Administration Act 1999*. In July 2007, the Acting Minister for the Environment, Water and Climate Change, under section 54H of the *Utilities Act 2000*, appointed the Manager of the Commission as the levy administrator. As levy administrator, the Commission made 3 determinations as required under sections 54E, 54F and 54H of the *Utilities Act 2000*, covering national obligations and costs, local regulatory costs and other matters respectively.
7. Advice can be sought from the Commission during the course of any year under reference. The Commission is unable to forecast what quantum of advice will be required in a year but responds to each reference issued in accordance with its responsibilities under the *Independent Competition and Regulatory Commission Act 1997*. On 23 December 2008, the Attorney-General, Simon Corbell MLA, referred the provision of a price direction for the supply of electricity to franchise customers to the Commission. The direction, issued under the *Independent Competition and Regulatory Commission Act 1997*, is for the period 1 July 2009 to 30 June 2010. In response to the reference, the Commission provided an issues paper, a draft decision and a final decision in 2008–09.

Appendix 3 Contact officers, website address and other sources of information

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

Subject	Contact name and details
Staffing issues	Shelley Schreiner
Overview of Commission performance	(02) 6205 2773
Freedom of information	(02) 6207 5887 fax shelley.schreiner@act.gov.au www.icrc.act.gov.au
Electricity pricing	John Logan
Water and sewerage pricing	(02) 6207 0694 (02) 6207 5887 fax john.logan@act.gov.au www.icrc.act.gov.au
Utilities licensing	Shelley Schreiner
Utilities compliance and performance monitoring and reporting	(02) 6205 2773 (02) 6207 5887 fax shelley.schreiner@act.gov.au www.icrc.act.gov.au
Greenhouse Gas Abatement Scheme	Shelley Schreiner
Electricity Feed-in Scheme	(02) 6205 2773 (02) 6207 5887 fax

Glossary and abbreviations

ACAT	ACT Civil and Administrative Tribunal
ACTEW	ACTEW Corporation Ltd
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
Commission, the	Independent Competition and Regulatory Commission
CPRS	Carbon Pollution Reduction Scheme
ESS	Energy Savings Scheme
ETS	emissions trading scheme
EWCC	Energy and Water Consumer Council
FOI Act	<i>Freedom of Information Act 1989</i>
GGAS	NSW Greenhouse Gas Reduction Scheme
ICRC Act	<i>Independent Competition and Regulatory Commission Act 1997</i>
IPART	Independent Pricing and Regulatory Tribunal of New South Wales
MWh	megawatt hours
NEM	National Electricity Market
NEMMCO	National Electricity Market Management Company
NGAC	New South Wales Greenhouse Gas Abatement Certificate
OHS	occupational health and safety
OHS Act	<i>Occupational Health and Safety Act 1989</i>
price direction	statement issued by the Commission, setting price paths and revenue caps for a utility for a specified period
QCA	Queensland Competition Authority
TFT	transitional franchise tariff
utility services	electricity supply and network operations, gas supply and network operations and water and sewerage supply

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