



Annual Report
2010–11

September 2011

The Independent Competition and Regulatory Commission (the Commission) was established by the *Independent Competition and Regulatory Commission Act 1997* (ICRC Act) to determine prices for regulated industries, advise government about industry matters, advise on access to infrastructure, and determine access disputes. The Commission also has responsibilities under the ICRC Act for determining competitive neutrality complaints and providing advice about other government-regulated activities. Under the *Utilities Act 2000*, the Commission has responsibility for licensing utility services and ensuring compliance with licence conditions.

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Transmittal certificate

Mr Andrew Barr MLA
Treasurer
ACT Legislative Assembly
CANBERRA ACT 2601

Dear Treasurer

This report has been prepared under section 6(1) of the *Annual Reports (Government Agencies) Act 2004* and in accordance with the requirements referred to in the Chief Minister's *Annual Report Directions*.

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 2010 to 30 June 2011 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

Malcolm Gray
Senior Commissioner

22 September 2011

Jan Primrose
Chief Executive Officer

22 September 2011



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Foreword

It is our pleasure to present the 12th annual report of the Independent Competition and Regulatory Commission (the Commission).

The Commission operates in accordance with the *Independent Competition and Regulatory Commission Act 1997*. Its objectives 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 Commission also has responsibility for the licensing of electricity, gas and water utilities in the ACT and the approval of their standard customer contracts. That responsibility and the responsibility for the compliance and performance monitoring of the utilities are requirements of the *Utilities Act 2000*.

The report's structure conforms to the Chief Minister's *2010–2011 annual report directions*. The report addresses a common range of issues consistent with the government's objectives for transparency and accountability. We commend the report as a record of the Commission's performance in the past year.

Malcolm Gray
Senior Commissioner

Mike Buckley
Commissioner

Commissioners' comments

This is the first annual report which has not been presented by the Commission's inaugural Senior Commissioner, Paul Baxter, who retired from the Commission on 30 June 2011.

The former Senior Commissioner reflected on the establishment of the Commission in last year's annual report. Our comments this year note the past, but seek to address the future challenges of an institution whose core function is the promotion of economic efficiency while recognising environmental and social considerations, for the benefit of consumers.

Central to the work of the Commission is the approval of utility prices and charges and the provision of advice on efficient and effective service delivery. The Commission was established as part of the National Competition Policy reforms in the mid-1990s, which sought to extend the role of market mechanisms into sectors of the economy which had traditionally been serviced by government instrumentalities.

The Commission's functions have changed as the National Competition Policy reform program has developed and the requirements of the ACT Government and the community have changed in the light of market developments and environmental challenges—especially the goal of sustainable development.

Responsibility for the regulation of energy infrastructure was transferred to the Australian Energy Regulator (AER) in 2008.¹ The AER now determines network charges for electricity and gas networks on a national basis, except in Western Australia. However, the Commission continues to approve water and wastewater charges for ACTEW. While the AER regulates energy infrastructure, the Commission approves the retail price of water and not just the charge for the use of the infrastructure.

With the implementation of the National Energy Customer Framework, a number of the Commission's functions under the *Utilities Act 2000* will transfer to the AER from 1 July 2012. Once that occurs, the Commission will no longer license energy retailers in the ACT or approve the terms and conditions of standard customer contracts. The Commission will maintain a role in monitoring and reporting on aspects of the performance of ACT utilities, although the scope of that role is likely to change.

The Commission made its final determination of the electricity tariff for retail customers who consume less than 100 MWh/year and who purchase electricity through a standard contract with ActewAGL Retail, approving a 6.4% increase in ActewAGL Retail's average standard customer price from 1 July 2011. The Commission noted that the primary driver for the increase in electricity prices in the ACT is the Federal Government's Renewable Energy Target. Recognising that even modest price increases can be an impost for many households, the Commission called for measures to address climate change and improve energy efficiency to be well designed and delivered in the most cost-effective manner.

On 5 September 2011, the ACT Government announced that it does not agree with the recommendation of the Australian Energy Market Commission (AEMC) that retail electricity prices in the ACT be deregulated and instead be subject to price monitoring². In considering that recommendation, the government took into account the AEMC findings that ActewAGL Retail has a dominant position in the ACT market and that competition in the ACT electricity retail

¹ The AER commenced economic regulation of electricity distribution networks on 1 January 2008, and of covered natural gas distribution pipelines in all states and territories (except Western Australia) from 1 July 2008.

² See www.chiefminister.act.gov.au/media.php?v=10936&m=53.

market is not effective. In view of the limited competitive pressures in the ACT retail electricity market, the Commission, at this time, is not confident that the entry of new retailers into the ACT market would be sufficient to curtail the dominant retailer's pricing power. Nonetheless, the Commission is still of the view that the removal of the regulated retail tariff for customers on the standard contract is a desirable reform.

The Commission is continuing to develop its capacity to advise the government and the community in relation to measures to address climate change efficiently and to promote the use of renewable energy. The Commission provided further advice to the Minister for the Environment and Sustainable Development on the premium rate for electricity fed into the electricity network from eligible renewable energy sources. The Commission has also been given the role of advising the government on the measurement of greenhouse gas emissions attributable to the ACT and monitoring the territory's emissions as part of the government's initiative to reduce them.

The ACT's water prices were established under the Commission's 2008–13 Water and Wastewater Determination. That determination provided for a mid-term adjustment to the determination should ACTEW's revenue differ by more than 7% from that forecast over the first two and a half years of the determination or if either of two proposed capital projects proceeded. Because Stage 3 water restrictions lasted longer than anticipated and were followed by a wet summer in 2010–11, ACTEW's revenues were less than forecast. In addition, ACTEW proceeded with the capital project involving the purchase of rights to water stored in the Tantangara Reservoir. Consistent with its determination, and following an application by ACTEW, the Commission increased the average water and wastewater charge by 11.7% from 1 July 2011 to address ACTEW's revenue shortfall and also to meet the higher cost of the additional water security project.

The Commission observed some community puzzlement with its decision to increase ACTEW's charges as a consequence of consumers using less water than had been forecast in the period up to December 2010. The Commission's price determination in 2008 established ACTEW's revenues on the basis of ACTEW's efficient costs, which are mostly capital costs. As capital costs do not decline when water usage declines, water and wastewater charges had to increase in order to allow ACTEW to achieve its approved rate of return.

The Commission expects to commence its preparations for the 2013–18 Water and Wastewater Determination later this year and through that process it will address the need for more flexible pricing structures, such as those proposed by the Productivity Commission and the National Water Commission, water demand forecasts which underpin both price and capital works programs, and the allocation of risk between consumers and ACTEW when adverse events occur.

In 2010, the Commission was asked to review and make recommendations on the funding of the ACT racing industry. The industry had traditionally relied on payments from ACTTAB to fund its activities, but from July 2010 ACTTAB funding was replaced by direct funding from the ACT Budget. This reflected concerns about ACTTAB's capacity to support the racing industry, as its revenues had come under pressure from corporate betting agencies operating outside of the ACT. In part, this reflects the emergence of a national wagering market.

On 20 April 2011, the Commission released its final report which recommended that direct budget funding be maintained beyond 2013–14 while mechanisms to address market failures in the price and exchange of racing product are addressed as part of the development of a national scheme. The report also proposed a process that may lead to structural and governance changes in the ACT racing industry. The Commission welcomed the opportunity to work with the industry and to advise the government on the contribution the sector makes to the ACT economy.

Following the implementation of the recommendations of the Hawke Review report, *Governing the city state*, the Commission was moved from the portfolio of the Attorney General to the portfolio of the Treasurer from 17 May 2011. The move better recognises the Commission's role

as an economic regulator but does not change the independence of Commission or its role in advising the Minister for the Environment and Sustainable Development under the *Electricity (Greenhouse Gas Emissions) Act 2004* or the *Electricity Feed-in (Renewable Energy Premium) Act 2008*.

In March 2011, the government increased the capacity of the Commission by the appointment of two standing Commissioners to take over on the retirement of Senior Commissioner Baxter. We congratulate Paul Baxter on his contribution to the ACT community and we also look forward to continuing the Commission's role in serving the community through the provision of advice which follows engagement with interested parties, which is well considered and which is accessible to the public.

We commend this annual report to the community not only as a record of the Commission's performance in the past year, but also as a statement on the role that an independent Commission plays in supporting economic efficiency and the good governance of the Territory.

Malcolm Gray
Senior Commissioner

Mike Buckley
Commissioner

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 *2010–2011 Annual report directions*³ 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* (the 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

³ Annual Reports (Government Agencies) Notice 2011 (No 1) NI2011-311.

- 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 emissions 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 the minister with advice 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 considerations
- ensure non-discriminatory access to monopoly and near-monopoly infrastructure.

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

- 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 (ACAT)⁴ or the director-general under Part 5 (technical regulation)⁵ is properly considered
- to ensure that the government's programs concerning the provision of utility services are properly addressed

⁴ Part 11 (Certain causes of action against customer) and Part 12 (Complaints to ACAT about utilities) establish a role for ACAT in relation to utilities. Section 174 (Advising Minister etc about systemic problems) provides that if the ACAT considers that applications under Part 12 indicate a systemic problem in relation to the operation of the Part or to other matters which have come to its attention in the course of exercising its functions under the Part, then ACAT must tell the minister and the Commission about the problem.

⁵ The director-general under Part 5 of the Utilities Act was the chief executive of the ACT Planning and Land Authority to 16 May 2011. Under the Administrative Arrangements (No. 1) NI2011-244, and the subsequent Administrative Arrangements (No. 2) NI2011-351 which took effect from 1 July 2011, Part 5 is a responsibility of the Minister for the Environment and Sustainable Development, and the 'technical regulator' is the director-general of the Environment and Sustainable Development Directorate. Section 66 of the Utilities Act requires the director-general to report at least annually to the Commission on the operation of Part 5 (Technical regulation).

- 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 Mission and 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 the efficient and businesslike 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. Those principles are:

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

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

The Commissioners and Commission staff, collectively and as individuals, seek to:

- use our professional skills, expertise, experience and professional judgement to promote efficient competition in the ACT economy in the interests of consumers
- use our professional experience and mature judgement to achieve a sustainable balance between efficiency and environmental and social needs
- use our resources wisely, efficiently and to good effect
- work together to provide a working environment that is safe, healthy and productive
- encourage, support, develop and challenge the Commission's individual members.

A.1.3 Structure

The Commission is a statutory agency of the ACT Government and reports to the Treasurer under the administrative arrangements of 1 July 2011.⁶ The Commission is constituted by one or more standing commissioners, and any associated commissioners appointed for particular purposes. Under the ICRC Act, the Executive must appoint one or more standing commissioners. If the Commission is constituted by more than one standing commissioner, the Executive must appoint one as the Senior Commissioner.

⁶ Prior to 17 May 2011, the Commission was in the Attorney General's portfolio. Under the administrative arrangements of 16 May 2011 (NI2011-244), the Commission became part of the Treasurer's portfolio. These arrangements continued under the administrative arrangements of 1 July 2011 (NI2011-351).

Figure 1 shows how the Commission was structured at 30 June 2010; figure 2 shows the structure at 30 June 2011.

The Commission secretariat provides the primary support for the Commission's activities and in 2010–11 had a staffing complement of eight to nine officers. In addition, the Commission makes periodic use of external consultants and fixed-term appointments to complement the capabilities of Commission staff and to ensure that it is able to meet its ongoing responsibilities.

Figure 1 Organisational structure at 30 June 2010

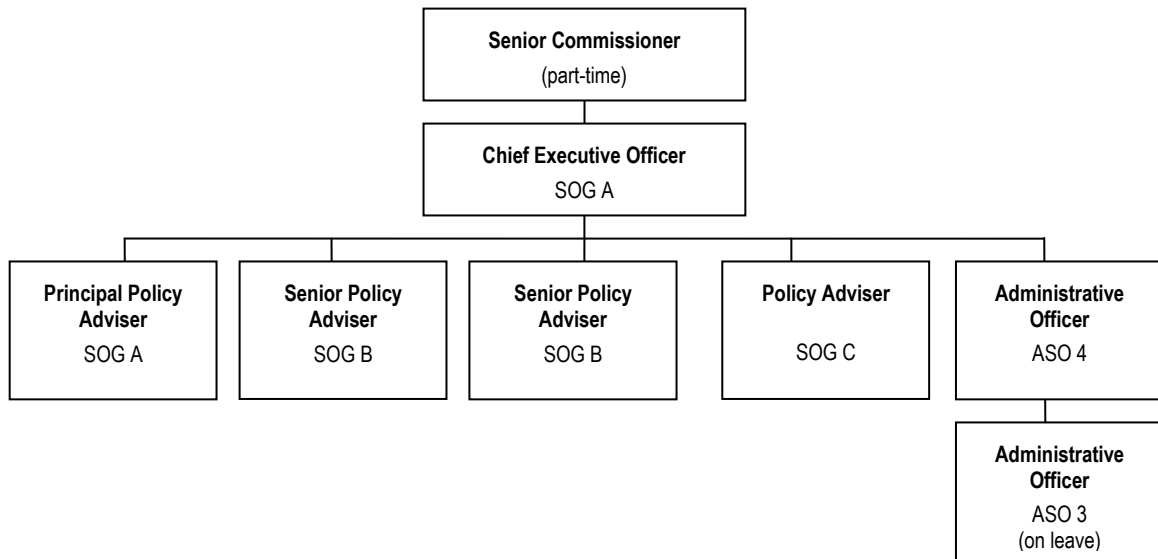
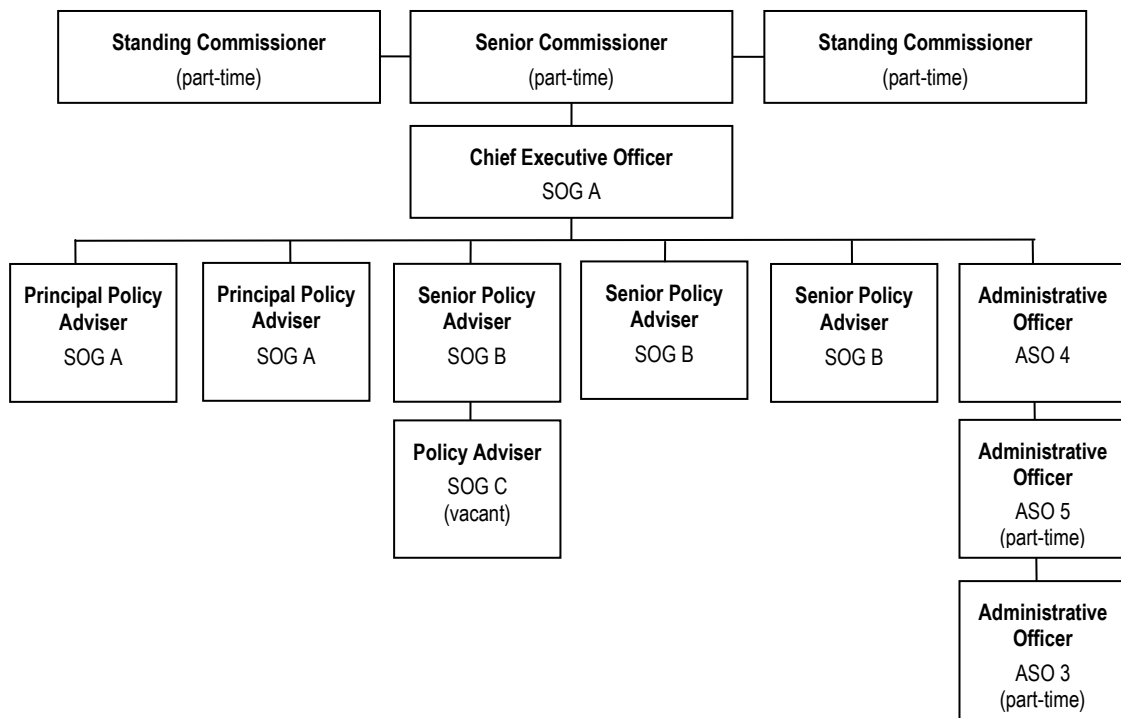


Figure 2 Organisational structure as at 30 June 2011



ASO = Administrative Service Officer; SOG = Senior Officer Grade.

Note: Senior Commissioner Baxter's appointment finished on 30 June 2011. From 1 July 2011, the Commission was constituted by a Senior Commissioner and a Standing Commissioner.

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 is also a participant in a wider community of national and interjurisdictional regulatory bodies and other intergovernmental regulatory forums.

A.2 Overview of performance in 2010–11

A.2.1 Overview

The Commission undertook a substantial volume of work during 2010–11—the completion of reviews of the ACT racing industry, a mid-term review of water and wastewater pricing, and determination of the retail price for electricity for the period 2011–12. It continued to deliver its responsibilities for the utilities licensing regime, and to monitor and report on the compliance and performance of licensed utilities. It regulated the greenhouse abatement scheme (ACT GGAS) and commenced the development of a methodological and reporting framework for the discharge of new responsibilities under the *Climate Change and Greenhouse Gas Reduction Act 2010*. The Commission continued to work cooperatively with the lead policy directorate (ESDD) on the implementation of the National Energy Customer Framework in the ACT and with the national energy regulator (the Australian Energy Regulator, or AER) to effect the orderly transfer of responsibilities now scheduled for 1 July 2012.

A.3 Highlights of performance in 2010–11

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

A.3.1 Determination of retail prices for non-contestable electricity customers (2011–12)

In August 2009, the Attorney General referred to the Commission the provision of a price direction for the supply of electricity to franchise customers. The reference, issued under the ICRC Act, was for the period from 1 July 2010 to 30 June 2012. The price decision and direction prepared under the reference was released in June 2010. In 2010–11, the Commission prepared its decision and price direction for 2011–12 in accordance with the methodology adopted in the Commission's 2010 decision. The 2011–12 decision was released in June 2011.⁷

A.3.2 Advice on premium rate under the *Electricity Feed-in (Renewable Energy Premium) Act 2008* (2011–12)

The *Electricity Feed-in (Renewable Energy Premium) Act 2008* requires 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.

The Electricity Feed-in Act provides for electricity retailers to make payments, at a price known as the 'premium rate', to 'occupiers' of residential and certain non-residential premises with compliant renewable electricity generators installed and connected to the electricity network. In October 2009, the Minister for Energy, Simon Corbell MLA, made a reference to the Commission

⁷ See Report 3 of 2011, *Retail prices for non-contestable electricity customers 2011–2012—Final decision*, June 2011.

to provide advice to assist with the determination of the premium rate. The reference was made under sections 15 and 16 of the ICRC Act. The Commission's final report⁸ made a recommendation on the premium rate for 2010–11 and the manner in which it should be determined in subsequent years.

In February 2011, the minister asked the Commission to provide him with advice to assist with the determination of the premium rate to be paid from 1 July 2011. The minister requested additional advice on 11 March 2011. The Commission transmitted its advice on 16 March 2011.⁹

A.3.3 Water and sewerage pricing (2011–12)

In November 2007, the Attorney-General referred to the Commission the making of a five-year price direction for regulated water and sewerage services provided by ACTEW Corporation (ACTEW) from 1 July 2008 to 30 June 2013. The Commission's decision and price direction was released in April 2008, to take effect from 1 July 2008.¹⁰

The 2008 decision provided that the Commission could adjust prices for the last two years of the regulatory period if any of a set of specified events occurred. In April 2011, the Commission released its decision on the adjustment of water and wastewater prices for 2011–12 and 2012–13, which recognised that consumption volume had been significantly lower in the first two and a half years than had been forecast and that the proposed capital project to purchase rights to water stored in the Tantangara Reservoir had, in fact, proceeded.¹¹

A.3.4 ACT racing industry inquiry

On 13 October 2010, the Attorney-General referred a review of the ACT racing industry to the Commission. The reference was issued under the ICRC Act.¹² Among other things, the review was required to:

- examine and make recommendations on an appropriate system of product payments and an appropriate funding outcome for the ACT racing industry
- recommend an appropriate allocation of budget funding among the three racing clubs
- examine the economic impact of the racing industry in the ACT
- examine race funding in the ACT compared to other jurisdictions
- examine the impact, opportunities and challenges of a possible national statutory scheme for the ACT racing clubs and make recommendations on the future structure of the industry.

The Commission transmitted its final report on the investigation in April 2011.¹³

A.3.5 Competition policy advice

In 2010–11, the Commission continued to respond to government's requests for advice on competition policy matters. In particular, it participated in the Supermarket Competition

⁸ Report 4 of 2010, *Electricity feed-in renewable energy premium: Determination of premium rate*, March 2010.

⁹ Report 1 of 2011, *Final report—Electricity feed-in renewable energy premium: Determination of premium rate 2011–12*, March 2011.

¹⁰ Report 1 of 2008, *Water and wastewater price review—Final report and price determination*, April 2008.

¹¹ http://www.icrc.act.gov.au/__data/assets/pdf_file/0018/225360/MediaRelease110420_-_Water_Pricing_Mid-Term_Review_Decision.pdf.

¹² Independent Competition and Regulatory Commission (Investigation into the ACT Racing Industry) Terms of Reference, Determination 2010 (No. 1) DI2010-269.

¹³ Report 2 of 2011, *Final report—Investigation into the ACT racing industry*, April 2011.

Coordination Committee and advised on the development of an implementation and monitoring program.

A.3.6 Transfer of energy retail regulation to the Australian Energy Regulator

A national energy reform process was agreed by the Council of Australian Governments through the Australian Energy Market Agreement between the Commonwealth, states and territories in 2004 (amended in 2006). The reform program covers regulation, governance and institutions in the energy sector. The National Energy Customer Framework is one of the final steps in completing the transition to national regulation through the transfer of the non-economic regulation of the electricity and gas retail sectors to the national regulator, the Australian Energy Regulator (AER). Implementation of the National Energy Customer Framework in the ACT will entail passage of applying legislation following passage of the National Energy Retail Law by the South Australian Parliament, amendment of the Utilities Act, and the transfer of a range of retail regulatory functions from the Commission to the AER in July 2012. The Environment and Sustainable Development Directorate (ESDD) is the lead policy agency overseeing the implementation of the National Energy Customer Framework in the ACT. During 2010–11, the Commission cooperated with the ESDD in its policy review program arising from the government's commitments.

In August 2009, the Commission and the AER entered into a memorandum of understanding that covers regular exchanges of views on issues, sharing of appropriate information and documents, and cooperation on transitional matters. Consistent with the memorandum of understanding, the Commission participated throughout 2010–11 in the consultation processes facilitated by the AER as part of that body's preparation for the specific tasks envisaged for it under the national energy retail regulatory framework.

A.3.7 Australian Energy Market Commission review of competition in the ACT retail electricity market

In December 2009, the Ministerial Council on Energy asked the Australian Energy Market Commission (AEMC) to undertake a review of the effectiveness of competition in the electricity retail market in the ACT. The review commenced in March 2010 and was conducted in accordance with the terms of the Australian Energy Market Agreement. In its first report, the AEMC found that competition in the ACT retail electricity market for small electricity customers is not effective. The review process was completed in March 2011, after which the AEMC released its second report outlining its recommendations to promote competition in the ACT electricity retail market. Throughout the AEMC review, the Commission provided information and commentary on key issues and documents, including through a formal submission.¹⁴

A.3.8 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 2010–11, the Commission did not provide advice on any proposed access agreements, and no access agreements were notified to the Commission.

¹⁴ All review documents, including the Commission's submission of 31 August 2010, are available at <http://www.aemc.gov.au/Market-Reviews/Completed/Review-of-the-effectiveness-of-competition-in-the-electricity-retail-market-in-the-ACT.html>.

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 2010–11, 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 2010–11.

Competitive neutrality complaints

During 2010–11, the Commission considered two matters which potentially raised competitive neutrality issues. Those matters arose from inquiries brought to the Commission by private businesses operating in the territory. During 2010–11, neither inquiry progressed to the status of a competitive neutrality complaint reference under section 19B of the ICRC Act.

Other functions exercised by the Commission under the ICRC Act

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. During 2010–11, the Commission entered into an arrangement with the Supermarket Competition Coordination Committee to provide assistance to the committee in relation to monitoring and reporting on supermarket competition matters, particularly semi-annual surveys of prices of grocery items from full-line supermarkets in the ACT region.

A.3.9 Ministerial directions

Under section 19 (Ministerial directions) of the Utilities Act, the minister may give a written direction to the Commission about the results it must achieve by licence conditions or industry codes. During 2010–11, the Commission did not receive any ministerial directions under that provision.

A.3.10 Utility licensing issues

Licence applications and grants

The Commission granted a licence to provide gas supply services to AGL Sales Pty Limited in November 2010.¹⁵ The Commission also received an application from Diamond Energy Pty Ltd for a licence to supply electricity in the ACT.¹⁶

Licence variations

In May 2011, the Commission varied the East Australian Pipeline Limited gas transmission services licence to update references to the Australian Energy Market Operator, standardise formatting, and amend terminology used in the licence.¹⁷

¹⁵ NI2010-623.

¹⁶ In August 2011, the assessment of the Diamond Energy application was put on hold at the request of the company.

¹⁷ NI 2011-263.

Licence exemptions

Section 22 of the Utilities Act provides that the minister may exempt a person from the requirement to hold a licence in relation to a utility service. The minister did not exercise that power during 2010–11.

Section 39 of the Utilities Act provides that the Commission may exempt a utility from compliance with a condition of its licence in certain circumstances. The Commission did not exercise that power during 2010–11.

Licence surrenders

In March 2011, the NSW Government sold the energy retail businesses of Country Energy, Integral Energy and EnergyAustralia. Origin Energy acquired the retail businesses of Integral Energy and Country Energy; TRUenergy acquired the retail business of EnergyAustralia. The sales included the customer bases and brands of the three businesses. The network businesses retained all assets, including staff, licences and infrastructure. As a consequence, the names of the NSW Government-owned network businesses were changed by the Energy Services Corporations Amendment (Change of Name) Regulation 2011 (NSW). In May 2011, the Commission accepted the early surrender of the electricity supply licence granted to Integral Energy (now Endeavour Energy), effective from 30 June 2011.¹⁸ Subsequently, in July 2011, the Commission accepted the early surrender of the electricity supply licence granted to EnergyAustralia (now Ausgrid), effective from 31 July 2011.¹⁹ The companies no longer had electricity customers in the ACT.

Licensees at 30 June 2011

Table 1 lists the holders of utility licences at 30 June 2011.

¹⁸ NI2011-250.

¹⁹ NI2011-409.

Table 1 Utilities licence holders at 30 June 2011

Service	Licensees
Electricity distribution and connection	ActewAGL Distribution
Electricity supply	ActewAGL Retail AGL Sales Pty Limited AGL Sales (Queensland Electricity) Pty Ltd Aurora Energy Pty Ltd Australian Power and Gas Pty Limited Country Energy Dodo Power & Gas Pty Ltd EnergyAustralia ERM Power Retail Pty Ltd Integral Energy Australia ^a Jackgreen (International) Pty Ltd Momentum Energy Pty Ltd Origin Energy Electricity Ltd Powerdirect Pty Ltd Red Energy Pty Ltd Sanctuary Energy Pty Ltd SUN Retail Pty Ltd TRUenergy Pty Ltd TRUenergy Yallourn Pty Ltd
Gas transmission	East Australian Pipeline Limited
Gas distribution and connection	ActewAGL Distribution
Gas supply	ActewAGL Retail AGL Sales Pty Limited Australian Power and Gas Pty Limited Country Energy Dodo Power & Gas Pty Ltd EnergyAustralia Jackgreen (International) Pty Ltd SUN Retail Pty Ltd TRUenergy Pty Ltd
Water supply and sewerage	ACTEW Corporation Limited

a Licence surrendered, effective 30 June 2011 (NI2011–250).

Licence fees and energy industry levy

The Utilities Act provides for the Commission to determine annual licence fees for utilities. The fees cover a reasonable contribution towards the costs incurred, or expected to be incurred, by the Commission, ACAT and the director-general under Part 5 (Technical regulation) (the ‘technical regulator’), who is currently located in the ESDD.²⁰

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 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 each energy industry sector during the levy year (the four sectors are

²⁰ Under Part 5 of the Utilities Act, the director-general was the chief executive of the ACT Planning and Land Authority to 16 May 2011. Under the Administrative Arrangements (No. 1) NI2011-244, Part 5 is a responsibility of the Minister for the Environment and Sustainable Development, and the ‘technical regulator’ is the director-general of the ESDD.

electricity distribution, electricity supply, gas distribution and gas supply). Licensed gas and electricity supply utilities which did not supply during the prescribed energy levy periods are not subject to the levy. During 2010–11, the administrator made three determinations consistent with the energy levy provisions of the Act.²¹

Following the commencement of the energy levy provisions, licence fees continued to be determined for utility services not subject to the energy levy—in particular, water, wastewater and gas transmission. For 2008–09 and 2009–10, annual licence fees were not determined for licensed gas and electricity supply utilities which did not supply during the prescribed energy levy periods. During 2010–11, the Commission reviewed the application of annual licence fees to those utilities and determined fees for them for the 2010–11 year in addition to those for water, wastewater and gas transmission utilities.²²

A.3.11 Industry codes and guidelines

The Utilities Act makes provision for the approval or determination of industry codes by the Commission. Industry codes set out practices, standards and other matters involved in the provision of a utility service. An industry code may deal, for example, with all or any of the following matters:

- network boundaries
- connections to a network
- utility service standards
- protection of customers and consumers
- metering of utility services
- provision of utility services generally and on a last resort basis
- termination or interruption of utility services
- disconnections from a network
- arrangements between licensed distributors and suppliers concerning the use of a network
- development of a network.

Consumer Protection Code

In July 2010, the Commission varied the Consumer Protection Code to make minor corrections and formatting changes.²³

Electricity Feed-in Code

In October 2010, the Commission varied the Electricity Feed-in Code to ensure consistency with the Consumer Protection Code and to remove spent provisions relating to the commencement of reporting arrangements under the Electricity Feed-in Code.²⁴ During 2010–11, the Commission also commenced a review of the Electricity Feed-in Code following amendments to the Electricity

²¹ NI2010–555, NI2010–556 and NI2010–557.

²² NI2010–573, NI2010–574, NI2010–617 and NI2011–227.

²³ DI2010–178.

²⁴ DI2010–268.

Feed-in Act in March 2011 which broadened the Electricity Feed-in Scheme established through the Act.²⁵

Electricity Network Use of System Code

In December 2010, the Commission varied the Electricity Network Use of System Code to update certain references to industry players, legislation and documents, and to reformat the code in line with a new Commission style.²⁶

A.3.12 Standard customer contract variations

Standard customer contracts are approved or determined by the Commission for utility services provided to ‘franchise’ water, sewerage, electricity distribution, electricity supply and gas supply customers.²⁷ During 2010–11, the Commission approved variations to the schedules of charges that form part of ACTEW Corporation’s and ActewAGL’s standard customer contracts.²⁸ The variations covered water and wastewater services, gas connection and supply services, electricity connection and distribution services, and electricity supply services.

A.3.13 Compliance and performance monitoring

Under the Utilities Act, the Commission is responsible 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 report material breaches of licence conditions, legislation, codes of practice, directions or guidelines as soon as they become aware of the breaches.

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 2010–11, the Commission published the 2008–09 report, *Licensed electricity, gas and water and sewerage utilities—Compliance and performance report for 2008–09*, and progressed preparation of the 2009–10 report, which will be published in early 2011–12.

A.3.14 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 New South Wales scheme commenced in January 2003. The New South Wales and ACT schemes have, in many respects,

²⁵ The Act was amended through the *Electricity Feed-in (Renewable Energy Premium) Amendment Act 2011* in February 2011.

²⁶ DI2010–300.

²⁷ Division 6.2 (Standard customer contracts) of the Utilities Act sets out the provisions for standard customer contracts. Section 89 (Approval of terms) sets out the considerations the Commission must make in approving the terms of a standard customer contract, including consistency of the charges payable under the contract with the relevant price direction by the Commission.

²⁸ NI2011–304, NI2011–305, NI2011–314 and NI2011–315.

been operated as a single scheme.²⁹ Under this arrangement, IPART administers the overall scheme and accredits abatement projects, while the Commission regulates the scheme in the ACT under section 49 of the Electricity (Greenhouse Gas Emissions) Act.

As regulator of the scheme, the Commission has a number of functions, including:

- 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.

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 2011, the Commission provided the Minister for the Environment and Sustainable Development with the sixth annual report on the operation of the scheme. The report covered the 2010 compliance year.

A.3.15 Electricity Feed-in Scheme reporting

The Electricity Feed-in Code sets out practices and standards for the operation of the scheme for feed-in from renewable energy generators to the electricity network. The scheme was established under the *Electricity Feed-in (Renewable Energy Premium) Act 2008*. Under the Electricity Feed-in Code, licensed electricity suppliers and ActewAGL Distribution are required to report quarterly to the Commission on a number of key indicators. The first quarterly reports covered the period to 30 June 2009.

During 2010–11, the Commission continued publishing quarterly summary reports covering matters such as the number of new connections of renewable generators, total numbers of renewable generators and total installed capacity, and premium payments made under the Electricity Feed-in Scheme. The reports provide a statistical overview of the development of the scheme.

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 challenges facing the Commission in the immediate future.

In the year ahead, the Commission expects to undertake three major inquiries and to continue with the change management process it has embarked on. The Commission anticipates that references for three inquiries will be issued early in 2011–12: an inquiry into secondary water use in the ACT resulting from a motion passed in the Legislative Assembly on 4 May 2011, an inquiry to determine water and wastewater pricing for the period commencing 1 July 2013, and an inquiry to determine retail electricity pricing for small customers for the period commencing July 2012.

²⁹ The NSW Energy Savings Scheme (ESS) commenced on 1 July 2009. The ESS subsumed the energy efficiency elements of the NSW GGAS, and much of the architecture of GGAS as it relates to electricity generation has been carried forward into the ESS. The ESS and the remaining part of the NSW GGAS will run as parallel schemes in NSW until the NSW GGAS ceases. The ACT is not party to the ESS, and the ACT scheme continues to operate as it has since its commencement in 2005.

The Commission will continue to oversee the regulatory regime for licensed utilities. It will work cooperatively with the lead policy directorate (ESDD) on the implementation of the National Energy Customer Framework in the ACT and with the national energy regulator (the Australian Energy Regulator, or AER) to effect the orderly transfer of responsibilities on 1 July 2012.

In addition, the Commission will prepare the ACT greenhouse gas inventory for the 2009 year by September 2011. The preparation of the greenhouse gas inventory is a new direction for the Commission that builds on the existing inventory process. In the next 12 months, the Commission will review and amend the methodology to reflect changes in the approach to the inventories nationally and refinement in data available before applying the methodology to the preparation of the inventory for 2010.

A.4.1 Responsibilities under the ICRC Act

During 2011–12, the Commission will continue to discharge important responsibilities under its enabling legislation. In particular, the Commission will:

- undertake a review of secondary water use following the Legislative Assembly’s motion asking the government to provide a reference to the Commission
- commence a major review of water and sewerage prices for the five-year period from 1 July 2013
- review electricity retail prices (the transitional franchise tariff) for the period from 1 July 2012 to 30 June 2014, consistent with the current pricing determination
- provide advice on any other matters that might be referred to the Commission, or on complaints that require investigation or arbitration.

A.4.2 Responsibilities under the Utilities Act

During 2011–12, the Commission will continue to discharge responsibilities under the Utilities Act, in particular by:

- 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.4.3 Responsibilities for the Electricity (Greenhouse Gas Emissions) Act

During 2011–12, the Commission will continue to discharge responsibilities for the GGAS under the Electricity (Greenhouse Gas Emissions) Act, in particular by:

- setting annual per capita benchmarks for greenhouse gas emissions 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 and Sustainable Development).

A.4.4 Responsibilities under the Electricity Feed-in (Renewable Energy Premium) Act

During 2011–12, the Commission will provide the prescribed advice on the determination of the premium tariff rate in response to a request from the minister (see section A.3.2). The Commission will continue to monitor and report on activity under the Electricity Feed-in Scheme.

A.4.5 Responsibilities under the Climate Change and Greenhouse Gas Reduction Act

In October 2010, the Legislative Assembly enacted the *Climate Change and Greenhouse Gas Reduction Act 2010*. The Act sets targets to reduce greenhouse gas emissions and provides for monitoring and reporting in relation to the targets. The Act makes provision for the preparation of an annual report on greenhouse gas emissions and targets by an ‘independent entity’. Following the finalisation of a four-year service-level agreement between the Commission and the ESDD, the Minister for the Environment and Sustainable Development, Simon Corbell MLA, asked the Commission to prepare the first annual report for 2008–09 by 30 September 2011. The minister also sought the Commission’s advice on a method for measuring greenhouse gas emissions. The annual report will cover:

- the amount of greenhouse gas emissions in the ACT for the year
- an analysis of the ACT’s progress in meeting the targets for the year.

A.4.6 Transfer of energy retail regulation to the Australian Energy Regulator

Section A.3.5 provides information on the national energy reform process as agreed by the Council of Australian Governments through the Australian Energy Market Agreement, including the implementation of the National Energy Customer Framework in July 2012. During 2011–12, the Commission expects an increased level of participation in the national and jurisdictional program of work associated with the transition of energy retail regulation to national arrangements. The work will include the Commission’s continued involvement in the program of preparatory work that is being undertaken by the AER, as described above, and work with ESDD on matters relating to transitioning the current ACT utilities regulatory framework.

A.4.7 Competition and industry policy advice

During 2011–12, the Commission will continue to provide analysis and advice to the government on a range of matters. Those matters will include the establishment of a reporting framework for monitoring supermarket competition in the ACT, and responding to inquiries on competitive neutrality. In December 2010, the Commission issued new guidelines on making a competitive neutrality complaint in the ACT.

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

Objectives

The Independent Competition and Regulatory Commission (the Commission) has responsibilities for a broad range of regulatory and utility administrative matters. The Commission has responsibility under the *Independent Competition and Regulatory Commission Act 1997* (ICRC Act) for regulating and advising government about pricing and other matters for monopoly, near-monopoly and ministerially declared regulated industries, providing advice on competitive neutrality complaints and government-regulated activities. The Commission also has responsibility for arbitrating infrastructure access disputes under the ICRC Act.

Under the *Utilities Act 2000* (Utilities Act), the Commission is responsible for managing the licensing framework for utility service providers in the ACT, including issuing licences and monitoring licence compliance. The Commission also has responsibility for industry codes of practice and approving standard customer contracts for franchise customers. Utility services covered by the Utilities Act are electricity, gas, and water and wastewater.

The Commission is the regulator for the purposes of the *Electricity (Greenhouse Gas Emissions) Act 2004*, which establishes the Greenhouse Gas Abatement Scheme (GGAS Scheme). 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, and in monitoring compliance with the Electricity Feed-in Scheme through licence conditions for electricity suppliers and for ActewAGL Distribution. In 2010–11, the Commission was asked as an independent entity to prepare annual reports on greenhouse gas emissions and targets under the *Climate Change and Greenhouse Gas Reduction Act 2010*.

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

Risk management

The Commission has developed business continuity, business risk management, and fraud control plans as part of an overall approach to managing the risk environment. It has also identified specific risk areas, in particular:

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

These risks are actively monitored and managed by the Commission. The sections below provide more detail on each of the areas.

Consultant risk

The Commission reduces contractual risk through close liaison with ACT Procurement Solutions to ensure appropriate adherence to whole-of-government procurement processes. The risks associated with non-performance under contracts for expert advice are also considered low because the Commission manages consulting contracts closely during their course. There have been no incidents of contractual non-performance in 2010–11.

Operational risk

The Commission's operational risk arises from the adequacy of its workforce, both in terms of size and expertise. The highly specialised and expert nature of the Commission's work can make it more difficult to attract and retain suitably qualified staff than in many other government agencies. The small number of permanent staff in the Commission can put constraints on its capacity to provide a career path.

To a large extent, the Commission manages the risk by engaging consultant expertise in circumstances where Commission resources are insufficient or specialist skills are required. This is the case, for example, in relation to pricing reviews and industry investigations. Similarly, the Commission has relied on contractors and non-ongoing appointments from time to time when additional resources are needed. Going forward, the Commission is committed to building internal resources adequate to minimise this risk.

Information risk

Information risks can arise from failures in management of information including loss, or inappropriate use or disclosure. 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 as an ongoing priority. 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. One staff member is a trained fire warden. Another is a trained first aid officer. During 2010–11, responsibility for physical safety and security was supported through the Justice and Community Safety Directorate which managed accommodation services in 2010–11 on the Commission's behalf.

During 2010–11, no occupational health and safety incidents or dangerous occurrences were notified. The Commission provides a high level of support for staff and promotes sustainable work–family balance practices.

Financial risk

Financial risk is identified as a consequence of the Commission receiving revenue and making payments to suppliers. Very low levels of cash are held in the 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. There are no cash payments for services supplied and there is an appropriate checks-and-balances authorisation and payment process.

A.5.2 Financial performance

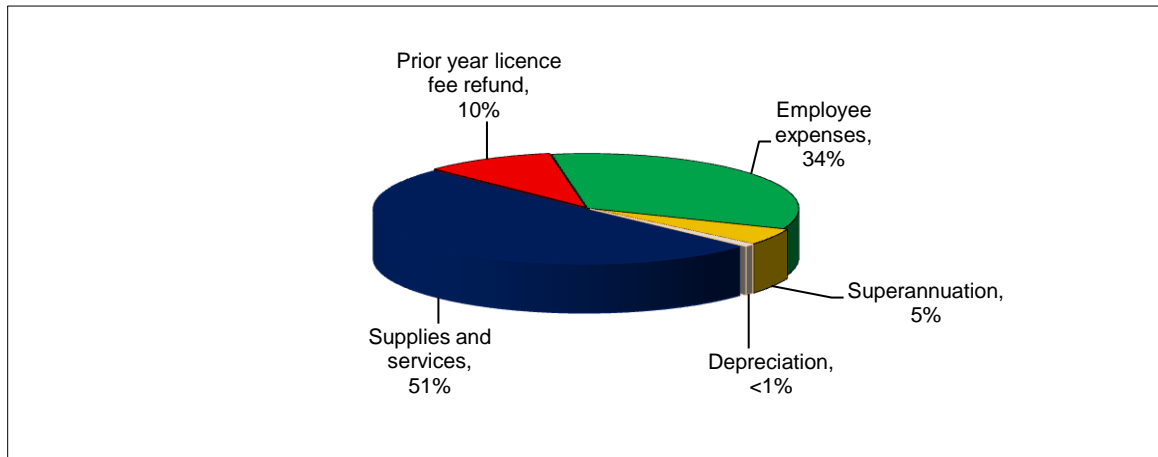
The following financial information is based on audited financial statements for 2009–10 and 2010–11, and the forward estimates contained in the 2011–12 Budget Paper No. 4.

Total expenditure

Components of expenditure

Figure 3 indicates the components of the Commission's expenditure for 2010–11. The largest component of expenditure, supplies and services, represents 51% of expenditure on ordinary activities, or \$1.187 million. Overall total employee and superannuation expenses were higher than in 2009–10. Depreciation charges remained unchanged.

Figure 3 Components of expenditure, 2010–11



Comparison to budget

Total expenditure was \$2.340 million and was \$0.407 million (21.1%) higher than the budget. This was largely attributed to the prior year licence fee refund following lower than expected regulatory costs being incurred by the technical regulator in 2009–10, higher than expected employee expenses arising from the appointment of two new Commissioners in March 2011, and the need for additional staff to meet new responsibilities and the general increase in workload.

Comparison to 2009–10 actual expenditure

Total expenditure was \$2.340 million and was \$0.155 million (7.1%) higher than the 2009–10 actual result. The increase in expenditure was largely attributed to the increase in the prior year licence fee refund following lower than expected regulatory costs being incurred by the technical regulator in 2009–10, higher than expected employee expenses arising from the appointment of two new Commissioners in March 2011, and the need for additional staff to meet new responsibilities and the general increase in workload.

Future trends

For the year 2011–12, expenditure arising from the regulation of utilities and discharge of the Commission's other statutory responsibilities will remain relatively constant. Future transfer of energy retail utility non-economic regulatory functions to the national regulator (the Australian Energy Regulator) will occur in mid-2012. After that time, the Commission will incur lower costs for certain energy utility regulatory activities. More generally, expenditure may vary over the forward estimates as a consequence of unanticipated references or other requests for Commission services from government and non-government sources.

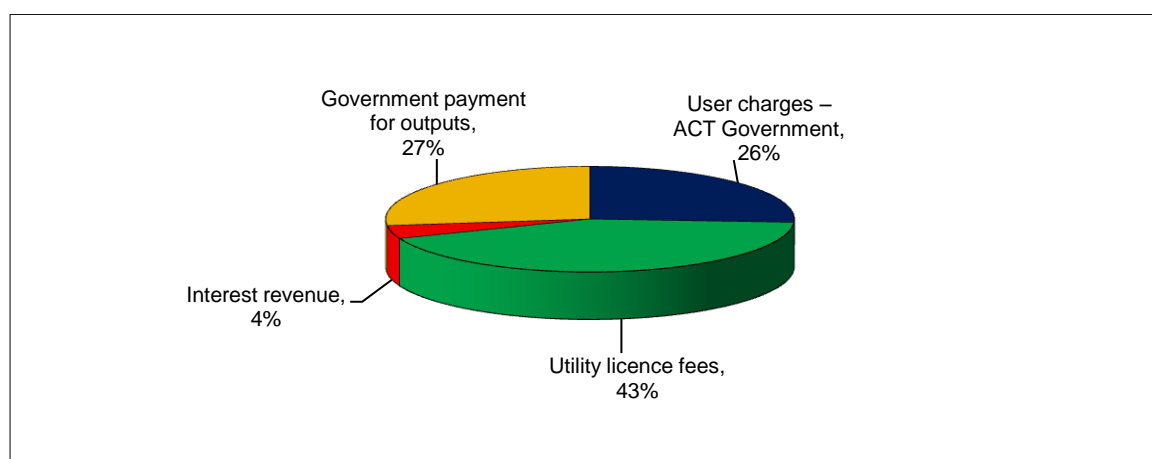
Total income

Components of income

Figure 4 shows that the Commission's income in 2010–11 was derived from four sources:

- Government payment for outputs (\$0.497 million, 27%) received from the ACT Government for the Commission's energy industry regulatory activities
- ACT Government user charges (\$0.476 million, 26%) received for the following activities:
 - a service-level agreement with the Treasury Directorate for services under the ICRC Act
 - a service-level agreement with the Environment and Sustainable Development Directorate for regulatory activities under the *Electricity (Greenhouse Gas Emissions) Act 2004*
 - a service-level agreement with the Environment and Sustainable Development Directorate for reporting and analytical advice in relation to the *Climate Change and Greenhouse Reduction Act 2010*
 - inquiry-related cost recoveries
- utility licence fees (\$0.792 million, 43%) that are collected directly from industry under the *Utilities Act 2000* and cover the estimated costs of the Commission, the technical regulator in the Environment and Sustainable Development Directorate and the ACT Civil and Administrative Tribunal (ACAT) for regulatory services for water, sewerage and gas transmission utilities; and
- interest revenue (\$0.081 million, 4%).

Figure 4 Components of income, 2010–11



Comparison to Budget

Revenue for the year was \$1.846 million and was \$0.108 million (5.5%) lower than budget.

ACT Government user charges were \$0.407 million (46.1%) lower than budget. User charges have historically been budgeted using the prior year's estimated outcome. Due to the non-recurrent and unpredictable nature of the activities recovered through user charges, significant variances can occur.

Utility licence fees collected were \$0.245 million (44.8%) higher than budget. The increase in revenue is due primarily to the estimated increased costs of technical regulation incurred by the technical regulator in the Environment and Sustainable Development Directorate.

Interest income was \$0.054 million (200.0%) higher than budget. The increase in interest income was due the Commission having higher than budgeted cash balances during the year and this was significantly contributed to by utilities licence fees collected on behalf of the technical regulator and ACAT but not paid.

Comparison to 2009–10 actual income

Total revenue in 2010–11 was \$1.846 million, a decrease of \$0.507 million (21.5%), from the 2009–10 result. The variance in revenue to the prior year relates to:

- Government payments for outputs were \$0.168 million (25.3%) lower, due to an estimated reduction in energy industry regulatory activities.
- ACT Government user charges were \$0.457 million (49.0%) lower and reflecting the non-recurrent and unpredictable nature of these activities.
- Utility licence fees were \$0.093 million (13.3%) higher due primarily to the increased costs of technical regulation which the technical regulator estimated would be incurred in 2010–11.
- Interest was \$0.025 million (44.6%) higher and this reflected the Commission holding a higher cash balance and the average rate of interest on deposits rising from 3.60% in 2009–10 to 4.54% in 2010–11.

Future trends

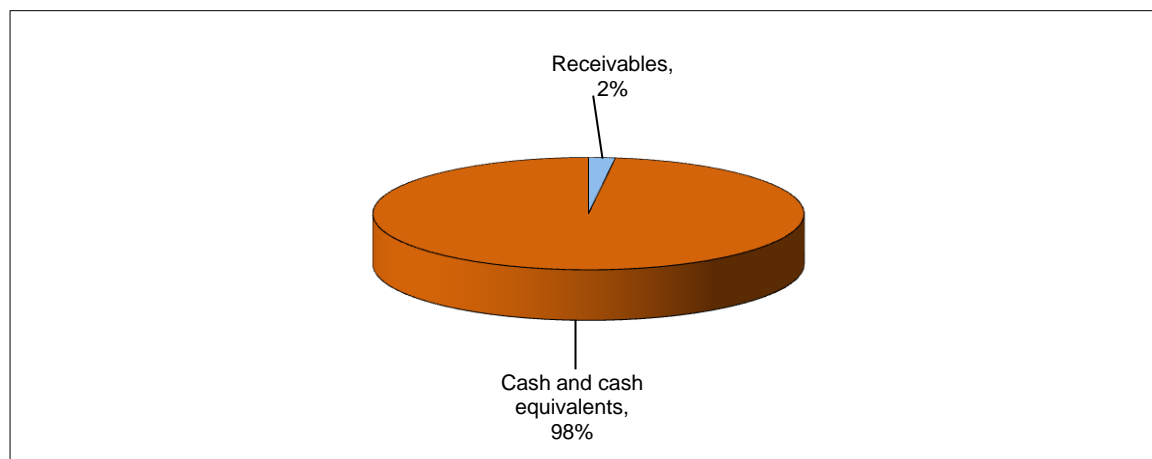
For the year 2011–12, revenue arising from the regulation of utilities and discharge of the Commission's other statutory responsibilities is expected to remain relatively constant. Future transfer of energy retail utility non-economic regulatory functions to the national regulator (the AER) will occur in mid-2012. After that time, the Commission will incur lower costs for certain energy utility regulatory activities. More generally, revenue may vary over the forward estimates as a consequence of unanticipated or not formally received references or other requests for Commission services from government and non-government sources.

A.5.3 Financial position

Total assets

Components of total assets

The Commission continues to hold the majority of its assets in cash reserves. As shown in figure 5, 98% of total assets are cash and cash equivalents, and 2% are receivables.

Figure 5 Total assets as at 30 June 2011**Comparison to budget**

At 30 June 2011, total assets amounted to \$1.943 million. This is \$0.057 million (3.0%) higher than the expected budget position at 30 June 2011.

Comparison to 2009–10 actuals

The Commission's total asset position is \$0.076 million (3.8%) lower than at 30 June 2010. This is reflective of the increase in employee costs from two new Commissioners appointed in March 2011, and the need for additional staff to meet new responsibilities and a general increase in workload.

Cash and cash equivalents increased by \$0.170 million (9.83%) over the 12-month period and this primarily relates to the recovery of costs accrued at the end of 2009–10 for the investigation into the Enlarged Cotter Dam Water Security Project, and a prepayment from the Environment and Sustainable Development Directorate for the provision of greenhouse gas annual reports and analytical advice.

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 cashable assets. A ratio of less than 1:1 may indicate a reliance on the next financial year's ACT Government user charges to meet short-term debts. Table 2 shows the Commission's liquidity position.

Table 2 Current ratio

Description	Prior year actual \$'000 2009–10	Current year budget \$'000 2010–11	Current year actual \$'000 2010–11	Forward year budget \$'000 2011–12	Forward year budget \$'000 2012–13	Forward year budget \$'000 2013–14
Current assets	2,006	1,886	1,943	1,860	1,887	1,912
Current liabilities	569	553	978	574	574	574
Current ratio	3.5:1	3.4:1	2.0:1	3.2:1	3.3:1	3.3:1

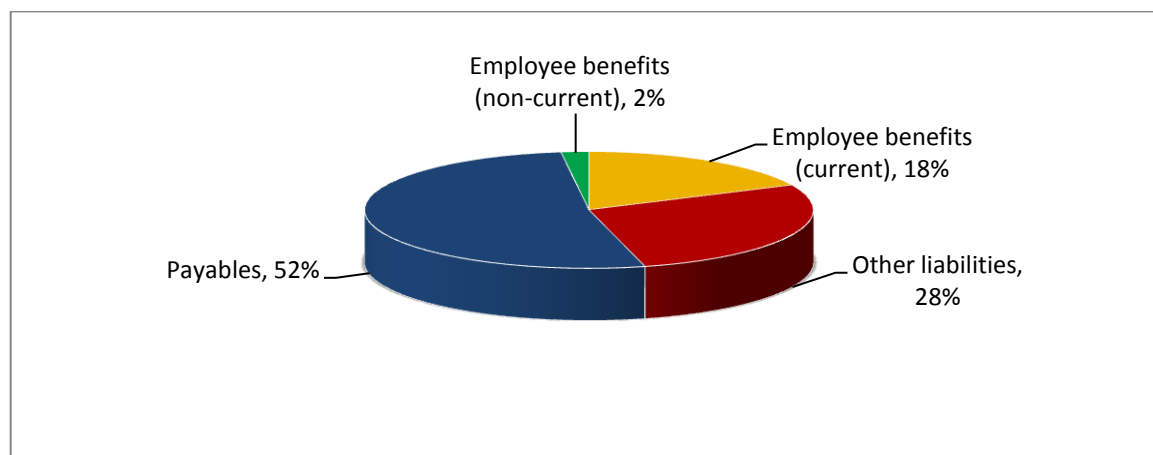
The Commission's current ratio of 2.0:1 for the financial year is a decrease from the budgeted current ratio of 3.4:1. The difference is mainly due to the higher than expected revenue received in advance.

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

Total liabilities

Figure 6 indicates that most of the Commission's liabilities relate to payables (52%), down from 74% for the previous period, and this reflects the introduction of other liabilities (revenue received in advance) that was not present in 2009–10.

Figure 6 Total liabilities as at 30 June 2011



Comparison to budget

The Commission's total liabilities for the year ended 30 June 2011 were \$0.998 million, \$0.425 million (74.2%) higher than budget. The items that contributed to this variance were:

- employee benefits \$0.037 million (25.5%) higher than budget reflecting the increase in staff
- total payables \$0.109 million (26.7%) higher than budget for general accruals for suppliers
- other liabilities \$0.279 million for the prepayment from the Environment and Sustainable Development Directorate for the provision of greenhouse gas annual reports and analytical advice that was unbudgeted.

Comparison to 2009–10 actuals

The Commission's total liabilities were \$0.418 million (72.1%) higher than at 30 June 2010. The items that contributed to this variance were:

- employee benefits \$0.052 million (34.6%) higher due to the increase in staff
- total payables \$0.087 million (20.2%) higher due to general accruals for suppliers
- other liabilities \$0.279 million relating to a prepayment from the Environment and Sustainable Development Directorate of the service-level agreement for reporting and analytical advice required under the *Climate Change and Greenhouse Reduction Act 2010*.

A.6 Financial report

The Commission has prepared financial statements for 2010–11 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 *2010–2011 annual report directions*.³⁰ The audit opinion, financial statements and accompanying notes to the statements are in appendix 1.

A.7 Statement of performance

Each year, the Commission nominates a set of performance measures and targets through its Statement of Intent. The Statement of Intent is prepared as part of the Budget process and is agreed between the Senior Commissioner and the Treasurer. The measures indicate the expected outputs for the coming year.

The Commission notes in this regard that some of its actual outputs are not reflected in the measures. For example, the Commission may receive a reference under the provisions of the ICRC Act, such as the inquiry into the ACT racing industry, which was undertaken in 2010–11 but which could not be anticipated at the time the Statement of Intent was framed.

In 2010–11, the Commission met all but one of its performance measures. The statement of performance, the auditor's opinion and statement of responsibility are included in appendix 2 of this annual report.

A.8 Strategic indicators

This section does not apply to the Commission.

A.9 Analysis of agency performance

This section is addressed in other sections of the report, in particular sections A.2, A.3 and A.5.

³⁰ <http://www.legislation.act.gov.au/ni/2011-311/default.asp>.

A.10 Triple bottom line report

	Indicator	2009–10 result	2010–11 result	% change
ECONOMIC	Employee expenses			
	Number of staff employed (head count, not FTE)	5	9	82%
	Total employee expenditure ('000 dollars) ^a	562	798	42%
	Operating statement			
	Total expenditure ('000 dollars)	2,185	2,340	7%
	Total own source revenue ('000 dollars) ^b	1,688	1,349	–20%
	Total net cost of services ('000 dollars) ^c	497	991	99%
	Economic viability			
	Total assets ('000 dollars)	2,019	1,943	–4%
	Total liabilities ('000 dollars)	580	998	72%
ENVIRONMENTAL	Transport			
	Total number of fleet vehicles	0	0	n.a.
	Total transport fuel used (kilolitres)	0	0	n.a.
	Total direct greenhouse emissions) of the fleet (tonnes of CO ₂ -e)	0	0	n.a.
	Energy use^d			
	Total office energy use (megajoules)	Refer to JACSD's annual report	Refer to JACSD's annual report	n.a.
	Office energy use per FTE (megajoules)	Refer to JACSD's annual report	Refer to JACSD's annual report	n.a.
	Office energy use per m ² (megajoules)	Refer to JACSD's annual report	Refer to JACSD's annual report	n.a.
	Greenhouse emissions^d			
	Total office greenhouse emissions—direct and indirect (tonnes of CO ₂ -e)	Refer to JACSD's annual report	Refer to JACSD's annual report	n.a.
	Total office greenhouse emissions per FTE (tonnes of CO ₂ -e)	Refer to JACSD's annual report	Refer to JACSD's annual report	n.a.
	Total office greenhouse emissions per m ² (tonnes of CO ₂ -e)	Refer to JACSD's annual report	Refer to JACSD's annual report	n.a.
	Water consumption^d			
	Total water use (kilolitres)	Refer to JACSD's annual report	Refer to JACSD's annual report	n.a.
	Office water use per FTE (kilolitres)	Refer to JACSD's annual report	Refer to JACSD's annual report	n.a.
	Office water use per m ² (kilolitres)	Refer to JACSD's annual report	Refer to JACSD's annual report	n.a.
	Resource efficiency and waste^d			
	Estimate of co-mingled office waste per FTE (litres)	Refer to JACSD's annual report	Refer to JACSD's annual report	n.a.
	Estimate of paper recycled (litres)	Refer to JACSD's annual report	Refer to JACSD's annual report	n.a.
	Estimate of paper used per FTE (reams)	Refer to JACSD's annual report	Refer to JACSD's annual report	n.a.
SOCIAL	The diversity of our workforce			
	Women (female FTEs as a percentage of the total workforce)	40%	49%	9%
	People with a disability (as a percentage of the total workforce)	20%	13%	–7%
	Aboriginal and Torres Strait Islander people (as a percentage	0	0	0%

Indicator	2009–10 result	2010–11 result	% change
of the total workforce)			
Staff with English as a second language (as a percentage of the total workforce)	0	0	0%
Staff health and wellbeing			
OH&S incident reports	0	0	0%
Accepted claims for compensation (as at 31 August 2011)	0	0	0%
Staff receiving influenza vaccinations ^e	3	4	33%
Workstation assessments requested	0	0	0%

FTE = full-time equivalent; JACSD = Justice and Community Safety Directorate.

- (a) Does not include superannuation expenses.
- (b) Own source revenue is made up of user charges (ACT Government), fees and interest.
- (c) Total net cost of services is calculated as total expenditure less own source revenue.
- (d) Commission performance aggregated in the JACSD annual report.
- (e) Includes staff and statutory officer holder.

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 by individuals and by representatives of community groups, industry, peak bodies, regulatory agencies and other interested parties at all stages of its inquiries.

The Commission publishes public notices seeking input on all references received for price and regulatory inquiries, and encourages submissions from interested parties. Where public hearings are held, members of the public are invited to attend to make personal submissions.

During 2010–11, the Commission undertook a full public inquiry into the ACT racing industry. The Commission prepared an issues paper and draft report for the inquiry and consulted widely on each before releasing the final report. Consistent with Commission practice, copies of all submissions received in relation to the inquiry were published on the Commission's website.

The Commission prepares a statement of reasons for its regulatory decisions and makes it available to interested stakeholders and to the general public by way of its website. All consultation documents (including transcripts of hearings) 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. The Commission provides information to the community through a range of activities, including presentations at meetings, conferences and seminars, and through media interviews.

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 2011. 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 2010–11 appear in appendix 1.

B.2.2 ACT Ombudsman's reports

During 2010–11, 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 2010–11. The Commission participated in Legislative Assembly Estimates Committee and Public Accounts Committee reviews of Budget estimates for the period to 30 June 2011 and annual reports for the period to 30 June 2010.

In July 2010, the Commission made a submission to the Standing Committee on Climate Change, Environment and Water on the cost-effectiveness analysis of environmental enhancing projects.³¹

B.4 Legislation report

During 2010–11, the Commission’s principal responsibilities were established through the:

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

The Commission also had obligations under a range of other laws,³² including the:

- *Climate Change and Greenhouse Gas Reduction Act 2010*³³
- *Electricity (Greenhouse Gas Emissions) Act 2004*
- *Electricity Feed-in (Renewable Energy Premium) Act 2008*³⁴
- *Financial Management Act 1996*
- *Annual Reports (Government Agencies) Act 2004*
- *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. Those instruments include industry codes under the Utilities Act. Detailed information on codes is provided in section A.3.10.

³¹ The submission (no. 39) is available at

www.parliament.act.gov.au/committees/index1.asp?committee=112&inquiry=753&category=14.

³² 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*.

³³ The Act provides for the provision of advice and annual reporting by an ‘independent entity’. The Minister for the Environment and Sustainable Development has asked the Commission to undertake these functions.

³⁴ The passage of the *Electricity Feed-in (Renewable Energy Premium) Act 2008* established 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

The Commission's approach to risk management is outlined 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 in 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. However, the Commission is attentive to the need for strong internal audit controls. The Commission developed the following plans in 2008–09:

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

In May 2011, the Commission reviewed these documents and endorsed revised plans.

C.2 Fraud prevention

The Commission manages the risk of fraud through its Fraud Policy and Fraud Control Plan. The Commission's financial risk management practices are designed to prevent financial fraud. The Commission restricts the 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. The Senior Commissioner and the chief executive officer maintain regular oversight of activities and principal transactions.

All procurement processes are conducted in accordance with endorsed procedures and legislative requirements, and in close liaison with ACT Procurement Solutions.

C.3 Public interest disclosure

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

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

- making public interest disclosures

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

Copies of the Commission's procedures are publicly available.

During 2010–11, 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 the 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

Section A.1.1 sets out a summary of the Commission's organisational functions. Section B.4 lists legislation under which the Commission exercises statutory powers.

Public participation in decision making

Section B.1 sets out the Commission's activities and obligations under legislation to promote public participation in decision making.

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 in this category include draft and final reports on investigations into all issues relating to prices, access disputes, access arrangement proposals, 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 website 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 that agencies should make available documents which guide decision making. The Commission promotes transparency in decision making. The 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 and the ACT Legislation Register.³⁵

C.4.3 Section 79 statement

During 2010–11, 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.

The Commission is established under the provisions of the ICRC Act and is constituted by one or more standing commissioners and any associated commissioner appointed for particular purposes. Commission appointments are made by the Executive. In 2010–11, Paul Baxter was the Senior Commissioner (appointed 1996; reappointed 2004; reappointed for one year from 1 July 2009; reappointed for one year from 1 July 2010). In March 2011, two additional Commissioners, Malcolm Gray and Mike Buckley, were appointed for five-year terms. From 1 July 2011, Malcolm Gray was appointed Senior Commissioner. From 1 July 2010 to 30 June 2011, the Commission's chief executive officer was Ms Shelley Schreiner.

As set out in the ICRC Act, the Senior Commissioner is responsible for the orderly and expeditious discharge of the functions of the Commission and the achievement of its objectives. The Senior Commissioner presides over those investigations that he sits on. 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 provide quality, value-for-money services in all aspects of the Commission's operations

³⁵ DI2005-191.

- 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 Papers, are 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 2010–11, the Commissioners continued to provide a high level of corporate governance oversight of the Commission's activities and operation.

Remuneration for Commissioners 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:

- 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.

On the appointment of the new Commissioners, formal monthly meetings were reinstated. Commission decisions are formally taken or recognised at these meetings.

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 has employed a strategy of accessing specialist skills through contract and non-ongoing staff and

consultants (see section C.14 for details of such consultancies in 2010–11). This strategy has recognised the need for the Commission to respond when references or other requests require additional capacity, and provided flexibility to respond to future challenges, particularly in an environment in which the utilities regulatory framework was in transition. The Commission is committed to building internal resources adequate to deliver its responsibilities in a more stable environment.

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 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 2011.

Table 3 Full-time equivalent and headcount, as at 30 June 2011

	Female	Male
Full-time equivalent by gender	3.83	4.00
Headcount by gender	5	4
% of workforce	56.0	44.0

Note: The Commissioners are not included in the headcount.

Table 4 Employment type, as at 30 June 2011

Permanent	Temporary	Casual
8	1	0

Table 5 Classifications, as at 30 June 2011

Classification group	Female	Male	Total
Administrative Officers	3	0	3
Senior Officers	2	4	6
Total	5	4	9

Table 6 Employment category by gender, as at 30 June 2011

Employment category	Female	Male	Total
Casual	0	0	0
Permanent full-time	3	3	6
Permanent part-time	2	0	2
Temporary full-time	0	1	1
Temporary part-time	0	0	0
Total	5	4	9

Table 7 Average length of service by gender, as at 30 June 2011

Average length of service (years)	Pre-baby boomers		Baby boomers		Generation X		Generation Y		Total	
	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male
0–2	0	0	0	2	0	0	0	0	0	2
2–4	0	0	2	1	0	0	0	0	2	1
4–6	0	0	0	0	0	0	0	0	0	0
6–8	0	0	1	0	0	0	0	0	1	0
8–10	0	0	0	1	0	0	1	0	1	1
10–12	0	0	0	0	1	0	0	0	1	0
12–14	0	0	0	0	0	0	0	0	0	0
14+	0	0	0	0	0	0	0	0	0	0

Table 8 Total average length of service by gender, as at 30 June 2011

Gender	Average length of service (years)
Female	6.7
Male	3.3
Total	5.2

Table 9 Age profile, as at 30 June 2011

Age group	Female	Male	Total
<20	0	0	0
20–24	0	0	0
25–29	1	0	1
30–34	1	0	1
35–39	0	0	0
40–44	0	0	0
45–49	1	0	1
50–54	0	2	2
55–59	0	0	0
60–64	2	2	4
65–69	0	0	0
70+	0	0	0

Table 10 Agency profile, as at 30 June 2011

Agency	Full-time equivalent	Headcount
ICRC	7.83	9
Total	7.83	9

Table 11 Agency profile by employment type, as at 30 June 2011

Agency	Permanent	Temporary	Casual
ICRC	8	1	0
Total	8	1	0

Table 12 Equity and workplace diversity, as at 30 June 2011

	A Aboriginal and/or Torres Strait Islander employment	B Culturally and linguistically diverse (CALD) employment	C Employment of people with a disability	Number of employees who identify in any of the equity and diversity categories (A, B, C)	Women
Headcount	0	0	1	1	5
% of total staff	0.0	0.0	11.1	11.1	55.6

C.8 Learning and development

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

Prior to the new administrative arrangements which took effect on 17 May 2011, the Justice and Community Safety Directorate provided support to the Commission in the area of strategic human resource services. This included negotiation of the directorate's Enterprise Agreement 2010–11, and training and development programs provided by the directorate, including the personal achievement and development framework and guidance and support provided in relation to ACT Public Service policies and procedures such as the Respect, Equity and Diversity Framework. Commission staff had access to training provided by the Shared Services Training and Development Unit. On commencement of the new administrative arrangements, the Treasury Directorate assumed responsibility for the provision of strategic human resource support to the Commission, including opportunities for training and development.

Commission staff were also encouraged to take advantage of other learning and development opportunities, including attendance at conferences, seminars, training sessions and programs relevant to the Commission's 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.

During 2010–11, Commission staff participated in the Justice and Community Safety Directorate’s consultation processes established through the *Work Safety Act 2008*. More generally, the directorate supported the Commission in relation to workplace health and safety planning and initiatives. During the year, Commission staff were able to access wellness programs provided through the directorate, including flu vaccinations.

Following changes to the administrative arrangements and the transfer of the Commission into the Treasurer’s portfolio in May 2011, Commission staff were integrated into the Treasury Directorate’s portfolio-wide consultative forum (the Treasury Consultative Committee, which is the primary mechanism for consultation on all workplace issues, including safety).

No investigations were conducted during 2010–11, and no notices were given under sections 171 and 172 of the Work Safety Act.

C.10 Workplace relations

Staff of the Commission were covered by the Justice and Community Safety Union Collective Agreement 2010–2011. Following changes to the administrative arrangements in May 2011, they were transferred to the Treasury Collective Agreement. A group special employment arrangement was put in place for Commission staff as part of the transfer to ensure continuity of entitlement to payments for fitness programs, quit smoking programs, stress management courses, gym memberships, weight loss programs, fitness equipment acquisition, and therapeutic massage. The special employment arrangement will be in place until a new enterprise bargaining agreement is made.

In 2010–11, one staff member was covered by an individual 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 2010–11. 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 2010–11 selection and management processes for all contractors, including consultants, complied with the *Government Procurement Act 2001* and the *Government Procurement Regulation 2007*. The Commission worked closely with ACT Procurement Solutions, which reviewed procurement processes above \$20,000.

Table 13 lists consultants and contractors involved in the Commission’s operations in 2010–11. It lists only contractors and consultants external to the ACT Government.

Table 13 Contractor and consultant services, 2010–11

Consultant/contractor	Description of service (date contract let)	Value (\$)
Wilton Hanford Hanover	Provision of editorial and document design services	5,130
Careers Unlimited Pty Ltd	Provision of staff placement services	5,223
Adcorp Australia Limited	Provision of staff advertisement services	9,232
CopyQik	Provision of printing services	11,438
Deloitte Touche Tohmatsu	Provision of regulatory advice and analysis—regulated retail electricity price review (April 2010)	12,028
Alltrades Accounting Pty Ltd	Provision of financial management and accounting services (April 2011)	13,680
Hays Specialist Recruitment (Australia) Pty Ltd	Provision of staff placement services	16,548
WordsWorth Writing	Provision of editorial and document design services	18,575
Jindabyne Business Services	Provision of financial management and accounting services (rollover of contract July 2010)	38,941
Strategic Economics Consulting Group	Provision of regulatory advice and analysis—Enlarged Cotter Dam Water Security Project investigation (February 2010)	53,727
PricewaterhouseCoopers	Provision of regulatory advice and analysis—ACT racing industry inquiry (December 2010)	112,234

Note: All figures are exclusive of goods and services tax and rounded to whole dollars; they are based on accrued liabilities.

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 an area of significant risk for the Commission. To mitigate this, 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 Commission’s practical requirements for record keeping, including standard operating procedures for all Commission staff and consultants to follow when carrying out record keeping, and the identification those responsible for each of the tasks in the record-keeping process.

The Commission's approved records disposal schedule is found on the ACT Legislation Register.³⁶ The Commission holds no records subject to Part 3 (Access to records) of the Territory Records Act.³⁷

C.17 Human Rights Act 2004

The Commission recognises the importance of economic, social and cultural rights—broadly encompassing matters such as environmental protection and access to essential services—in its decision making.³⁸ Under section 20 of the ICRC Act, the Commission must give regard to matters including:

- the protection of consumers from abuses of monopoly power in terms of prices, pricing policies (including policies relating to the level or structure of prices for services) and standards of regulated services
- standards of quality, reliability and safety of the regulated services
- the need for greater efficiency in the provision of regulated services to reduce costs to consumers and taxpayers
- the principles of ecologically sustainable development (the precautionary principle, the intergenerational equity principle, conservation of biological diversity and ecological integrity, and improved valuation and pricing of environmental resources)
- the social impacts of the decision.

The Commission also gives regard to the matters prescribed in section 20 of the ICRC Act when making non-price directions.

C.18 Commissioner for the Environment

During 2010–11, staff of the Office of the Commissioner for Sustainability and the Environment sought the assistance of the Commission, on half of the Commissioner for Sustainability and the Environment, Dr Maxine Cooper, in relation to data collection for the preparation of the 2010–11 *State of the environment report*. The Commission provided the requested data.

C.19 ACT Multicultural Strategy 2010–2013

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 the use of, or referral to, translation services.

³⁶ Territory Records (Records Disposal Schedule—Independent Competition and Regulation Records) Approval 2006 (No. 1) Notifiable instrument NI2006–28.

³⁷ Part 3, section 26 of the *Territory Records Act 2002* provides that a record of an agency is open to public access under the Act if 20 years has elapsed since the record, or the original of which it is a copy, came into existence. Section 28 refers to sections 'disapplying' certain provisions of the *Freedom of Information Act 1989*.

³⁸ During 2009–10, Commission staff also received training on the *Human Rights Act 2004* and new obligations for public authorities.

C.20 Aboriginal and Torres Strait Islander reporting

The Commission has no specific activities to report in relation to Aboriginal and Torres Strait Islander peoples. As noted in section C.17, the ICRC Act requires the Commission to have regard to consumer protections, service quality and the social impacts of its pricing decisions. In this context, the Commission is mindful of the impact of its decisions on Aboriginal and Torres Strait Islander peoples.

C.21 Ecologically sustainable development

Regulatory objectives

As noted in section C.17 of this report, section 20 of the ICRC Act requires the Commission to give regard to a range of matters when conducting a pricing review, including the principles of ecologically sustainable development (the precautionary principle, the intergenerational equity principle, conservation of biological diversity and ecological integrity, and improved valuation and pricing of environmental resources).

In the delivery of its core responsibilities, the Commission continued to further the objectives of the ACT Climate Change Strategy³⁹, in particular through its role as compliance regulator for the ACT Greenhouse Gas Abatement Scheme, through its oversight of the Electricity Feed-in Scheme, and through its responsibility for compliance oversight of the GreenPower scheme. The Commission commenced work to meet new responsibilities for annual reporting under the *Climate Change and Greenhouse Gas Reduction Act 2010*.

Operational objectives

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 reduce the amount of paper it uses and increase its recycling activities. During 2010–11, the Commission continued to participate in the Justice and Community Safety Directorate's co-mingled recycling initiative, commenced during 2008–09.

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

Table 14 summarises Commission paper consumption and recycling data in 2010–11. Table 15 summarises the Commission's ecological sustainability priorities.

Table 14 Commission paper consumption and recycling, 2010–11

Activity	Amount	Period	Annual total
<i>Recycling</i>			
Secure paper	1 × 240-litre bin	Fortnightly	24 × 240-litre bins (estimated)
Non-secure paper	1 × 240-litre bin (co-mingled waste)	Fortnightly	24 × 240-litre bins (estimated)
<i>Consumption</i>			
	3.1 reams (52-week average)	Weekly	163 reams

³⁹ Information on the strategy is available at http://www.environment.act.gov.au/climate_change/weathering_the_change.

Table 15 Commission activities supporting ecologically sustainable development, 2010–11

Issue	Activity	Outcome
<i>Core business</i>		
Utility compliance regulation and performance reporting	Establishing benchmarks, monitoring compliance and penalising noncompliance under the ACT Greenhouse Gas Abatement Scheme Monitoring compliance with the GreenPower 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	Inquiry outcomes reflect an appropriate balance between economic, social and environmental impacts
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 of publications	Reduced resource use
Consumables	Recycling 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 2010–2015

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

As noted in section C.17, the ICRC Act requires the Commission to have regard to consumer protections, service quality and the social impacts of its pricing decisions. In this context, the Commission is mindful of the impact of its decisions on women.

C.23 Model litigant guidelines

During 2010–11, the Commission was not involved in any litigation.

C.24 ACT Strategic Plan for Positive Aging 2010-2014

The Commission has no specific activities to report in relation to the ACT Strategic Plan for Positive Aging.

As noted in section C.17, the ICRC Act requires the Commission to have regard to consumer protections, service quality and the social impacts of its pricing decisions. In this context, the Commission is mindful of the impact of its decisions on older members of the community.

Appendixes

Appendix 1 Financial statements and audit report

Independent Competition and Regulatory Commission

Financial Statements

For the Year Ended 30 June 2011

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 statements

I have audited the financial statements of the Independent Competition and Regulatory Commission (the Commission) for the year ended 30 June 2011. The financial statements are comprised of the operating statement, balance sheet, statement of changes in equity, cash flow statement and accompanying notes.

Responsibility for the financial statements

The Chief Executive Officer of the Commission is responsible for the preparation and fair presentation of the financial statements 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 the accounting policies and estimates used in the preparation of the financial statements.

The auditor's responsibility

My responsibility is to express an independent audit opinion on the financial statements 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 statements are free of material misstatement.

I formed the audit opinion by performing audit procedures to obtain evidence about the amounts and disclosures in the financial statements. As these procedures are influenced by the use of professional judgement, selective testing of evidence supporting the amounts and other disclosures in the financial statements, 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.

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

Electronic presentation of the audited financial statements

Those viewing an electronic presentation of these financial statements 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 these financial statements. If users of the financial statements 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 statements 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 statements of the Commission for the year ended 30 June 2011:

- (i) are presented in accordance with the *Financial Management Act 1996*, Accounting Standards and other mandatory financial reporting requirements in Australia; and
- (ii) present fairly the financial position of the Commission as at 30 June 2011 and the results of its operations and cash flows for the year then ended.

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


Bernie Sheville
Director, Financial Audits
22 August 2011

Statement of responsibility

Independent Competition and Regulatory Commission Financial Statements For the Year Ended 30 June 2011

Statement of Responsibility

In my opinion, the financial statements are in agreement with the Commission's accounts and records and fairly reflect the financial operations of the Commission for the year ended 30 June 2011, and the financial position of the Commission on that date.

 Shelley Schreiner
Chief Executive Officer
Independent Competition and Regulatory
Commission

19 August 2011

Independent Competition and Regulatory Commission

Operating statement for the year ended 30 June 2011

	Note	Actual	Original Budget	Actual
	No.	2011	2011	2010
		\$'000	\$'000	\$'000
Income				
<i>Revenue</i>				
Government Payment for Outputs	4	497	497	665
User Charges—ACT Government	5	476	883	933
Fees	6	792	547	699
Interest	7	81	27	56
<i>Total Revenue</i>		1,846	1,954	2,353
Total Income		1,846	1,954	2,353
Expenses				
Employee Expenses	8	798	582	562
Superannuation Expenses	9	119	79	94
Supplies and Services	10	1,187	1,245	1,425
Prior Year Licence Fee Refund	11	223	-	91
Depreciation	12	13	13	13
Other Expenses		-	14	-
Total Expenses		2,340	1,933	2,185
Operating (Deficit)/Surplus		(494)	21	168
Total Comprehensive (Deficit)/Income		(494)	21	168

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

Independent Competition and Regulatory Commission

Balance sheet as at 30 June 2011

	Note	Actual	Original Budget	Actual
	No.	2011	2011	2010
		\$'000	\$'000	\$'000
Current Assets				
Cash and Cash Equivalents	15	1,900	1,852	1,730
Receivables	16	43	34	276
Total Current Assets		1,943	1,886	2,006
Non-Current Assets				
Plant and Equipment	17	-	-	13
Total Non-Current Assets		-	-	13
Total Assets		1,943	1,886	2,019
Current Liabilities				
Payables	18	517	408	430
Employee Benefits	19	182	145	139
Other Liabilities	20	279	-	-
Total Current Liabilities		978	553	569
Non-Current Liabilities				
Employee Benefits	19	20	20	11
Total Non-Current Liabilities		20	20	11
Total Liabilities		998	573	580
Net Assets		945	1,313	1,439
Equity				
Accumulated Funds		945	1,313	1,439
Total Equity		945	1,313	1,439

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

Independent Competition and Regulatory Commission

Statement of changes in equity for the year ended 30 June 2011

	Accumulated Funds Actual	Total Equity Actual	Original Budget
	2011	2011	2011
	\$'000	\$'000	\$'000
Balance at the Beginning of the Reporting Period	1,439	1,439	1,292
<hr/>			
<i>Comprehensive Income</i>			
Operating (Deficit)/Surplus	(494)	(494)	21
Total Comprehensive (Deficit)/Income	(494)	(494)	21
<hr/>			
Balance at the End of the Reporting Period	945	945	1,313
<hr/> <hr/>			

	Accumulated Funds Actual	Total Equity Actual
	2010	2010
	\$'000	\$'000
Balance at the Beginning of the Reporting Period	1,271	1,271
<hr/>		
<i>Comprehensive Income</i>		
Operating Surplus/(Deficit)	168	168
Total Comprehensive Income	168	168
<hr/>		
Balance at the End of the Reporting Period	1,439	1,439
<hr/> <hr/>		

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

Independent Competition and Regulatory Commission

Cash flow statement for the year ended 30 June 2011

	Note No.	Actual 2011 \$'000	Budget 2011 \$'000	Actual 2010 \$'000
Cash Flows from Operating Activities				
Receipts				
Government Payments for Outputs		497	497	665
Fees		563	547	608
User Charges—ACT Government		966	883	681
Interest Received		81	27	56
Goods and Services Tax Collected from Customers		84	-	34
Other Tax Credits		1	86	-
Total Receipts from Operating Activities		2,192	2,040	2,044
Payments				
Employee		701	573	553
Superannuation		113	80	94
Supplies and Services		1,180	1,244	1,307
Goods and Services Tax Remitted to the Australian Taxation Office		-	-	6
Goods and Services Tax Paid to Suppliers		28	101	121
Total Payments from Operating Activities		2,022	1,998	2,081
Net Cash Inflows/(Outflows) from Operating Activities	23	170	42	(37)
Net Increase/(Decrease) in Cash and Cash Equivalents Held		170	42	(37)
Cash and Cash Equivalents at the Beginning of the Reporting Period		1,730	1,810	1,767
Cash and Cash Equivalents at the End of the Reporting Period	23	1,900	1,852	1,730

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 2011

	Original Budget 2011 \$'000	Total Appropriated 2011 \$'000	Appropriation Drawn 2011 \$'000	Appropriation Drawn 2010 \$'000
Government Payment for Outputs	497	497	497	665
Total Appropriation	497	497	497	665

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

Column heading explanations

The *Original Budget* column shows the amounts that appear in the Cash Flow Statement in the Budget Papers. This amount also appears in the Cash Flow Statement.

The *Total Appropriated* column is inclusive of all appropriation variations occurring after the Original Budget.

The *Appropriation Drawn* is the total amount of appropriation received by the Commission during the year. This amount appears in the Cash Flow Statement.

Independent Competition and Regulatory Commission**Notes to and forming part of the financial statements for the year ended 30 June 2011****Note index**

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Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended 30 June 2011

Note 1 Objectives of the Independent Competition and Regulatory Commission

Operations and principal activities

The Independent Competition and Regulatory Commission (the Commission) has regulatory rather than commercial objectives and functions. The Commission's primary roles and responsibilities are established under the *Independent Competition and Regulatory Commission Act 1997* (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; and
- approving and reviewing standard customer contracts and industry codes for utility services.

In addition to those functions, the Commission is the regulator of the Greenhouse Gas Abatement Scheme established under the *Electricity (Greenhouse Gas Emissions) Act 2004*. 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, and in monitoring compliance with the Electricity Feed-in Scheme through licence conditions for electricity suppliers and for ActewAGL Distribution.

The Commission's objectives are defined in the ICRC Act and the Utilities Act. The objectives set out in the 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; and
- 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;

Notes to and forming part of the financial statements for the year ended 30 June 2011

- 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) or the director-general under Part 5 (technical regulation) is properly considered;
- to ensure that the government's programs concerning the provision of utility services are properly addressed; and
- 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).

Note 2 Summary of significant accounting policies**(a) Basis of accounting**

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

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

- an Operating Statement for the year;
- a Balance Sheet at the end of the year;
- a Statement of Changes in Equity for the year;
- a Cash Flow Statement for the year;
- a Statement of Appropriation for the year;
- a summary of the significant accounting policies adopted for the year; and
- 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.

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

- Australian Accounting Standards; and
- ACT Accounting Policies.

The financial statements have been prepared using the accrual basis of accounting, which recognises the effects of transactions and events when they occur. The financial statements have also been prepared according to the historical cost convention.

These financial statements are presented in Australian Dollars, which is the Commission's functional currency.

The Commission is an individual reporting entity.

Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended 30 June 2011

(b) The reporting period

These financial statements state the financial performance, changes in equity and cash flows of the Commission for the year ending 30 June 2011 together with the financial position of the Commission as at 30 June 2011.

(c) Comparative figures

Budget figures

The *Financial Management Act 1996* requires the statements to facilitate a comparison with the Statement of Intent. The budget numbers are as per the Statement of Intent.

Prior year comparatives

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

Where the presentation or classification of items in the financial statements 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 statements 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:

- a *purchase agreement* with the Treasury Directorate for core funding for the Commission under the ICRC Act, with revenue recognised as per the agreed value on an annual basis;
- a *purchase agreement* with the Environment and Sustainable Development Directorate for costs of regulatory activities under the *Electricity (Greenhouse Gas Emissions) Act 2004*, with revenue recognised as per the agreed value on an annual basis;
- a *purchase agreement* with the Environment and Sustainable Development Directorate for the provision of greenhouse gas annual reports and analytical advice under the *Climate Change and Greenhouse Reduction Act 2010*, with revenue recognised based on the percentage of work completed under the agreement; and
- *utility licence fees* determined by the Commission under the Utilities Act for utilities providing water and wastewater services and gas transmission services to recover the estimated costs incurred by the Commission, the Technical Regulator in the Environment and Sustainable Development Directorate, and the ACT Civil and Administrative Tribunal in

Notes to and forming part of the financial statements for the year ended 30 June 2011

undertaking their respective regulatory activities (see also Note 2(s) Utility Licence Fee Adjustments).

(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 in 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 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 Office Furniture and Equipment at Cost.

Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended 30 June 2011

(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 when 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.

Notes to and forming part of the financial statements for the year ended 30 June 2011*Annual and long service leave*

Annual leave and long service leave that fall 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, are 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 period end, 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 2010–11, the discount factor used to calculate the present value of these future payments is 92.2% (92.9% in 2009–10).

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 of 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.

Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended 30 June 2011

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 statements.

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*.

Revenue and revenue received in advance: Significant judgements have been applied in estimating Revenue and Revenue Received in Advance. The Commission provides agreed services on a cost recovery basis and where payments for these services are received in advance, consideration of the percentage of the services provided is required. The Commission estimates the percentage of the services completed based on costs incurred compared to the budget for the agreed services with the uncompleted proportion being recorded in Other Liabilities as Revenue Received in Advance. Consideration is also given to whether the agreed budget for the services continues to be a reasonable estimate of the cost for providing the services.

(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 in the Environment and Sustainable Development Directorate, may recover a reasonable contribution toward the costs of providing their services through utility licence fees. The Commission determines annual licence fees for utilities providing prescribed 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 expected to be incurred. Under the Commission's approved policy, adjustments are made to fees charged in the following year if the actual costs incurred at the end of the financial year vary from the costs estimated at the beginning of the year.

Notes to and forming part of the financial statements for the year ended 30 June 2011

Licence fees are calculated by reference to the weighted amount of regulatory activity for prescribed services. The calculation also takes into account the difference between fixed and variable costs.

(t) 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 January 2011);
- AASB 5 Non-current Assets Held for Sale and Discontinued Operations (application 1 January 2011);
- AASB 7 Financial Instruments: Disclosures (application 1 January 2011);
- AASB 9 Financial Instruments (application date 1 January 2013);
- AASB 101 Presentation of Financial Statements (application date 1 January 2011);
- AASB 107 Statement of Cash Flows (application date 1 January 2011);
- AASB 108 Accounting Policies, Changes in Accounting Estimates and Errors (application date 1 January 2011);
- AASB 110 Events after the Reporting Period (application date 1 January 2011);
- AASB 118 Revenue (application date 1 January 2011);
- AASB 119 Employee Benefits (application date 1 January 2011);
- AASB 124 Related Party Disclosures (application date 1 January 2011)
- AASB 132 Financial Instruments: Presentation (application date 1 January 2011);
- AASB 137 Provisions, Contingent Liabilities and Contingent Assets (application date 1 January 2011);
- AASB 139 Financial Instruments: Recognition and Measurement (application date 1 January 2011);
- AASB 1031 Materiality (application date 1 January 2011);
- AASB 1053 Application of Tiers of Australian Accounting Standards (application date 1 July 2013);
- AASB 1054 Australian Additional Disclosures (application date 1 July 2011);
- AASB 2009-11 Amendments to Australian Accounting Standards arising from AASB 9 [AASB 1, 3, 4, 5, 7, 101, 102, 108, 112, 118, 121, 127, 128, 131, 132, 136, 139, 1023 & 1038 and Interpretations 10 & 12] (application date 1 January 2013);

Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended 30 June 2011

- AASB 2010-2 Amendments to Australian Accounting Standards arising from Reduced Disclosure Requirements [AASB 1, 2, 3, 5, 7, 8, 101, 102, 107, 108, 110, 111, 112, 116, 117, 119, 121, 123, 124, 127, 128, 131, 133, 134, 136, 137, 138, 140, 141, 1050, 1052 and Interpretations 2, 4, 5, 15, 17, 127, 129 & 1052] (application date 1 January 2013);
- AASB 2010-4 Further Amendments to Australian Accounting Standards arising from the Annual Improvements Project [AASB 1, AASB 7, AASB 101 & AASB 134 and Interpretation 13] (application date 1 January 2011);
- AASB 2010-7 Amendments to Australian Accounting Standards arising from AASB 9 (December 2010) [AASB 1, 3, 4, 5, 7, 101, 102, 108, 112, 118, 120, 121, 127, 128, 131, 132, 136, 137, 139, 1023 & 1038 and Interpretations 2, 5, 10, 12, 19 & 127] (application date 1 January 2013);
- AASB 2010-10 Further Amendments to Australian Accounting Standards—Removal of Fixed Dates for First-time Adopters [AASB 2009-11 & AASB 2010-7] (application date 1 January 2013); and
- AASB 2011-2 Amendments to Australian Accounting Standards [AASBs 5, 8, 108, 110, 112, 119, 133, 137, 139, 1023 & 1031 and Interpretations 2, 4, 16, 1039 & 1052] (application date 1 January 2011).

Note 3 Change in accounting estimates

Change in an accounting estimate for annual and long service leave liabilities

As disclosed in Note 2(o) Employee Benefits, annual and long service leave liabilities that do not fall due within the next 12 months are measured at the present value of estimated future payments to be made in respect of services provided by employees up to the reporting date. The discount factor used to estimate the present value of the payments decreased from 92.9% in 2009–10 to 92.2% in 2010–11.

This change has resulted in a decrease to the estimated long service leave liability of \$552.

Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended 30 June 2011

Note 4 Government payment for outputs

	2011	2010
	\$'000	\$'000
Revenue from the ACT Government		
Government Payment for Outputs	497	665
Total Government Payment for Outputs	<u>497</u>	<u>665</u>

Government Payment for Outputs meet the estimated cost of the Commission's regulatory activities under the *Utilities Act 2000* in relation to prescribed electricity and gas distribution and supply utilities subject to the energy industry levy. The variation is due to decreased regulatory costs estimated to be incurred during 2010–11 by the Commission in comparison to the regulatory costs incurred in 2009–10. Regulatory costs include costs incurred in the conduct of investigations referred to the Commission into the regulated retail price of electricity and the electricity feed-in premium rate. The estimated costs for these investigations in 2010–11 were lower as they were more limited in nature. Regulatory costs are recovered by the Territory through the energy industry levy under the *Utilities Act* and hence the appropriation has nil impact on the Territory's budget.

Note 5 User charges—ACT Government

User charges—ACT Government revenue is derived by providing services to other ACT Government entities. These services are provided under purchase agreements with the Treasury Directorate for activities under the *Independent Competition and Regulatory Commission Act 1997*, and the Environment and Sustainable Development Directorate for regulation of the Greenhouse Gas Abatement Scheme, and for the monitoring and reporting services under the *Climate Change and Greenhouse Gas Reduction Act 2010*. The services also include provision of commissioned advice, and the conduct of referred inquiries for which costs are recovered.

Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended 30 June 2011

	2011	2010
	\$'000	\$'000
User Charges—ACT Government		
User Charges—ACT Government—General Government Sector (GGS)	437	429
User Charges—ACT Government—Public Trading Enterprise (PTE)	39	504
Total User Charges—ACT Government	476	933

The decrease in revenue for User Charges is due to the recovery of the costs of the investigation into the Enlarged Cotter Dam Water Security Project (\$0.504 million) in 2009–10.

Note 6 Fees

	2011	2010
	\$'000	\$'000
Revenue from Regulatory Activities		
Fees	792	699
Total Fees	792	699

Utility Licence Fees are collected under the *Utilities Act 2000* to cover the estimated costs incurred by the Commission, the technical regulator in the Environment and Sustainable Development Directorate, and the ACT Civil and Administrative Tribunal (ACAT) for regulatory activities in relation to water, sewerage, and gas transmission utilities. The increase in revenue from Fees is due primarily to the estimated increased costs of technical regulation incurred by the technical regulator in the Environment and Sustainable Development Directorate.

Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended 30 June 2011

Note 7 Interest

	2011	2010
	\$'000	\$'000
Revenue from Non-ACT Government Entities		
Interest Revenue from the Commonwealth Bank	81	56
Total Interest Revenue from Non-ACT Government Entities	<u>81</u>	<u>56</u>
Total Interest Revenue	<u><u>81</u></u>	<u><u>56</u></u>

Note 8 Employee expenses

	2011	2010
	\$'000	\$'000
Wages and Salaries (a)	746	553
Annual Leave Expense (b)	16	15
Long Service Leave Expense (b)	32	(16)
Fringe Benefits Tax	4	7
Other Employee Expense (c)	-	3
Total Employee Expenses	<u><u>798</u></u>	<u><u>562</u></u>

- a) The increase in Wages and Salaries is due to the appointment of two new Commissioners in March 2011, and the need for additional staff to meet new responsibilities and to a general increase in workload.
- b) The increase in Long Service Leave and Annual Leave Expenses is due to staff transfers from other agencies and the long service leave and annual leave liability being recognised by the Commission at year end.
- c) The decrease in Other Employee Expenses is due to the Sign on Bonus for the Clerical Enterprise Agreement incurred in 2009–10.

Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended 30 June 2011

Note 9 Superannuation expenses

	2011	2010
	\$'000	\$'000
Superannuation Contributions	119	94
Total Superannuation Expenses	119	94

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

Note 10 Supplies and services

	2011	2010
	\$'000	\$'000
Advertising	12	5
Fees to Commissioners	140	133
Equipment Leases	49	50
Office Management Costs	20	6
Office Rental	83	53
Printing & Publishing	13	27
Professional Services (a)	247	781
Stationery	6	8
Subscriptions & Memberships	6	4
Utilities Act—Administration Payments (b)	542	282
Workers Compensation	18	12
Other	51	64
Total Supplies and Services	1,187	1,425

(a) The decrease in Professional Services is due to a reduction in inquiries during 2010–11.

(b) The increase in Utilities Act—Administration Payments is due to the estimated increase in costs by the Technical Regulator in the Environment and Sustainable Development Directorate applying full cost recovery for the performance of the technical regulation function.

Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended 30 June 2011

Note 11 Prior year licence fee refund

	2011	2010
	\$'000	\$'000
Licence Fee Rebate Applied	223	91
Total Licence Fee Rebate	223	91

See also Note 2(s) Utility Licence Fee Adjustments. Utility licence fees are determined on estimated expenditure for the regulatory activities of the Commission, the technical regulator in the Environment and Sustainable Development Directorate, and the ACT Civil and Administrative Tribunal (ACAT). Licence fee adjustments are made on the basis of actual costs in the following year. In 2010–11, \$223,000 was refunded to utilities for estimated costs in the 2009–10 determination which were not subsequently incurred. In 2009–10, \$91,000 was refunded to utilities for estimated costs in the 2008–09 determination which were not subsequently incurred. The refund in 2009–10 was largely attributed to underspend by the Environment and Sustainable Development Directorate in relation to technical regulation.

Note 12 Depreciation

	2011	2010
	\$'000	\$'000
Depreciation		
Office Furniture and Equipment	13	13
Total Depreciation	13	13

Note 13 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. (2009–10:Nil)

Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended 30 June 2011

Note 14 Auditor's remuneration

	2011 \$'000	2010 \$'000
Audit Services		
Audit Fees Paid to the ACT Auditor-General's Office	17	12
Total Audit Fees	<u>17</u>	<u>12</u>

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.

Note 15 Cash and cash equivalents

	2011 \$'000	2010 \$'000
Cash at Bank	1,900	1,730
Total Cash and Cash Equivalents	<u>1,900</u>	<u>1,730</u>

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.

Note 16 Receivables

	2011 \$'000	2010 \$'000
Current Receivables		
Trade Receivables (a)	45	-
Accrued Revenue (b)	-	251
Accrued Interest	6	5
Net GST Receivable	(8)	20
Total Current Receivables	<u>43</u>	<u>276</u>
Total Receivables	<u>43</u>	<u>276</u>

(a) Increase is primarily due to costs recovery of the water and sewerage mid-term price review.

Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended 30 June 2011

(b) Decrease is due to reimbursement of costs for the Enlarged Cotter Dam review in 2010–11.

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	
2011					
Not Impaired¹					
Receivables	40	-	-	3	43
Impaired					
Receivables	-	-	-	-	-
2010					
Not Impaired¹					
Receivables	276	-	-	-	276
Impaired					
Receivables	-	-	-	-	-

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

Additional Guidance

The above table should 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.

Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended 30 June 2011

Classification of ACT Government/Non-ACT Government Receivables

Receivables with ACT Government Entities

Accrued Revenue	39	251
Total Receivables with ACT Government Entities	39	251

Receivables with Non-ACT Government Entities

Accrued Revenue	6	-
Accrued Interest	6	5
Net Goods and Services Tax Receivable	(8)	20
Total Receivables with Non-ACT Government Entities	4	25
Total Receivables	43	276

Note 17 Plant and equipment

	2011	2010
	\$'000	\$'000
Plant and Equipment		
Office Furniture and Equipment at Cost	130	129
Less: Accumulated Depreciation	(130)	(116)
Total Written Down Value of Plant and Equipment	-	13

	2011	2010
	\$'000	\$'000

Reconciliation of Plant and Equipment

Carrying Amount at the Beginning of the Reporting Period	13	26
Depreciation	(13)	(13)
Carrying Amount at the End of the Reporting Period	-	13

Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended 30 June 2011

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

Note 18 Payables

	2011	2010
	\$'000	\$'000
Current Payables		
Trade Payables (a)	33	331
Accrued Expenses (b)	484	99
Total Current Payables	<u>517</u>	<u>430</u>
Total Payables	<u>517</u>	<u>430</u>

- (a) The decrease in Trade Payables is mainly due to timing of payments to other ACT Government agencies for Utility Licence Fees.
- (b) The increase in Accrued Expenses is due to invoices not being received in time from other ACT Government agencies to be recognised in Trade Payables.

Note 18 Payables (continued)

Payables are aged as follows:	2011	2010
	\$'000	\$'000
Not Overdue	517	427
Overdue for Less than 30 Days	-	-
Overdue for 30 to 60 Days	-	-
Overdue for More than 60 Days	-	3
Total Payables	<u>517</u>	<u>430</u>

Classification of ACT Government/Non-ACT Government Payables

Payables with ACT Government Entities

Trade Payables	18	257
Accrued Expenses	339	19
Total Payables with ACT Government Entities	<u>357</u>	<u>276</u>

Independent Competition and Regulatory Commission**Notes to and forming part of the financial statements for the year ended
30 June 2011****Payables with Non-ACT Government Entities**

Trade Payables	15	74
Accrued Expenses	145	80
Total Payables with Non ACT Government Entities	160	154
Total Payables	517	430

Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended
30 June 2011

Note 19 Employee benefits

	2011	2010
	\$'000	\$'000
Current Employee Benefits		
Annual Leave (a)	83	67
Long Service Leave (a)	91	59
Accrued Salaries and Superannuation	17	10
Other Employee Benefits (b)	-	3
Total Current Employee Benefits	182	139
Non-Current Employee Benefits		
Long Service Leave (a)	11	11
Total Non-Current Employee Benefits	20	11
Total Employee Benefits	202	150

<i>For Disclosure Purposes Only</i>		
	2011	2010
	\$'000	\$'000
Estimate of when Leave is Payable		
Estimated Amount Payable within 12 Months		
Annual Leave	83	67
Long Service Leave	29	26
Accrued Salaries and Superannuation	17	10
Other Employee Benefits	-	3
Total Employee Benefits Payable within 12 Months	129	106
Estimated Amount Payable after 12 Months		
Long Service Leave	73	44
Total Employee Benefits Payable after 12 Months	73	44
Total Employee Benefits	202	150

(a) Increase in Long Service Leave and Annual Leave liabilities is due to transfers of staff and the associated transfers of leave liabilities from their previous agencies.

Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended 30 June 2011

- (b) The decrease was due to the Sign on Bonus for the new Clerical Enterprise Agreement being paid in 2010–11.

Note 20 Other liabilities

	2011	2010
	\$'000	\$'000
Current Other Liabilities		
Revenue Received in Advance (a)	279	-
Total	<u>279</u>	<u>-</u>

- (a) Revenue Received in Advance relates to the purchase agreement with the Environment and Sustainable Development Directorate for the provision of greenhouse gas annual reports and analytical advice.

Note 21 Financial instruments

Interest rate risk

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

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. The weighted average interest rate increased during the year ended 30 June 2011 and this has resulted in an increase in 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 allowance for impairment. Credit risk is managed by only investing surplus funds with the Commonwealth Bank resulting in an insignificant credit risk as it is considered to be a high credit quality financial institution. These funds are held in on-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.

Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended 30 June 2011

Liquidity risk

Liquidity risk is the risk that the Commission will encounter difficulties in meeting obligations associated with financial liabilities that are settled by delivering cash or another financial asset. 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 are sufficient to meet the Commission's obligations as they fall due.

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

The Commission does not have any financial assets or liabilities that are exposed to price risk.

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		Carrying	
	Amount	Fair Value	Amount	Fair Value
	2011	2011	2010	2010
	\$'000	\$'000	\$'000	\$'000
Financial Assets				
Cash and Cash Equivalents	1,900	1,900	1,730	1,730
Receivables	43	43	276	276
Total Financial Assets	1,943	1,943	2,006	2,006
Financial Liabilities				
Payables	517	517	430	430
Total Financial Liabilities	517	517	430	430

Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended 30 June 2011

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 2011. All financial assets and liabilities which have a floating interest rate or are non-interest bearing will mature in one year or less. All amounts appearing in the following maturity analysis are shown on an undiscounted cash flow basis.

2011		Floating Interest Rate	Fixed Interest maturing in:			Non-Interest Bearing	Total
			1 Year or Less	Over 1 Year to 5 Years	Over 5 Years		
Financial Instruments	Note	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Financial Assets							
Cash and Cash Equivalents	15	1,900	-	-	-	-	1,900
Receivables	16	-	-	-	-	43	43
Total Financial Assets		1,900	-	-	-	43	1,943
Weighted Average Interest Rate		4.54%					
Financial Liabilities							
Payables	18	-	-	-	-	517	517
Total Financial Liabilities		-	-	-	-	517	517
Net Financial Assets/(Liabilities)		1,900	-	-	-	(474)	1,426

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 2010. 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.

Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended
30 June 2011

2010		Fixed Interest maturing in:					Total
		Floating Interest Rate	1 Year or Less	Over 1 Year to 5 Years	Over 5 Years	Non- Interest Bearing	
Financial Instruments	Note	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Financial Assets							
Cash and Cash Equivalents	15	1,730	-	-	-	-	1,730
Receivables	16	-	-	-	-	276	276
Total Financial Assets		1,730	-	-	-	276	2,006
Weighted Average Interest Rate		3.60%					
Financial Liabilities							
Payables	18	-	-	-	-	430	430
Total Financial Liabilities		-	-	-	-	430	430
Net Financial Assets/(Liabilities)		1,730	-	-	-	(154)	1,576

2011
\$'000

2010
\$'000

Carrying Amount of Each Category of Financial Asset and Financial Liability

Financial Assets

Loans and Receivables 43 276

Financial Liabilities

Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended 30 June 2011

Financial Liabilities Measured at Amortised Cost	517	430
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The Commission does not have any financial assets in the 'Financial Assets at fair value through Profit and Loss' category, '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.

Fair value hierarchy

The Commission does not have any financial assets or liabilities at fair value. As such no fair value hierarchy disclosures have been made.

Note 22 Commitments

	2011	2010
	\$'000	\$'000
Operating Lease Commitments—Plant and Equipment		
Non-Cancellable operating lease commitments are payable as follows:		
Within one year	43	33
Later than one year but not later than five years	68	70
Total Operating Lease Commitments—Plant and Equipment	<u>111</u>	<u>103</u>

Note 23 Cash flow reconciliation

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

	2011	2010
	\$'000	\$'000
Total Cash and Cash Equivalents Recorded in the Balance Sheet	1,900	1,730
Cash and Cash Equivalents at the End of the Reporting Period as Recorded in the Cash Flow Statement	<u>1,900</u>	<u>1,730</u>

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

Independent Competition and Regulatory Commission

Notes to and forming part of the financial statements for the year ended 30 June 2011

Operating (Deficit)/Surplus	(494)	168
Add/(Less) Non-Cash Items		
Depreciation of Property, Plant and Equipment	13	13
	<hr/>	<hr/>
Cash Before Changes in Operating Assets and Liabilities	(481)	181
	<hr/>	<hr/>
Changes in Operating Assets and Liabilities		
(Increase)/Decrease in Receivables	233	(242)
Increase/(Decrease) in Payables	87	25
Increase/(Decrease) in Employee Benefits	52	(1)
(Decrease)/Increase in Other Liabilities	279	-
	<hr/>	<hr/>
Net Changes in Operating Assets and Liabilities	651	(218)
	<hr/>	<hr/>
Net Cash Inflows/(Outflows) from Operating Activities	170	(37)
	<hr/>	<hr/>

Note 24 Events occurring after balance date

There were no events occurring after balance date.

Note 25 Contingent liabilities

There are no known contingent liabilities as at 30 June 2011. (Nil:2009–10)

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

The statement of performance of the Independent Competition and Regulatory Commission (the Commission) for the year ended 30 June 2011 has been reviewed.

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

Under the *Financial Management Act 1996* and *Financial Management (Statement of Performance Scrutiny) Guidelines 2011*, I am responsible for providing a report of factual findings on the statement of performance.

The review was conducted in accordance with Australian Auditing Standards applicable to review engagements, to provide assurance that the results of the performance indicators reported in statement of performance have been fairly presented in accordance with the *Financial Management Act 1996*.

A review is primarily limited to making inquiries with representatives of the Commission, performing analytical and other review procedures and examining other available evidence. These review procedures do not provide all of the evidence that would be required in an audit, therefore, the level of assurance provided is less than that given in an audit. An audit has not been performed and no audit opinion is being expressed 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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No opinion is expressed 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 the statement of performance. If users of the statement of performance 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

Applicable independence requirements of Australian professional ethical pronouncements were followed in conducting the review.

Review opinion

Based on the review procedures, no matters have come to my attention which indicate that the results of the performance indicators, reported in the statement of performance of the Commission for the year ended 30 June 2011, are not fairly presented in accordance with the *Financial Management Act 1996*.

This review opinion should be read in conjunction with the other information disclosed in this report.

Bernie Sheville
Director, Financial Audits
1 September 2011


Statement of responsibility

**INDEPENDENT COMPETITION AND
REGULATORY COMMISSION**

**Statement of Performance
For the Year Ended 30 June 2011**

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 2011 and also fairly reflects the judgements exercised in preparing it.


Shelley Schreiner
Chief Executive Officer
Independent Competition and Regulatory Commission
18 August 2011

Independent Competition and Regulatory Commission Statement of non-financial performance for the year ended 30 June 2011

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 *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 2011

Statement of intent accountability indicators	Original target 2010–11	Actual result 2010–11	% Variance from original target	Explanation of material variances
Water and retail electricity pricing ¹	Annual price adjustments	Achieved	–	
Feed-in tariff advice on determination of premium rate ²	1 report	1 report	–	
Utilities compliance and performance ³	1 report	0	(100%)	A draft of the 2009–10 report was prepared as of 30 June 2011 but was unable to be completed due to unavailability of necessary data. It is anticipated that the finalised report will be published by 31 October 2011.
Greenhouse gas emissions compliance ⁴	1 report	1 report	–	
Utility licence fees (water, wastewater, and energy sector utilities not subject to energy industry levy) ⁵	1 determination	3 determinations	200%	One determination was made for water and sewerage, and gas transmission utilities. A second determination followed Commission review of the application of licence fees to certain energy retail utilities. A third determination of a pro rata fee was made following the granting of a new licence during the year.
Utility levies (energy sector) ⁶	3 determinations	3 determinations	–	
Advice on referred matters ⁷	Subject to receipt of references	Achieved	–	

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

Explanation of accountability indicators

1. The Commission determines prices for 'regulated services' under the *Independent Competition and Regulatory Commission Act 1997*. Regulated services are provided by 'regulated industries' which include utility services. Price directions are made following receipt of a reference by the Minister. All price adjustment decisions as required under the Commission's price directions were prepared.
2. Water and wastewater prices are determined for a regulatory period, usually five years, and are reset each year. A water and wastewater determination was made in 2008 for the period 2008–09 to 2012–13 (Report 1 of 2008, Water and wastewater price review—Final report and price determination, April 2008). Under the determination, on or before 1 March each year, ACTEW Corporation Ltd must submit proposed tariffs to the Commission for approval. On 20 April 2011, the Commission provided its decision on price adjustments to apply from 1 July 2011 under the provisions of the 2008 price direction. The decision is effected through approval of the tariff schedule to the ACTEW Corporation Ltd standard customer contract, (Utilities (Variation of Terms—ACTEW Corporation Standard Customer Contract) Approval Notice 2011, NI2011-304).

- On 28 August 2009, the Commission received a reference for the provision of a price direction for the supply of electricity to franchise customers to the Commission for the period 1 July 2010 to 30 June 2012. The Commission released its final decision and price direction on 11 June 2010, (Report 7 of 2010, Final report—Retail prices for non-contestable electricity customers 2010–2012, June 2010). On 20 June 2011, the Commission provided its decision on price adjustments to apply from 1 July 2011 under the provisions of the 2010 price direction (Report 3 of 2011: Retail prices for non-contestable electricity customers 2011–2012—Final decision, June 2011). The decision is effected through approval of the tariff schedule to the ActewAGL Retail's standard customer contract, (Utilities (Variation of Terms—ActewAGL Retail Standard Customer Contract) Approval Notice 2011 (No 2), NI2011-315).
2. In letters dated 15 February 2011 and 11 March 2011, the Minister for Energy, Simon Corbell MLA, requested the Commission to provide him with advice to assist with the determination of the premium rate to be paid from 1 July 2011 for electricity supplied by compliant renewable energy generators to the distribution network under the provisions of the Electricity Feed-in (Renewable Energy Premium) Act 2008. The Commission transmitted its advice on 16 March 2011 (Report 1 of 2011: Final report—Electricity feed-in renewable energy premium: Determination of premium rate 2011-12, March 2011).
 3. Utilities performance and compliance measures arise from requirements of the *Utilities Act 2000*, in particular the requirement under section 25(d) for utilities to submit annual reports to the Commission. Each year, the Commission assesses the compliance of utilities against their statutory obligations (including their licence obligations) and reports on performance against a range of indices, including indices established through national agreements.
 4. The Commission is the regulator of the Greenhouse Gas Abatement Scheme which is established through the *Electricity (Greenhouse Gas) Act 2004*. Each year, the Commission determines greenhouse gas emissions benchmarks for participating electricity supply utilities (Electricity (Greenhouse Gas Emissions) Determination 2010, NI2010-10), and reports each year on the operation of the Scheme, and on utility compliance with Scheme requirements. The Commission transmitted its report for the 2010 compliance year to the Minister on 30 June 2011 (Report 4 of 2011, ACT Greenhouse Gas Abatement Scheme—Compliance and operation of the scheme for the 2010 compliance year, June 2011).
 5. Utility licence fees are determined by the Commission under section 45 the *Utilities Act 2000*, to reflect the costs of regulatory activities in relation to utilities incurred by the Commission, the ACT Administrative and Civil Appeals Tribunal (ACAT) and the technical regulator (located in the ACT Planning and Land Authority under the previous administration arrangements and now located in the Environmental and Sustainable Development Directorate). In 2010–11, licence fees were determined for utilities providing water and sewerage utility services, and gas transmission utility services (Utilities (Annual Licence Fees Determination) Notice 2010 (No 1), NI2010-574), and for utilities not actively retailing ('supplying') gas and electricity in the ACT (Utilities (Annual Licence Fees Determination) Notice 2010 (No 3), NI2010-617) and (Utilities (Annual Licence Fees Determination) Notice 2011 (No 1), NI2011-227).
 6. Under Part 3A of the *Utilities Act 2000*, energy industry levies are imposed on energy utilities to recover the Territory's national and local regulatory costs, in relation to the energy industry sectors. The Commission's chief executive officer is currently appointed as the levy administrator, Utilities (Levy administrator) Appointment 2007, NI 2007-191). Energy industry levy determinations are made by the levy administrator. In 2010–11, three determinations were made under sections 54E, 54F and 54H of the Utilities Act (Utilities (Energy industry levy—local regulatory costs) Determination 2010, NI2010-555; Utilities (Energy industry levy—national regulatory obligations and costs) Determination 2010, NI2010-556; Utilities (Energy industry levy—other) Determination 2010, NI2010-557).
 7. Advice can be sought from the Commission under reference through the *Independent Competition and Regulatory Commission Act 1997*. On 13 October 2010, the Attorney-General, Simon Corbell MLA, referred a review of the ACT racing industry to the Commission. The Commission prepared three reports during its conduct of the inquiry: Report 10 of 2010: Issues Paper—Investigation into the ACT racing industry, November 2010; Report 11 of 2010: Draft Report—Investigation into the ACT racing industry, December 2010, and Report 2 of 2011: Final Report—Investigation into the ACT racing industry, April 2011.
- The above Accountability Indicators were reviewed by the ACT Auditor-General's Office in accordance with the *Financial Management Act 1996*.

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 persons for particular subjects of interest, as set out below.

Subject	Contact name and details
Overview of Commission performance Freedom of information Human resources	Ian Primrose (CEO) (02) 6205 0799 (02) 6207 5887 fax ian.primrose@act.gov.au www.icrc.act.gov.au
Electricity pricing Water and sewerage pricing	Senior Commissioner Malcolm Gray (02) 6205 0799 (02) 6207 5887 fax MalcolmR.Gray@act.gov.au www.icrc.act.gov.au
Competitive neutrality matters	Commissioner Mike Buckley (02) 6205 0799 (02) 6207 5887 fax mike.buckley@act.gov.au www.icrc.act.gov.au
ACT racing industry review	Commissioner Mike Buckley (02) 6205 0799 (02) 6207 5887 fax mike.buckley@act.gov.au www.icrc.act.gov.au
Utilities licensing Utilities compliance and performance monitoring and reporting	Ian Primrose (CEO) (02) 6205 0799 (02) 6207 5887 fax ian.primrose@act.gov.au www.icrc.act.gov.au
Greenhouse Gas Abatement Scheme Electricity Feed-in Scheme	Ian Primrose (CEO) (02) 6205 0799 (02) 6207 5887 fax ian.primrose@act.gov.au www.icrc.act.gov.au

Appendix 4 Commission publications, 2010–11

Papers and reports

Report 10 of 2010: *Issues paper — Investigation into the ACT racing industry* (November 2010)

Report 11 of 2010: *Draft report — Investigation into the ACT racing industry* (December 2010)

Report 1 of 2011: *Final report — Electricity feed-in renewable energy premium: Determination of premium rate 2011–12* (March 2011)

Report 2 of 2011: *Final report — Investigation into the ACT racing industry* (April 2011)

Report 3 of 2011: *Final decision — Retail prices for non-contestable electricity customers 2011–2012* (June 2011)

Report 4 of 2011: *ACT Greenhouse Gas Abatement Scheme — Compliance and operation of the scheme for the 2010 compliance year* (June 2011)

Report 5 of 2011: *Licensed electricity, gas, water and sewerage utilities — Compliance and performance report for 2008–09* (June 2011)

ACT Electricity Feed-in Scheme summary reports

ACT Electricity Feed-in Scheme summary report (1 March 2009 – 30 June 2010)

ACT Electricity Feed-in Scheme summary report (1 March 2009 – 30 September 2010)

ACT Electricity Feed-in Scheme summary report (1 March 2009 – 31 December 2010)

ACT Electricity Feed-in Scheme summary report (1 March 2009 – 31 March 2011)

Glossary and abbreviations

ACAT	ACT Civil and Administrative Tribunal
ACTEW	ACTEW Corporation Ltd
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
Commission, the	Independent Competition and Regulatory Commission
ESDD	Environment and Sustainable Development Directorate
FOI Act	<i>Freedom of Information Act 1989</i>
GGAS	ACT Greenhouse Gas Abatement Scheme New South Wales 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
NGAC	New South Wales Greenhouse Gas Abatement Certificate
price direction	statement issued by the Commission, setting price paths and revenue caps for a utility for a specified period
utility services	electricity supply and network operations, gas supply and network operations and water and sewerage supply

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