

Annual Report

2002 – 03



ICRC
independent competition and regulatory commission



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ANNUAL REPORT

1 JULY 2002 to 30 JUNE 2003

September 2003

The Independent Competition and Regulatory Commission

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

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

The commission has three standing commissioners:

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Mr Ted Quinlan MLA
Treasurer
ACT Legislative Assembly
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Dear Treasurer

I am pleased to submit to you the annual report of the Independent Competition and Regulatory Commission for the year ending 30 June 2003.

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

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

Yours sincerely

Paul Baxter
Senior Commissioner
6 September 2003



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ICRC 03/09/03

Foreword

This brief essay complements the required reporting information provided later in the report by describing the background to and state of utility regulation activities in Australia and, in particular, in the ACT. Updates will be included in future annual reports of the Independent Competition and Regulatory Commission (the commission).

Genesis of National Competition Policy

Between 1960 and 1992 Australia slipped from being the third richest developed nation to being fifteenth richest. One response to this decline was that, from the late 1980s, governments in Australia began to agree on and implement an agenda of substantial and far reaching microeconomic reform. For the first time in Australia's history, for example, there was bipartisan agreement to deregulate banking and to float the Australian currency.

In taking these first steps to integrate with an increasingly global economy, governments were looking to provide Australia with greater long term security, to redefine the nation's trading relationships and to make Australian export industries more competitive. The initiative for these reforms came from the Commonwealth Government, with its national economic policy impetus, but delivery of these national reforms relied ultimately upon the willing cooperation of the states and territories.

To achieve consensus on these important reforms, a new forum for intergovernmental exchanges and decision making was needed. The forum adopted was the Council of Australian Governments (COAG), created by the Commonwealth Government in 1992. COAG comprises the Premiers and Chief Ministers of the states and territories and the Prime Minister. It meets irregularly, depending on the issues to be decided, and is serviced by a secretariat in the Department of the Prime Minister and Cabinet.

COAG has been a substantially successful instrument in developing and implementing reforms that previously had defied agreement between governments. In addition to reform of the national financial system, COAG's principal achievement in the second half of the 1990s was reaching agreement on the National Competition Policy. The ramifications of this policy have been far reaching and positive for the Australian economy. For instance, over the decade of the 1990s Australia's gross domestic product growth was above the Organisation for Economic Cooperation and Development average, with only Norway and Ireland performing better.

Hilmer Report and utility reform

In 1993 COAG established a committee led by Professor Fred Hilmer to investigate means to improve export efficiency and performance and, as a result, increase the wealth and wellbeing of Australians. The committee considered what reforms were required in the national economy to effect changes in the efficiency of our export industries and to improve the competitiveness of Australia's products and services in international markets. The resulting Hilmer Report identified a number of reforms to substantial infrastructure that would achieve those objectives.

The report recommended changes to:

- ensure competitive neutrality between public sector and private sector businesses when they compete in markets. Competitive neutrality meant removing the distortionary benefits of government ownership from government businesses. In other words, government businesses that competed with private firms would do so on the basis of their competitive advantages and not rely solely on the benefits that government ownership might provide.
- promote the restructuring of government monopoly businesses to make them more commercially sustainable, by either corporatising or privatising them, thereby increasing their ability to compete effectively in contestable markets. In many instances, the reform of monopoly activities would create contestable markets where previously the government monopoly provider had acted as a barrier to the formation of rivalry between competing suppliers.
- remove anti-competitive provisions from legislation. Restrictions on competition would be acceptable only where there was a net benefit to the community as a whole arising from the retention of anti-competitive provisions.
- extend the application of an expanded *Trade Practices Act 1974* (TP Act) to businesses that had previously not been subject to it. Government businesses would for the first time be subject to the TP Act.

COAG agreed to the reforms recommended by the Hilmer Report in 1994. The agreed reform package was returned to COAG for ratification in 1995, and included in the resulting Competition Principles Agreement. In the process of negotiating a set of National Competition Policy agreements to implement the principles, COAG extended the package by including a set of reforms in relation to electricity, gas, water and transport that the forum had been discussing for

some time. These reforms were the genesis of the present national electricity and gas markets and the first attempt at devising an agreed framework for national water market reform.

The reforms to utility services were in three main areas:

- energy reform (dealing with issues such as national markets, competitiveness of upstream and downstream markets, incentives for investment, regulation of prices and reduction of monopolies)
- transport reform (establishing ministerial councils on road safety, heavy transport and the like, and nationally consistent licensing)
- water reform (investigating issues such as water rights and allocations, trading, identification of the resource base and ecological sustainability).

The reforms of the 1980s and 1990s set a platform for more competitive markets, regulation or privatisation of government assets to enhance performance and markets, and the creation of ‘national’ markets. While the changes increased the level of market contestability and the probability of efficiency, successful reform depended also on a corresponding increase in the efficiency of those markets that remained regulated.

The competition policy reforms recognised that not all markets would be contestable; some markets remained effective monopolies or near monopolies. Those markets required continued government price regulation, which sought to replicate the efficiency of contestable markets but recognised that regulation was less effective than competition for achieving efficient outcomes. Lacking the dynamic qualities of competition, regulation depends upon an independent regulatory authority using its considered judgment to apply external rigour to the price/service trade-off.

Utility regulation in the ACT

The ACT is a signatory to the National Competition Policy agreements and has benefited from competition payments granted by the Commonwealth Government in return for compliance with the related reforms. In terms of price and access oversight, the structure of the energy and water utility regulatory arrangements in the ACT reflects the energy regulatory regimes in other states and territories.

Electricity and gas regulatory arrangements are governed by the National Electricity Code and National Gas Code. The ACT, like other jurisdictions, has adopted the codes by way of legislation applying codes originally enacted in

South Australia. Water is not subject to a nationally consistent code, but the arrangements for capping water allocations, trading in water and licensing the abstraction of water from the environment are similar in all jurisdictions.

In relation to energy and water, the nationally consistent regulatory arrangements are augmented by an ACT legislative framework providing for the licensing of distribution networks and retail services markets. In brief:

- The *Utilities Act 2000* (Utilities Act) establishes the framework for licensing service providers, and the conditions of participation, in the ACT market. Its provisions are consistent with emerging practices in other jurisdictions while protecting ACT interests.
- Within the Utilities Act, the ACT has a model regulatory framework for utility licensing and the administration of water, gas and electricity utilities that has influenced the development of such frameworks elsewhere in Australia, for example in Western Australia, Victoria and Tasmania.
- Licence conditions and the granting of licences in the ACT acknowledge mutual recognition principles, in that licence applications are assessed taking into account licensing and compliance requirements of other jurisdictions.

In the ACT, regulation can claim an effective record of efficiency as:

- costs of licences reflect the cost of regulation—conditions in the Utilities Act link licence fee setting to the recovery of reasonable costs
- conditions imposed on licences meet ACT needs and national norms, reflecting the provisions not only of the National Electricity and Gas Codes and emerging national consensus on consistent regulation, but also concerns in the ACT about consumer protection and appropriate technical standards to apply in the territory.

The conditions imposed upon ACT licensees seamlessly match licence conditions imposed in other jurisdictions. At the same time there are specific ACT issues covered by the Utilities Act and regulations that are not replicated elsewhere.

Developments in utility regulation

Utility regulation in Australia usually refers particularly to regulation of energy utilities—gas and electricity. In recent times the scope of many utility

regulators' responsibilities has expanded to include water and wastewater. In some jurisdictions economic regulatory principles and approaches are also being applied to transport utilities, sometimes through separate regulatory bodies. For example, in Western Australia rail transport is regulated, albeit independently of water and energy, which are also regulated by separate regulatory authorities.

In the near future utility regulation in Western Australia is expected to merge into a single economic regulatory body. In the ACT, the commission regulates water, energy and public transport (taxis and ACTION buses). Similarly, in Tasmania the economic regulator covers energy and transport. In New South Wales, South Australia and Victoria, the Independent Pricing and Regulatory Tribunal (IPART), the Essential Services Commission of South Australia (ESCOSA) and the Essential Services Commission (ESC) respectively regulate a mix of energy, water, rail transport and sea ports.

In each jurisdiction the regulatory approach to pricing for services has been incentive regulation relying on a cost build-up; that is, pricing calculated on the basis of reasonable, measurable cost inputs. Both regulators and industry began discussing the potential for alternative forms of economic regulation some five years ago. Since then there has been considerable debate about whether cost based techniques or benchmarking should be adopted in determining utility prices.

Incentive regulation and the use of cost build-ups have long been favoured by regulators both in Australia and overseas. In some countries, including the United Kingdom and the United States, in some circumstances, benchmarking techniques have been successfully used. Hybrid techniques have been used in some European jurisdictions, especially in Scandinavia.

In Australia regulators have declined to support a wholesale change in approach away from cost based regulation to benchmarking. There has been too little experience of utility price setting to inform such a move. Most regulators have been through only one pricing cycle and in many jurisdictions network pricing inquiries to redetermine prices for a second price period are still more than a year away. In the ACT the next price determination will not commence until 1 July 2004. There are also concerns about the data intensive nature of benchmarking approaches using tools such as total factor productivity (TFP) measures.

Regulators have recognised the merits of benchmarking as an additional tool for regulatory analysis. The practical application of benchmarking techniques to complement other forms of incentive regulation has been tested to a limited extent. More wide use is likely to occur in the next several years as appropriate

data become available and as regulators establish informed baseline benchmarks for comparison.

The debate remains a central feature of regulatory relationships between industry and regulators. Electricity transmission businesses in particular have sought to have benchmarking techniques (such as TFP) replace the building block approach that regulators have relied on for the past decade. It is in electricity pricing that the first uses of benchmarking as an adjunct to cost based regulation are most likely to occur.

Optimising energy regulation

Another major argument, particularly in energy regulation, concerns the effectiveness of investment incentives for generation (of electricity), transmission (of gas and electricity) and interconnection (of electricity). Constraints on investment in generation, transmission and interconnection have been identified as major inhibitors of the development of the national markets in gas and electricity.

There are claims that regulatory decisions have not provided adequate revenues to stimulate investment to meet future supply constraints. Regulators seek to provide a fair rate of return on and of capital and a fair trading margin for utilities. However, in relation to electricity, there has been concern that the relatively short term regulatory price paths adopted (usually five years), and vagaries in the operation of the generation market in particular, may discourage appropriate long term commitment to new investment in generation and transmission capacity.

Recently a further major issue has emerged, focusing not on approaches to pricing for utility services but on whether there is greater efficiency in having a single national energy regulator in place of multiple jurisdictional regulators. In 2002 the Ministerial Council on Energy commissioned a review, known as the Parer review, of options for the future of energy regulation in Australia, to identify where changes to the current pattern of regulation might be made to optimise regulatory performance, enhance industry performance and remove bottlenecks.

The final report of the Parer review, presented in December 2002, argued in favour of a single national regulator. The findings of the review reflected industry calls for fewer regulators and a more uniform approach to energy regulation nationally. The Ministerial Council on Energy adopted the Parer review recommendation on the adoption of uniform national regulation, and a national regulator is intended to begin operating in relation to generation and transmission matters from 1 July 2004. From 1 July 2006 the national regulator

is due to assume responsibility for networks and retail markets, but not for retail pricing.

A single national regulator has the potential to address differences in regulation in each of the jurisdictions and to lower licence and other compliance costs, thus reducing the regulatory burden and the level of intervention in industry operations. On the other hand, a single national regulator could well result in heavier handed regulation, slower decision making, more rigidity in licensing requirements, and greater compliance costs. Only time will tell whether the unitary approach is beneficial or not and whether industry is better able to live with a single regulator than with multiple regulators operating through a national forum designed to achieve consistency of approach.

The real question is whether the problems faced by energy markets are a result of fragmented regulation or other causes, such as unnecessary separation between market and code management and insufficient interconnection in both gas and electricity transmission. There is also a question about how effectively the Ministerial Council on Energy can manage the regulatory environment. There is not unanimous support for the unitary proposal between the states and territories, and substantial hurdles remain to the extension of national regulation to energy distribution networks and retail sectors. The only certainty about the future of the national regulatory scheme proposal is that there are substantial issues to be resolved before 1 July 2006.

Regardless of what happens to the process of establishing a national regulator, some critical issues remain to be resolved if the energy market is to develop depth and make substantial efficiency gains. Those issues are also at the heart of long term supply security and sustainable, economically efficient prices. Development of financial depth in generation, transmission, distribution and retail markets is a key issue.

Substantial problems exist in the generation and transmission sectors of the electricity industry, and in the production and transport sectors of the gas market. Incentives may not be effective in promoting investment in new generation. There is little evident investment in new electricity generation, while low or negative returns arising from inappropriate prices paid for previously government owned generation assets have not fully worked out of the system. In gas production there remains insufficient competition and the market power exercised by upstream suppliers is a matter for concern in an economy which has placed great faith upon competitive market tension to deliver optimum supply/price trade-offs.

Interconnection in the national market for electricity is inadequate—financial instruments that might provide incentives for resolving interconnection issues

are still limited, although there is substantial discussion of developments in financial transmission rights (FTRs) that may assist in providing appropriate incentives or, at least, signals. There has been little investment in adding interconnection capacity (in fact, recent legal action has increased constraints on investment).

The next era in utility regulation

Much is made of the desirability but lack of light handed regulation. Light handed regulation was one of the promises of implementing national markets and incentive regulation. Existing regulatory approaches were designed to suit jurisdictional needs and industry cultures, as well as the process of transition from the previously ‘state owned/state regulated’ public utilities to the more competitive models consistent with the Hilmer objectives. Development of light handed regulation is the aim of the current reforms to the regulatory framework—to encourage competitive markets, employment and investment in energy and other utility industries.

However, there is little agreement about what light handed regulation means in practice—where does light handed regulation end and overly intrusive and inefficient regulation begin? There are substantial risks to inadequate regulation, or regulation that is consciously too light handed.

Regulators face questions about the adequacy of their regimes in the face of corporate disasters in regulated industries, albeit not energy industries. The United States experiences of the collapse of Enron and the Californian energy crisis are salutary lessons for many, including Australian regulators. Similarly, the HIH and other corporate collapses in Australia have focused attention on whether light handed regulation is an adequate substitute for no regulation.

Industry continues to call for no or light handed regulation most strongly in areas in a position to extract economic rent from consumers, raising questions about how market power is able to be exercised and how consumers’ interests and community welfare are best represented. These challenges face the commission and other Australian utility regulators as we progress to the next stage of economic reform.

Contents

Transmittal certificate	iii
Foreword	v
Overview and major achievements	1
Senior Commissioner's summary	1
Highlights of 2002–03	6
Summary of achievements	9
Corporate management	19
Organisational structure	19
Workforce planning and retention	20
Training and development	21
Salary reviews and agreements	21
Commitment to occupational health and safety	22
Equal employment opportunity and diversity	22
External scrutiny and internal reviews	23
Financial management	24
Whole of government issues	26
Key issues	26
Resource issues	28
Statutory requirements	31
Appended information	34
Reports by the Auditor-General	34
Reports by the Ombudsman	34
Legislative Assembly committee inquiries and reports	34
Legislation	34
Regulatory activities	35
Advisory and consultative boards and committees	35
Service purchasing arrangements/community grants/assistance/sponsorship	35
Other sources of information	35
Management discussion and analysis	36
General overview	36
Financial performance	37
Financial position	40

Financial Statements	47
Glossary and abbreviations list	79
Compliance index	81
Alphabetical index	83

Overview and major achievements

Senior Commissioner's summary

Since 1997, when the ACT Government embarked upon a reform agenda that included the establishment of an independent pricing authority for regulated industries, the commission has provided an increasing range of services to government, industry and the community. Today, the commission not only regulates prices but also provides advice on a wide range of industry matters, regulatory issues and aspects of managing the licensing and regulation of utility services in the territory.

In each annual report since 1997 the commission has been able to report to the ACT Treasurer and the community that the commission maintained a high level and quality of output and contributed substantially, albeit often indirectly, to service and policy outcomes for the territory. The year 2002–03 was no exception. The productivity and output quality that the commission generated, and the range and complexity of the matters on which the Government sought the commission's advice, continued to be a source of satisfaction to the commissioners.

Achieving the commission's objectives

In the year under review, the commission continued to seek not only to achieve its objectives as stated in the *Independent Competition and Regulatory Commission Act 1997* (ICRC Act) and the *Utilities Act 2000* (Utilities Act) but also to contribute to the Government's key policy objectives. In making pricing determinations and resetting prices for energy, water and transport utility services the commission sought to balance the delivery of efficient prices with the encouragement of investment in those industries and the enhancement of overall economic growth opportunities in the territory.

The commission reset prices for electricity, gas and water distribution services in 2002–03. The commission's pricing role in gas retail services ceased with the introduction of full retail contestability for gas in 2002, with the exception that the commission resets a default gas tariff. The retail market for electricity became fully contestable from 1 July 2003. In preparation for the market opening the commission set the franchise tariff to apply (for a three-year transitional period) to those customers not choosing a negotiated tariff offered by a licensed retailer. The commission also reset prices for distribution services in electricity, gas and water utilities, to have effect until 30 June 2004.

During the year the commission also provided advice on the desirability of proceeding with full retail contestability (FRC) for electricity. The commission found that there would be some net benefits to the ACT community from the adoption of FRC and (as noted above) from 1 July 2003 this market is fully open to competition. Bundles of energy services, along with other services, will be available to consumers in this market.

In the important area of public transport, the commission in 2002–03 set prices for ACTION bus services for the three-year period from 1 July 2003. In its determination the commission noted that ACTION continued to operate in the absence of an overarching public transport strategy, although new government initiatives were being undertaken to redress this deficiency. The commission consciously drew attention to the need for such policy guidance for the future development of public bus services in the ACT, together with the need for the certainty that an agreed funding model for ACTION would provide.

At the same time, in its determination the commission sought to give certainty to the ACT community by maintaining current average fare levels. The expectation, borne out by subsequent favourable data, is that increased patronage will lead to increased revenue, even though marginal costs may also rise.

In its major review of the taxi and hire car industry the commission sought to achieve a fair and equitable reform of the industry, which recognised the implications of past decisions by governments and taxi operators and the changing competitive market environment facing the industry. There was a need to provide appropriate signals to the taxi and hire car industry about the ongoing imperative for reform to improve the availability of services at affordable prices. There were also a number of practical issues arising from the decline in passenger numbers for taxis, the need to increase affordable alternative transport service options for consumers, and the desirability of sustaining public transport options for the future. The ACT's commitment under the Council of Australian Governments (COAG) competition policy reform agenda also needed to be reflected in the commission's advice.

In its advice the commission drew attention to options for reform which had prospects of improving the income of public transport providers; improving the cost, range of service options and availability of services for consumers; and, for those disadvantaged by the proposed changes, providing a mechanism whereby existing taxi operators could leave the industry with dignity. For the commission the issue was not simply allowing more taxis to operate in the ACT, but rather providing an environment in which taxi operators may, subject to safety regulations, enter or exit the market more freely.

An important part of the commission's objectives is to contribute by its decisions to the development of a sustainable environment. In its investigations the commission strives to achieve a balance between sustainability and economic growth. During 2002–03 this was particularly relevant to the ongoing work undertaken in the area of water pricing and the application of a water abstraction charge.

Managing resources prudently

The commission aims to use its resources as efficiently as possible. The commission has looked at the following aspects of its processes and resource use to determine to what extent that aim was met in the year 2002–03.

Human resources

The commission started the year with five full time staff, two part time staff and three part time commissioners. A small growth in numbers compared with the previous year reflects a mature and responsible process by which the commission is expanding its resources to provide skilled and capable core officers able to undertake a range of tasks as well as to manage consultants engaged to undertake specific tasks. This growth realises a long held view that the business model the commission adopted in 2000 was responsible and achievable. Nonetheless the commission recognises, with the benefit of almost three years of operation, that the question of how many full time staff are needed is still to be resolved.

The increase in staff provided an opportunity to acquire skills that had been either under represented or not represented. Several full time positions were filled on a permanent basis for the first time. Previously, temporarily filling positions had provided flexibility to acquire different skill sets to suit emerging needs at the commission, but added cost and time to the commission's processes. Permanent officers have brought a new balance of stability and depth. The final numbers also reflected the return of officers from leave without pay and maternity leave and the addition of one new position.

The commission endeavoured to maintain a balance reflecting the Government's equal employment and disability policies, as well as invest in internal controls to ensure that the workplace itself remained a healthy and safe environment. A good balance was achieved between male and female employees in terms of both numbers and the distribution of responsibilities. That balance remains satisfying as an outcome, and the commission recognises that continuing good management is required to maintain it, especially given the commission's scale.

In the next twelve months the commission will give serious consideration to further gradual growth in staff numbers, particularly in terms of analysts. The commission will be seeking to better define an optimum scale and skills mix, while having greater security and confidence in the stability of the secretariat and its ability to meet the commission's growing responsibilities.

Financial resources

As the Financial Statements attached to this report show, the commission continues to be financially robust. Despite a trading loss in 2002–03, the commission retained very strong liquidity, had a strong cash base and was able to meet its commitments as they fell due. The commission is satisfied that the year-end ratio of its assets to liabilities of 2.2:1 clearly indicates adequate liquidity to meet its ongoing commitments.

Since 1999, the first year in which ACT Budget funds were appropriated to support the commission, the amount appropriated has remained unchanged. The commission has met growth in costs increasingly from sources other than appropriations. Both the Utilities Act and the ICRC Act allow the commission to recover its costs from users of its services. That authority has been relied upon to a greater degree each year. In 2003–04 the commission will be extending its cost recovery practices to recover costs that in the past were internalised. The amount appropriated to the commission each year will still play an important role in ensuring it is able to manage its cash flows in future.

Physical resources

The commission owns physical assets comprising its office fittings and furniture. During 2002–03 there was an increase in those assets, reflecting the additional office space acquired to house new permanent staff. Acquisitions were held to an efficient minimum, supporting productivity while remaining prudent.

Relationships

Of all the areas of resource management, the management of stakeholder relationships is one of the most important for the commission's long term effectiveness. Stakeholders with either direct or indirect interests in the commission's outputs and performance are numerous, and the commission's ability to produce high quality outputs substantially depends upon quality inputs, particularly information about the markets and their operations, from those interested parties. Establishing and maintaining stakeholder relationships is critical to the effective and efficient functioning of the commission. In the

past year the commission consulted widely and regularly, on a wide range of issues, with community, business, political and regulatory interest groups.

Contributing to government policy outcomes

During 2002–03 the commission continued to contribute to the Government’s key objective of encouraging economic growth. The key objective is consistent with the commission’s statutory objectives of determining efficient prices and encouraging competition in the interests of consumers. The commission’s objectives also refer to encouraging economic growth, employment and investment in utility services and infrastructure in ways that are environmentally sustainable and socially responsible.

In undertaking these tasks the commission is careful to maintain an overall balance of what might otherwise be competing aims and objectives. The commission seeks to achieve this balance while bringing an independent perspective to issues upon which it is asked to comment or provide advice. Continuing close interaction with all stakeholder groups helps the commission to find that appropriate balance in its determinations and recommendations.

Contributing to the development of economic regulation nationally

An important part of the commission’s activities in 2002–03 was its continued involvement in the development of nationally consistent regulatory practice. The commission participated in a variety of forums and working groups, largely under the aegis of the Utility Regulators’ Forum, of which it has been a member since 1996.

During the year the commission contributed to the ongoing debate on the merits of alternative approaches to price regulation, particularly the use of benchmarking techniques such as total factor productivity (TFP) as a means of enhancing the effectiveness of regulatory decisions. The commission is currently involved in a joint inter-jurisdictional review of metrology procedures, including the possible introduction of new metering technology.

Early in 2002–03 the commission was part of the decision by regulators to introduce nationally aligned regulatory reporting for electricity distribution and retail businesses. Fully implemented, the aligned reporting arrangements will make performance benchmarking on a national basis possible for the first time, to the benefit of customers and competitiveness in the market. Such harmonised arrangements may be extended to gas and water utilities in the future, introducing some national rivalry between firms in geographically confined markets.

The operation of national forums, combined with the desire among regulators in all jurisdictions to achieve greater levels of consistency, has the potential to

improve efficiency in regional markets and to promote growth in appropriate investment in relevant infrastructure. Of particular concern to regulators in 2002–03 was the national shortage of investment in expanding interconnection, a major impediment to the development of more competitive markets.

Welcoming future challenges

In 2002–03 the commission experienced continued growth in productivity and in its skills base and the quality of its resources. The commission is an advisor and has administrative responsibility for critical infrastructure and services that impact on the quality of life of members of the community and contribute to the development and delivery of government policies. Its success in meeting challenges, both administrative and technical, has given it greater assurance about its role and its potential to contribute to the growth of the territory.

The commission faces a demanding work program for the 2003–04 year. The commission has substantial commitments to deliver final decisions on network pricing for electricity and water to take effect from 1 July 2004, and start a major review of gas prices. At the same time the commission will be providing advice to the Government on the water abstraction charge and making a further determination on taxi fares.

The administration of utilities regulation will play a key role in the commission's program for 2003–04, with greater activity than in past years due to occur in compliance and performance reporting, investigations into the contestability of infrastructure provision, and audits of performance against the requirements of codes and licences.

Regardless of what issues are presented to the commission over the next year, the commissioners are determined to ensure that the commission continues to seek improvement, to act responsibly and to benefit the community.

Highlights of 2002–03

In 2002–03 the commission sought to implement the intentions of the Utilities Act and the ICRC Act, to more fully realise the Government's objectives for the commission, and to increase its productivity across a range of activities consistent with its responsibilities. These included but were not limited to:

- resetting prices for electricity distribution and retail services, gas distribution and water and sewerage services for the period 1 July 2003 to 30 June 2004
- resetting prices for taxi services for the period 1 July 2003 to 30 June 2004

- determining a three-year price path for ACTION bus services to commence from 1 July 2003 and to have effect until 30 June 2006
- determining the transitional franchise tariff to apply to franchise customers using electricity services from 1 July 2003 to 30 June 2006
- advising government on reforms to the taxi and hire car industries
- advising government on the costs and benefits of introducing FRC in electricity in the ACT
- delivering a public information program, on behalf of the Government, to assist the community to understand the changes for consumers that would occur as a result of the implementation of FRC in electricity
- amending the Consumer Protection Code for retail electricity and gas customers in the ACT
- developing and issuing guidelines for the disclosure of greenhouse gas emissions levels on utility accounts
- commencing the determination of network charges for electricity distribution and water and sewerage services in the ACT, to take effect from 1 July 2004
- as part of the network price inquiry, releasing an issues paper on the form of regulation under Part E of the National Electricity Code
- reviewing and resetting utility licence fees for the period from 1 July 2002 to 30 June 2003 and providing a refund on licence fees for the previous year, 2001–02
- establishing an expert panel of consultants to assist the commission over the next five years—each member of the panel is prequalified in relation to economics, econometrics, engineering, law and/or financial management
- maintaining participation in the Utility Regulators’ Forum, the national forum for economic regulatory bodies, chaired by the Australian Competition and Consumer Commission (ACCC)
- participating as a principal member of the regulatory/industry group in the development of a centre for economic regulatory studies at the Australian National University

- commencing an inter-jurisdictional review of electricity metering arrangements, to be concluded in December 2003
- agreeing to a new code for gas networks, the Gas Network Operations Code
- overseeing the opening of the gas retail market to FRC
- commencing investigations into a proposed network boundary code for gas services
- taking up responsibility for the role of metrology coordinator under the National Electricity Code.

The commission's output over the year demonstrated a commitment to the objectives outlined in the ICRC and Utilities Acts, particularly those concerned with ensuring the consumer's interests are safeguarded, while at the same time promoting economic growth, investment in energy and employment in the territory. In achieving its objectives the commission was acutely aware of its role and responsibilities in relation to environmental sustainability and social equity.

In the latter regard, the commission raises two examples of decisions or advice that had strong social equity and sustainable environmental outcomes:

- the advice provided to the Government on reforms in the taxi and hire car industries, in which the commission sought to ensure the long term viability of the industries through reforms aimed at providing more flexible and less costly services
- the determination of prices for ACTION services, based on no increases in fares for a two-year period followed by a consumer price index (CPI) adjustment in the third year. That determination sought to draw attention to the opportunity for increasing patronage, and achieving a lasting modal shift from private to public transport, while increasing revenue. The alternative proposition, increasing fares, would have meant continuing loss of patronage in the long term and a squandering of an opportunity to enhance reliance on public transport with low risk.

Summary of achievements

Expert panel 2003–08

From May 2003 the commission implemented new arrangements to govern the way in which it obtains economic, econometric, legal and associated services to assist in its varied functions over the next five years. Appropriately qualified and experienced consultancy firms were appointed to an expert panel, from which individuals may be chosen by means of a select tender process (sometimes at relatively short notice) to work on particular projects. Generally, at least three consultants are requested to tender for any requirement of value greater than \$50,000. The panel currently comprises sixteen consultants.

The commission recognises that over the five-year life of the expert panel consultancy staff might change. The commission expects to be notified if such staff changes are likely to impact on services for which a panel member has successfully tendered. Further, from time to time the commission might seek services for which no appointed panel member is appropriately qualified and experienced, in which case the commission may institute an additional tendering process in order to identify and, if possible, appoint suitable additional panel members.

In cases where a panel member has consistently failed to perform against the conditions of a contract and any attached schedules, the panel member may be liable to be removed from the panel. In such a case the commission may institute actions to remove the consultant from the panel in accordance with the standard contract. For every addition or removal the commission will subject the process to a probity audit to ensure its integrity.

Members of the commission's tender evaluation committee are required to complete declarations that they have no actual or perceived conflict of interest in respect of any tenderer or panel member. Such documented declarations are retained on a registered file. The commission's probity adviser is the principal solicitor in the Government Solicitor's Office. The commission's probity auditor is the Auditor-General. Over the life of the expert panel the commission will continue to seek advice as necessary from its probity adviser. For audit purposes, the commission has engaged the Auditor-General to conduct regular audits of the commission's processes and records.

Prior to the contract period for the expert panel ending in May 2008, the commission will advertise for tenders (in a public tendering process) to constitute a new panel for the ensuing five years.

Full contestability in energy retail markets

Following the decision to implement FRC in the retail gas market (which took place in January 2002), in December 2001 the Treasurer issued a reference for the commission to inquire into and provide advice to the Government on the benefits of extending FRC to the retailing of electricity, with a view to achieving a fully contestable energy market in the ACT. The reference directed the commission to consider a range of matters, including the costs and benefits of implementing FRC, paying particular attention to the impact such a move would have on the Commonwealth Government payments that the ACT receives as a participant in National Competition Policy reforms.

In its draft report the commission recommended that retail competition be introduced for all customers using fewer than 100 megawatt hours per annum. Customers using more than that volume of electricity already had access to full competition. The entire ACT retail electricity market would become fully contestable, bringing it into line with the New South Wales and Victorian electricity markets, and the ACT gas market.

The commission identified the need for continued government support for the Essential Services Consumer Council (ESCC) during the process of opening the retail electricity market to competition, in order to protect consumers who might suffer hardship as a result of the introduction of FRC. (The ESCC is established under Part 11 of the Utilities Act to facilitate the resolution of complaints about utility suppliers contravening the terms of their customer contracts, cases of hardship where a utility service is withdrawn, complaints about network operations and issues arising from the use of personal information. The council is independent of the commission, and has its own board and administration, funded from annual utility licence fees.)

The commission initially found that the costs of adopting the full metering approach to FRC would be too high and that deemed metering would be an effective and inexpensive alternative option. However, as the costs of full metering fell, it became important that the commission, in its role as metrology coordinator, had opportunities to revisit the issue of which form of metering would be most efficient. It was envisaged that FRC, combined with appropriate metering technology, would allow consumers to receive accurate and timely price information, sending them strong price signals to encourage them to regulate their electricity consumption behaviour.

The commission recommended that retail competition be introduced from 1 January 2003, with a significant public information campaign to precede the FRC implementation, allowing adequate time for information to be provided to the community and all the necessary systems to be set in place for a smooth transition. The Government subsequently decided on a 1 March 2003 start date,

to allow adequate time for implementation procedures to be put in place; that was later amended to a 1 July 2003 start date as a result of the January bushfires.

In the weeks leading up to the start of FRC, the commission distributed a total of 160,000 information brochures to households and businesses in the territory. Brochures were also distributed via government shopfronts and libraries, as well as through 72 local community organisations. The Commonwealth Translation Service was contracted to cater for non-English speakers, and both a Braille translation and an audio version of the brochure were prepared for sight impaired people who requested information. Over the distribution period, numerous advertisements pointing to the brochure ran daily in the local print and radio media, and a full page advertising feature appeared in *The Canberra Times*. To further assist the public, the commission established a special call centre to cater for inquiries about FRC.

At year's end the opportunity existed for a further meeting of the steering committee to consider the effectiveness of the campaign and, if necessary, gauge whether further information measures needed to be undertaken.

In preparation for FRC in electricity, changes were made to the Consumer Protection Code to ensure consumers' rights would be protected in a competitive retail electricity market. A new code, the Electricity Customer Transfer Code, was also developed to require licensees to correctly transfer customers who changed retailer in response to FRC. The updated Consumer Protection Code was notified on 23 June 2003 and the Electricity Customer Transfer Code was notified on 10 June 2003. These developments are discussed in more detail below.

Competitive neutrality policy

Clause 3 of the Competition Principles Agreement, one of the three National Competition Policy agreements signed by the ACT and other Australian governments in 1995, requires the territory to provide a mechanism to deal with competitive neutrality complaints. The ACT's 1996 Competitive Neutrality Statement provided a temporary mechanism, operating from the then Office of Financial Management. In 2000, responsibility for inquiring into and providing advice on competitive neutrality complaints was transferred to the commission.

The objective of competitive neutrality policy is to eliminate resource allocation distortions that arise out of government ownership of entities engaged in business activities. The Competition Principles Agreement calls for an appropriate level of corporatisation of government businesses, at least requiring such businesses to pay all taxes that apply to their private sector competitors, be financially independent of government, and be subject to the same regulations

as apply to their private sector competitors. Further, the policy seeks to eliminate subsidisation of prices by moving to full cost recovery pricing. The policy, like all of the competition policy agreements, relies on the benefits of moving to a competitively neutral environment outweighing the associated costs.

During 2002–03, no concerns about the application of competitive neutrality policy were referred to the commission by the Government, or brought to the attention of the commission by members of the ACT community.

Regulation and price control of utilities

The territory's utilities regulatory regime is constituted in the ICRC Act (which covers price control) and the Utilities Act (which covers non-pricing aspects of industry regulation, including technical issues).

The utility services covered by the regime are electricity, gas, water and sewerage. Regulatory responsibilities are divided between the ACT Planning and Land Authority (the Department of Urban Services until 30 June 2003), which regulates on technical issues, the commission, which regulates on other industry issues including pricing, and the ESCC, which handles customer complaints and hardship claims from those unable to pay their bills.

In addition to price control, the commission's regulatory responsibilities include the encouragement of efficient, reliable and effective utilities industries, the promotion of competition and the minimisation of the potential for misuse of monopoly power, as well as some consumer protection and environmental issues. Regulatory instruments used to achieve these ends include licences, codes and associated guidelines.

Licensing issues

During the 2002–03 financial year the commission received two applications for new gas supplier licences, one from Country Energy and the other from EnergyAustralia. Both held electricity supply licences and were seeking to also be licensed to supply gas.

Country Energy's application was approved and a gas supply licence was issued on 6 February 2003. EnergyAustralia's application was received late in the financial year and at 30 June 2003 the commission was seeking comments on the application from interested parties. At 30 June 2003 only ActewAGL was supplying gas to ACT consumers, but it is hoped that the growing interest in gas supply licences is a sign that competition will begin in the gas retail market during 2003–04.

Table 1 below shows the utilities licences that had been issued as at 30 June 2003.

Table 1 Licensed utilities

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

Utility service providers may be exempted from having to hold licences where there is no need for them to comply with the full set of regulatory requirements, for example if their operations are extremely small. No new exemptions were issued, and no existing exemptions were revoked, during 2002–03.

A number of changes were made to existing utilities licences during 2002–03. All changes were either minor changes of an administrative nature or consequential changes resulting from changes in industry codes (for example, to remove a reference to a code that had been repealed).

The Utilities Act allows the commission to determine licence fees to recover from licensees 'a reasonable contribution towards the costs incurred' in regulating utilities. For 2002–03, the total amount of licence fee determined by the Commission was \$1,228,475, of which \$561,043 was to recover the costs of the commission, \$274,452 was to recover the costs of the technical regulator

(then the Department of Urban Services), and \$392,980 was to recover the costs of the ESCC.

Electricity, water and sewerage prices

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

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

Applications were again submitted to the commission by ActewAGL and ACTEW Corporation in May and June 2003 seeking approval to reset tariffs from 1 July 2003. The proposed tariffs were examined in detail and found by the commission to comply with the 1999 price direction. The 2003–04 approved tariffs for electricity, water and sewerage services are displayed on ActewAGL's website <www.actewagl.com.au>.

As discussed in last year's annual report, in April 2002 ACTEW Corporation sought approval from the commission to vary its standard customer contract for water connection and supply services, to accommodate transitional arrangements as it moved to new water pricing. In approving the variation, the commission informed ACTEW Corporation that changes to its billing system to would be required prior to the commencement of the next price path period, being from 1 July 2004. The commission will review this issue in 2003–04.

Natural gas prices

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

ActewAGL's access arrangement sets out the charges for network access and metering services for each year of the regulatory period. These charges are permitted to be adjusted in line with inflation. New charges for 2002–03 were introduced by ActewAGL on 1 July 2002. In June 2003 ActewAGL advised the commission of the adjustment it would apply to set the 2003–04 charges. This was agreed to by the commission as complying with the access arrangement.

Retail prices for natural gas supply to tariff customers are set down in the price direction issued by the commission in May 2001, covering the three-year period 1 July 2001 to 30 June 2004. The price direction sets price caps for each service. As in the case of other utilities, the prices are adjusted each year in line with the CPI and to encourage efficiency improvements, the benefits of which are shared with consumers. New and revised prices require the approval of the commission.

In May 2003, ActewAGL applied to the commission seeking approval to reset natural gas retail prices from 1 July 2003. ActewAGL sought approval to reset prices by the approved adjustment and to take account of increases in the cost of procuring natural gas. The proposed increase was examined in detail and found by the commission to be reasonable and to comply with ActewAGL's access arrangement and the 2001 price direction. The 2003–04 approved prices for natural gas retail services are displayed on ActewAGL's website <www.actewagl.com.au>.

2004 utility network price review

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

During the year the commission continued the processes, commenced in 2001–02, that will inform the 2004 price review. Over the next year the commission will undertake detailed assessments of the asset value of the network infrastructure and of the costs of and the demand for electricity, natural gas, water and sewerage services. The commission will at the same time explore the possible mechanisms for incentive based regulation, considering issues such as productivity, investment, demand and supply management and customer service incentives.

The commission will undertake consultations with all interested parties as part of the 2004 price review, according to the timetable below.

Table 2 Timetable for consultation on the 2004 utility network price review

Event	Electricity	Water
Issues paper release	14 July 2003	23 July 2003
Submissions on the issues paper close	11 August 2003	19 August 2003
Draft report release	7 November 2003	14 November 2003
Submissions on the draft report close	24 December 2003	24 December 2003
Final report and direction release	22 March 2004	31 March 2004

The determination of new gas prices has been delayed while the commission undertakes a thorough review of the ACT retail distribution and retail industry.

Taxi prices

Taxi prices for the 2002–03 financial year were set in the commission’s price direction for 2002 to 2004, released in June 2002. As a result, work on taxi issues during the year was limited to resetting maximum fares for 2003–04 under the terms of the 2002 to 2004 price direction. The commission intends to commence work early in 2003–04 towards its next taxi price direction, which is required to commence on 1 July 2004.

ACTION bus prices

In May 2003 the commission released its final report containing the determination of prices for public transport bus services provided by ACTION in the ACT for the three-year period from 1 July 2003. Under the terms of reference for this investigation, the commission considered current and projected patronage trends, and other noticeable trends flowing from a previous fares increase in July 2001 as well as the more recent introduction by the Government of single zone flat fares.

The commission also noted changes in ACTION’s operating environment since the 2002 determination, notably that ACTION had become a statutory authority. The commission further noted that over the past two years ACTION had increased its operating efficiency and decreased its deficit financing.

The commission strongly believes that the ACTION board has a significant opportunity, in the context of current price stability and emerging developments in public transport policy in the ACT, to secure growth in public transport use for the future. Recent patronage evidence supports the commission’s decision not to increase prices for ACTION services but to focus on improving patronage as a means of improving revenue performance.

Industry codes and guidelines

As outlined previously, in preparation for FRC in electricity, changes were made to the Consumer Protection Code to ensure consumers' rights would be protected in a competitive electricity retail market. The commission also took advantage of the update to make a number of other changes, including the introduction of a requirement that customers' accounts disclose the level of greenhouse gas emissions associated with their consumption of energy. Disclosure will commence in the 2003–04 financial year. A new code, the Electricity Customer Transfer Code, was also notified. The code sets out practices and procedures for transferring customers between electricity retailers under FRC.

Separate to FRC, changes were made to ring fencing and supplier of last resort arrangements. In order to minimise of the potential for misuse of monopoly power, the Ring Fencing Guidelines for Electricity and Gas Network Operators were introduced to require vertically integrated companies to ensure that their network operations did not give unfair advantage to their retail operations, at the expense of competing retailers.

The Electricity Supplier of Last Resort Code was repealed and replaced with the Electricity Retailer of Last Resort Guidelines, to improve the effectiveness of arrangements to protect electricity customers in the event of a retailer suffering a prudential crisis. The guidelines put in place arrangements to ensure customers would continue to receive electricity in the event of the failure of an electricity retailer.

In addition, the commission received from ActewAGL proposed changes to the Gas Network Boundary Code, the Minimum Standards for Gas Networks, and the Standard Customer Contract for Gas Supply, as well as a proposed new Standard Customer Contract for Gas Connection. The proposals have been considered by the commission and were the subject of consultation with interested parties but changes were yet to be finalised as at 30 June 2003.

Compliance and performance monitoring

Annual reporting

As the Utilities Act regulatory regime commenced on 1 July 2001, 2001–02 was the first year for which licensees were required to undertake full annual reporting of their compliance and performance in relation to the provisions of the Act. Licensees' compliance and performance reports were required to be provided to the commission by 1 October 2002.

Analysis and follow-up work on the information provided commenced in early 2003 and the results have begun feeding into the commission's ongoing

compliance programs. As might be expected in the first year, lessons were learnt about how to conduct reporting and what information to seek, and this will feed into the 2003–04 reporting round. During 2003–04 the commission will publish a summary report on compliance by and performance of utilities in 2001–02.

Alleged breaches of the utilities regulatory regime

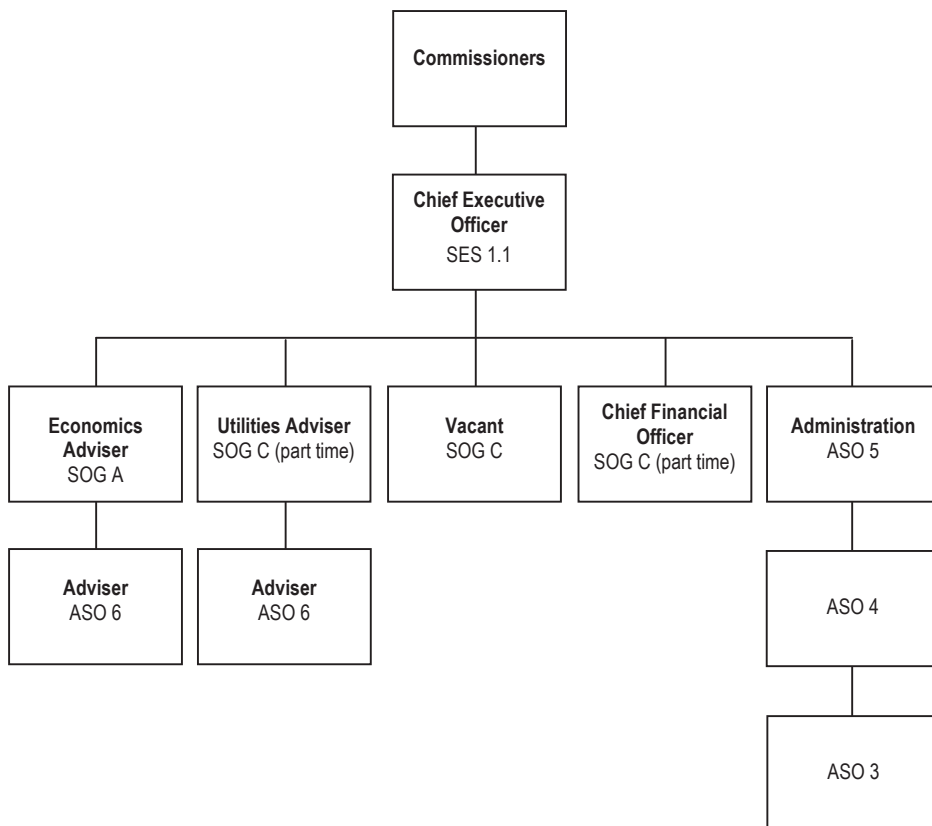
No allegations of breaches of the Utilities Act, industry codes or guidelines were made during 2002–03.

Corporate management

Organisational structure

Figure 1 shows how the commission was structured in 2002–03. For full names of the classification levels referred to, see the abbreviations list at the end of the report.

Figure 1 **Organisational chart, 2002–03**



Workforce planning and retention

The commission is convinced that core staff numbers should neither increase substantially nor be a substantial number and that the preferred approach to managing resources is to employ contract staff and consultants to increase the resources available as they are needed. The commission is aware, however, of the constraints imposed by being a small organisation with few permanent staff and is careful in its allocation of scarce resources, both human and financial.

Consequently, in the past 12 months the commission added to its core and permanent staff, building skills in critical areas, such as communications, legal and econometric skills. Because there is no desire to have unproductive spare capacity but there is a need to optimise the operational scale, the commission continued to test its assumptions about the optimum size for the organisation.

The observations first made in the commission's 2000–01 report about the drawbacks of having a small core secretariat were borne out in 2002–03. The commission experienced the turnover in staff that was predicted when the commission indicated a concern about the limits that may be imposed by excessively small core staff numbers:

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

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

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

The availability of skilled and experienced people is a major current and ongoing challenge for a small organisation such as the commission when it is competing with well resourced agencies in the government sector and the private sector.

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

The commissioners are an essential ingredient in the human resources available to the commission. The commissioners are an invaluable resource not only because they provide expertise that would be both difficult and expensive to acquire elsewhere when needed but also because they provide a substantial level of mature experience and judgment in relation to the management of the commission. The board played an important role in guiding and developing the commission during the 2002–03 year.

Training and development

Staff attended conferences and seminars on relevant industry regulatory issues as the major training activity during the year. The commission does not budget for any particular level of overall training expenditure as a proportion of general expenditure but has an informal internal target of between 2 per cent and 5 per cent. In 2002–03 the training expenditure was about 2 per cent. The commission continued to encourage staff to pursue further education by supporting the Studies Assistance Program.

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

In addition, the commission continued to be involved in informing the developing debate on regulatory issues in the broader community. The commission both sought ways to provide information on specific issues to the community and remained active in speaking at conferences and seminars.

Salary reviews and agreements

In 2002–03 there were no major changes to Australian Workplace Agreements (AWAs) applying to the commission. A new government-wide certified agreement was reached with effect from September 2002. In accordance with the Government's policy, no new AWAs will be negotiated for commission staff. Staff on existing AWAs will revert to the certified agreement once their AWAs cease in 2003. Two officers in the commission are subject to AWAs; all other staff, except the Chief Executive Officer, who is employed under an executive contract, are or will be subject to the certified agreement.

Commitment to occupational health and safety

The commission has made a substantial commitment to occupational health and safety (OH&S) to ensure it maintains a safe, healthy and secure workplace, and remained acutely aware of the value of that commitment in 2002–03. The commissioners considered OH&S issues monthly and all office accommodation was monitored to ensure that any emerging risks were identified early and appropriate action was taken to reduce or eliminate such risks. The commission continues to implement and abide by the OH&S policies applicable to all ACT Government agencies.

The commission noted with satisfaction that the year was free of workplace injuries or complaints, as were the two years preceding it. OH&S is an important issue for the commission, not only because the loss of a staff member would seriously weaken the commission and be costly in terms of both replacement expense and time, but also because such a loss would represent the failure of the commission's policy of ensuring a safe and healthy workplace. OH&S issues and complaints are standing items on the agendas for the board's monthly meetings and for regular staff meetings.

Equal employment opportunity and diversity

The commissioners are conscious of the importance of both equal employment opportunity (EEO) and diversity in determining the organisational health of the commission. The commission is an equal opportunity employer. Table 3 illustrates the EEO and equity composition of the commission's staff as at 30 June 2003.

The gender balance in the commission altered during the year, which is a common occurrence in small organisations. In 2002–03 the commission's non-board staff members comprised five females and eight males. The gender distribution of the board remained unchanged at two males and one female. Overall, the commission retained a good gender balance.

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

More information about the commission's staffing profile is provided in the 'Whole of government issues' chapter.

Table 3 EEO and equity composition of the commission, 30 June 2003

Level	Number	Gender		ATSI ^(a)	Disability	NESB ^(b)
		F	M			
Commissioners	3	1	2	–	–	–
SES 1.1	1	–	1	–	–	–
SOG A	1	–	1	–	–	–
SOG C ^(c)	3	1	2	–	–	–
ASO 6	2	–	2	–	–	–
ASO 5	1	1	–	–	–	–
ASO 4	1	1	–	–	–	–
ASO 3	1	1	–	–	–	–
Total	13	5	8	–	–	–

(a) 'ATSI' indicates employees from Aboriginal or Torres Strait Islander backgrounds.

(b) 'NESB' indicates employees from non-English speaking backgrounds.

(c) One SOG C fills the part time contract position of finance officer.

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

External scrutiny and internal reviews

External scrutiny

The commission was considered, together with other ACT Government agencies, in the Auditor-General's Report *Effectiveness of Annual Reporting* (Report No. 1, 2003). The Auditor-General found separately that the commission had complied with all the requirements of the Chief Minister's Annual Reports Directions in 2001–02. The commission was not the subject of other reports from the Auditor-General during the year.

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

As mentioned previously, the commission had expected the Utilities Act and the ICRC Act to be reviewed in 2001–02; those reviews are now expected to begin in the latter half of 2003. The commission was not the subject of any other external reviews during the reporting year.

The commission's audited Financial Statements for the year 2002–03 appear at the end of this report.

Internal reviews

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

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

The handling, storage and retrieval of information is a high risk area for the commission. The board has drawn attention to risks inherent in the current system for managing and accessing information. Information storage and retrieval systems are being reformed to control those risks and make information more readily and reliably accessible. The audit committee participated in the reform process as part of its program for 2002–03. In addition, the services of an expert knowledge manager are being sought to further improve the commission's service delivery and expertise.

Financial management

As outlined previously, in both the ICRC Act and the Utilities Act provision is made for the commission to recover the reasonable costs of its activities from charges upon those regulated by the commission. To ensure that the commission was able to sustain itself from the inception of the permanent secretariat in 2000, the Government covered some of those reasonable costs through funding from Budget appropriations. Appropriated funds continue to be made available subject to a statement of intent agreed between the Treasurer and the Senior Commissioner each year. For each budget year since 1999, appropriation for the commission has been approximately \$400,000.

The commission is a statutory authority and as such is not generally treated as a trading entity. Its revenues are derived from funds appropriated to it and from

the costs it recovers from regulated industries, referring authorities and licensed utility service providers. In 2002–03 utility licence fees made up 60 per cent of the commission’s revenue—28 per cent from recovered costs and 10 per cent from non-government cost recovery.

Under the Utilities Act service providers are required to be licensed to supply electricity, gas and water services and to provide network services for those utilities. The licence fees are set by the commission to reflect the anticipated cost of providing regulatory services for those utilities in the year. The commission, the ESCC and the technical regulator are funded from utility licence fees. The revenue collected by the commission is distributed among the three regulatory bodies according to their costs. At the end of each year surplus revenue from licence fees is returned to utilities; deficits in revenue are recovered in the succeeding year. In 2002–03 the commission returned \$378,000 to licensees.

A substantial part of the commission’s output is non-utility in nature and costs of providing regulatory services must be recovered from both government and non-government agencies to which the commission provides services. In principle, revenue from inquiries should be sufficient to meet the costs of acquiring external expertise needed to assist the commission and the commission’s own internal costs. However, the results from 2002–03 indicate that the commission needs to increase the effectiveness of its cost recovery activity, particularly in terms of the non-utilities work it undertakes. Consequently, for 2003–04 the commission has reviewed its cost recovery processes to better address that issue.

The commission, in common with other agencies of the ACT Government, is meeting additional employee costs arising from the conclusion of a new certified agreement. As well, the commission’s performance management arrangements have resulted in incremental growth in some salary costs over and above the certified agreement. There have also been incremental changes in the staffing profile for 2003–04 that will have an impact on the budget for the current year. These changes, reflected in part in 2002–03 but likely to have a greater impact in 2003–04, will mean that the commission is better placed to compete for skilled and qualified people and to retain them longer.

In general the commission is satisfied that the administration of the commission’s affairs was subject to appropriate controls and that the commission’s assets were appropriately managed during the year. That was the view of the Auditor-General’s audit for 2002–03, reflecting his previous opinions in 2001 and 2002. Internal audits also supported the commission’s view that its resources were managed in accordance with the objectives of the *Public Sector Management Act 1990* and the *Financial Management Act 1996*.

Whole of government issues

Key issues

Customer service statement

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

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

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

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

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

Community engagement

The commission consults and advises the community in relation to all inquiries referred to the commission. Public notices are published seeking input in relation to all references received for price and regulatory inquiries. Many issues raised in the granting of utility licences and approval of industry codes and standards are publicly notified, and many decisions are gazetted. Where public hearings are held members of the public are invited to attend to make personal submissions.

Royal Commission into Aboriginal Deaths in Custody

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

Fraud prevention

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

In both cases, the commission's main defence against fraud is limiting exposure and maximising accountability by making the smallest possible number of people responsible for transactions. In the case of commercially sensitive information, for example, access to databases and authority to release information are directly supervised by the Senior Commissioner and the Chief Executive Officer.

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

- access to the commission's information technology is password controlled
- the commission's bank accounts are accessible only to two signatories, who must jointly authorise all instruments
- the commission operates only two credit cards, controlled by the Senior Commissioner and Chief Executive Officer alone

- many administrative and banking processes are submitted to checking by third parties not otherwise involved in those processes.

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

Equity and diversity

EEO and workplace diversity issues are discussed in the ‘Corporate management’ chapter above.

Resource issues

Ownership agreement

The commission’s services are provided subject to an annual statement of intent, required in section 58 of the *Financial Management Act 1996*. In relation to the statement of intent the Act provides that:

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

In 2002–03 the commission provided a statement of intent meeting the requirements of the Act as defined in the Treasury guidelines. The commission's statement of intent was tabled in the Legislative Assembly as part of the 2002–03 Budget process. The objectives of the statement are referred to elsewhere in this report; the Financial Statements are at the back of this report.

Certified agreements

At 30 June 2003 the commission had six staff members under the certified agreement applying to the ACT Public Service. The commission was involved in the negotiation of the whole of government certified agreement that was voted on and agreed to in June 2003. The certified agreement commenced operation on the date of certification by the Australian Industrial Relations Commission and will remain in force until 31 March 2004. The agreement reflects a pay increase of 6.5 per cent effective from 26 September 2002, as well as another 4 per cent increase effective from 3 July 2003.

Staffing profile

The commission's staff profile changed during the year both in terms of numbers, increasing from five full time equivalent (FTE) staff to 8.6 FTE, and in terms of mix, of male and female and part time and full time staff. The senior staff have relevant tertiary qualifications and the two officers managing the commission's finances are members of the Australian Society of Certified Practising Accountants.

Workers' compensation

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

Learning and development

The commission provided training for staff during the year by supporting attendance at relevant conferences. Also, as mentioned previously, the commission encouraged staff, through the Studies Assistance Program, to acquire skills that will ultimately benefit the commission. In the second half of the financial year the commission agreed to one studies assistance application, agreeing to support 65 per cent of the course costs for a staff member. The commission also supported other staff members undertaking study by agreeing to flexible hours where needed. Further assistance is expected to be offered to staff through the Studies Assistance Program in the 2003–04 financial year.

Consultancy and contractor services

Table 4 shows the involvement of consultants and contractors in the commission's operations during financial year. The commission continued to use expert consultants to assist with the conduct of inquiries and other processes. The 'Summary of achievements' section above provides details of the expert panel implemented by the commission during 2002–03 to facilitate the timely and efficient engagement of consultants.

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

Table 4 Contractor and consultant services, 2002–03

Consultant/Contractor ^(a)	Service	Value (\$) ^(b)
Blake Dawson Waldron	Provide advice on network price review	38,091
Booz, Allen and Hamilton	Provide advice on ACTION price review	112,013
Burns and Roe Worley	Provide advice on network price review	2,340
Independent Pricing and Regulatory Tribunal (NSW)	Provide advice on network price review	82,464
KPMG	Provide advice on utility licence fee audit	2,895
Norton White	Provide advice on Customer Protection Code	5,000
PricewaterhouseCoopers	Provide advice on inquiry into FRC in electricity in the ACT	48,166

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

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

Capital works management

Minor capital works involving additional office space were completed in early 2003. The cost of the work was allowed for in the commission's 2002–03 budget.

Asset management

The commission has no capital assets other than furniture and fittings and short term cash assets. The cash assets managed are operational appropriations, provided quarterly, that attract interest at the bank determined rate. There is

little capacity to invest funds over the medium or longer term at this stage, although in future if cash reserves are built up an investment strategy will be developed and implemented.

Statutory requirements

Independent Competition and Regulatory Commission Act 1997

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

- investigations (four investigations were conducted in 2002–03: ACTION prices, FRC in electricity, and reform in the taxi and hire car industries)
- final reports and special reports (four final reports were released in 2002–03: ACTION prices, FRC in electricity, and a joint final report on taxi prices and reform in the taxi and hire car industries; no special reports were released but the final reports were preceded by draft reports)
- price directions (two price directions were issued in 2002–03: FRC in electricity, and ACTION prices)
- advice about proposed access agreements (nil in 2002–03)
- the number of access agreements notified (nil)
- arbitration disputes (nil)
- determinations of arbitration disputes (nil)
- the number of notices issued under section 41 (nil)
- the general use made by the commission of information and documents obtained as a result of notices issued under section 41 (nil)
- any other functions of the commission.

Government Contractual Debts (Interest) Act 1994

In the financial year 2002–03 the commission did not pay any interest under the provisions of this Act. The commission continued to pursue its policy of compliance with the Act by paying creditors' accounts in the 28-day period provided for in the Act.

Freedom of Information Act 1990

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

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

The commission makes information publicly available through published reports and the website <www.icrc.act.gov.au>, and at the commission's offices (Level 7, Eclipse House, 197 London Circuit, Canberra 2601).

Occupational health and safety

The commission has adopted the OH&S policies applying in the ACT public sector and is advised on OH&S issues by the corporate services branch of the Chief Minister's Department under a service level agreement. In addition, the commission is aware of the need for ongoing OH&S risk management. OH&S issues are a standing item for both staff meetings and meetings of the commissioners. There were no OH&S complaints or injuries during the financial year.

The commission has a fully trained and certified first aid officer and participates in the fire safety and evacuation practices for tenants of Eclipse House, where the commission is situated. The commission has a fire warden in the office and regularly practices fire drills.

Commissioner for the Environment

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

Public interest disclosure

There were no incidents involving public interest disclosure during the financial year.

Ecologically sustainable development

The Commission continued its ongoing review of operations in support of the principles of ecologically sustainable development (ESD) in 2002–03. The review will include in 2003–04 consideration of options for waste minimisation, using 'green choice' electricity or at least some mix of traditionally generated

and ‘green choice’ electricity, and more efficient power usage in relation to lights and computers.

The commission, consistent with the Government’s ‘no waste’ policies, continued its commitment to producing zero waste by 2010 by attempting to reduce the amount of paper it uses and increasing the amount of its waste that is recycled. As part of its ongoing review the commission is aiming to reuse paper products before recycling them. It is hoped that the impact of these policies will include a reduction in the space required for landfill and consequential reductions in greenhouse gases. See Table 5 for a visual summary of the commission’s ESD priorities.

Table 5 Commission activities supporting ecologically sustainable development, 2002–03

Item	Description	Environmental/economic/social outcome
<i>Office based activities</i>		
Energy	Utility use policies reducing reliance on electric lighting	Reduced energy consumption, leading to reduced greenhouse gas emissions
Consumables	Use of recycled paper and other consumables (such as printer toner)	Improved recycling practices, leading to reduced greenhouse gas emissions
Disposables	Recycling	Reduced impact on landfill, leading to reduced greenhouse gas emissions
<i>Service delivery</i>		
Inquiries	Consideration of social and environmental impacts, including the application of the precautionary principle	Promotion of sustainability and reflection of the real economic costs and the impact on social costs of market activity
Price setting	Consideration of social and environmental costs	Service pricing for regulated industries that reflects full costs including environmental costs and the social impact of prices

Appended information

Reports by the Auditor-General

The following report refers to the operations of the commission in the 2002–03 financial year:

Auditor-General of the ACT, *Effectiveness of Annual Reporting* (Report No.1, 2003).

Reports by the Ombudsman

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

Legislative Assembly committee inquiries and reports

The following report refers to the operations of the commission in the 2002–03 financial year:

Legislative Assembly of the ACT, *Estimates Committee Report: 2002–03 Budget*.

Legislation

The commission has responsibilities under the following legislation:

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

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

- *Financial Management Act 1996*
- *Annual Reports (Government Agencies) Act 1995*
- *Government Procurement Act 2001*

- *Public Access to Government Contracts Act 2000*
- National Electricity Code
- National Gas Code
- *Public Sector Management Act 1990.*

Regulatory activities

The commission had no regulatory activities to report on in 2002–03 other than those reported on in the body of the annual report.

Advisory and consultative boards and committees

As part of its activities in 2002–03 the commission convened a steering community of community, business and government representatives to assist with the public information campaign associated with the introduction of FRC in electricity from 1 July 2003.

Service purchasing arrangements/community grants/assistance/sponsorship

The commission undertook no activities in these categories in 2002–03.

Other sources of information

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

Management discussion and analysis

General overview

Objectives

The commission is responsible for regulating and advising government about monopoly and near-monopoly industries, and providing advice on competitive neutrality complaints and government-regulated activities under the ICRC Act. The commission also licenses utility service providers to operate in the territory and establishes the industry compliance framework and ensures compliance with industry codes and guidelines under the Utilities Act.

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

Risk management

The commission has identified risk in several areas: risks associated with the delivery of advice from specialist consultants, risks in relation to the retention of and access to information, and occupational health and safety risks in relation to the office. The levels of these risks are all low. Risks are managed by the commission as a standard part of operations, and the commission has had, and will continue to have, risks periodically assessed as part of the commission's internal audit program.

- The risks associated with non-performance of contracts for expert advice are considered low because the commission manages and guides each consulting contract closely and continually during its course. The commission reduced contractual risk during 2002–03 by establishing, to cover a period of five years, a panel of expert consultancy advisors. Each participating expert was pre-assessed in terms of risks. There were no incidents of contract non-performance in 2002–03.
- Risks arising from inappropriate treatment of information continue to be addressed by improvements 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 storage of information. The commission is specifically addressing information management issues by developing an integrated knowledge management framework. The process will initially rely on the employment of an external advisor but may lead to the permanent part time employment of a staff member responsible for knowledge management.

- The commission's board has reports on occupational health and safety risks and complaints, drawing on standard reports made weekly at staff meetings. During 2002–03 there were no reports of workplace injuries and no complaints. In the three years since the commission's establishment there have been no injuries in the office.

Financial performance

The following financial information is based on audited Financial Statements for 2001–02 and 2002–03, and the forward estimates contained in 2003–04 Budget Paper No. 4.

Operating result

The operating result for 2002–03 was a small deficit of **\$0.068 million**. This was against a budgeted result of **\$0.012 million** surplus. This result was mainly due to unexpected costs associated with the introduction of FRC in electricity in the ACT and the associated public awareness campaign. These costs were met out of surplus funds from utility licence fees collected during the 2001–02 financial year. This surplus in 2001–02 was **\$0.413 million**. This year's result also reflects the licence fee rebate applied to licence fees levied in 2002–03 based upon the surplus of fees collected in 2001–02.

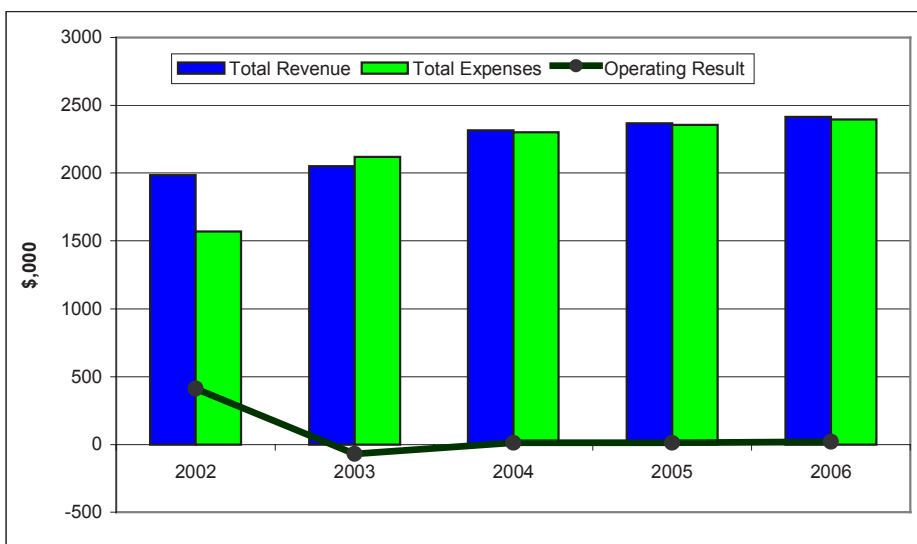
The Commission's aim is to recover its reasonable costs associated with its responsibilities under the ICRC Act and the Utilities Act. Figure 2 shows the commission's actual and predicted financial performance for the years 2001–02 to 2005–06.

Total revenue

As in the previous financial year, the main source of revenue for the commission (apart from its ACT Budget appropriation) was utility licence fees. These increased by **\$0.071 million** or **5 per cent** and accounted for **60 per cent** of total revenue (**58 per cent** in 2001–02).

User Charges—ACT Government reduced from **\$0.785 million** in 2001–02 to **\$0.588 million** in 2002–03, a drop of **25 per cent**. This was due to a lower number of inquiries and reviews undertaken on behalf of the ACT Government and was **30 per cent** less than the 2002–03 budget figure of **\$0.845 million**.

Figure 2 Statement of financial performance trends

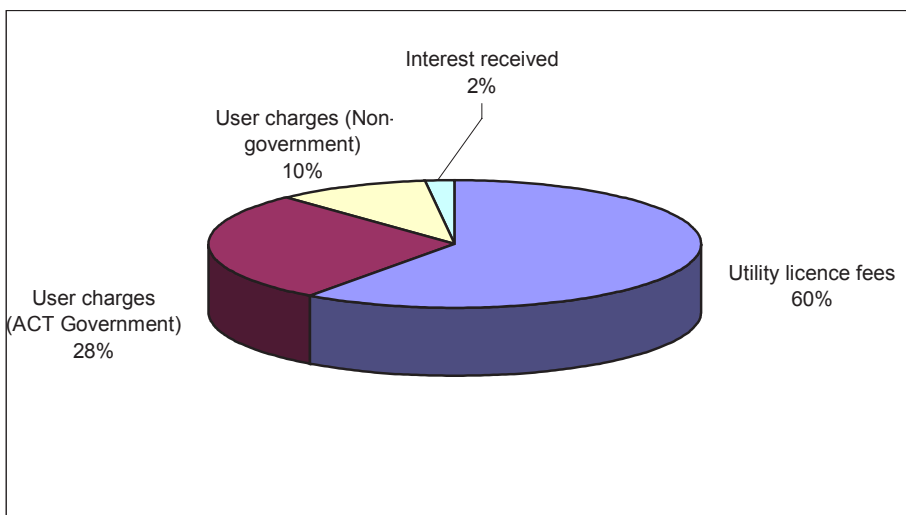


User Charges—Non-ACT Government accounted for **10 per cent** of total revenue (**\$0.198 million**), showing a substantial increase when compared to last year's result of less than **1 per cent** of revenues (**\$0.011 million**)—an eighteen-fold increase in dollar terms. Actual revenue was still less than the budget estimate of **\$0.451 million (56 per cent lower)**. This result reflects the fact that a lot of the commission's resources are used in fulfilling its responsibilities under the Utilities Act.

Interest revenue increased from **\$0.03 million** in 2001–02 to **\$0.037 million** in 2002–03, an increase of **23 per cent**. This significantly exceeded the budgeted interest revenue of **\$0.018 million**. The larger interest revenue is attributable to the timing of payments and returns from surplus funds invested .

Overall revenue for the financial year was **\$2.053 million**, up from **\$1.985 million** and an increase of **3 per cent**. Figure 3 illustrates the components of that revenue. Revenues for 2003–04 are expected to increase by **13 per cent** to **\$2.314 million** but will largely depend upon the level of utility licence fees levied, which will be determined in September/October 2003.

Figure 3 **Components of revenue 2002–03**

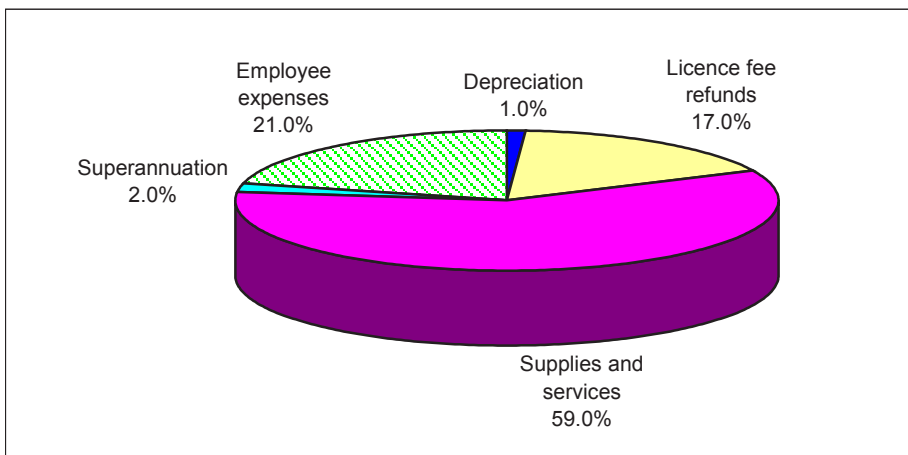


Total expenditure

Total expenditure of **\$2.121 million** was **\$0.181 million** or **8 per cent** lower than the budget estimate of **\$2.302 million**. This decrease was largely due to lower external consultant costs as a result of a lower number of inquiries undertaken than expected during the year. Employee expenses rose by **17 per cent** during the year, from **\$0.386 million** in 2001–02 up to **\$0.452 million** in 2002–03. This was a modest rise considering employee numbers went from five to eight during the year. Superannuation expenses increased from **\$0.026 million** to **\$0.037 million** (up by **\$0.011 million**) in line with the increase in salaries and wages, and remained at **2 per cent** of total expenditure. Figure 4 illustrates the components of 2002–03 expenditure.

A new item in the accounts of the commission this year is an amount for Licence Fee Refund of **\$0.378 million**. This refund recognises the surplus of utilities licence fees collected in 2001–02 over the costs of delivering the services for which these fees were intended to pay during that period. A reduction in the 2002–03 fees payable by licence holders was granted in the form of the refund recognising the previous year surplus. As costs for delivery of services during 2002–03 were slightly higher than the licence fees collected, no refund will apply in 2003–04.

Figure 4 **Components of expenditure 2002–03**



Forward estimates for 2003–04 indicate a rise in expenditure of approximately **\$0.180 million** or **9 per cent**. This is in line with an expected increase in revenues of approximately **12 per cent**. These increases are due to a number of factors including an increase in the number of commission staff and further responsibilities to be delivered under the Utilities Act.

Financial position

The commission strives to meet, through sound financial management and policy, indicators that reflect its ability to sustain its operations and meet its obligations under the ICRC Act and the Utilities Act. These indicators include financial viability, liquidity and ‘going concern’ considerations in the daily operations of the commission. Figure 5 shows the commission’s net assets for the years 2002–03 to 2005–06.

Assets

The net asset position of the commission at year end was **\$0.514 million**, down **\$0.071 million** or **12 per cent** from **\$0.585 million** at 30 June 2002. As noted above, this reduction in net assets reflects unforeseen FRC expenditure. The commission’s cash assets at 30 June 2003 were **\$0.468 million**, down from **\$0.772 million** in the previous year, while receivables had increased by **87 per cent** from **\$0.224 million** to **\$0.419 million** at year end.

Figure 5 Summary statement of financial position 2002-03

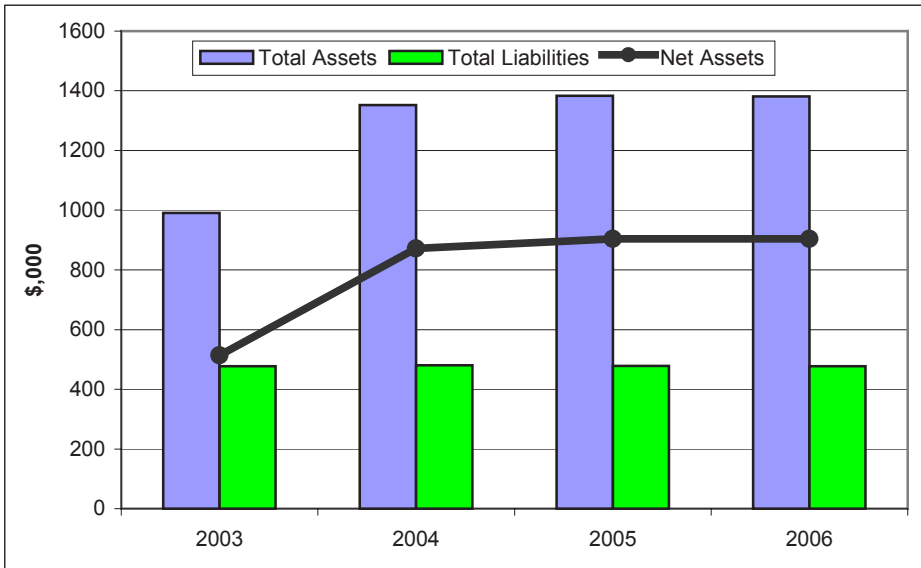
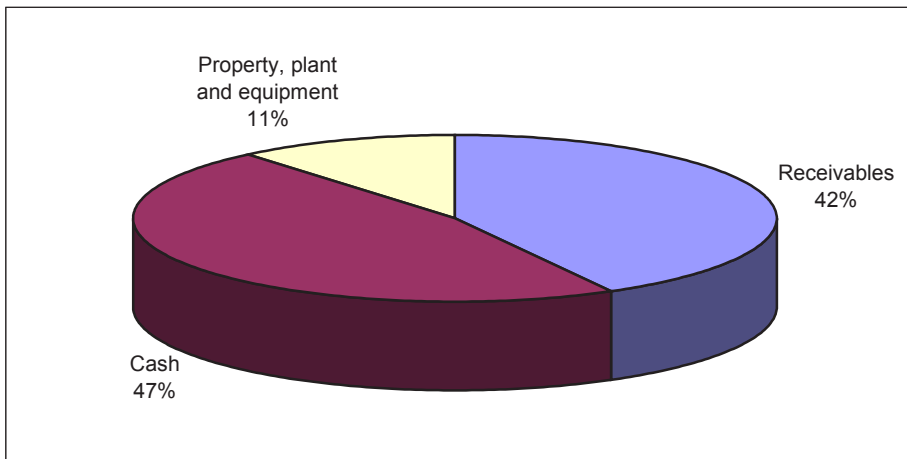


Figure 6 Components of total assets

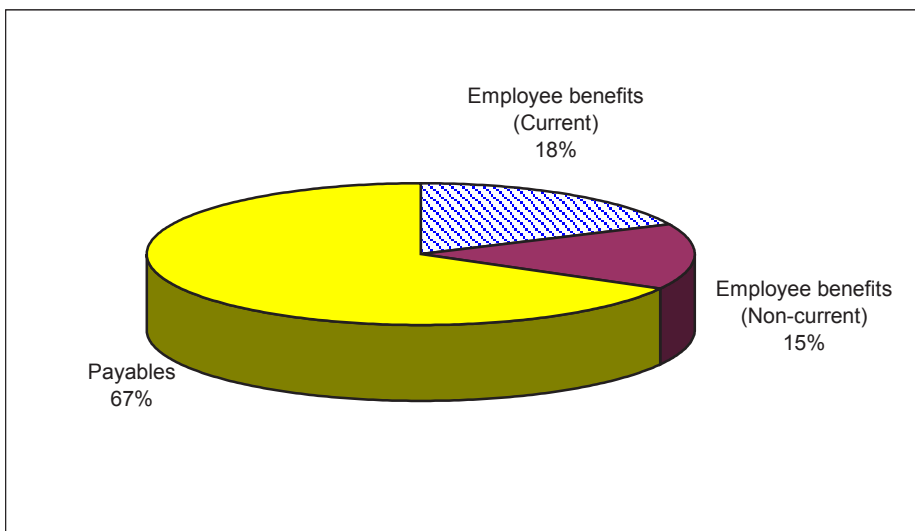


Liabilities

Total liabilities were reduced from **\$0.528 million** in 2001–02 to **\$0.477 million** (down **10 per cent**) in 2002–03, close to the budget estimate of **\$0.483 million**. The main reduction was in relation to payables, which fell **21 per cent** from **\$0.404 million** to **\$0.321 million**.

Current employee benefits liabilities increased by **\$0.0.25million (42 per cent)** over the result for 2001–02, and were **\$0.017 million (25 per cent)** over the budget estimate, due to the greater than expected increase in employee numbers.

Figure 7 Components of total liabilities



Liquidity

‘Liquidity’ is the ability of the commission to satisfy its short term debts as they fall due. A common indicator for liquidity is the ‘current ratio’, which measures the ability to fund short term liabilities from short term assets. A ratio of less than 1:1 may indicate a reliance on the next financial year’s User charges—ACT Government to meet short term debts. Table 6 indicates the liquidity of the commission.

Table 6 Current ratio

Description	Prior year actual \$'000s 2001–02	Current year Budget \$'000s 2002–03	Current year actual \$'000s 2002–03	Forward year Budget \$'000s 2003–04	Forward year Budget \$'000s 2004–05	Forward year Budget \$'000s 2005–06
Current assets	996	1,237	887	1,261	1,285	1,316
Current liabilities	463	401	405	393	385	377
Current ratio	2.2:1	3:1	2.2:1	3.2:1	3.3:1	3.5:1

The commission's current ratio for the financial year is **2.2:1**, maintaining the same level as in the prior year. While the commission's overall net asset total has decreased, its ability to meet its debts when they fall due has remained the same.

The 'financial assets to total liabilities' ratio is an indicator of financial strength and represents the ability to meet current and recognised future obligations, from those assets capable of conversion to cash. The ratio is calculated as total assets less service delivery assets, divided by total liabilities. Financial assets include cash and receivables.

With financial assets to total liabilities ratios well in excess of 1:1, Table 7 indicates the commission is well placed to meet its long term funding requirements.

Table 7 Financial assets to total liabilities ratio

Description	Prior year actual \$'000s 2001–02	Current year Budget \$'000s 2002–03	Current year actual \$'000s 2002–03	Forward year Budget \$'000s 2003–04	Forward year Budget \$'000s 2004–05	Forward year Budget \$'000s 2005–06
Total financial assets	996	1,237	887	1,261	1,285	1,316
Total liabilities	528	483	477	481	479	477
Financial assets to total liabilities ratio	1.9:1	2.6:1	1.9:1	2.6:1	2.7:1	2.8:1

Table 8 Statement of performance for the year ending 30 June 2003

Performance measures	Note	Target	Result	Variation %
Provide reports to government in response to all competitive neutrality complaints	1	2 reports	1 report	-50
<ul style="list-style-type: none"> Horse agistment 				
Provide reports on all government activity matters referred to the Commission:	2	2 reports	2 reports	150
<ul style="list-style-type: none"> Cost/benefit of implementing FRC in ACT Taxi and hire car reform FRC public information campaign 			2 reports 1 public process	
Provide directions for all price references:				
<ul style="list-style-type: none"> ACTION services FRC Transitional Franchise Tariff 	3	2 reports	2 reports 2 reports	100
Provide reports in relation to all access issues referred to the Commission	4	1 report	-	-100
Provide decisions on applications for utility licences		1 decision	1 decision	0
Report to government on the level of compliance with the licence conditions and industry codes applying to utilities	5	1 report	1 report in progress	-50
Report on all licences cancelled or amended during 2002-03	6	1 report	-	-100
Publish a report on utility performance at least once a year	7	1 report	-	-100
Approve annual price adjustments for utility pricing for gas, electricity, water and sewerage	8	3 decisions	4 decisions	33
Approve annual price adjustments for regulated industries	9	1 decision	1 decision	0
<ul style="list-style-type: none"> Taxis 				
Develop the framework for the setting of a multi-year price path for regulated gas, electricity and water networks	10	2 processes	3 processes	50

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

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

1. The commission completed its investigation into the complaint about horse agistment in 2002–03. The reference for the investigation was issued in 2000–01.
2. References for investigations into matters relating to government regulated activities cannot be predetermined for a year; the estimate of two reports is subject to considerable variation during the year. In 2002–03 there were three investigations in this area under reference from the Government. In the FRC and taxi and hire car investigations the commission released an issues paper and a draft and final report on each investigation.
3. The commission received references for price inquiries into ACTION services and for an FRC transitional franchise price. The ACTION price investigation recurs each several years. The next price inquiry will occur in 2005. The opening of the electricity retail market in the ACT required that franchise customers not electing to enter negotiated contracts be provided with a regulated price for the duration of the three-year transitional period.
4. There were no access issues referred to the commission in 2002–03.
5. The commission implemented a compliance reporting process in 2002–03. The first compliance reporting period ended in October 2002, but the commission has not yet released its first compliance report, which remains in progress.
6. There were no licences amended or cancelled in 2002–03.
7. The commission has deferred implementation of the nationally agreed regulatory reporting requirements for electricity utilities until 2003–04. The introduction of those reporting requirements was at the discretion of jurisdictional regulators.
8. The commission estimated that there would be three decisions in relation to resets of prices for regulated utility services in 2002–03, in relation to network prices for electricity, gas and water. The estimate presumed that electricity and gas services would be contestable in the reporting period. However, electricity retail services remained subject to regulation until the end of the period, requiring an additional price reset.
9. The commission reset the prices under the price direction for taxi services made in 2001–02. The reset is the final step in the price direction. The

commission will determine prices for taxi services for the period commencing 1 July 2004 commencing in late 2003.

10. The commission commenced preliminary work on the determination of prices for network utility services (electricity, water and gas services) in 2002–03, with the main activity leading to the final price direction occurring in 2003–04.

Financial Statements



AUDITOR-GENERAL

Australian Capital Territory



INDEPENDENT AUDIT REPORT

INDEPENDENT COMPETITION AND REGULATORY COMMISSION

To Members of the Legislative Assembly for the Australian Capital
Territory

GENERAL

I have audited the financial statements of the Independent Competition and Regulatory Commission for the year ending 30 June 2003. The financial statements, which were forwarded to me by the Senior Commissioner of the Independent Competition and Regulatory Commission, consist of the following financial statements together with the notes thereto:

- Statement of Financial Performance;
- Statement of Financial Position;
- Statement of Cash Flows; and
- Statement of Performance.

In accordance with *Section 60* of the *Financial Management Act 1996*, the preparation and presentation of the financial statements, and the information contained therein, is the responsibility of the Senior Commissioner of Independent Competition and Regulatory Commission.

My responsibility is to express an opinion on the financial statements based on my audit as required by *Section 61* of the *Financial Management Act 1996*.

* * * *

FINANCIAL STATEMENTS OTHER THAN THE STATEMENT OF PERFORMANCE

Audit Scope

My audit has been conducted in accordance with Australian Auditing Standards to provide reasonable assurance as to whether the financial statements are free of material misstatement. My procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial statements and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial statements are presented fairly in accordance with the *Financial Management Act 1996*, Australian Accounting Standards and other mandatory professional reporting requirements in Australia so as to present a view of the Independent Competition and Regulatory

Commission which is consistent with my understanding of its financial position, the results of its operations and its cash flows.

The audit opinion expressed in this Report on the financial statements other than the Statement of Performance has been formed on the above basis.

Audit Opinion

In my opinion, the financial statements of the Independent Competition and Regulatory Commission for the year ending 30 June 2003 present fairly in accordance with the *Financial Management Act 1996*, Australian Accounting Standards and other mandatory professional reporting requirements in Australia the financial position of the Independent Competition and Regulatory Commission as at 30 June 2003 and the results of its operations and its cash flows for the year then ended.

* * * *

STATEMENT OF PERFORMANCE

Audit Scope

I have conducted my audit of the Statement of Performance in accordance with Australian Auditing Standards to form an opinion based on a reasonable level of assurance. My procedures included examination, on a test basis, of evidence supporting figures and other disclosures in the Statement of Performance and the evaluation of policies adopted in arriving at those figures and disclosures. These procedures have been undertaken to form an opinion as to whether, in all material respects, the Statement of Performance has been prepared in accordance with the *Financial Management Act 1996* and fairly represents the indicated performance.

Explanations for variations between actual performance and budgeted performance are included in the Statement of Performance. Due to the essential subjectivity of some of these explanations, all explanations have been excluded from the audit scope and therefore no audit opinion has been formed or is expressed on the accuracy or reliability of the explanations.

The audit scope also did not include an assessment of the relevance or appropriateness of the reported measures for evaluating the effectiveness or efficiency of the Independent Competition and Regulatory Commission.

The audit opinion on the Statement of Performance expressed in this Report has been formed on the above basis.

Audit Opinion

In my opinion, the Statement of Performance of the Independent Competition and Regulatory Commission for the year ending 30 June 2003 is prepared in accordance with the *Financial Management Act 1996* and fairly represents the indicated performance of the Independent Competition and Regulatory Commission for the year ended 30 June 2003.

* * * *


Bernie Sheville
Acting Auditor-General
6 August 2003

**Independent Competition & Regulatory Commission
Financial Statements
For the Year Ended 30 June 2003**

Statement of Responsibility

In our opinion, the financial statements are presented in accordance with the Independent Competition & Regulatory Commissions' accounts and records, and fairly reflect the financial operations and service performance of the Independent Competition & Regulatory Commission for the year ended 30 June 2003, and the financial position on that date.

Paul Baxter
Senior Commissioner
Independent Competition & Regulatory Commission

 July 2003

Ian R Primrose
Chief Executive Officer
Independent Competition & Regulatory Commission

 July 2003

Independent Competition & Regulatory Commission
Statement of Financial Performance
For the Year Ended 30 June 2003

	Note No.	Actual 2003 \$'000	Budget 2003 \$'000	Actual 2002 \$'000
Revenue from Ordinary Activities				
User Charges - ACT Government	4	588	845	785
User Charges - Non-ACT Government	4	198	451	11
Fees	5	1,230	1,000	1,159
Interest	6	37	18	30
Total Revenue from Ordinary Activities		2,053	2,314	1,985
Expenses from Ordinary Activities				
Employee Expenses	7	452	380	386
Superannuation Expenses	8	37	64	26
Supplies and Services	9	1,241	1,845	1,147
Prior Year Licence Fee Re fund	10	378	-	-
Depreciation	11	13	13	13
Total Expenses from Ordinary Activities		2,121	2,302	1,572
Operating Surplus/(Deficit) from Ordinary Activities		(68)	12	413
Net Effect of the Adoption of AASB 1028	3	(3)	-	-
Total Revenue, Expenses and Valuation Adjustments Recognised Directly in Equity		(3)	-	-
Changes in Equity other than those Resulting from Transactions with Owners as Owners		-	-	-
Total Changes in Equity including those Resulting from Transactions with Owners as Owners		(71)	12	413

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

Independent Competition & Regulatory Commission
Statement of Financial Position
As at 30 June 2003

	Note No.	Actual 2003 \$'000	Budget 2003 \$'000	Actual 2002 \$'000
Current Assets				
Cash	14	468	863	772
Receivables	15	419	374	224
Total Current Assets		887	1,237	996
Non-Current Assets				
Plant and Equipment	16	104	104	117
Total Non-Current Assets		104	104	117
Total Assets		991	1,341	1,113
Current Liabilities				
Payables	17	321	334	404
Employee Benefits	18	84	67	59
Total Current Liabilities		405	401	463
Non-Current Liabilities				
Employee Benefits	18	72	82	65
Total Non-Current Liabilities		72	82	65
Total Liabilities		477	483	528
Net Assets		514	858	585
Equity				
Accumulated Fund	19	514	858	585
Total Equity		514	858	585

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

Independent Competition & Regulatory Commission
Statement of Cash Flows
For the Year Ended 30 June 2003

	Note No.	Actual 2003 \$'000	Budget 2003 \$'000	Actual 2002 \$'000
Cash Flows from Operating Activities				
Receipts				
Fees		791	950	1,161
User Charges - ACT Government		449	1,273	666
User Charges - Non-ACT Government		219	-	213
Interest Received		38	18	26
Other Receipts		45	78	22
Total Receipts from Operating Activities		1,542	2,319	2,088
Payments				
Related to Employee Payments		405	438	316
Related to Superannuation Expenses		35	-	27
Related to Supplies and Services		1,406	1,779	1,035
Other Payments		-	78	-
Total Payments from Operating Activities		1,846	2,295	1,378
Net Cash Inflows/(Outflows) from Operating Activities	23	(304)	24	710
Net Increase/(Decrease) in Cash Held		(304)	24	710
Cash at the Beginning of the Financial Year		772	839	62
Cash at the End of the Financial Year	23	468	863	772

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

Independent Competition & Regulatory Commission

Financial Statement

Note Index

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

Revenue Notes

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

Expense Notes

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

Asset Notes

Note 14	Cash
Note 15	Receivables
Note 16	Plant and Equipment

Liabilities Notes

Note 17	Payables
Note 18	Employee Benefits

Equity Note

Note 19	Equity
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Other Notes

Note 20	Financial Instruments
Note 21	Related Party Disclosures
Note 22	Commitments
Note 23	Cash Flow Reconciliation
Note 24	After Balance Date Events

Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003

**NOTE 1 OBJECTIVES OF THE INDEPENDENT COMPETITION &
REGULATORY COMMISSION**

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

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

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

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

Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003

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.

Subsection 59(3) of the FMA and the *Financial Management Guidelines*, requires that Territory authority's financial statements include:

- (i) a Statement of Financial Performance for the Territory authority for the financial year;
- (ii) a Statement of Financial Position of the Territory authority at the end of the financial year;
- (iii) a Statement of Cash Flows of the Territory authority for the financial year;
- (iv) a summary of the significant accounting policies adopted by the Territory authority for the financial year; and
- (v) 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 financial year.

These general-purpose financial statements have been prepared in accordance with "generally accepted accounting practice" as required by the FMA. The financial statements have been prepared to comply with:

- (i) Australian Accounting Standards;
- (ii) Urgent Issues Group Abstracts;
- (iii) Other authoritative pronouncements of the Australian Accounting Standards Board; and
- (iv) 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, except for certain assets which were valued in accordance with the (re)/valuation policies applicable to the Territory authority during the financial year.

Independent Competition & Regulatory Commission is an individual reporting entity.

(b) The Reporting Period

These financial statements report the financial performance and cash flows of the Independent Competition & Regulatory Commission for the financial year ending 30 June 2003 and the financial position of the Independent Competition & Regulatory Commission as at 30 June 2003.

Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003

**NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES –
CONTINUED**

(c) Comparative Figures

Budget Figures

Budget information for 2002-03 has been provided, presented in the Territory authority's Statement of Intent and the amounts published in the ACT Budget Papers in 2002-03. The *Financial Management Act 1996* (FMA) requires the statements to facilitate a comparison with the Statement of Intent.

Prior Year Comparatives

Where necessary, the prior year comparatives have been amended to facilitate comparison with the current year presentation of financial information.

(d) Rounding

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

(e) Revenue Recognition

Revenue is recognised in the Statement of Financial Performance when it is probable that the inflow, or other enhancement or saving in outflow, of future economic benefit has occurred and it can be measured reliably. This generally occurs when the Independent Competition & Regulatory Commission controls the revenue. Control occurs when the revenue can be used for the achievement of the Independent Competition & Regulatory Commissions' objectives.

Utilities Licence Fees

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

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

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

(f) Resources Received and Provided Free of Charge

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

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

In 2003 there were no resources received or provided free of charge.

(g) Taxation

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

A liability for Fringe Benefits Tax arose in the financial year of \$8,019.

(h) Current and Non-Current Items

Assets and liabilities are characterised as either current or non-current in nature. The Independent Competition & Regulatory Commission has a clearly identifiable operating cycle of 12 months. Therefore assets and liabilities that will be realised as part of the normal operating cycle will be classified as current assets or current liabilities. Assets or liabilities not recognised as current are classified as non-current.

(i) Cash

For the purposes of the Statement of Cash Flows, cash includes cash at bank and deposits at call that are readily converted to cash and are used in the cash management function on a day-to-day basis, net of bank overdrafts. The definition of cash in relation to the Statement of Financial Position differs slightly as it does not take into account bank overdrafts.

(j) Receivables

Trade debtors arise in the normal course of regulatory activities. Trade debtors are payable within 30 days after the issue of an invoice or the services have been provided under a contractual arrangement.

(k) Valuation of Non-Current Assets

The Independent Competition & Regulatory Commission accounts for plant and equipment, on a cost basis in accordance with AASB 1041.

**Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003**

**NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES –
CONTINUED**

(l) Depreciation of Non-Current Assets

All non-current assets, having a limited useful life, are systematically depreciated/amortised over their useful lives in a manner that reflects the consumption of their service potential. Amortisation is used in relation to intangible and leased assets, while depreciation is applied to physical assets such as property, plant and equipment.

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

Depreciation for non-current assets is determined as follows:

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

* Useful life commences when an asset is first acquired. When an asset is revalued, it is depreciated over the remaining useful life of that asset.

(m) Payables

Payables include creditors, accrued expenses and other creditors.

Creditors represent the amounts owing for goods and services received prior to the end of the reporting period that are unpaid at the end of the reporting period. Creditors include all unpaid invoices received relating to the normal operations of the Independent Competition & Regulatory Commission.

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

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

All amounts are measured at their nominal amount and are normally settled within 30 days after the Independent Competition & Regulatory Commission receives an invoice.

(n) Employee Benefits

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

Wages and salaries, annual leave and long service leave to be taken in the next twelve months are measured based on the nominal amounts of remuneration anticipated to be paid when the leave is taken.

Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003

**NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES –
CONTINUED**

A long service leave liability is recognised for employees with ten years or more service and employees with less than ten years of required qualifying service. For these employees with less than the ten years of required qualifying service, the liability is calculated through a shorthand approach by recording 100% liability for employees with five or more years of service. Use of this shorthand approach is an approximation process to recognise the probable liability to eventuate for officers with less than ten years of service, when ten years of service is achieved. The determination of current and non-current portions is based on a past history of payments and any specific known factors. The long service leave liability is measured at the present value of the estimated future cash outflows. Consideration is given, when making this estimate, to expected future wage and salary levels, experience of employee departures and periods of service.

(o) Superannuation

The Independent Competition & Regulatory Commission makes a superannuation expense payment to the ACT Superannuation Unit each year, to cover its superannuation liability. The superannuation expense is determined by the number of employees the Independent Competition & Regulatory Commission has and the average salary of those employees. Each employee's total salary and any allowances for superannuation purposes are multiplied by a rate determined by the ACT Government's actuary. The rate for the Commonwealth Superannuation Scheme (CSS) is 24.7% and the Public Sector Superannuation Scheme (PSS) is 14.6%.

The Independent Competition & Regulatory Commission does not carry a superannuation liability in its Statement of Financial Position as the ACT Superannuation Unit carries the superannuation liability of all agencies within the Territory. The ACT Superannuation Unit reimburses the Commonwealth for the emerging costs of benefits paid for the ACT Government Service after 1 July 1989.

The CSS and PSS are defined benefit superannuation plans meaning that the defined benefits received by employees of the Independent Competition & Regulatory Commission are based on years of service and average final salary.

(p) Insurance

The Independent Competition & Regulatory Commission has arranged, through the ACT Insurance Authority, to insure all major risks of the agency through external insurance providers. The excess payable, under this arrangement, varies depending on each class of insurance held by the Independent Competition & Regulatory Commission.

Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003

**NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES –
CONTINUED**

(q) Leases

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

Operating Leases

In respect of operating leases, the lessor effectively retains substantially all of the risks and benefits incident to ownership of the leased items. Operating lease payments are charged to the Statement of Financial Performance on a basis which is representative of the pattern of benefits derived from the leased assets.

NOTE 3 CHANGE IN ACCOUNTING POLICIES

Employee Benefits

In the 2003 financial year the Independent Competition & Regulatory Commission applied AASB 1028 *Employee Benefits* (Revised) for the first time. Adjustments resulting from the first time application of this standard can be made against Accumulated Funds. This standard supersedes the former AASB 1028 and AAS 30 *Accounting for Employee Entitlements*.

The revised AASB 1028 prescribes the recognition and measurement for employee benefits expected to be paid in the next 12 months to include the measurement of employee benefits using remuneration rates that the Independent Competition & Regulatory Commission expects to payout when an obligation is settled. Previously, employee benefits expected to be settled in the next 12 months were recognised based on the employee's current salary level applicable at the end of the current financial year.

In May 2003, the Independent Competition & Regulatory Commission employees voted in their new Certified Agreement, which provided for a total 10.5% wage increase, with 6.5% applicable to 2002-03 and a further 4.0% in 2003-04. As a result of this new standard, the provisions for employee benefits existing at 30 June 2002, which were expected to be paid in the next 12 months need to include the 6.5% wage increase. There was no material effect on the Statement of Financial Performance arising from the change in policy. The retrospective adjustments made to Accumulated Funds at the beginning of the financial year totalled \$2946 were for increases to Annual Leave Liability of \$2946.

Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003

NOTE 4 USER CHARGES FOR GOODS AND SERVICES

The Independent Competition & Regulatory Commission under the *Independent Competition & Regulatory Commission Act 1997* and the *Utilities Act 2000* recovers the reasonable costs of service from those to whom the services are provided. User Charges are revenues from Government and Non-government services including appropriated funds made available subject to a purchase agreement with Department of Treasury, recovered costs of external services (consultants etc) and costs recovered from Utilities Licence Fees. In 2002-03 costs recovered from Utilities License Fees were showed as Fees for Regulatory Services.

	2003	2002
	\$'000	\$'000
Revenue from Operating Activities		
User Charges – ACT Government		
Payments received for provision of services from Department of Treasury	395	400
Payments from Government for services provided	193	385
<i>Total User Charges – ACT Government</i>	588	785
User Charges – Non-ACT Government		
Inquiries	172	-
Consultancies	26	11
<i>Total User Charges - Non-ACT Government</i>	198	11
Total User Charges for Goods and Services	786	796

Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003

NOTE 5 FEES

	2003	2002
	\$'000	\$'000
Revenue from Regulatory Activities		
Fees	1,230	1,159
<i>Total Fees Received</i>	<u>1,230</u>	<u>1,159</u>
Total Fees Received	<u><u>1,230</u></u>	<u><u>1,159</u></u>

NOTE 6 INTEREST

	2003	2002
	\$'000	\$'000
Revenue from Outside Operating Activities		
Interest Received from Bank	37	30
<i>Total Interest Received from Other Sources</i>	<u>37</u>	<u>30</u>
Total Interest Received	<u><u>37</u></u>	<u><u>30</u></u>

Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003

NOTE 7 EMPLOYEE EXPENSES

	2003	2002
	\$'000	\$'000
Wages and Salaries	426	326
Long Service Leave Expense	7	32
Annual Leave Expense	11	28
Fringe Benefits Tax Expense	8	-
Total Employee Expenses	452	386

At the end of the 2003 financial year the Independent Competition & Regulatory Commission had eight (8) staff employed. (2002 five (5) staff)

NOTE 8 SUPERANNUATION EXPENSES

The Independent Competition & Regulatory Commission makes payments on a fortnightly basis to the ACT Superannuation Unit (SU) for its portion of the Territory's annual superannuation liability.

The number of employees the Independent Competition & Regulatory Commission has and the average salary of these employees determines the superannuation expense paid to the SU. Note that the Independent Competition & Regulatory Commission does not carry a superannuation liability. The superannuation liability of Territory authorities is reported in the ACT Superannuation Unit's financial statements.

	2003	2002
	\$'000	\$'000
Superannuation Contributions to ACT Superannuation Unit	37	26
Total Superannuation Expenses	37	26

Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003

NOTE 9 SUPPLIES AND SERVICES

	2003	2002
	\$'000	\$'000
Plant and Equipment	122	91
Professional Services	343	392
Staff Development	20	6
Travel and Accommodation	27	8
Postages and Printing	64	12
Fees to Commissioners	81	100
Advertising	13	12
IT Services	22	-
Utilities Act - Admin Expenses	501	464
Other	48	62
Total Supplies and Services	<u>1,241</u>	<u>1,147</u>

NOTE 10 PRIOR YEAR LICENCE FEE REFUND

	2003	2002
	\$'000	\$'000
Licence Fee Rebate Applied	378	-
Total Licence Fee Rebate	<u>378</u>	<u>-</u>

**Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003**

NOTE 11 DEPRECIATION

	2003	2002
	\$'000	\$'000
Depreciation		
Plant and Equipment	13	13
<i>Total Depreciation</i>	13	13
Total Depreciation	13	13

NOTE 12 ACT OF GRACE PAYMENTS

There were no Act of Grace payments made during the financial year pursuant to section 64 of the *Financial Management Act 1996*.

NOTE 13 AUDITOR'S REMUNERATION

	2003	2002
Audit Services		
Audit Fees Paid to ACT Auditor-General's Office	5,400	5,200
Total Auditor's Remuneration	5,400	5,200

Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003

NOTE 14 CASH

	2003	2002
	\$'000	\$'000
Cash at Bank	468	772
Total Cash	468	772

The Independent Competition & Regulatory Commission held deposits at call throughout the year at a floating interest rate of 4.6%pa (4.4%pa in 2002).

NOTE 15 RECEIVABLES

	2003	2002
	\$'000	\$'000
Current Receivables		
Trade Debtors	396	221
Accrued Interest	2	3
GST Refund	21	8
<i>Total Current Receivables</i>	<i>419</i>	<i>224</i>

Split of Government/Non-Government Receivables

Receivable with Other ACT Government Entities:		
Trade Debtors	123	213
Receivable with Entities Outside Government		
Trade Debtors	273	-
Accrued Interest	2	3
GST Refund	21	8
Total Current Receivables	419	224

Aging of Receivables

Receivables are Aged as Follows:

Not Overdue	358	224
Overdue for more than 60 Days	61	-
Total	419	224

Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003

NOTE 16 PLANT AND EQUIPMENT

Plant and Equipment

Plant and Equipment includes office furniture, fixtures and fittings.

	2003	2002
	\$'000	\$'000
Plant and Equipment		
Plant and Equipment at Cost	129	129
Accumulated Depreciation	(25)	(12)
Total Written Down Value of Plant and Equipment	104	117

	Plant and Equipment	Total
	2003	2002
	\$'000	\$'000
Reconciliation of Plant and Equipment		
Carrying Amount at beginning of Financial Year	117	129
Depreciation	(13)	(12)
Carrying Amount at the End of the Financial Year	104	117

NOTE 17 PAYABLES

	2003	2002
	\$'000	\$'000
Current Payables		
Trade Creditors	213	113
Accrued Expenses	108	291
Total Current Payables	321	404

Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003

NOTE 17 PAYABLES - CONTINUED

Payables are aged as follows:

Not Overdue	320	404
Overdue for Less than 30 Days	-	-
Overdue for 30 to 60 Days	1	-
Overdue for More than 60 Days	-	-
Total Payables	321	404
	2003	2002
	\$'000	\$'000

Split of Government/Non-Government Payables

Payables with Other ACT Government Entities

Trade Creditors	5	35
Other Creditors	-	-
Accrued Expenses	108	130
<i>Total Payables with Other ACT Government Entities</i>	<i>113</i>	<i>165</i>

Payables with Entities Outside ACT Government

Trade Creditors	206	78
Other Creditors	2	-
Accrued Expenses	-	161
<i>Total Payables with Entities Outside ACT Government</i>	<i>208</i>	<i>239</i>
Total Payables	321	404

Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003

NOTE 18 EMPLOYEE BENEFITS

	2003	2002
	\$'000	\$'000
Current Employee Benefits		
Annual Leave	61	48
Accrued Wages	22	10
Superannuation Expenses	1	1
<i>Total Current Employee Benefits</i>	84	59
Non-Current Employee Benefits		
Long Service Leave	72	65
<i>Total Non-Current Employee Benefits</i>	72	65
Total Employee Benefits	156	124

NOTE 19 EQUITY

	2003	2002
	\$'000	\$'000
<u>Total Equity at the End of the Year</u>		
Accumulated Funds	514	585
Total Equity	514	585
<u>Accumulated Funds</u>		
Balance at the Beginning of the Financial Year	585	172
Operating (Deficit) or Surplus	(68)	413
Net Effect of the Adoption of AASB 1028	(3)	-
Balance at the End of the Financial Year	514	585

Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003

NOTE 20 FINANCIAL INSTRUMENTS

Terms and Conditions of Financial Instruments

Outlined below are the terms and conditions of financial assets and liabilities held by the Independent Competition & Regulatory Commission as at 30 June 2003.

Financial Assets Terms and Conditions

Cash	The Independent Competition & Regulatory Commissions' bank accounts are held with the Commonwealth Bank of Australia as part of the whole-of-government banking arrangement.
Receivables	The Independent Competition & Regulatory Commission has trading terms of 30 days for all trade debtors from the time the invoice is issued.

Financial Liabilities Terms and Conditions

Payables	The Independent Competition & Regulatory Commission normally settles its creditors within a 30 day period.
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Interest Rate Risk

The effective weighted average interest rate risk is outlined below for the following financial assets and financial liabilities:

2003	Note	Fixed Interest maturing in:					Total
		Floating Interest Rate	1 Year or Less	Over 1 to 5 Years	More than 5 Years	Non-Interest Bearing	
		\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
<u>Financial Assets</u>							
Cash	14	468	-	-	-	-	468
Receivables	15	-	-	-	-	419	419
<i>Total Financial Assets</i>		468	-	-	-	419	887
Weighted Average Interest Rate		4.6%	-	-	-	0.00%	
<u>Financial Liabilities</u>							
Payables	17	-	-	-	-	321	321
<i>Total Financial Liabilities</i>		-	-	-	-	321	321
Net Financial Assets		468	-	-	-	98	566

Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003

NOTE 20 FINANCIAL INSTRUMENTS – CONTINUED

2002	Note	Floating Interest Rate \$'000	Fixed Interest maturing in:				Non- Interest Bearing \$'000	Total \$'000
			1 Year or Less \$'000	Over 1 to 5 Years \$'000	More than 5 Years \$'000			
<u>Financial Assets</u>								
Cash	14	772	-	-	-	-	772	
Receivables	15	-	-	-	-	224	224	
<i>Total Financial Assets</i>		<u>772</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>224</u>	<u>996</u>	
Weighted Average Interest Rate		4.4%				0.00%		
<u>Financial Liabilities</u>								
Payables	17	-	-	-	-	404	404	
<i>Total Financial Liabilities</i>		<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>404</u>	<u>404</u>	
Net Financial Assets/(Liabilities)		<u>772</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>(180)</u>	<u>592</u>	

**Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003**

NOTE 20 FINANCIAL INSTRUMENTS – CONTINUED

Net Fair Value of Financial Assets and Liabilities

The net fair value of cash and cash equivalents is the carrying value recorded in the accounts of the Independent Competition and Regulatory Commission.

	Carrying Amount \$'000	Net Fair Value \$'000
2003		
Financial Assets		
Cash	468	468
Receivables	419	419
Total Financial Assets	887	887
Financial Liabilities		
Payables	321	321
Total Financial Liabilities	321	321

Credit Risk

Credit risk is the risk that one party to a financial instrument will fail to discharge an obligation and cause the other party to incur a financial loss. The Independent Competition & Regulatory Commissions' credit risk is limited to the fair value of the financial assets held by the agency.

A major proportion of the Independent Competition & Regulatory Commission's receivables are from Utilities Licence holders and therefore the Commissioners assess the credit risk of these as low.

**Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003**

NOTE 21 RELATED PARTY DISCLOSURES

The names of the Commissioners and Executive who have held office during the financial year are:

Paul Baxter (Senior Commissioner)
Peter McGhie
Robin Creyke
Ian Primrose (Chief Executive Officer) (appointed May 2002)

	Actual 2003 \$'000	Actual 2002 \$'000
Income paid, or otherwise made available, to commissioners and related parties in connection with the management of affairs of the Commission.	198	100

Income Band	Number	Number
\$0 - \$9,999	-	1
\$10,000 - \$19,999	2	1
\$50,000 - \$59,999	1	-
\$70,000 - \$79,999	-	1
\$110,000 - \$119,999	1	-
Total	4	3

Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003

NOTE 22 COMMITMENTS

	2003	2002
	\$'000	\$'000
Operating Leases		
Non-Cancellable Operating Lease Commitments are payable as follows:		
Within One Year	45	-
Later than One Year but not later than Five Years	50	-
Total Operating Lease Commitments	94	-

NOTE 23 CASH FLOW RECONCILIATION

Reconciliation of Cash at the End of the Reporting Period in the Statement of Cash Flows to the Related Items in the Statement of Financial Position

	2003	2002
	\$'000	\$'000
Cash at Bank	468	772
Cash at the End of the Financial Year as Recorded on the Statement of Cash Flow	468	772

Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003

NOTE 23 CASH FLOW RECONCILIATION – CONTINUED

**Reconciliation of Operating (Deficit)/Surplus to the Net Cash
Inflow/(Outflow) from Operating Activities**

Operating (Deficit)/Surplus	(68)	413
 Add/(Less) Non-Cash Items		
Write-Off of Non-Current Assets from Ordinary Activities	-	-
Effect of New Accounting Standard	(3)	-
Depreciation and Amortisation	13	13
	(58)	426
 Changes in Operating Assets and Liabilities		
(Increase)/Decrease in Prepayments	-	3
(Increase)/Decrease in Receivables	(195)	5
Increase/(Decrease) in Payables	(83)	215
Increase/(Decrease) in Benefits	32	62
	(246)	284
 Net Cash Inflows/(Outflows) from Operating Activities	(304)	710

NOTE 24 EVENTS OCCURRING AFTER BALANCE DATE

There were no events occurring after balance date.

Independent Competition & Regulatory Commission
Notes to and Forming Part of the Financial Statements
For the Year Ended 30 June 2003

NOTE 25 UTILITY LICENCE FEE ADJUSTMENTS

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

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

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

In 2001-02, the cost of regulation was less than the licence fees collected. In 2002-03, the licence fees for each utility were offset by a proportion of the unexpended licence fees for that utility at the end of 2001-02.

In 2002-03, the cost of regulation was slightly larger than the licence fees collected. The shortfall for 2002-03 shall be added to the licence fee payable in 2003-04.

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

Glossary and abbreviations list

ACCC	Australian Competition and Consumer Commission
ACT	Australian Capital Territory
ACTION	Australian Capital Territory Internal Omnibus Network, the ACT's public bus service
ASO	Administrative Service Officer
ATSI	Aboriginal and Torres Strait Islander
AWA	Australian Workplace Agreement
COAG	Council of Australian Governments
commission, the	Independent Competition and Regulatory Commission
competitive neutrality policy	policy to eliminate resource allocation distortions that arise out of government ownership of entities engaged in business activities
CPI	consumer price index
EEO	equal employment opportunity
ESC	Essential Services Commission
ESCC	Essential Services Consumer Council
ESD	ecologically sustainable development
ESCOSA	Essential Services Commission of South Australia
FRC	full retail contestability
FTR	financial transmission right
ICRC Act	<i>Independent Competition and Regulatory Commission Act 1997</i>
IPART	Independent Pricing and Regulatory Tribunal

MLA	Member of the Legislative Assembly
NESB	non-English speaking background
OH&S	occupational health and safety
price direction	statement issued by the commission, setting price paths and revenue caps for a utility for a specified period of years
revenue cap	upper limit on revenue, set by the commission, to allow utility service providers to recover reasonable capital and operating costs
SES	Senior Executive Service
SOG	Senior Officer Grade
TFP	total factor productivity
TP Act	<i>Trade Practices Act 1974</i>
Utilities Act	<i>Utilities Act 2000</i>
utility services	electricity supply and network operations, gas supply and network operations and water and sewerage supply—in some cases, also includes public transport

Compliance index

	<i>Page</i>
Transmittal certificate	iii
Assistance to readers	
Table of contents	xiii
Alphabetical index	83
Glossary of abbreviations and acronyms	79–80
Contact officer/internet site address	ii
Overview and major achievements	
Organisational profile and content	1–18, 19
Senior Commissioner’s summary	1–6
Corporate governance	3–4, 19–25, 36–46
External scrutiny	23
Objectives, achievements and major issues	1–18
Financial and performance statements	37–46, 47–78
Whole of government issues	
Key issues	
Community engagement	27
Royal Commission into Aboriginal Deaths in Custody	27
Fraud prevention	27–28
Resources and ownership agreement reporting	
Ownership agreement	28–29
Certified agreements	21, 29
Staffing profile	29
Australian Workplace Agreements	21
Workers’ compensation	29
Learning and development	21, 29
Consultancy and contractor services	30
Capital works management	30
Asset management strategy	30–31, 40–43
Statutory requirements	
Occupational health and safety	22, 32
Commissioner for the Environment	32
Public interest disclosure	32
<i>Government Contractual Debts (Interest) Act 1994</i>	31
Freedom of Information statement	32
Ecologically sustainable development	32–33

Appended information

Reports by the Auditor-General and inquiries by the Legislative Assembly	34
Legislation	34–35
Regulatory activities advisory and consultative boards and committees	35
Service purchasing arrangements/community grants	35
Community consultation	35
Requirements of <i>Independent Competition and Regulatory Commission Act 1997</i>	34
Compliance index	81–82

Alphabetical index

- abbreviations, 79–80
- access agreements, 31
- ACT Legislative Assembly inquiries and reports, 34
- ACTEW Corporation, 13, 14
- ActewAGL, 12, 13, 14–15, 17
- ACTION buses
 - prices, 2, 7, 8, 16, 31, 45
 - regulation, ix
- advisory and consultative boards and committees, 35
- appended information, 34–35
- agistment paddock inquiry, 45
- Annual Reports (Government Agencies) Act 1995*, 34
- appropriations, Budget, 4, 24–25, 30, 37
- arbitration disputes, 31
- asset management, 4, 24, 30–31, 40–43
- Auditor-General’s report, 23, 25, 34
- audit committee, 24, 28
- audits, 23–24, 25
- Australian Competition and Consumer Commission (ACCC), 7
- Australian Workplace Agreements, 21

- benchmarking, ix–x, 5
- breaches allegations, 18
- Budget appropriations, 4, 24–25, 30, 37
- Budget Estimates Committee, 23, 34
- bus prices, 2, 7, 8, 16, 31

- capital works management, 30
- certificate of transmittal, iii
- certified agreements, 21, 25, 29
- codes, industry, 8, 11, 12, 13, 17, 27, 36
- commission’s contact details, ii, 26, 32, 35
- Commissioner for the Environment, 32
- committees
 - audit, 24, 28
 - Budget Estimates, 23, 34
 - steering (full retail contestability), 11, 35
 - tender evaluation, 9
- community consultation, 4–5, 15, 16, 17, 26–27, 35
- community grants, assistance or sponsorship, 35
- compensation, workers’, 29
- competition policy reforms, v–xii, 2
- Competition Principles Agreement, vi, 11–12
- competitive neutrality policy, 11–12
- Competitive Neutrality Statement, 11–12
- compliance index, 81–82
- compliance reporting, licensees’, 17–18
- consultancy and contractor services, 30
- consultation, 4–5, 15, 16, 17, 26–27, 35
- Consumer Protection Code, 7, 11, 17
- contact points for commission, ii, 26, 32, 35
- contractor services, 30
- corporate management, 3–4, 19–25, 36–46
- cost recovery, 4, 12, 13–14, 24–25, 37–39
- Council of Australian Governments (COAG), v–vi, 2
- Country Energy, 12
- customer service statement, 26

- default gas tariff, 1
- development and training, 20–21, 29
- disability issues, 3, 22–23
- diversity, 22–23, 28

- ecologically sustainable development, 8, 32–33
- economic regulation policy, v–xii, 5–6
- Effectiveness of Annual Reporting*, 23, 34
- Electricity Customer Transfer Code, 17
- electricity industry, vii, xi–x, 1, 2, 12, 17
 - distribution charges, 7
 - full retail contestability, 1–2, 7, 10–11, 17, 31, 35, 37
 - licences/licensing, 13

metering review, 8, 10
 prices, 1, 6, 14, 15–16, 31
 regulation, viii–xii
 Electricity Retailer of Last Resort
 Guidelines, 17
 Electricity Supplier of Last Resort Code,
 17
 energy industries,
 see electricity industry; gas industry
 EnergyAustralia, 12
 equal employment opportunity (EEO),
 3–4, 22–23, 28
 equity, 8, 22–23, 28
 Essential Services Consumer Council,
 10, 14, 25
*Estimates Committee Report: 2002–03
 Budget*, 34
 expenditure, 39–40
 expert panel, 7, 9, 30
 external scrutiny, 23, 25

 financial management, 4, 24–26, 37–46
Financial Management Act 1996, 25, 28
 financial performance, 37–46, 47–78
 financial statements, 47–78
 foreword, v–xii
 franchise tariff, 1, 7
 fraud prevention, 27–28
Freedom of Information Act 1990, 32
 full retail contestability (FRC), 40, 45
 electricity, 2, 7, 10–11, 17, 31, 35, 37
 gas, 1, 8, 10–11
 future directions for utility regulation,
 x–xii, 6

 gas industry, 17
 competition, vii, 12–13
 full retail contestability, 1, 8, 10–11
 licences/ licensing, 12–13
 prices, 1, 6, 14–16
 regulation, viii–xii
 Gas Network Boundary Code, 8, 17
 Gas Networks Operations Code, 8
 gender of staff, 22
 glossary, 79–80
 governance, 3–4, 19–25, 36–46
*Government Contractual Debts
 (Interest) Act 1994*, 31
Government Procurement Act 2001, 34

 greenhouse gas emissions guidelines, 7

 highlights of 2002–03, 6–8
 Hilmer Report, vi–xi
 hire car industry, 2–3, 7, 8, 31, 45
 horse agistment inquiry, 45
 human resource management, 3–4,
 19–23, 29

 ICRC Act, 1, 4, 8, 12, 23, 26, 32
 ICRC contact details, ii, 26, 32, 35
 incentive regulation, ix–xii, 15
*Independent Competition and
 Regulatory Commission Act 1997*, 1,
 4, 8, 12, 23, 26, 32
 Independent Pricing and Regulatory
 Tribunal (IPART), ix
 industry codes, 8, 11, 12, 13, 17, 27, 36
 industry consultation, 4–5, 15–16, 17,
 26–27, 35
 industry reform, v–xii, 2, 7, 8, 31
 see also full retail contestability
 information management, 24, 36
 internal audit, 24, 28
 internal risk management, 24, 36–37
 investigations, 31

 knowledge management, 24, 36

 learning and development, 20–21, 29
 legislation
 *Annual Reports (Government
 Agencies) Act 1995*, 34
 Financial Management Act 1996, 25,
 28, 34
 Freedom of Information Act 1990, 32
 *Government Contractual Debts
 (Interest) Act 1994*, 31
 Government Procurement Act 2001,
 34
 *Independent Competition and
 Regulatory Commission Act 1997*, 1,
 4, 8, 12, 23, 26, 32
 *Public Access to Government
 Contracts Act 2000*, 35
 Public Sector Management Act 1990,
 25, 35
 Trade Practices Act 1974, vi

Utilities Act 2000, viii, 4, 6, 8, 10, 13, 23, 25, 26, 32, 34
 Legislative Assembly inquiries and reports, 34
 liabilities, 3, 42–43
 licence fees, 7, 13–14, 25
 licensed utilities, 13
 licensees' performance reporting, 17–18
 licensing, viii, 12–13
 liquidity, 3, 42

 management discussion and analysis, 36–46
 Minimum Standards for Gas Networks, 17
 Ministerial Council on Energy, x–xi

 National Competition Policy, v–xii, 10–11
 National Electricity Code, 7, 8, 35
 National Gas Code, 35
 natural gas industry
 see gas industry
 network charges, 6, 7
 no waste policies, 33

 objectives, 1–3, 36
 occupational health and safety, 22, 32, 37
 Ombudsman, 34
 operating result, 37
 optimising energy regulation, x–xii
 Organisation for Economic Cooperation and Development, v
 organisational structure, 19
 outlook, x–xii, 6
 overseas regulatory mechanisms, ix
 overview and major achievements, 1–18
 ownership agreement, 28–29

 Parer review, x–xi
 performance reporting, licensees' 17–18
 policy reforms, v–xii, 2
 price control, 12
 price directions, 1, 2, 7, 8, 16, 31, 45
 price resetting, 1, 6–7, 14–15, 16, 45
 price reviews, 15–16
Public Access to Government Contracts Act 2000, 35

 public awareness campaigns, 7, 10–11, 26, 35
 public consultation, 4–5, 15, 16, 17, 26–27, 35
 public interest disclosure, 32
Public Sector Management Act 1990, 25, 35
 public transport, vii, ix, 2–3, 6–7, 8, 16, 31, 45

 recycling, 33
 reform
 competition policy, v–xii, 10–11
 electricity industry, v–xii, 1–2, 7, 10–11, 17, 31, 35, 37
 gas industry, v–xii, 1, 8, 10–11
 hire car industry, 2, 7, 8, 31
 taxi industry, 2, 7, 8, 31
 utility services, v–xii
 regulatory framework, v–xii
 remuneration, 21
 reports, 31
 resource management, 3–4, 28–31, 37–46
 retention of staff, 20–21
 revenue, 24–25, 37–39
 Ring Fencing Guidelines for Electricity and Gas Network Operators, 17
 risk management, 24, 36–37
 role of ICRC, 1–3, 12, 36
 Royal Commission into Aboriginal Deaths in Custody, 27

 safety of staff, 22, 32, 37
 salaries, 21
 service purchasing arrangements, 35
 sewerage services, 6, 7, 14, 15–16
 skills development, 20–21, 29
 social equity, 8, 11, 22–23, 28
 staff, 3–4,
 development, 20–21, 29
 levels, 3–4, 19
 profile, 19, 22, 25, 29
 retention, 20–21
 statistics, 23
 stakeholder consultations, 4–5, 15, 16, 17, 26–27, 35
 Standard Customer Contract for Gas Connection, 17

Standard Customer Contract for Gas Supply, 17
 state regulatory mechanisms, ix
 statement of financial performance, 44–46
 statement of intent, 28–29
 statistics, staff, 23
 statutory requirements, 31–33
 structure of organisation, 19
 sustainable development, 3, 8, 32–33

taxi industry, ix, 2–3, 6–7, 8, 16, 31, 45
 tender evaluation committee, 9
 total factor productivity, ix–x, 5
Trade Practices Act 1974, vi
 training and development, 20–21, 29
 transmittal certificate, iii
 transitional franchise tariff, 1, 7
 transport industry, vii, ix, 2, 7, 8, 31
 transport prices, 2, 7, 8, 16, 31, 45

utilities

- licences/ licensing, 7, 12–13
- network price review, 15–16
- reform, vi–xii
- regulatory framework, viii–xii, 12–13
- see also* electricity industry; gas industry; sewerage services; water services

Utilities Act 2000, viii, 4, 6, 8, 10, 13, 23, 25, 26, 32, 34
 Utility Regulators' Forum, 5, 7

water services, vii, 1, 2, 6, 7, 14–16

websites

- ActewAGL, 14, 15
- ICRC, ii, 26, 32, 35

whole of government issues, 26–35
 workers' compensation, 29
 workforce planning and retention, 3–4, 20–21
 workplace diversity, 22–23, 28