



ICRRC

independent competition and regulatory commission

Annual Report 2003 – 2004



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independent competition and regulatory commission

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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.

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Mr Ted Quinlan MLA
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Dear Treasurer

This report has been prepared under section 8(2)(d) of the *Annual Reports (Government Agencies) Act 2004* and in accordance with the requirements referred to in the Chief Minister's Annual Reports Directions. It has been prepared in conformity with other legislation applicable to the preparation of the Annual Report by the Independent Competition and Regulatory Commission.

Hereby we certify that the attached Annual Report is an honest and accurate account and that all material information on the operations of the Independent Competition and Regulatory Commission during the period 1 July 2003 to 30 June 2004 has been included and that it complies with the Chief Minister's Annual Reports Directions.

Also hereby, we certify that fraud prevention has been managed in accordance with Public Sector Management Standard 1, Part 4.

Section 12 of the *Annual Reports (Government Agencies) Act 2004* requires that you cause a copy of the report be laid before the Legislative Assembly within three months of the end of the financial year to which this report refers.

Yours sincerely

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Senior Commissioner

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Peter McGhie
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Foreword

The commission's annual report for 2002–03 was the first to be introduced by a brief essay to complement the mandatory reporting information later in the report. That first essay described the background to and state of utility regulation activities in Australia and, in particular, in the ACT.

For this Annual Report 2003–04, the introductory essay builds on the previous discussion, providing a territory perspective on the role of state and territory regulators in the new Australian regulatory environment. It is based on an address made by Senior Commissioner Paul Baxter to the Australian Energy Reform Conference in Melbourne in June 2004.

Introduction

The current form of regulation employed in energy markets around Australia has been developed over 15 years of debate, consultation, trial and error, reform and incremental change and growth. It reflects international practice, especially that of the United Kingdom and the United States, and indeed is contributing to the development of international practice.

The regulatory model that has been developed is demonstrably flexible, replicable and workable. It seeks to balance the pace and cost of change and the interests of consumers, producers and generators, transporters, distributors, and retail suppliers. It delivers on government policy commitments in the form of the competition policy reforms and the related reform agenda of the Council of Australian Governments (COAG). Considerable time, effort and expertise has been devoted to the development of this regulatory experience.

Will the new centralised regulatory arrangements in fact facilitate more efficient and effective regulation in Australia, solving some of the difficulties that were identified in the Parer Report? In this context, what will be the role of the state regulators? Lest there be any doubt, the Independent Competition and Regulatory Commission, as jurisdictional regulator for the ACT, has publicly expressed support for a national regulatory model and for reform of the regulatory codes and policies which effectively bind the hands of regulators on a number of matters of national concern in relation to Australia's future energy needs.

The current arrangements soon to be superseded do have faults and limitations. In part, they are a product of a federal system in Australia which has more than once produced less than optimal results. Ultimately, regulators carry out their functions within policy frameworks given them by governments. Regulators themselves continue to debate problems, most effective approaches and possible changes in regulation. All are conscious, too, of the degree to which regulation is characterised by the skills and judgment of regulators.

The danger, if there is one, in a state based regulatory model is that there is a profusion of objectives, many of which are unrelated to the efficiency of the national energy market or its regulation.

Pressure for change

The first observation to make is that the timing of the Ministerial Council on Energy (MCE) decision to replace state-based regulation of local energy network and supply businesses with a national (federal) system involves additional cost to the nation. It would have been less costly to have made a decision on a unitary national regime in 1995, when the National Competition Policy Agreements were signed.

Given the development of jurisdictional systems and processes which are increasingly harmonious, the risks associated with changing to a unitary system are significant for networks, suppliers, consumers and government. The next best alternative perhaps would have been to further focus attention on and improve the operation of the existing regulatory arrangements rather than change the whole set of arrangements.

Obviously, it is not beyond the wit of humankind to develop a national scheme that will work. But, for all the gains that will come from a national regulatory approach, there is a substantial risk that some valuable skills and experience may nevertheless be lost. These losses may be to the detriment of distribution and retail businesses, in particular, which will need to address new forms and ways of regulating, licensing and compliance monitoring that a national regulator may apply.

Who might benefit?

Is a uniform national scheme the best solution for all? This is a legitimate question which deserves consideration in order to minimise potential losses for some sectors.

In general, the major beneficiaries of the national scheme will be the organisations that inherit the regulatory task—that is, the Australian Energy Regulator (AER) and the proposed Australian energy marketing commission (AEMC)—larger transmission networks, generators, and large integrated energy businesses. The federal model will absorb many of the functions of up to 13 energy regulation organisations across the country (including, in part, the Independent Competition and Regulatory Commission in the ACT).

This is not to suggest that the concentration of benefits towards national businesses will not deliver some benefits to other upstream and downstream participants and consumers. But the risk is that concentrating regulatory power will disadvantage smaller network suppliers and household consumers, at least to the extent that energy businesses with national scope will require greater attention and will receive it at the expense of smaller businesses and consumer groups (particularly regional consumer interests).

Governments are likely to have the sense, at least initially, that they have become more in control of energy security and reliability and have a more immediate impact on energy investment decisions that underpin national economic performance. That certainly was one of the clearly expressed objectives of the MCE when agreeing to the national scheme. However, that perception may not be realised to the extent that most governments or bureaucracies may desire or expect.

For example, it is hard to see household consumers deriving much benefit from the proposed changes. There are not, for instance, likely to be major reductions in retail prices for energy. The areas in which most of the major changes can be expected to occur are not those where local issues and circumstances will have importance for consumers—namely, the local distribution networks.

To illustrate this latter point: currently, generation and transmission activities are either regulated by the national regulator, the Australian Competition and Consumer Commission (ACCC), or come within the ACCC regulatory

umbrella. Regulation in this area is therefore likely, at least in the initial stages, to remain largely if not precisely the same.

The proposed transfer of retail activities to the AER is likely to be delayed until 2006 or beyond and may still be a contentious matter then, given the political sensitivity of this issue at a state level. This is reflected in the COAG decision to preclude retail pricing from AER responsibility. Most jurisdictions other than Queensland have contestable retail energy markets in which price regulation is diminishing or no longer applies. So the major benefit in the retail area is potentially in the harmonisation of licensing regimes.

This potential benefit is already possible under the present mutual recognition commitments between jurisdictions and could be readily formalised without the need for a national regulator. Development of a single national licensing regime has been an issue for discussion among jurisdictional regulators. There is now a strong element of consistency and interdependence between licensing processes.

Will a national approach to regulation immediately benefit consumers of distribution services? Are distribution businesses with activities in more than one state likely to argue to the national regulator that their equity beta (the relationship between return on shareholder equity and market return), for example, should be reduced to reflect their ability to spread their risk over more than one locational market? Would national exposure reduce business risk, with consequent reductions in regulated returns and the cost of power to consumers?

The answer to these questions seems to be a resounding 'no'. The transfer of distribution arrangements to the AER is not scheduled to occur until 2006 and will presumably involve the continuation of any existing price determination made by the current jurisdictional regulators. Consumers in a small regional market such as the ACT are unlikely to receive the level of attention from a regulatory perspective that is currently provided. From the distributor's perspective, small networks will potentially lose out in terms of access and the level of importance that their issues are afforded in a national rather than state- or territory-based scheme. For example, ActewAGL will cease to be the dominant business it is for regulatory purposes in the ACT, and become one of the smallest energy businesses nationally.

A major argument from industry in favour of the national system is that it will reduce the number of regulators to which energy businesses need to respond. From eight state or territory regulators for retail and distribution, and one federal regulator each for electricity and gas transmission and generation (currently, the National Electricity Market Management Company (NEMMCO) and GMS, the gas marketing company), the number of primary regulators will be reduced to two (the AER and the AEMC).

The activities of the national regulators will remain essentially the same, so it is only in relation to the number of times that the same information is repackaged for jurisdictional regulators, and the payment of multiple licence fees, that substantial savings will be delivered. However, the additional scale of information gathering and consultation that may occur through the AER may erode those savings substantially.

One model that might be used by the AER is to access the experience of jurisdictional regulators by engaging them as agents or as ‘branch offices’ of the AER. This potentially would improve access and limit losses in working relationships, local industry knowledge and experience. However, this may not necessarily remove or reduce reporting requirements, in the sense that the volume and frequency of data requests could substantially increase.

What might be lost?

The argument in favour of a national regulator focuses attention on the potential for substantial efficiency savings, an increase in incentives for infrastructure investment, and regulatory consistency in decisions. In its December 2003 communiqué, the MCE argued that the new elements of the energy reform program would both strengthen competition and encourage investment in Australia’s energy market.

In fact, the reform program has a number of parts, of which the move to a national regulator is only one element. A focus on the AER should not imply that all other aspects of the policy reform will be as successful as hoped. There are also some potentially negative aspects of a national regulator that may arise, each of them at a cost.

For instance, a national bureaucracy with added regulatory and business activity responsibilities could be cumbersome, difficult to access, time-

consuming in its processes and inherently conservative in its decisions—which may not meet the expectations of its creators or those it regulates.

Those problems could be aggravated by the need to report through the MCE. National arrangements may lose responsiveness to local consumer needs—uniformity is generally incompatible with local issues. For example, governments may find that social policy objectives and concession arrangements reflecting ‘local circumstances’ may be affected.

Small energy businesses may find it difficult to have their concerns recognised. This is already a serious issue for the ACCC in its wider trade practices role. Consumer and community groups with a particular regional focus may not enjoy the same levels of access or influence as they have enjoyed in previous regulatory processes. Environmental issues may not be subject to the same scrutiny or be treated in the same way as was the case under the influence of local legislation and regulations.

None of these comments should be taken to deny the ability of the AER to address these matters. Rather, they seek to acknowledge that, under the regional regulatory arrangements for distribution and retail activities, there has been potential for a greater regional/local focus than may be possible under the national model. This issue will need to be considered by the AER as it further develops and refines its operating arrangements.

Addressing Parer Report issues

Are the announced primary objectives of a national regulator—in particular, increased investment in energy infrastructure—likely to be met? Is it likely that provisions and incentives for investments will substantially increase under the national model?

Certainly the MCE has telegraphed its intention to make this an issue of top priority in setting policy objectives and reaching decisions based on a national rather than regional focus to meet energy needs. This will effectively represent a response to the considerable attention that has been given to the issue of adequacy of investment and the need for the AER to demonstrate that it is prepared to ‘deal with’ this issue as a matter of some priority.

However, are there substantial existing constraints in the system that can be removed only by a national regulator? The ACCC and the jurisdictional regulators have already undertaken extensive work to address issues such as investment incentives and approval of prudent capital expenditure on major infrastructure. The ACCC has foreshadowed the release of further discussion papers on this issue.

It should be of some concern to major energy users that so much of the debate on regulatory reform has been about investment sufficiency. While major users are at least equally concerned about the availability of supply as are the generators and transmission and distribution service providers, there appears to be a sense in which the debate has been captured by the suppliers rather than the users. Thus there appears to be a willingness on behalf of some policy advisers to advocate new policy initiatives which will effectively roll back the energy cost savings that have been achieved over the past decade.

Australia has a potential economic advantage in terms of its energy costs but could easily forfeit this advantage if the benefits achieved were allowed to be recaptured by the energy sector at the expense of energy users, particularly large export-oriented industry sectors.

Transmission infrastructure constraints, which have been the focus of the investment debate, have not simply resulted from a lack of willing investment. The constraints created by existing national codes, as well as requirements for regulators to negotiate often conflicting national policies and regulations, have also been major stumbling blocks.

Where necessary, the existing national regulator has shown a willingness to provide longer term regulated price paths and higher rates of return to facilitate new investment in major long-life assets. Indeed, it is debatable as to whether there has been a moratorium on new investment, as some have claimed. Changing the regulator will not necessarily improve investment incentives beyond those already occurring at the regulator level, especially for distribution networks. It may truly be the case that most deferred investment is in generation and transmission, and a national framework already exists for those sectors of the supply chain.

The fundamental reforms required are in terms of the codes and regulatory principles that have been imposed on the existing regulators. There is the very real need to consider, in a regulated environment, just what options will

ensure the most efficient and prudent new infrastructure investment to meet the nation's needs. The resolution of these problems does not necessarily require the creation of a new national regulator.

The development of financial instruments to provide incentives for investment has also been argued for as being one means of addressing the investment problem. Lack of a national market for such instruments is a result not of jurisdictional regulation but of other constraints on the behaviour of the financial market. It is contended, therefore, that having a national regulator will not of itself resolve the investment dilemma. The issue is more one of the adoption of a nationally consistent set of regulatory market conduct rules which are adhered to by all, and out of which an appropriate market response emerges.

Establishment of the AER does not necessarily resolve this problem. Rather, it is a matter that will largely fall to the MCE, advised by the AER, industry, consumer groups and other interested parties. Simply to rely on the establishment of the AER as 'the answer' to the problems that beset the national energy market is to misunderstand seriously both the problem and the solution.

The focus instead needs to be upon the MCE and the decisions it takes over the next few years. This ultimately will be the litmus test of the success of the reform program and the achievement of the desired improvement in the investment climate.

Delivering the reform timetable

It is also important to make some broad remarks about the current process leading to the creation of the national scheme. There are indications of some form of seamless transition at the national level; but at the jurisdictional level, transitional arrangements are not as clear.

Implementation of the new regulatory framework may result in inefficiencies that will be time-consuming, resource intensive and costly to rectify. The precautionary principle should be applied: do not reinvent the wheel without being sure that the outcome will be an improvement on the previous apparatus.

A number of points should be noted about the legislative change currently under way to introduce the new arrangements. The pace of legislative change has been rapid. The MCE, in its December 2003 communiqué, had foreshadowed its intention to move quickly towards the establishment of the AER. To a degree, there was a sense of urgency from the Australian Government to get the new organisations in place before the federal election scheduled for the second half of 2004.

Legislation for the establishment of the AER was introduced in federal parliament in early June 2004 and was passed a week later. However, legislation in the South Australian parliament to establish the AEMC was delayed, thus pushing back the introduction of the new regulatory system by at least six months. (The South Australian legislation will be mirrored by the other states and territories.)

The ministerial council noted that the AER would in effect be formed as a constituent part of the ACCC, although operating as a separate legal entity. This model upset organisations such as the Energy Supply Association, which had lobbied hard for a national energy regulator independent of the competition watchdog, claiming the ACCC's approach to regulation was too theoretical and too removed from the market.

Consultation with jurisdictional regulators on the establishment of the AER has been limited by the time available. The AEMC is, however, to be established as a separate statutory commission.

It is anticipated that over the next 12 months there will be more extensive consultation with the existing regulators to at least allow some transfer of the knowledge that has been accumulated over the past decade or more. From a practical perspective, the enactment of the AER legislation before the 1 July deadline will have little immediate impact. At least for the first few months, the ACCC and its energy committee will continue to meet and make decisions on matters that fall under the responsibility of the AER.

The ACCC energy committee comprises the relevant ACCC commissioners and jurisdictional regulators from each of the states and territories. The current work program of this committee will be transferred to the AER. This includes preparation of statements of principles for the regulation of transmission revenue, regulatory tests for network augmentation, and market-related service standard incentives.

The secretariat resources of the ACCC initially are expected to be transferred to the AER, with the addition of some staff resources from NEMMCO. This should facilitate the seamless transfer of regulatory responsibility.

It is encouraging to note that progress made by the ACCC and the energy committee on issues of regulatory principles, tests for network augmentation and service standard incentives will not be lost as a result of the proposed regulatory changes and can be carried on by the AER under its own direction.

The need for haste in establishing the AER, when available evidence suggests it will continue the work program already being undertaken by the national regulator, should raise some questions about the priorities being set and the danger that in such circumstances mistakes may creep into the legislative and other arrangements that are initially put in place.

However, while at a national level there is the potential for some degree of seamless transfer of activities from the ACCC and its energy committee to the AER, at the state jurisdictional level there is a greater potential for a mismatch on policy and process issues. The current state and territory legislation, while different in each jurisdiction, has features that have been proven by time and experience to be workable and beneficial. It is imperative that this experience not be lost.

The legislative framework that has been adopted is open and high level, to be fleshed out in practice by the regulator. This is to be applauded but it does place considerable onus on the AER, together with the MCE, to handle the transitional arrangements over the next couple of years. Examples of issues that need to be translated from a jurisdictional context to a national context are outlined below.

Exactly what will be transferred from the existing state regulatory arrangements to the new regulator is presently unknown, but it is certain that most jurisdictional regulators will cease to have responsibility for price regulation, licensing, and compliance and performance reporting. Licensing is different in each jurisdiction but regulators have been moving to harmonise licence requirements. This process needs to continue in consultation with the AER over the coming months.

Regulatory reporting requirements increasingly are being made consistent, with common reporting requirements for distribution and retail businesses in

place for electricity and the extension of similar reporting requirements mooted for gas. Mutual recognition is currently evident among regulators: for example, the prospects of a licence application in any jurisdiction are enhanced by satisfactory performance in another jurisdiction.

Existing determinations

Over the next two years most jurisdictions will have settled on new price directions for gas and electricity for pricing periods of up to five years. Will the transfer to national arrangements recognise the existing price directions, or will a new round of determinations be undertaken by the national regulator?

It seems most likely that current price directions will be ‘grandfathered’. This means effectively that at least five years would elapse before a national price direction for distribution networks would be determined. If so, this would allow time for the AER to become familiar with the businesses concerned and to facilitate the introduction of any revisions to the regulatory pricing principles and practices that are to be used.

Of particular interest to distribution and retail businesses will be the impact of any changes in the regulatory price determination principles that the AER might adopt, compared with the effects of arrangements currently applying in the various states or territories. While regulated businesses have been vocal in support of a national regulator, it remains to be seen to what extent they have considered the possible impact of changes in regulatory practice on their financial outcomes.

For example, adoption of a post-tax rate of return, with tax payments being treated as operating expenditure, will create a potential P_0 reduction in revenue for some state-based distributors where their weighted average cost of capital (WACC) is currently calculated to include an assumed effective rate of tax. Greater regulatory risk is thus likely to emerge from the treatment of items such as tax payments and private debt-raising costs as operating expenditure items rather than internal components of the WACC.

As well, the impact of the likely move by the national regulator towards a prospective determination of capital expenditure, rather than a retrospective adjustment for deemed prudent expenditure, will potentially change the regulatory risk profile faced by distribution businesses.

There has been a gradual move towards a common approach in regulation in these areas over recent years. However, for some distribution businesses there has been a recognition that special circumstances may have influenced the pace at which some of the methodological approaches adopted by the ACCC have been adopted or even considered from a jurisdictional regulator perspective.

Resource impacts

Regulators have raised concerns about the process of transferring activities to the AER and its impact on the retention of skills in jurisdictional regulatory bodies. Not surprisingly, skilled staff will be disinclined to remain with their current agencies if there is no future for them in the jurisdictional regulator.

Skilled and experienced staff who could be valuable to the new regulator, when responsibility for distribution and retail activity is transferred in 2006, will need some assurances about the likely arrangements to effect their transfer from a state or territory jurisdiction to the Australian Public Service and the prospects for meaningful work with the new regulator.

There may be an overall loss of skills and experience from a regulator's perspective if staff are not transferred to the new regulator or used on different non-energy related work by existing regulators. It is therefore to be hoped that, during the interregnum, the jurisdictional regulators will be consulted on work priorities, regulatory practices and arrangements with relevant regulated businesses, as a means not only to ensure a seamless transfer but also to help retain key staff until re-employment opportunities are created in the AER.

Who's responsible for what?

The new national energy regulation arrangements will also lead to other changes which go beyond the national regulator's responsibilities. State and territory governments will need to consider, for instance, what role their independent regulatory economic advisory agencies can perform.

These agencies already regulate a number of other activities, including water pricing, although a large part of their focus has been on energy businesses.

There may be a longer transitional period during which jurisdictional regulators will be asked to continue to perform some of their current roles, albeit with different reporting arrangements.

The timing of transfers of functions also needs to be considered. Will there be a one-off change, or a gradual transfer over a period?

State governments will also need to consider carefully their own interaction with the AER. The states will play a role in selecting the commissioner and associate commissioner of the AER but will not have a direct role in administering the day-to-day activities of the national regulator.

This is despite the fact that state governments will be handing over to the AER functions and activities which impact on the day-to-day reliability and price of essential public utilities in their state-based areas of responsibility. If the lights go out, will the voter be able to differentiate between the AER and the local state member?

Many of the activities that regulators have historically undertaken are in areas in which the states or territories concerned have adopted policy stances reflecting the ‘special characteristics’ of their jurisdictions. The process of transferring these powers and regional interests to a national regulator sounds good in principle but will be hard to implement in practice.

A topical example of the limitations of this ‘national’ approach is the experience of the Murray–Darling Basin Ministerial Council and the Murray–Darling Basin Commission (MDBC). While the MDBC has considerable cross-jurisdictional responsibilities, there are real limitations on the capacity of the MDBC to direct states which maintain a very strong regional interest, notwithstanding their public profession of support for a total basin solution.

This draws attention to the possible problems to be faced with the operation of the MCE and the willingness of the state, territory and federal governments to work together in a manner designed to achieve the best overall outcome for the nation.

Conclusion

This essay necessarily has been broad in its overview of the new energy regulatory arrangements, with a particular focus on the AER. However, three

final observations, which might provide some framework for further discussion, should be made.

Energy reform involves more than just the establishment of a national regulator. The creation of the AER and AEMC will not of itself resolve the issues that regulators and legislators currently face. Those who have come to believe that a ‘national regulator’ is somehow going to solve all their problems, or make regulatory decisions more in their favour, are likely to face serious disappointment.

Energy reform will be driven over the next couple of years by the commitment of Australian governments to the reform process. There is a need for a strong commitment of resources and expertise in servicing the MCE and bringing forward those policy solutions that must be adopted by the ministerial council and implemented by the relevant authorities.

This task is much greater in magnitude than that which has already been achieved, because it is at this point that the rivalries and policy aims of all governments come to the fore. We should seek not to reinvent the regulatory model but to build on the lessons we have learned to date.

Much, in fact, has been learned and written concerning good regulatory practice. The experience of Australian regulators is on a par with that of regulators in other countries such as the United Kingdom and United States. By building on what has been learned the AER can capitalise on the research and innovation that has already been undertaken at the ACCC and jurisdictional regulator level.

Ultimately, industry is looking for some degree of stability and certainty in regulation, and further reforms and improvements need to be undertaken in a spirit of close consultation with all parties, lest misunderstanding and mistrust lead to an undermining of the new national regulatory model. At the same time, reform should not simply be change to reflect the arguments presented by the energy suppliers. There is a real danger in the current debate that the important energy cost savings that have been achieved over the past decade will be lost, to the detriment of major energy users and the economy as a whole.

Finally, from a state and territory perspective, the role for the existing jurisdictional regulators in this context of further reform of the regulatory framework should be seen to be:

- *advisory*—particularly over the next two years, as the AER prepares to take over regulation of the distribution and retail businesses, there is a need for close and continuing consultation with the new regulator to ensure that the lessons learned over the past ten years are not lost
- *supportive*—the national and jurisdictional regulators have worked closely together over the last decade and there is no reason why this should not continue into the future
- *innovative*—the reform of water pricing regulation is going to be the next significant area for jurisdictional regulators and is one area in which the jurisdictional regulators are already working on ways to harmonise the regulatory arrangements between the states and territories.

Energy regulation is a ‘work in progress’ in Australia. It remains to be seen whether the significant national benefits that have been achieved over the past decade can be retained or improved upon as part of the further reform process that has now been unleashed.

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1 Senior Commissioner's review

In this section of the annual report the Senior Commissioner assesses and reports on the overall performance of the commission, identifying key achievements, issues and challenges addressed during the reporting year and discussing the outlook for the commission for the coming year.

1.1 Major issues, challenges and achievements in 2003–04

Since its establishment in 1996 the Independent Competition and Regulatory Commission has made a substantial contribution to the achievement of the ACT Government's key objectives for the territory's economic development. The commission's role has been one of ensuring that utility services are provided at a quality standard that meets the community's expectations and at a cost that is efficient.

In its first four years the commission was largely focused on pricing electricity and water services and establishing an access arrangement for the supply of gas. Electricity, gas and water prices were set, consistent with the regimes being introduced in other parts of Australia, that increasingly reflected the costs of supplying those services, removing cross-subsidies between the retail and network businesses and between different classes of electricity and water customers. That process involved considerable education not only of the utilities concerned but also of the community, policy makers and members of the ACT Legislative Assembly.

Since those early years the commission's objectives and responsibilities have expanded in a number of directions, to include broader responsibilities as jurisdictional regulator for electricity and gas utility services under the electricity and gas codes, responsibility for advice on competitive neutrality complaints under the National Competition Policy, and advice on a broad range of activities subject to government regulation.

In 2000, the enactment of the *Utilities Act 2000* and the consequential amendments to the *Independent Competition and Regulatory Commission Act 1997* brought responsibilities for licensing utility service providers in the territory, including administrative responsibility for issuing licences, ensuring licence compliance, and reporting on compliance and service

performance. The commission itself also changed, commencing to be a full-time statutory authority in June 2000. That change involved the development of a new corporate entity to support the commissioners in the exercise of their regulatory and administrative responsibilities, including the development and application of the regulatory policies and structures that independence entails.

Since its inception, the commission has sought to provide the government and its agencies with independent regulatory advice of a consistently high professional standard. In its price-determining role the commission has also sought to implement approaches consistent with best practice in economic regulation both in the Australian context and internationally. The commission is involved in the development and refinement of regulatory techniques that will benefit both customers and utilities.

The reporting year 2003–04 was a substantial milestone in the commission's progress. While remaining small in size—during 2003–04 the commission averaged ten staff and three commissioners—the commission produced substantial reports on electricity network pricing, gas access pricing, water and wastewater service pricing, the water abstraction charge to apply in the territory from 1 July 2004, contestability in electricity infrastructure development, the form of economic regulation for utilities under the electricity code in the territory, and prescribed and excluded electricity services, to mention only some. In addition, the commission released a number of new industry codes under the Utilities Act, and substantial revisions of a number of existing codes, including the ring fencing and consumer protection codes. In all, the commission published 23 reports in its numbered series in 2003–04, not including the commission's annual report.

At the same time the commission further developed the utility compliance reporting arrangements and participated with other jurisdictional regulators in a range of reviews and working groups, including interjurisdictional working groups on nationally consistent distribution and retail reporting, pricing, water regulation and metrology.

To continue the promotion and development of regulatory practice, the commission remained a strong supporter of the Utility Regulators' Forum. The forum meets three times a year to exchange views on regulatory matters and to develop nationally consistent approaches to regulating energy, water, transport, telecommunications and ports. All state and territory regulators, the Australian Competition and Consumer Commission (ACCC), the

National Competition Council and the New Zealand Commerce Commission are members of the forum.

Full retail contestability (FRC) for electricity services in the ACT continues to be a major issue for the commission. The commission provided advice to the government on the appropriateness of FRC during 2002–03, and subsequently played a key role in the implementation of FRC from 1 July 2003 (see Appendix 1 for more information). In the next two years the commission expects to provide further advice to the government about whether FRC in the retail electricity market in the territory has been sufficiently successful that the transitional arrangements might be removed to allow the market to become fully contestable.

Fully contestable energy markets are not unregulated markets. Some protections for consumers will continue to be needed, as will a regulatory framework that facilitates fair and dependable transactions between businesses and adequate provision for emergencies in the supply of energy. Regulators will continue to address information asymmetries between suppliers and consumers, ensure compliance with service and safety standards, and ensure that safety net arrangements are appropriate and effective.

1.2 Overview of agency performance and financial results

The commission is justifiably proud of its past achievements and its productivity in 2003–04. The commission's continuing performance is characterised by substantial professionalism and efficiency. The commission's performance compares favourably with that of regulators in other Australian jurisdictions, which themselves enjoy an enviable reputation for the quality of their economic regulation. The commission has sought to ensure that its public performance has been matched by its internal administrative efficiency.

The commission has been the subject of four external audits, on each occasion receiving an unqualified audit opinion. The cost of the commission since 2000 has increased with the rise in demand for its advice and services. However, as Table 1 helps to demonstrate, the amount appropriated to ensure the commission's continued existence has substantially reduced as a

percentage of the overall cost of regulation, reducing from 50 per cent in 1999–2000 to 10.9 per cent in 2003–04.

Table 1 Commission revenue sources, 1999–2000 to 2004–05 (\$'000)

	1999–2000	2000–01	2001–02	2002–03	2003–04	2004–05
Total revenue	797	637	1,985	2,053	3,664	2,319
Appropriation	400	400	400	410	396	408
Percentage	50.2	62.8	20.1	19.9	10.8	17.6

Source: ICRC Annual Reports 2000–01, 2001–02, 2002–03, 2003–04

The commission has increased the degree to which it recovers its costs from utility service providers. As indicated by Table 2, the requirement to recover costs imposes a discipline on the commission to contain costs and to reduce the impact of the regulator on both utilities and consumers.

Table 2 Commission financial indicators, 2000–01 to 2003–04

	2000–01	2001–02	2002–03	2003–04
Current ratio	1.17	2.15	2.19	2.63
Cash position	0.15	0.78	0.47	0.39
Debt ratio	0.59	0.47	0.48	0.42
Capital ratio	1.46	0.90	0.93	0.72

Source: ICRC Annual Reports 2000–01, 2001–02, 2002–03, 2003–04

The commission has sought to implement best practice administrative arrangements. The commission reviewed the recommendations of the Auditor-General's 2002 report on governance of statutory authorities and, where relevant, adopted the recommendations.¹ The commission had voluntarily pre-empted the Auditor-General's governance review and implemented many of the recommended arrangements in advance of the review.

The commission has supported and continues to support the thrust of the debate on governance of statutory authorities in the territory. While the commission's legislation is not prescriptive about the manner in which the

¹ ACT Auditor-General, *Governance Arrangements of Selected Statutory Authorities*, June 2002.

commission operates, the commission has a structure that is consistent with the emerging policy direction.

The commissioners are committed to achieving the government's objective to have active and independent regulation. The commissioners have met monthly since July 2001 (with the exception of January each year) to consider a range of governance and project-specific issues, particularly about probity, transparency and independence. Of the 33 board meetings since July 2001, the three commissioners have been absent from fewer than four.

At the beginning of 2004–05 the commission is taking stock of its impact on the community. ACTION bus services were provided efficiently at an unchanged price in 2003–04 and will continue at the same price for 2004–05, with a CPI (consumer price index) adjustment in 2005–06. Taxi fares increased at the start of 2004–05, as a result of the price review in 2003–04, by not more than 3.16 per cent of an average fare. These represent efficient prices that produce sufficient revenue to meet operating and capital investment needs while providing ongoing incentives for greater efficiencies and operational effectiveness. At the same time, consumers benefit from stable prices and there is an incentive for greater use of public transport. Territory energy prices also have not substantially increased over inflation in the past five years and remain among the lowest in Australia.

In utility services, the retail markets for electricity and gas have opened to competition and have not substantially increased prices but instead have offered a wider range of services, in bundles, to attract customers. Although slow to get under way (customer transfers were still less than 1 per cent of total), competition in electricity and gas retail services is a reality and bringing tangible benefits to consumers in the territory. Customers are able to achieve savings of between 3 per cent and 5 per cent on their bills from the incumbent retailer and similar offerings are available from other retailers.

While the territory has achieved greater choice of suppliers of energy services and high-quality services delivered at efficient prices, the commission is only one element in that achievement. The commission's relationships with the government and its agencies, utilities and the community remain strong and open. Equally importantly, the commission has been able to maintain very transparent processes and to consult widely on a range of administrative and policy issues.

At the same time, the compliance and reporting regimes for territory utilities have made the operations of both retail and network businesses more transparent, underpinning consumer choice of service provider. The regulatory arrangements in the territory reflect the changes occurring nationally, while dealing with local issues.

The commissioners are satisfied that the commission has established a strong tradition of performance that is benefiting the community and meeting the government's expectations. The commission discharged its responsibilities as required by the legislation that governs it during 2003–04, and responded to requests from government for independent advice on a range of substantial and difficult matters.

1.3 Outlook for the coming year

In 2004–05 the commission will complete its major review of the ActewAGL Distribution natural gas access arrangement for the ACT, Queanbeyan and Yarrowlumla, which was initially approved in 2001. The revised access arrangement, to be completed for the first time under the terms of the National Gas Code, will remain in force for five years, until 2010, once approved.

In addition, the commission is addressing a number of issues arising from the price directions for electricity and water and wastewater network services completed in 2004. These issues include but are not confined to:

- service incentives regimes for electricity and water and wastewater
- daily pricing for water.

Also, in the coming year the commission will complete its third successive annual compliance reporting process for regulated utilities and refine its reporting arrangement for 2005. Issues identified in this compliance review will be subject to an audit process.

The commission will also:

- continue to participate in the development of the new national energy regulation arrangements

- implement the regulator role for the ACT Greenhouse Gas Abatement Scheme
- contribute to the comprehensive review of the Utilities Act begun in 2004.

Paul Baxter
Senior Commissioner

2 Role and overall performance

This section of the report describes the role and core functions of the commission, including key contributions to community outcomes and services as established in the commission's statement of intent and corporate plan.

2.1 Role and objectives

The commission is an independent statutory authority established under the ICRC Act to be responsible for a range of economic regulatory services, including:

- providing directions on prices for industries declared to be regulated industries
- providing advice on industry matters referred by an ACT Government minister
- providing advice on access arrangements to monopoly infrastructure
- arbitrating access disputes
- providing advice on competitive neutrality complaints and on government-regulated activities.

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

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

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

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

The parameters under which the commission operates are determined by the ICRC Act and the Utilities Act. The Acts variously describe the functions of the commission as:

- providing price directions
- providing recommendations about price regulation
- providing advice to the minister about proposed access regimes
- arbitrating disputes about access to services under access regimes
- maintaining a register of access agreements

- investigating and reporting on matters referred by the minister and other referring authorities
- investigating and reporting on competitive neutrality complaints
- investigating and reporting on government-regulated activities
- issuing licences for the provision of utility services
- determining licence conditions
- ensuring compliance with the licence conditions
- approving and reviewing standard customer contracts and industry codes for utility service.

Appendix 6 lists some of the other Acts and codes under which the commission has obligations.

2.2 Overall performance

2.2.1 Highlights

In 2003–04 the commission sought to implement the intentions of the Utilities Act and the ICRC Act to fully realise the government’s objectives for the commission. The commission also continued to increase its productivity across a range of activities consistent with its responsibilities. These activities included but were not limited to:

- an investigation into prices for electricity distribution services in the ACT
- an investigation into prices for water and wastewater distribution services in the ACT
- a review of the water abstraction charge applied by the ACT Government
- an investigation into an alternative pricing methodology under Part E of the National Electricity Code

- a review of contestable electricity infrastructure works in the ACT (the final report was released in July 2004)
- the determination of ACT taxi fares for the period from 1 July 2004 to 30 June 2007
- the publication of a utilities compliance and performance report for 2001–02
- an investigation into proposed associate contracts between ActewAGL Distribution and ActewAGL Retail
- a decision on the assessment of the associate contract between ActewAGL Distribution and AGL Wholesale Gas Limited
- the start of a review of the access arrangement for the ActewAGL natural gas distribution system in the ACT, Queanbeyan and Yarrowlunla.

Contact details for staff who can provide more information on the commission's activities and performance are provided in Appendix 8.

2.2.2 Summary of achievements

Investigation into prices for electricity distribution services in the ACT (Reports 6 and 15 of 2003; Report 6 of 2004)

The commission is the jurisdictional regulator of electricity distribution services under the National Electricity Code in the ACT. ActewAGL Distribution is currently the only electricity network licence holder in the territory. The commission made a final decision on pricing under the code for ActewAGL's electricity distribution network. The final decision also included the regulation of ActewAGL miscellaneous charges and metering charges.

In May 1999 the commission released its price direction for ACTEW's electricity, water and sewerage charges for 1999–2000 to 2003–04 (the 1999 price direction). The 1999 price direction expired on 30 June 2004. Pursuant to its obligations under the code, the commission undertook a review of the ActewAGL (formerly ACTEW) electricity network, to determine an appropriate level of revenue for ActewAGL's regulated electricity business to apply upon the expiry of the 1999 price direction.

As part of this process the commission released an issues paper in July 2003, a draft decision in November 2003 and its final decision in March 2004. Widespread community consultation was sought, with more than ten submissions received and a public forum on the draft decision held in February 2004.

The final decision, reached after an extensive review of ActewAGL's operating and capital costs, resulted in a 6.8 per cent real decrease in the price of distribution services for the 2004–05 year and no real change in the price of distribution services for the years 2005–06 through to 2009–10.

Investigation into prices for water and wastewater distribution services in the ACT (Reports 7 and 16 of 2003; Report 8 of 2004)

The commission was issued a reference by the ACT Treasurer in May 2003 to investigate water and wastewater services in the ACT. Prices for water and wastewater services had been regulated under the commission's price direction which was issued in 1999 and which expired in June 2004. As part of the review, the commission undertook an extensive study of the operating and capital costs of water and wastewater provision in the ACT, in order to determine the efficient level of these costs.

The review process undertaken by the commission was transparent and designed to facilitate wide community involvement and input. To this end, the commission utilised every opportunity for the community to be informed on aspects of the review, and to access information both on the prices being sought by ACTEW for the next regulatory period and on the rationale for setting new prices.

The commission released an issues paper in July 2003 followed by a draft decision in December 2003. The draft decision generated a high level of interest from the ACT community. Ten submissions were received, from individuals, businesses, community groups and ACTEW, and can be viewed on the commission's website. The commission was also informed by a public forum on the draft decision, held in February 2004. The final decision was issued in March 2004. The final report and price direction set the framework (including prices) for the provision of water and wastewater services by ACTEW for the period from 1 July 2004 to 30 June 2008.

As a regulator, the commission must balance the needs and views of a number of stakeholders, including ACTEW, its diverse group of customers, the government and the environment. The commission believes that its

decision allows for the high level of service currently provided by ACTEW to continue, for customers to pay fair and reasonable prices, and for desirable environmental and social outcomes to be achieved.

In its final decision, the commission specified the actual tariff parameters that are to be used by ACTEW, and set a revenue cap for the business. In taking this step, the commission had regard to the non-discretionary water needs of households and the opportunity that exists for consumers to reconsider their discretionary water demand as the unit price rises.

Water abstraction charge (Reports 8, 10 and 13 of 2003)

In May 2003 the commission received a reference from the ACT Treasurer to provide advice on the water abstraction charge (WAC) levied by the government. The commission was instructed to consider and advise on the methodology for the calculation of the WAC, the appropriate level of the WAC, the value of the WAC as a demand management tool, the impact of the WAC on low-income earners, the environmental consideration of water supply and the impact of the WAC on ACTEW Corporation. The WAC had been set at 10 cents per kilolitre in 1999 and not been changed since then. The 2003–04 territory budget included an increase in the WAC to 20 cents per kilolitre as of 1 January 2004 and an expected increase to 25 cents per kilolitre on 1 July 2005.

As part of the review of the WAC the commission produced an issues paper in July 2003, a draft report in September 2003, and a final report in October 2003. Submissions were sought following the release of the issues paper and the draft report and were received from ACTEW, the Conservation Council of the Southeast Region and Canberra Incorporated, the ACT Council of Social Services Incorporated, Environment ACT, the Property Owners and Ratepayers Association of the ACT Incorporated, the Murrumbidgee Country Club Incorporated and private citizens.

As part of the final report the commission made recommendations that the WAC should be calculated in a reasonable and measurable manner, taking into account those costs of managing the delivery of water to ACT residents that are directly incurred by the ACT Government. In addition, the scarcity value of water, as measured by the price of tradable water in the Murrumbidgee River valley, and the environmental cost of water, as measured by the average cost of returning water to downstream river flows, were also taken into account. Those costs should be based on the amount

abstracted by ACTEW. Ultimately, the commission recommended that the WAC be set at 20 cents per kilolitre as of January 2004.

Alternative pricing methodology under Part E of the National Electricity Code (Reports 9 and 11 of 2003)

As part of the review of electricity distribution services in the ACT, the commission undertook to develop its own pricing methodology for electricity network services. Electricity network services are determined under the National Electricity Code. Part E of the code specifies the methodology to be adopted in converting the revenue calculated in accordance with Part D of the code into actual prices. However, Part E also provides for the jurisdictional regulator, the commission, developing and implementing an alternative pricing methodology.

The commission released an issues paper in May 2003, a draft report in September 2003, and a final report in November 2003. The final report was issued as an appendix to the final decision for electricity distribution services. The final report specified the methodology that ActewAGL, as the network service provider in the ACT, should follow when proposing its annual price reset. The alternative pricing methodology also set up a timetable to be followed for future price resets. The price reset for electricity distribution services for the current year was completed in June 2004, according to the new alternative pricing methodology.

Review of contestable electricity infrastructure works (Reports 12 and 17 of 2003, Report 9 of 2004)

The ACT Treasurer issued a reference to the commission in July 2003 to investigate and provide advice on the public benefit of removing restrictions on the contestability of work on selected areas of ActewAGL's electricity network. An issues paper was released in October 2003, followed by a draft report in December 2003. The final recommendations were made in April 2004. The commission concluded that there would be a marginal net benefit to the community from removing the restriction on competition. Accordingly, it recommended that the government remove the restriction under a phased program beginning in mid-2005.

Determination of taxi fares for the period from 1 July 2004 to 30 June 2007 (Report 14 of 2003, Reports 3 and 11 of 2004)

The commission completed a review of taxi fares in response to a direction received from the Minister for Urban Services in September 2003. In its final

report, made in May 2004, the commission set out a revised approach, called a taxi cost composite index (TCCI), which the commission plans to use for adjusting taxi fares over the next three years. In developing the revised approach, the commission released an issues paper in October 2003 and a draft report in February 2004, and considered submissions from the taxi industry. No submissions were received from the general public.

In its previous taxi fare determination, the commission had used a weighted cost index (WCI) method to revise taxi fares, but expressed concerns about the effectiveness of the WCI and foreshadowed the evaluation of alternative fare revision methods. The commission's draft report proposed replacing the WCI with a TCCI. The commission will continue to monitor taxi service quality closely, and retains full scope to determine fare rises below the TCCI outcome in the event of unsatisfactory performance.

The commission has also made a number of recommendations about the operation of wheelchair accessible taxis in the ACT, which it believes will help to improve the overall standard of service delivery. The final determination is consistent with the commission's overall objective to ensure that taxis provide a comfortable, reliable and safe service and offer reasonable fares for all ACT residents.

Compliance and performance report for 2001–02 (Report 1 of 2004)

Licensees are required to report to the commission annually on their performance of their functions under the Utilities Act and their compliance with codes of practice and licence conditions. Licensees are also asked to provide performance and service delivery information.

The first utilities compliance and performance report by the commission was for the 2001–02 financial year. The commission released the 2002–03 report in July 2004.

Associate Contracts (Reports 2, 5, 7 and 10 of 2004)

The *Gas Pipelines Access Act 1998* gives effect in this jurisdiction to the National Third Party Access Code for Natural Gas Pipeline Systems. The commission is the local regulator in respect of gas distribution pipelines in the ACT. Under section 7.1 of the code, a service provider must not enter into an associate contract without the approval of the relevant regulator.

This reporting year ActewAGL submitted three proposed associate contracts to the commission for approval: a distribution services agreement between ActewAGL Distribution and AGL Wholesale Gas Limited, and two gas transport services agreements, one each for large customers and small customers, between ActewAGL Distribution and ActewAGL Retail.

The commission released issues papers inviting comments from interested parties in relation to each of the proposed associate contracts. After considering the information provided and its own analysis of the documents and the issues, the commission concluded in each case that the proposed associate contracts would not prevent, hinder or lessen competition or be likely to have the effect of preventing, hindering or lessening competition in the markets discussed.

Review of access arrangement for ActewAGL natural gas system in ACT, Queanbeyan and Yarrowlumla (Report 4 of 2004)

During the reporting year the commission began undertaking a review of ActewAGL's proposed access arrangement governing third-party access to the natural gas distribution system in the ACT, Queanbeyan and Yarrowlumla. Among other things the access arrangement sets out the tariffs that must be paid for transporting gas throughout ActewAGL's distribution system.

The review is required to be conducted in accordance with the National Third Party Access Code for Natural Gas Pipeline Systems.

The commission had previously approved ActewAGL's proposed access arrangement, which came into effect on 1 February 2001. This access arrangement was due to expire on 31 December 2003, but ActewAGL sought from the commission an extension of the expiry date to 31 December 2004, which the commission approved.

The commission released an issues paper in February 2004 and its draft decision in July 2004. The final decision is due in October 2004, to be followed by a final approval of the revised access arrangement in November 2004.

Full retail contestability in energy markets

In recent years the ACT Government has progressively implemented full retail contestability (FRC) for both electricity and gas services. FRC allows customers the freedom to choose their electricity and gas retailer. Before

contestability was introduced, ActewAGL supplied electricity and gas to all consumers within the ACT and, in the case of gas, in the surrounding region.

Electricity

FRC was introduced for electricity retail services from 1 July 2003. This gave customers using less than 100 megawatt hours of electrical energy per year the option of choosing their electricity supplier. The electricity retail market had been open since June 1998 for large customers using more than 160 megawatt hours per annum, and open since 1 July 2001 for customers using more than 100 megawatt hours per annum.

As of 30 June 2003, ActewAGL had approximately 145,000 electricity customers and there were 13 retailers from which customers could choose. Despite this increase in choice, there has been very little shift away from ActewAGL to alternative electricity retailers.

In the first 12 months of contestability in the electricity retail market, 63 out of a total population of approximately 145,000 customers changed retailers, representing less than 1 per cent of the electricity retail market (see Figure 1). This corresponds with the early experience of FRC in New South Wales and Victoria (see Figure 2). However, there is early evidence that a larger proportion of consumers have moved from standard customer contracts to negotiated contracts offered by ActewAGL.

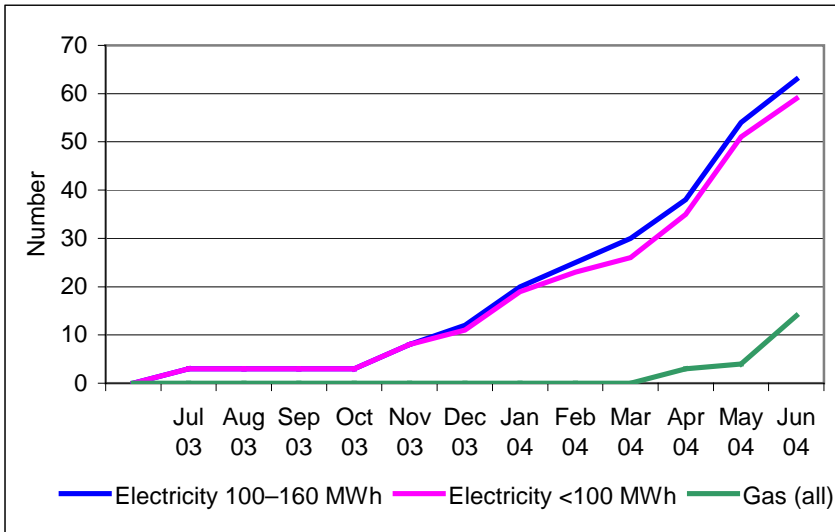
Gas

FRC for gas services was introduced in the ACT on 1 January 2002, and in 2003–04 there were four gas retailers. ActewAGL had approximately 94,000 residential gas customers as of 30 June 2004. As with electricity retail services, there has been virtually no switch away from ActewAGL to other retailers—15 customers had switched retailers as of 20 June 2004 (see Figure 1).

Although FRC was introduced in the ACT in 2002, there were no switches until February 2004, due to the fact that the three alternative retailers were not actively recruiting customers.

Figure 1 differentiates between electricity customers using between 100 megawatt hours and 160 megawatt hours and customers using less than 100 megawatt hours, who have changed electricity retailer since FRC was introduced. The table also shows gas transfers.

Figure 1 ACT electricity and gas customers transferring to new retailers, 2003–04



MWh = megawatt hours

Comparison with other states

FRC for gas and electricity is also available to customers in Victoria, New South Wales and South Australia. It is also technically available in Western Australia for gas retail services. The introduction of FRC in the ACT has not led to the same rate of transfer of customers between retailers as has occurred in other states. This may be due to the relatively small size of the ACT market and the subsequent low levels of activity in the marketplace by competing retailers.

Figures 2 and 3 indicate the relatively low level of customer transfer activity in the ACT; it should be noted, however, that the uptake of alternative providers in other jurisdictions increased after the first year.

Figure 2 Electricity transfers, 1 January 2002 to 30 June 2004

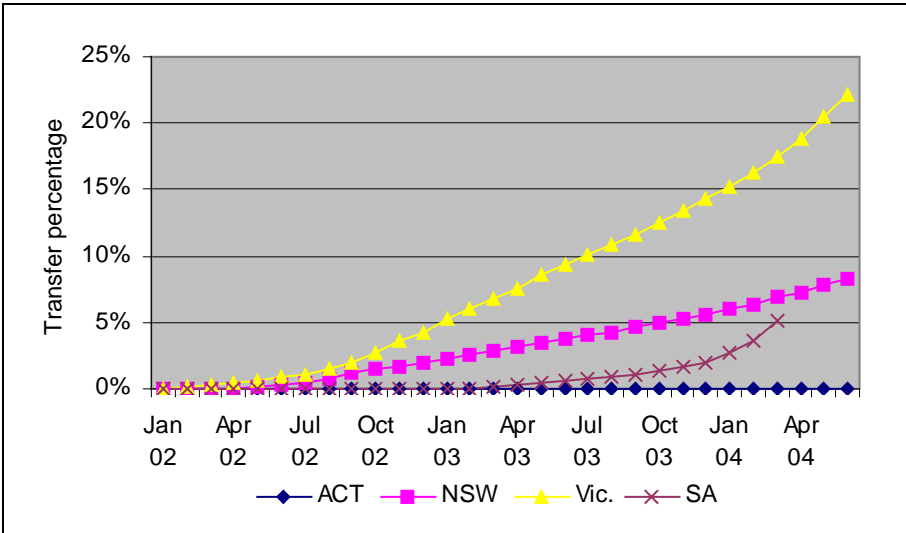
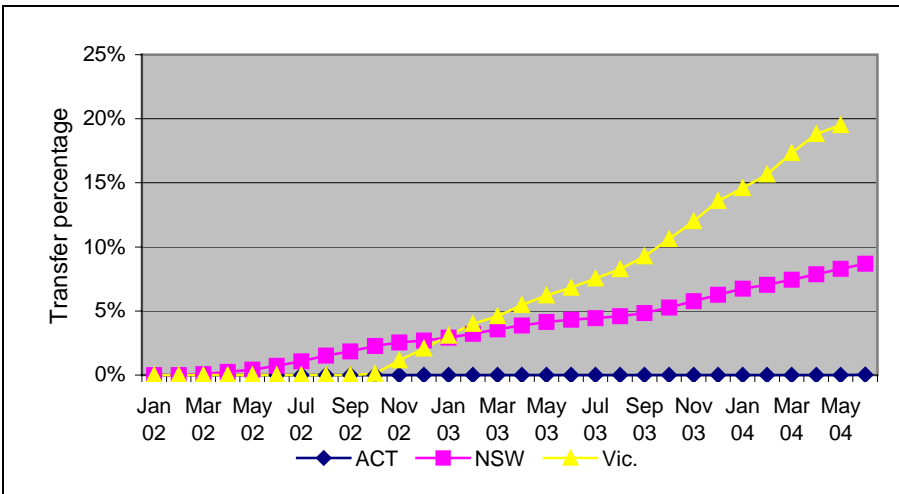


Figure 3 Gas transfers, 1 January 2002 to 30 June 2004



Competitive neutrality complaints

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 Government’s Competitive Neutrality Statement in 1996 provided an initial mechanism operating from the then Office of Financial Management. In 2000, responsibility for

inquiring into and providing advice on competitive neutrality complaints transferred to the commission.

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

The commission received one formal submission in respect of a competitive neutrality complaint in 2003–04; at the end of the reporting year, the submission was still being considered to establish whether the commission would proceed with the matter.

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 before 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 an efficient, reliable and effective utilities industry, 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.

2.2.3 Licensing issues

During the 2003–04 financial year the commission granted a licence to EnergyAustralia to provide gas supply services in the ACT. The commission also received an application for a licence to supply electricity supply services, from Powerdirect. The application was in the process of being assessed as at 30 June 2004.

The commission also approved the surrender of CitiPower’s licence to provide electricity supply services in the ACT. CitiPower, which had held a licence since June 2001, sold its retailing operations to Origin Energy in October 2002. CitiPower subsequently transferred all of its customers to Origin Energy and requested the surrender of its licence.

Table 3 shows the utilities licences that had been issued as at 30 June 2004.

Licence exemptions

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 operation is extremely small.

ActewAGL Distribution was granted a temporary exemption of licence to provide gas transmission services in the ACT. ActewAGL was granted the exemption to enable it to transport gas through its pipeline to help ease gas supply shortages in New South Wales that resulted from an explosion at the Moomba gas plant in January 2004. The circumstances surrounding the service were of an exceptional and short-term nature. The service ceased once full gas supply from the Moomba plant had been restored.

Changes to licence conditions

No changes to licence conditions were made to existing utilities licences during 2003–04.

Table 3 Utilities licences granted, as at 1 July 2004

Service	Licensees
Electricity distribution and connection	ActewAGL Distribution
Electricity supply	ActewAGL Retail AGL Electricity Proprietary Limited AGL Victoria Proprietary Limited CitiPower Proprietary Limited ^a 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 EnergyAustralia
Water supply	ACTEW Corporation
Sewerage	ACTEW Corporation

a CitiPower's licence was surrendered as of 11 February 2004

Licence fees

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 2003–04 the total amount of licence fee determined by the commission was \$1,415,500, of which \$644,300 was to recover the costs of the commission, \$219,400 was to recover the costs of the technical regulator (ACT Planning and Land Authority) and \$551,800 was to recover the costs of the ESCC.²

² The actual total amount payable by utilities was slightly less than this because determined fees were reduced by rebates applying from the previous financial year.

2.2.4 Industry codes and guidelines

The commission did not approve any new industry codes, or amendments to existing codes, in 2003–04. However, it did issue guidelines for greenhouse gas disclosure on customer accounts, which is a new requirement under the Consumer Protection Code. The requirement for electricity suppliers to disclose the amount of greenhouse gas emissions associated with electricity supplied commenced from 1 October 2003. Gas suppliers are not yet required to disclose this information on customers' accounts.

2.2.5 Compliance and performance monitoring

Annual reporting

The commission released the compliance and performance report for utility services for 2001–02 in December 2003. The report was the first comprehensive analysis of electricity, gas, water and sewerage utilities' compliance with, and performance of functions under, the Utilities Act. The 2002–03 report was to be finalised in July 2004 and released in August 2004.

Licensees' compliance and performance reports for 2003–04 are required to be provided to the commission by 1 October 2004.

Alleged breaches of the utilities regulatory regime

No material breaches of the Utilities Act, industry codes or guidelines were made or alleged to have been made during 2003–04.

3 Organisational governance arrangements

The purpose of this section is to provide a description of the structures and processes that the commission had in place during the reporting year to implement the principles and objectives of organisational governance.

3.1 Internal accountability structures and processes

3.1.1 Accountability structure and achievements

As set out in the ICRC Act, the three commissioners are responsible for the governance of the commission and the achievement of its objectives. During the reporting period, the commissioners continued to oversee the governance of the commission, including the application of principal commission policies (such as those on occupational health and safety, fraud control, financial control, internal audit and issues relating to administrative law obligations), through formal monthly meetings. The board, which includes the chief executive officer as an ex-officio member, also oversees recruitment of staff to ensure that the quality of outputs remains at a high standard.

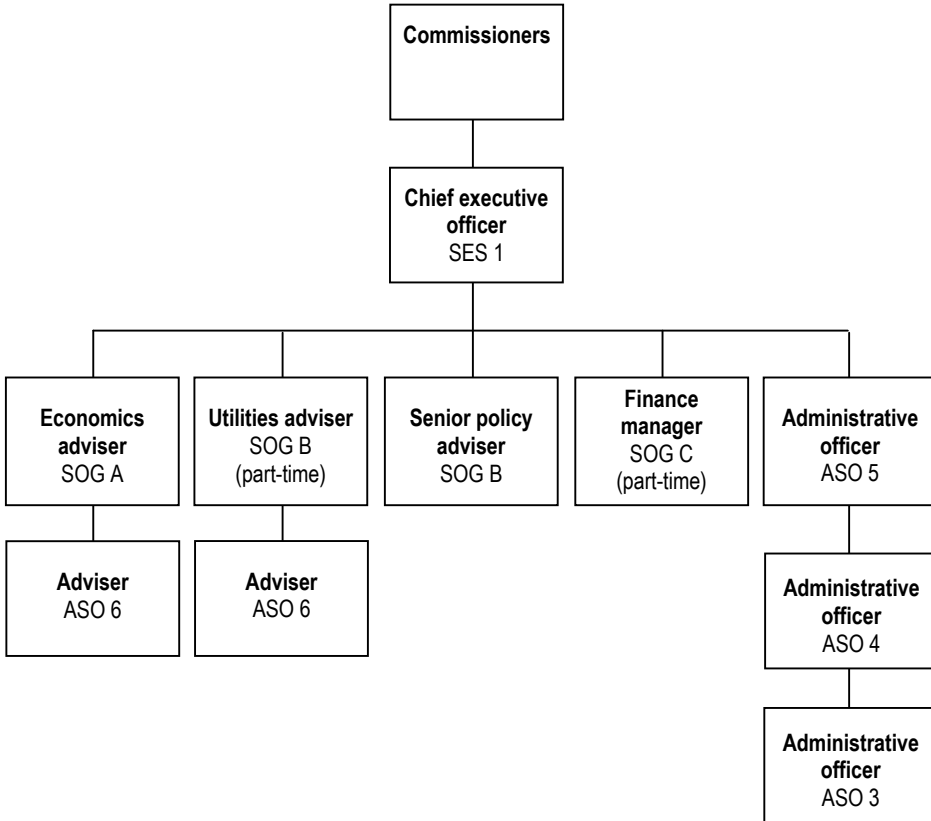
The commission also continued to pursue best practice in its corporate governance and management, including by implementing relevant recommendations on governance made by the Government Audit Office, and appropriate industry or public sector standards. The commission also continued to implement best practice administrative arrangements.

The commissioners remained committed to implementing the ACT Government's policy on independent regulation. During the year they participated as a party to the national Utility Regulators' Forum, and contributed to the development of the new national regulatory arrangements being introduced under the aegis of the Ministerial Council on Energy.

3.1.2 Organisational structure

Figure 4 shows how the commission was structured in 2003–04.

Figure 4 Organisational chart, 2003–04



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

The commissioners are:

- Paul Baxter, Senior Commissioner (appointed 1996; reappointed 2004)
- Professor Robin Creyke, Commissioner (appointed 2001)
- Peter McGhie, Commissioner (appointed 2001).

The chief executive officer is Ian Primrose CPA.

Remuneration of the commissioners and the chief executive officer is determined by the ACT Remuneration Tribunal.

As in previous years, the commission remains 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 (see Appendix 3 for details of such consultancies in 2003–04). During the reporting period the commission maintained its core permanent staff, building skills in critical areas such as communications, law and econometrics.

3.2 Strategic and organisational planning

The major corporate objectives of the commission, as distinct from the commission's statutory objectives at Section 2.1 above, are:

- subject to the ICRC Act, to operate as a businesslike, customer-service oriented entity
- to use benchmarking, to the extent possible for a regulatory agency, in order to operate at least as efficiently as alternative service providers and to provide quality, value-for-money services in all aspects of the commission's operations
- to use financial practices and maintain accounts and records which satisfy the requirements of the *Financial Management Act 1996*, including the associated ACT Accounting Policy Manual, modelled on the requirements of Australian Accounting Standards, and fairly present the commission's financial position and operational and cash flow results for planning and reporting purposes
- to adopt high-standard operating practices to safeguard the environment and the health and safety of staff
- to provide a productive and satisfying working environment for staff, and a commitment to high standards of human resource management based on the principles of equal employment opportunity.

The commission's statutory objectives include the following:

- reviewing and where necessary amending industry codes
- further developing the compliance and performance reporting framework for utilities, including by initiating a program of audits for utilities

- regulating prices for regulated industries and monopoly and near-monopoly services
- promoting competition in markets, consistent with social and environmental sustainability, including contributions
- maintaining an effective complaints mechanism for handling competitive neutrality complaints, as required by the National Competition Policy Agreements
- providing independent advice to the ACT Government on government-regulated activities in the territory.

The commission advises on issues raised under terms of reference by referring authorities, including about regulated industries or industries in general, pricing for regulated industries, assessment and advice on access arrangements for regulated industries, competitive neutrality complaints as defined in the Competition Principles Agreement and set out in Schedule 1A of the ICRC Act, and government-regulated activities.

The commission also has responsibilities in relation to the regulation of utility services supplied in the territory, as defined in the Utilities Act. Included in those responsibilities are obligations to report on compliance by licensees with their responsibilities under the Utilities Act, and determination of licence fees payable by licensees annually to recover the costs of operating the ESCC and the technical regulator.

All determinations and advice developed by the commission, and the processes by which those outputs are developed, remain accessible and transparent and include extensive provision of opportunities for public consultation.

3.3 Risk management and internal audit arrangements

In 2002–03 the commission engaged Deloitte Touche Tohmatsu to review its internal risk management controls. The aims of the review were to identify areas of risk and, if necessary, to implement a planned process for reducing the level of risk. The review of internal controls was also to develop an audit process to monitor aspects of the commission’s operations to ensure that risks were properly identified and controlled and that high-priority risks were

reviewed more frequently than lesser risks. The review identified few high-priority risks, a position borne out in the reporting year. The commission continues to restrict control of financial transactions, invoicing, payments and banking to reduce fraud and mishandling of risk. Similar tight controls are applied to petty cash; no cash, other than petty cash, is kept in the commission. There exist immediate lines of supervision of information to reduce risks such as use of information for private advantage or fraudulent purposes. The commissioners maintain regular and frequent oversight of activities and principal transactions.

The commission's capitalised assets consist of furniture and fittings and leased equipment. Daily management is exercised over their use and maintenance. Cash assets are protected 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 commissioners receive 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 commissioners' direction and control.

The handling, storage and retrieval of information is a high-risk area for the commission. The commissioners have previously drawn attention to risks inherent in the commission's system for managing and accessing information. Information storage and retrieval systems are therefore being reformed to control those risks and make information more readily and reliably accessible.

To this end, the commission has implemented the requirements of the *Territory Records Act 2002* by creating and complying with a records management program to apply formally from 1 July 2004. The program includes a records management policy and procedures, endorsed by the Director of Territory Records, detailing the practical requirements of the commission's record keeping, including standard operating procedures for all commission staff and consultants to follow when carrying out record keeping, and identifying those responsible for each of the tasks in the record-keeping process. The chief executive officer has appointed one of the commission's senior officers as records manager to oversee the implementation of the policy and procedures.

3.4 Fraud prevention arrangements

The commission's financial risk management practices, described above, are designed to prevent financial fraud.

In addition, for the purposes of contract tendering, members of the commission's tender evaluation committees are required to complete declarations that they have no actual or perceived conflicts of interest in respect of any tenderer or panel member. Such documented declarations are retained on a registered file.

The commission's probity adviser in respect of tendering and contracting is the principal solicitor in the Government Solicitor's Office. The commission's probity auditor is the Auditor-General. For audit purposes, the commission has engaged the Auditor-General to conduct regular audits of the commission's processes and records (see Section 3.6).

3.5 Culture and values

The commission is committed to ensuring that the government receives the best possible return from the resources it devotes to the commission, through efficient and businesslike management of those resources and prudent management of the territory's financial risk. A key element of that prudent management involves ensuring that staff are aware of the commission's values and the ACT Public Service Code of Conduct, including processes to receive and deal with any allegations of potential breaches of the code. Commission staff meet regularly, formally and informally to discuss policies, resources and corporate objectives, and the commissioners regularly receive reports on these activities and provide guidance on administrative policies and issues.

The commission seeks to foster a culture of transparency in its dealings, accountability for its actions, consultation with interested parties, independence and ethical behaviour. Numerous meetings are conducted with representatives of utilities and other interested parties about issues and progress. A reference panel comprising a wide range of interested parties is being established to enhance this process. All documents generated by the commission (except those deemed confidential to protect the legitimate interests or privacy of firms or individuals) are made available for public

scrutiny. All documents published by the commission are available in hard copy and in electronic form on the commission's website.³

3.6 Procurement contracting principles and processes

In May 2003 the commission implemented new arrangements, endorsed by the ACT Government Procurement Board, to govern the way in which it obtains economic, econometric, legal and associated services to assist in performing its varied functions. Appropriately qualified and experienced consultant firms were appointed to an expert panel, from which individual consultants 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 project of value greater than \$50,000. The panel currently comprises 17 consultants. The chief executive officer appointed one of the commission's senior officers as manager responsible for overseeing the expert panel and tendering and contracting processes.

Details of consultants appointed to the expert panel, as well as approved rules for managing the panel, are publicly available on the commission's website. As required by government policy, the commission also posts details of all contracts valued in excess of \$50,000 on the publicly accessible ACT Government Contracts Register. Appendix 3 provides details of the commission's expenditure on contractor and consultant services in 2003–04.

The commission recognises that over the five-year life of the expert panel it is possible that consultancy staff might change. In such cases, the commission will expect to be notified if staff changes are likely to impact on services for which the 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.

³ www.icrc.act.gov.au

In cases where a panel member has consistently failed to perform against the conditions of the 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 the integrity of the process remains intact.

Members of the commission's tender evaluation committees 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.

The commission's first probity audit was conducted by the Auditor-General's Office, on a fee-for-service basis, in the second half of 2003. The Auditor-General reported on 23 September 2003 that his office had determined that the commission had applied 'a thorough and considered approach' to its tendering and contracting process and was consistent with government procurement policies and guidelines 'in all material respects'.

Before the contract period for the expert panel ends in May 2008, the commission will readvertise (in a public tendering process) for tenders from consultants to constitute a new panel for the ensuing five years.

3.7 External scrutiny

As in previous reporting periods 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 that the commission had complied with all the requirements of the Chief Minister's Annual Reports Directions in 2002–03. Apart from the probity audit of the commission's expert panel tendering and contracting arrangements mentioned above, 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 by the Estimates Committee in relation to the Budget Estimates for the financial year

2003–04. The committee was satisfied that the commission’s estimates were satisfactory and that its operations were appropriately conducted.

As mentioned in previous annual reports, the commission had expected the Utilities Act and the ICRC Act to be reviewed in 2001–02, but that did not eventuate. The review of the Utilities Act is now being undertaken by the ACT Department of Treasury, with a final report expected in 2005. At the end of the reporting year, no date was available for the start of a review of the ICRC Act.

The commission was not a subject of any other external reviews during the reporting year.

The commission’s unqualified audited financial statements for 2003–04 appear in Appendix 2.

4 Financial performance

This section provides an analysis of the commission's financial performance against budget forecasts to enable monitoring of the commission's resources.

4.1 Agency financial results and analysis of financial performance

The commission's revenues are obtained from three sources: funds appropriated in the territory budget, utility licence fees, and recoveries of costs for regulatory services provided by the commission under the ICRC Act and the Utilities Act. Funds are appropriated to ensure that the commission remains viable to undertake tasks that are directed to it. The level of appropriation has remained stable since 1999 at \$0.40 million. Licence fees are set by the commission to recover the reasonable costs associated with the provision of utility regulation under the Utilities Act by the ESCC, the technical regulator and the commission.

While licence fees have increased by about 22 per cent since they were first levied in 2001–02, the commission's revenue from licence fees was the same in 2003–04 as it was in 2002–03 (\$0.65 million). The increased cost between 2001–02 and 2003–04 reflected both substantial growth in matters dealt with by the ESCC, including complaints about utility bills and hardship claims in respect to utility services and charges, and increases in the commission's costs as regulatory issues become more complex and the level of regulatory activity increases. It is likely that licence fees will continue to rise, as a result of ventures to harmonise regulation between jurisdictions, the reviewing and development of codes, the development of information for consumers and utilities, continuing high levels of complaints about bills, and increased activity in technical regulation.

The commission balances its activities and the degree to which it can effectively recover its costs with the obligations it has under its legislation to provide services to utilities and to represent consumer interests. The outcome for 2003–04 is satisfactory in that revenue adequately covered the commission's costs. The declared surplus at the end of the year is a result of the cost of utility licence fee related activity being less than forecast by the

regulatory agencies under the Utilities Act. The surplus fees collected in 2003–04 will be returned to the licensees as a reduction in the amount payable on their 2004–05 licence fees.

The commission's financial performance measures demonstrate the cost-recovery nature of the commission's operations. The commission remains highly liquid, with about 50 per cent of assets in cash, although the cash remaining at the end of the year is substantially unexpended licence revenue. Expenditure by the technical regulator and the ESCC in the final quarter will reduce that end-of-year balance and the difference will offset the licence fees determined for 2004–05. Being a cost-recovery authority, the commission's equity balance is ultimately nil. The end-of-year balance assists with cash flow at the transition to the new year.

The commission is satisfied that it operated within its means and continued to meet its statutory obligations, was able to attract suitably qualified and experienced staff, and met its financial commitments throughout the year. The commission's obligations include its responsibilities for Commonwealth taxes such as fringe benefits tax and goods and services tax. The commission's performance, both financially and in terms of its outputs, exceeded the forecasts in the budget for 2003–04.

The commission has maintained its effective financial management performance over the four years since it commenced being responsible for its financial affairs. The commission is proud of the fact that not only has it maintained its financial performance record and reduced its dependence on the government budget, but it has also been transparent and accountable in its dealings with the community. The commission notes that it has received unqualified audit reports for each of the four years of the life of the permanent secretariat.

4.2 Capital works management

The commission undertakes no capital works in general and undertook none in 2003–04. The capitalised assets on the commission's balance sheet are made up of furniture and fittings acquired when the commission's offices were established in 2000. Recent minor extensions to the commission's office accommodation were funded from operating expenditure and not capitalised.

4.3 Asset management

The commission has no physical assets except for furniture and fittings that have been capitalised. The commission owns no real property and leases its office equipment. Thus, for the purposes intended by the Annual Reports Directions, the commission has no need for an asset management strategy.

The commission manages its human and operating assets in accordance with the requirements of the ACT *Public Sector Management Act 1994* and accompanying standards, the policies promulgated by government, and the principles and practices that the commissioners, sitting as a board of management, understand to represent best management practice.

The commission's financial resources are managed in accordance with its statutory obligations, particularly the requirements of the *Financial Management Act 1996*. The commission, to date, has been able to operate within the limits of its revenues and has not been required to raise debt capital or manage non-current liabilities of that nature. The commission's non-current liabilities are confined predominantly to long-term employee benefits, superannuation and long service leave liabilities.

4.4 Government contractual debts (interest)

The commission was not required to pay interest on contractual debt in 2003–04.

5 Human resource performance

This section provides an analysis of the commission's performance in managing and developing its human resource capability.

5.1 Analysis of human resource performance

As mentioned in Section 3.1.2 and in previous annual reports, the commission, while pursuing best practice in its corporate governance and management, remains convinced that core staff numbers should not increase substantially. The commission's preferred approach to managing resources efficiently and effectively is to employ contract staff and consultants as needed (see Appendix 3 for details of such consultancies in 2003–04), while maintaining core permanent staff in critical disciplines such as economics, econometrics, communications and administrative law.

In short, the commission's overarching aim is to become, as far as possible, an 'employer of choice'—that is, one with the conditions and practices that attract and, as importantly, retain staff of highest calibre available. The commission is satisfied that it continued to meet this challenge in 2003–04. The commission is justifiably proud of the achievements and productivity of its staff during the reporting year. Their performance continued to be favourably comparable to that of officers of other Australian regulators and, indeed, other agencies of the ACT Public Service.

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. As observed in previous years, such an 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. The commission's small scale provides opportunities to staff for broad experience and substantial responsibility for outcomes but is limited in its ability to offer substantial internal mobility.

The availability of skilled and experienced people therefore remains a major current and ongoing challenge for a small organisation such as the commission when competing with well-resourced agencies in the government sector and the private sector. During the reporting period, in

fact, two senior officers left the commission to pursue opportunities in private enterprise. One left to join a major national consulting firm to gain further experience in economic regulation nationally and internationally. The other officer sought alternative career opportunities in small business.

Requests for more information about the commission's staffing should be made to the chief executive officer; contact details are provided in Appendix 8.

5.2 Workplace relations

In 2003–04 there were no Australian Workplace Agreements (AWAs) applying to the commission (one AWA previously applying expired and, in accordance with government policy, was not renewed). A new three-year government-wide certified agreement was reached with effect from 1 April 2004, and covers all the commission's senior officer and administrative officer employees. The chief executive officer is employed under an executive contract, the terms and conditions of which are determined by the ACT Remuneration Tribunal, as is the remuneration of the commissioners.

5.3 Workplace injury prevention and management

The commission is committed to following sound occupational health and safety (OH&S) approaches to ensure that a safe, healthy and secure workplace is maintained. During 2003–04, the commissioners considered OH&S issues at their standing monthly meetings and all office accommodation was monitored to ensure that any emerging risks were identified early and that appropriate action was taken to reduce or eliminate such risks. The commission continued to implement and abide by OH&S policies applicable to all government agencies.

The commission noted with satisfaction that, for the fourth year running, its workplace was free of injuries or complaints. OH&S is an important issue for the commission, not only because the loss of a staff member could 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. As well as being considered at the monthly meetings of commissioners, OH&S issues and complaints are standing agenda items for regular staff meetings.

The commission has two fully trained and certified first aid officers (one currently on maternity leave) and participates in fire safety and evacuation practices for tenants of Eclipse House, in which the commission is situated. The commission has a fire warden in the office.

5.4 Workplace diversity

The commissioners remain most conscious of the importance of both equal employment opportunity (EEO) and cultural and linguistic diversity in determining the organisational health of the commission. The commission is an equal opportunity employer. Table 4 illustrates the EEO and equity composition of the commission's staff as at 30 June 2004.

In 2003–04 the commission's staff comprised five females and five males. The gender distribution of the commissioners remained unchanged at one female and two males. Overall, the commission thus 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.

5.5 Learning and development

As the major training activities during the reporting year, staff attended conferences and seminars on relevant industry regulatory issues. 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 as a proportion of total wage- and salary-related overheads. In 2003–04 the commission's overall learning and development expenditure was approximately 6.8 per cent.

This was achieved largely as a result of a substantial contribution by the commission to the establishment of ACORE, the Australian Centre of

Table 4 EEO and equity composition of the commission, 30 June 2004

Level	Number	Gender		ATSI	Disability	NESB
		F	M			
Commissioners	3	1	2	–	–	–
SES 1.1	1	–	1	–	–	–
SOG A	1	–	1	–	–	–
SOG B	2	1	1	–	–	–
SOG C	1		1			
ASO 6	2	1	1	–	–	–
ASO 5	1	1	–	–	–	–
ASO 4	1	1	–	–	–	–
ASO 3	1	1	–	–	–	–
Total	13	6	7	–	–	–

ASO = Administrative Service Officer; ATSI = Aboriginal or Torres Strait Islander background; NESB = non-English speaking background; SES = Senior Executive Service; SOG = Senior Officer Grade

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

Regulatory Economics at the Australian National University, in an arrangement which entitles the commission to nominate suitable staff for relevant higher education opportunities in the disciplines of regulatory economics, policy and law. The commission also continued to encourage staff to pursue other further education by supporting the Studies Assistance Program. As well, one senior staff member was supported in undertaking the Take The LEAD public management program under the auspices of the Chief Minister’s Department.

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 individual staff members. 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, including among various not-for-profit human services organisations. The commission both sought ways to provide information on specific issues to the community and remained active in speaking at conferences and seminars.

6 Information and access

This section describes the commission's policies and practices to ensure appropriate access to and recording of information, and to meet statutory obligations such as those under the *Public Interest Disclosure Act 1994* and the *Freedom of Information Act 1989*.

6.1 Freedom of information

6.1.1 Section 7 statement

In addition to the requirements of the Public Interest Disclosure Act and the Freedom of Information Act, the commission is subject to requirements under both the ICRC Act and the Utilities Act 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 the application of conditions to utility licences are all publicly available.

6.1.2 Section 8 statement

In practice, the commission makes available on request any and all records except those containing genuine commercial-in-confidence information (in submissions made to the commission by outside entities) and certain staff-in-confidence documents. The commission makes information publicly available through published reports and its website,⁴ and at the commission's offices (Level 7, Eclipse House, 197 London Circuit, Civic).

The chief executive officer has appointed a senior officer among whose duties is a responsibility to attend to any outside information request in a prompt and thorough manner. The chief executive officer is the contact person for the purposes of freedom of information requests.

⁴ www.icrc.act.gov.au

6.1.3 Section 79 statement

During the reporting year the commission received no requests for information disclosure under the terms of the Freedom of Information Act.

6.2 Public interest disclosure

The commission has various obligations under the Public Interest Disclosure Act. In particular, the commission is required to have in place procedures to facilitate the making of public interest disclosures and to deal with public interest disclosures that the commission is the proper authority to receive, and to ensure that those procedures are maintained.

The procedures must include procedures dealing with:

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

Copies of the procedures must be available to the commission's 'public officials' and to the public. Draft procedures were submitted to the commission in April 2004 for approval later in the year. In the 2003–04 reporting year, the ACT Department of Treasury procedures were applied to cover the commission.

The commission received no public interest disclosure requests in 2003–04. There were no incidents involving public interest disclosure during the reporting year.

6.3 Territory records

As mentioned in Section 3.3, the handling, storage and retrieval of information is a high-risk area for the commission. To mitigate risk, the

commission has implemented the requirements of the *Territory Records Act 2002* by creating and complying with a records management program, which will apply formally from 1 July 2004.

The program includes a records management policy and procedures, endorsed by the Director of Territory Records, detailing the practical requirements of the commission's record keeping, including standard operating procedures for all commission staff and consultants to follow when carrying out record keeping, and identifying those responsible for each of the tasks in the record-keeping process.

Further, the chief executive officer has appointed one of the commission's senior officers as records manager responsible for overseeing the policy and procedures.

7 Community and environment

This section describes the commission's achievements and contributions to a range of social justice and public accountability issues in 2003–04.

7.1 Community engagement

The commission consults and advises the community in relation to all inquiries referred to it. 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 approving 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.

As indicated in sections 2.2.2 and 3.5, the commission devotes considerable time and effort to consulting with industry, peak bodies and members of the public in the normal course of its activities. In this respect, a new reference panel representing a wide range of interested parties is being established to assist the commission in pursuing its corporate objectives.

7.2 Cost–benefit analysis of business regulation reform

The commission had no regulatory reform activities in 2003–04 other than those reported in this annual report.

7.3 Commissioner for Environment reporting

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

7.4 Ecologically sustainable development

During the reporting year the commission continued to review its operations in support of the principles of ecologically sustainable development. In 2003–04 the review included consideration of options for waste minimisation, the use of ‘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 increase the proportion of its waste that is recycled. As part of its ongoing review the commission aims 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. Table 5 summarises the commission’s priorities for ecologically sustainable development.

Table 5 Commission activities supporting ecologically sustainable development, 2003–04

Issue	Activity	Outcome
<i>Office practices</i>		
Energy use	Reducing reliance on electric lighting	Reduced energy consumption, leading to reduced greenhouse gas emissions
Consumables	Using recycled paper and other recycled 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	Considering social and environmental impacts, including the application of the precautionary principle	Promotion of sustainability and reflection of the real economic costs and the impact on social costs of market activity
Price setting	Considering social and environmental costs	Service pricing for regulated industries that reflects full costs, including environmental costs and the social impact of prices

7.5 Fuel management plans

The commission has nothing to report in respect of section 11N(2) of the *Bushfire Act 1936*.

7.6 Aboriginal and Torres Strait Islander reporting

The commission has nothing to report in respect of this section.

7.7 Multicultural framework

Workplace diversity within the commission is discussed in Section 5.4.

7.8 Justice, options and prevention policy framework

The commission has nothing to report in respect of this section.

Appendix 1 Management discussion and analysis

General overview

Objectives

The Independent Competition and Regulatory Commission is responsible for regulating and advising government about monopoly and near-monopoly industries, and for providing advice on competitive neutrality complaints and government-regulated activities under the *Independent Competition and Regulatory Commission Act 1997*. The commission also licenses utility service providers to operate in the ACT, establishes the industry compliance framework and ensures compliance with industry codes and guidelines under the *Utilities Act 2000*.

The commission's full objectives are set out in full in section 7 of the ICRC Act and section 3 of the Utilities Act (see also Section 2.1 of this report).

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 risks to staff in the office, including occupational health and safety (OH&S) risks. These risks are assessed as low and are managed by the commission as a normal part of its operations. The commission has had, and will continue periodically to have, risks assessed as part of its 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 has reduced contractual risk by establishing a panel of expert advisers for a period of five years. Each participating expert is pre-assessed in terms of risks, such as conflicts of interest. There were no incidents of contract non-performance in 2003–04.

Risks arising from inappropriate treatment of information continued 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 adviser, but may lead to the establishment of a permanent part-time position responsible for knowledge management.

The commission's board receives monthly reports on OH&S risks and complaints, drawing on reports made weekly at staff meetings. During 2003–04 there were no reports of workplace injuries and no complaints. In the four years since the commission's establishment there have been no injuries in the office.

During 2003–04 staff concerns about strains that could result in potential overuse injuries were raised. The commission addressed those concerns by directing affected staff to appropriate assessment and treatment and instituting a review of office work practices and the suitability of office furniture and equipment. Appropriate adjustments to ergonomic furniture, workstations and work practices were recommended by an independent consultant. Those recommendations will be addressed in early 2004–05. Also in 2004–05, an OH&S survey of the office will be undertaken and appropriate changes will be recommended to the board.

Financial performance

The following financial information is based on the audited financial statements for 2002–03 and 2003–04, and the forward estimates contained in the 2004–05 Budget papers.

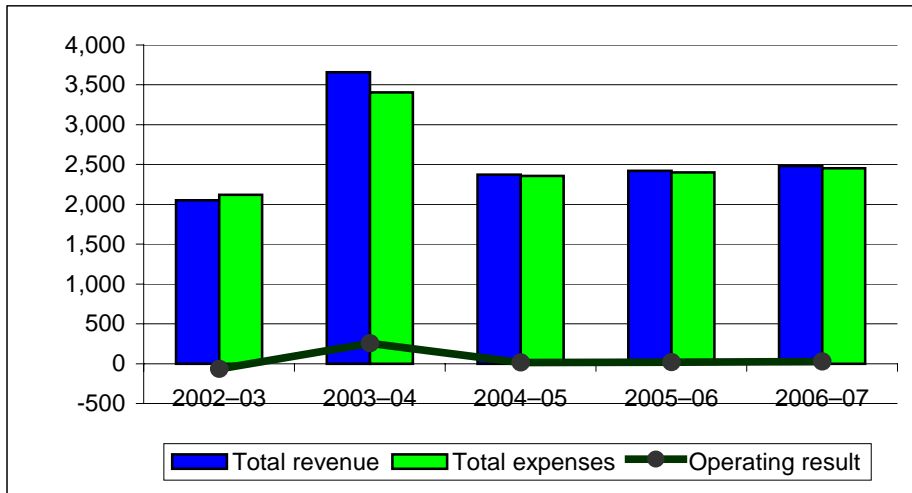
Operating result

The operating result for 2003–04 was a surplus of \$0.254 million. This was significantly higher than the budgeted result (a \$0.010 million surplus), or the result for the 2002–03 financial year (an operating deficit of \$0.068 million). A number of large investigations, principally the inquiries into pricing of electricity distribution services, water and wastewater services and the revision of gas access arrangements, contributed to the result. A

number of financial policy initiatives undertaken by the commission also contributed.

Figure 5 shows that the commission’s aim is to recover reasonable costs associated with its responsibilities under the ICRC Act and the Utilities Act.

Figure 5 Statement of real and expected trends in financial performance, 2003 to 2007 (\$'000)



Total revenue

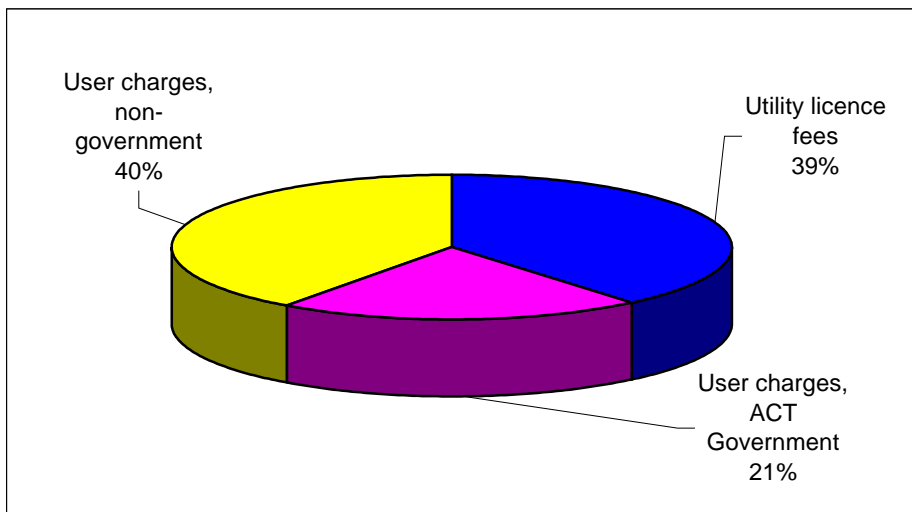
In 2003–04 overall revenue increased by \$1.605 million (78 per cent) to \$3.658 million. As Figure 6 shows, the main source of income was the recovery of reasonable costs associated with non-ACT Government user charges. As in previous years, these charges increased significantly, reflecting the increased services delivered by the commission. There was a seven-fold increase in the amount recovered, from \$0.198 million in 2002–03 to \$1.445 million in 2003–04 (when the budgeted figure was \$0.452 million).

Utility licence fees for 2003–04 increased by 15 per cent of the previous year’s total (\$1.23 million) to reach \$1.419 million. This accounted for 39 per cent of commission revenues, while licence fees accounted for 60 per cent in 2002–03 and 58 per cent in 2001–02.

ACT Government user charges increased to \$0.759 million from \$0.588 million in 2002–03, an increase of 29 per cent (budgeted revenue for this item was \$0.849 million). A number of inquiries were undertaken during the financial year and costs for these were recovered from other ACT Government agencies.

Interest revenue decreased by 27 per cent, from \$0.037 million in 2002–03 to \$0.027 million in 2003–04. This result was mainly due to the fees charged to utility licence holders more closely reflecting the costs of administering such licences, and therefore, a lesser amount of funds being held in cash.

Figure 6 Components of revenue, 2003–04



Total expenditure

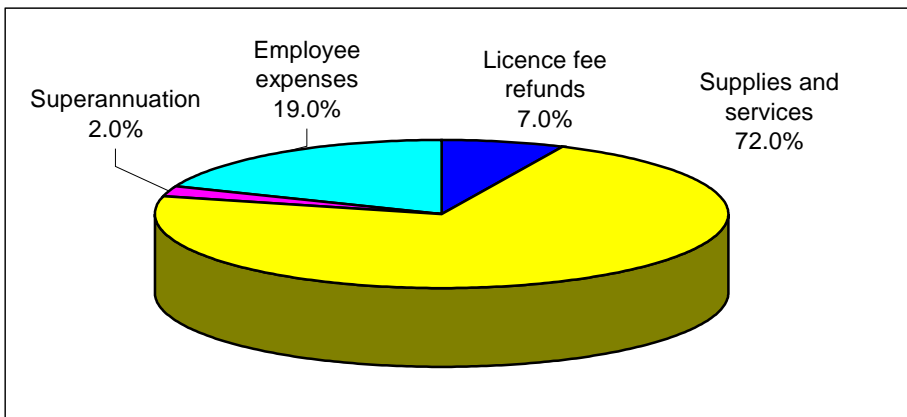
During 2003–04 total expenditure increased by 60 per cent, from \$2.121 million in 2002–03 to \$3.404 million. This increase correlates with the increase in revenues for the financial year. Figure 7 shows the composition of the expenditure.

Employee expenses increased from \$0.452 million in 2002–03 to \$0.654 million for the 2003–04 period. This increase was mainly a result of ongoing staff being on higher senior officer and administrative officer levels than in previous years. Employee expenses decreased from 21 per cent to 19 per cent of total expenditure in 2003–04.

External consultancies accounted for the major item of expenditure for the year. This expenditure increased from \$0.343 million in 2002–03 to \$1.393 million in 2003–04, a four-fold increase. The use of external professionals to provide independent and timely advice of a high quality in their fields of expertise is essential to the commission in the delivery of its responsibilities.

Licence fee refunds reduced from \$0.378 million to \$0.244 million in 2003–04. With previous years' data on hand, the ability to match licence fees and associated expenditure more closely will most likely reduce the need to collect and later refund excess fees.

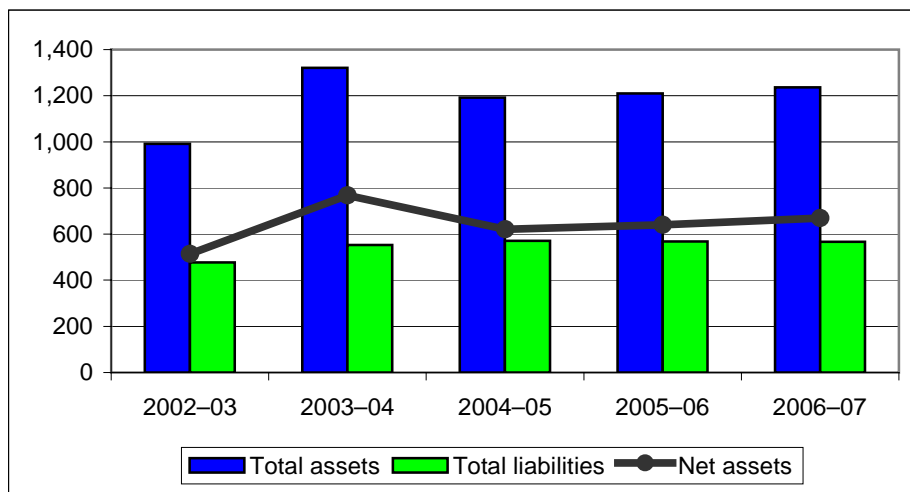
Figure 7 Components of expenditure, 2003–04



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 8 Real and expected trends in financial position, 2003 to 2007 (\$'000)



As Figure 8 indicates, the net asset position of the commission at the year's end was \$0.768 million, representing an increase of \$0.25 million or 49 per cent. This increase in net assets reflects the operating results for the year ended 30 June 2004. The result is stronger than the budgeted position of \$0.608 million.

'Cash at bank' at 30 June 2004 was \$0.512 million. This is lower than the budgeted \$0.634 million but is explained by a higher than expected total of receivables (monies due to be paid to the commission) at the year's end (\$0.718 million, rather than the \$0.456 budgeted). Figure 9 shows the composition of the commission's assets, while Figure 10 shows liabilities.

Total liabilities increased by only 16 per cent for the same period, from \$0.477 in 2002-03 to \$0.553 for 2003-04. Budgeted total liabilities at the year's end were forecast to be \$0.573 million, slightly higher than the actual result. Payables (monies due to be paid by the commission) increased by 17 per cent (from \$0.321 million to \$0.377 million), while total employee benefits increased by 13 per cent (from \$0.156 million to \$0.176 million).

Figure 9 Components of total assets, 30 June 2004

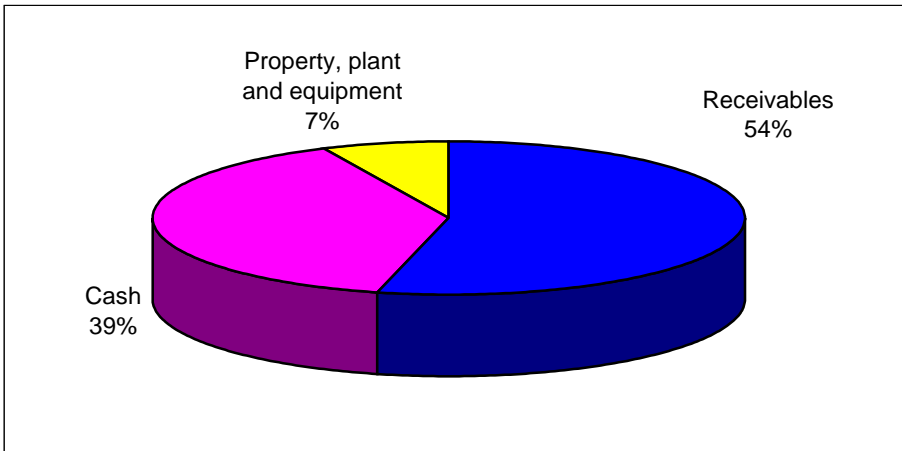
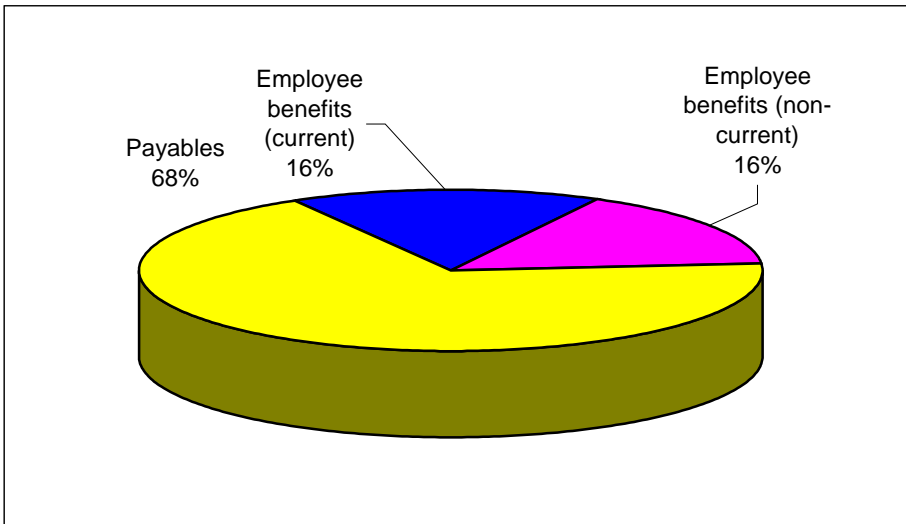


Figure 10 Components of total liabilities, 30 June 2004



Liquidity

‘Liquidity’ is the ability of the commission to satisfy its short-term debts as they fall due. A common indicator for liquidity is the current ratio, which compares the ability to fund short-term liabilities with short-term assets. A ratio of less than 1:1 may indicate a reliance on the next financial year’s

ACT Government user charges to meet short-term debts. Table 6 indicates the liquidity of the commission.

Table 6 Real and expected current ratio, 2002–03 to 2006–07

Description	Prior year actual 2002–03	Current year budget 2003–04	Current year actual 2003–04	Forward year budget 2004–05	Forward year budget 2005–06	Forward year budget 2006–07
Current assets (\$'000)	887	1,090	1,230	1,114	1,145	1,184
Current liabilities (\$'000)	405	496	467	488	480	472
Current ratio	2.2:1	2.2:1	2.6:1	2.3:1	2.4:1	2.5:1

The commission's current ratio for the financial year is 2.6:1, representing a slight increase compared to the prior year's ratio. While the commission's overall net asset position has increased, 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.

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

Table 7 Real and expected financial assets to total liabilities ratio, 2002–03 to 2006–07

Description	Prior year actual 2002–03	Current year budget 2003–04	Current year actual 2003–04	Forward year budget 2004–05	Forward year budget 2005–06	Forward year budget 2006–07
Total financial assets (\$'000)	887	1,090	1,230	1,114	1,145	1,184
Total liabilities (\$'000)	477	573	553	571	569	567
Financial assets to liabilities ratio	1.9:1	1.9:1	2.2:1	2:1	2:1	2.1:1

The commission's statement of intent, prepared as part of the budget process every year, contains financial and non-financial performance measures to enable comparison of performance between years. During the reporting period the commission met or exceeded its performance measures, as indicated in Tables 8 and 9.

Table 8 Non-financial performance measures, 2003–04

Performance measures	Notes	Target	Result	Variance %
Provide reports to government in response to all competitive neutrality complaints				
• Tarra Lodge	a	2 reports	nil	(100)
Provide reports on all government activity matters referred to the commission				
• Electricity infrastructure review				
• Water abstraction charge review	b	2 reports	6 reports	200
Provide directions for all price references				
• Taxi fare review 2004–07		2 reports	3 reports	50
• Electricity network pricing	c	3 reports	3 reports	0
• Water and sewerage network pricing		3 reports	3 reports	0
Provide reports in relation to all access issues referred to the commission				
• Gas access review				
• Gas associate contracts	d	1 report	5 reports	400
Provide decisions on applications for utility licences	e	1 decision	nil	(100)
Report to government on the level of compliance with the licence conditions and industry codes applying to utilities		1 report	1 reports	0
Report on all licences cancelled or amended during 2003–04	f	1 report	nil	(100)
Approval of annual price adjustments for utility pricing for electricity retail, gas networks	g	3 decisions	2 decisions	(33)
Approval of annual price adjustments for regulated industries				
• ACTION pricing	h	1 decision	nil	(100)

a The target measure estimated that there would be two competitive neutrality complaints raised in the year. Complaints have not reached that level in the last several years but are unpredictable. In 2003–04 only one complaint was raised with the commission; it was completed in the period under review. The outcome of the Tarra Lodge complaint was not recorded as a report as such. The assessment of the complaint under the terms of the Act resulted in a decision that the complaint was not within the terms of the Act and therefore an investigation was not warranted. The decision was conveyed to the complainant by letter.

- b References for investigations into matters relating to government-regulated activities cannot be predetermined for a year, so the estimate of two reports is subject to considerable variation. In 2003–04 investigations in this area resulted in the publication of six reports.
- c The commission received references for price inquiries into taxi pricing for the period commencing 1 July 2004 and ending on 30 June 2007 (three reports), electricity (three reports) and water and sewerage network pricing (three reports).
- d Investigations into access matters are driven by industry demands and are therefore unpredictable. Review of the gas access arrangement was planned but the approval of gas associate contracts was not. In 2003–04, while one report was predicted, investigations resulted in five reports being published.
- e During the year the commission received one application for a licence to be issued under the Utilities Act for the provision of electricity services. The commission assessed the application but did not make a decision until the board meeting on 8 July 2004. Consequently, the Statement of Performance records no final activity for 2003–04, but notes the work in progress.
- f The commission has undertaken to provide a report to the Treasurer on the number of licences issued, revoked, surrendered, suspended or varied under the Utilities Act in each year. The report in relation to 2004 was completed after 1 July 2004.
- g The commission approved rebalancing for prices for retail services in electricity and gas services. At the beginning of the year the commission expected to rebalance prices for electricity retail, gas networks and gas retail during 2003–04. However, gas retail pricing ceased to require regulated prices from 1 July 2004. The commission approved prices for electricity retail for 2003–04 and the continuation of existing gas network prices until 31 December 2004, resulting in two decisions.
- h ACTION prices were determined in 2003 for a period of three years. The price determination provided that there would be no fare adjustment in 2004–05. ACTION advised the commission that fares would be unchanged for 2004–05 as required by the determination; therefore a formal decision was not required for 2004–05. The commission exchanged correspondence on this matter but there was no commission decision.

Table 9 Financial performance measures, 2003–04

Performance measures		Target	Actual	Variance %
<i>Profitability</i>				
Return on assets	(operating result before tax + interest expense) ÷ average total assets for period	0	0	0
Return on equity ^a	operating result b.t. ÷ equity	0	0.33	100
Profit margin	operating result b.t. ÷ (govt and non-govt user charges + taxes, fees and fines)	0	0	0
<i>Liquidity</i>				
Current ratio ^b	current assets ÷ current liabilities	2.2	2.63	20
Cash position ^c	(cash + current investments) ÷ total assets	0.5	0.4	(20)
Receivables turnover ^d	(govt and non-govt user charges + taxes, fees and fines) ÷ average receivables for period	0	6.4	100
<i>Financial stability</i>				
Debt ratio ^e	total liabilities ÷ total assets	0.5	0.4	(20)
Capital ratio	total liabilities ÷ equity capital	0	0.7	100

Note: Debt service coverage = cash flow from operations ÷ interest expenditure

- a Return on equity—The return shown is the balance of retained earnings at the end of 2003–04 compared to retained earnings for the previous year. The retained earnings are almost entirely made up of licence fee revenue that has yet to be fully finalised and disbursed to utilities. That process occurs by September each year. True retained earnings in any year will be nil, and the return on equity is therefore notional.
- b Current ratio—The difference in the current ratio between the budgeted and actual outcomes reflects an increase in actual current over the budgeted current assets (\$140,000), due to improved recovery of commission costs, and a reduction in the level of current liabilities, particularly in the level of payables (\$80,000).
- c Cash position—The cash position was less than budgeted because a higher than budgeted level of assets was held in receivables, reducing the amount of cash as a proportion of total assets at the end of the period.
- d Receivables turnover—This measure reflects delays experienced in payment of accounts and a consequent build-up of receivables that would otherwise have been reported as cash. 2003–04 was an usual year in respect of this measure; normally, receivables would be relatively low compared to cash at the end of the year.
- e Debt ratio—Total liabilities were proportionately less than total assets in actual terms compared to the budgeted outcome; there was more activity in the year and therefore more revenue generated compared to liabilities. Of liabilities, the level of payables declined and that decline was only partly offset by a rise in employees.

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Auditor's statement



AUDITOR-GENERAL
Australian Capital Territory



INDEPENDENT AUDIT REPORT

INDEPENDENT COMPETITION AND REGULATORY COMMISSION

To the Members of the ACT Legislative Assembly

Audit Opinion

In my opinion, the financial statements of the Independent Competition and Regulatory Commission for the year ended 30 June 2004:

- (i) are presented in accordance with the *Financial Management Act 1996*, Australian Accounting Standards and other mandatory financial reporting requirements in Australia; and
- (ii) present fairly the financial position of the Independent Competition and Regulatory Commission as at 30 June 2004 and the results of its operations and its cash flows for the year then ended.

Responsibility for the Financial Statements

The Chief Executive Officer of the Independent Competition and Regulatory Commission is responsible for the financial statements. This includes responsibility for accounting policies and estimates used in the preparation of the financial statements and the maintenance of adequate accounting records and internal controls.

Contents of the Financial Statements

The financial statements are comprised of the Statement of Financial Performance, Statement of Financial Position, Statement of Cash Flows, Statement of Performance and accompanying notes.

The Auditor's Responsibility

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

The Audit Scope

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

Secura House, 11 Torrens Street Braddon ACT 2612 PO Box 275, Civic Square ACT 2608
Telephone: (02) 620 79831 Facsimile: (02) 620 79826
Office Email: actsaucitorgeneral@act.gov.au

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

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

My procedures included:

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

I considered the effectiveness of internal controls when determining the nature and extent of my procedures, however the audit was not designed to provide assurance on internal controls. My audit also did not involve the evaluation of the prudence of decisions made by the Independent Competition and Regulatory Commission.

Statement of Performance

My audit of the Statement of Performance included an assessment of whether reported performance measures are materially correct. However no audit opinion is expressed on the accuracy of explanations provided for variations between actual and budgeted performance due to the essential subjectivity of such explanations.

Tu Pham
Auditor-General
30 July 2004

Statement of responsibility

Independent Competition & Regulatory Commission Financial Statements For the Year Ended 30 June 2004

Statement of Responsibility

In our opinion, the financial statements are presented in accordance with the Independent Competition & Regulatory Commission's accounts and records, and fairly reflect the financial operations and service performance of the Independent Competition & Regulatory Commission for the year ended 30 June 2004, and its financial position on that date.

Paul Baxter
Senior Commissioner
Independent Competition & Regulatory Commission

July 2004

Jan R. Primrose
Chief Executive Officer
Independent Competition & Regulatory Commission

July 2004

Statement of financial performance

for the year ended 30 June 2004

	Note no.	Actual 2004 \$'000	Budget 2004 \$'000	Actual 2003 \$'000
Revenue from Ordinary Activities				
User Charges—ACT Government	4	759	849	588
User Charges—Non-ACT Government	4	1,445	452	198
Fees	5	1,419	1,000	1,230
Interest	6	27	18	37
Resources received free of charge	2(f)	6	–	–
Other Income		8	–	–
Total Revenue from Ordinary Activities		3,664	2,319	2,053
Expenses from Ordinary Activities				
Employee Expenses	7	654	683	452
Superannuation Expenses	8	72	95	37
Supplies and Services	9	2,421	1,518	1,241
Prior Year Licence Fee Refund	10	244	–	378
Depreciation	11	13	13	13
Resources provided free of charge	2(f)	6	–	–
Total Expenses from Ordinary Activities		3,410	2,309	2,121
Operating Surplus/(Deficit) from Ordinary Activities		254	10	(68)
Net Effect of the Adoption of AASB 1028		–	–	(3)
Total Revenue, Expenses and Valuation Adjustments Recognised Directly in Equity	19	–	–	(3)
Changes in Equity other than those Resulting from Transactions with Owners as Owners		254	10	(71)
Total Changes in Equity including those Resulting from Transactions with Owners as Owners		254	10	(71)

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

Statement of financial position

as at 30 June 2004

	Note no.	Actual 2004 \$'000	Budget 2004 \$'000	Actual 2003 \$'000
Current Assets				
Cash	14	512	634	468
Receivables	15	718	456	419
Total Current Assets		1,230	1,090	887
Non-Current Assets				
Plant and Equipment	16	91	91	104
Total Non-Current Assets		91	91	104
Total Assets		1,321	1,181	991
Current Liabilities				
Payables	17	377	457	321
Employee Benefits	18	90	39	84
Total Current Liabilities		467	496	405
Non-Current Liabilities				
Employee Benefits	18	86	77	72
Total Non-Current Liabilities		86	77	72
Total Liabilities		553	573	477
Net Assets		768	608	514
Equity				
Accumulated Fund	19	768	608	514
Total Equity		768	608	514

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

Statement of cash flows

for the year ended 30 June 2004

	Note no.	Actual 2004 \$'000	Budget 2004 \$'000	Actual 2003 \$'000
Cash Flows from Operating Activities				
Receipts				
Fees		1,170	1,000	791
User Charges—ACT Government		843	795	449
User Charges—Non-ACT Government		1,212	504	219
Interest Received		26	18	38
Other		22	82	45
Total Receipts from Operating Activities		3,273	2,399	1,542
Payments				
Related to Employees		625	698	405
Related to Superannuation Expenses		73	95	35
Related to Supplies and Services		2,531	1,524	1,406
Other		–	82	–
Total Payments from Operating Activities		3,229	2,399	1,846
Net Cash Inflows/(Outflows) from Operating Activities	23	44	–	(304)
Net Increase/(Decrease) in Cash Held		44	–	(304)
Cash at the Beginning of the Financial Year		468	634	772
Cash at the End of the Financial Year	23	512	634	468

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

Notes to and forming part of the financial statements

For the year ended 30 June 2004

Note 1 Objectives of the Independent Competition and 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
- 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
- to give effect to directions of the Minister under section 19.

Note 2 Summary of significant accounting policies

(a) Basis of Accounting

The ICRC is classified as a Territory Authority.

Subsection 59(3) of the *Financial Management Act 1996* (FMA) and the *Financial Management Guidelines*, requires that a Territory Authority's financial statements include:

- (i) a Statement of Financial Performance for the financial year
- (ii) a Statement of Financial Position at the end of the financial year
- (iii) a Statement of Cash Flows for the financial year
- (iv) a Statement of Performance for the financial year
- (v) a summary of the significant accounting policies adopted by the Territory Authority for the financial year
- (vi) such other statements as are necessary to fairly reflect the financial operations of the Territory Authority during the year and its financial position at the end of the 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
- (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.

The ICRC is an individual reporting entity.

(b) The Reporting Period

These financial statements report the financial performance and cash flows of the ICRC for the financial year ending 30 June 2004 and the financial position of the ICRC as at 30 June 2004.

(c) Comparative Figures

Budget Figures

Budget information for 2003–04 has been provided, presented in the Territory Authority’s Statement of Intent and the amounts published in the ACT Budget Papers in 2003–04. The 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 ICRC controls the revenue. Control occurs when the revenue can be used for the achievement of the ICRC’s 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 ICRC may recover an amount considered to be a reasonable contribution towards the cost of providing its services from utilities through these licence fees.

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

Where, in the previous year, the costs of regulatory services were less than the licence fees collected, the ICRC 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 ICRC free of charge.

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

(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 \$8,622.

(h) Current and Non-Current Items

Assets and liabilities are characterised as either current or non-current in nature. The ICRC 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 ICRC accounts for plant and equipment on a cost basis in accordance with AASB 1041.

The ICRC capitalises all non-current physical assets with a value of \$5,000 or more.

(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:

<i>Class of Asset</i>	<i>Depreciation Method</i>	<i>Useful Life (Years)^a</i>
Plant and Equipment	Straight Line	10

^a 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 ICRC.

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 ICRC.

All amounts are measured at their nominal amount and are normally settled within 30 days after the ICRC 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.

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 per cent liability for employees with five or more years of service and 0 per cent for employees with less than five years 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 ICRC 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 ICRC 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 21.4 per cent and the rate for the Public Sector Superannuation Scheme (PSS) is 13.4 per cent.

The ICRC 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 ICRC are based on years of service and average final salary.

(p) Insurance

The ICRC 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 ICRC.

(q) Leases

The ICRC 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

Managing the Transition to Australian Equivalents to International Financial Reporting Standards (AIFRSs)

Implementation of AIFRSs in the Territory is being coordinated by the Department of Treasury. Those involved in the preparation of the ICRC's financial statements have familiarised themselves with the AIFRSs and assessed the potential impact of adopting AIFRSs on the accounting policies used in the preparation of the ICRC's financial statements.

Key Differences in Accounting Policies Expected to Arise from the Adoption of AIFRSs

Based on this assessment, the ICRC expects no key differences in accounting policies to arise from the adoption of AIFRSs.

Note 4 User charges for goods and services

Under the *Independent Competition and Regulatory Commission Act 1997* and the *Utilities Act 2000*, the ICRC 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 the Department of Treasury, recovered costs of external services (consultants etc) and costs recovered from Utilities Licence Fees.

	2004 \$'000	2003 \$'000
Revenue from Operating Activities		
User Charges—ACT Government		
Payments received for provision of services from Department of Treasury	398	395
Payments from government for services provided	361	193
<i>Total User Charges—ACT Government</i>	759	588
User Charges—Non—ACT Government		
Inquiries	1,440	172
Consultancies	5	26
<i>Total User Charges—Non—ACT Government</i>	1,445	198
Total User Charges for Goods and Services	2,204	786

Note 5 Fees

	2004 \$'000	2003 \$'000
Revenue from Regulatory Activities		
Fees	1,419	1,230
<i>Total Fees Received</i>	<u>1,419</u>	<u>1,230</u>
Total Fees Received	<u><u>1,419</u></u>	<u><u>1,230</u></u>

Note 6 Interest

	2004 \$'000	2003 \$'000
Revenue from Outside Operating Activities		
Interest Received from Bank	27	37
<i>Total Interest Received from Other Sources</i>	<u>27</u>	<u>37</u>
Total Interest Received	<u><u>27</u></u>	<u><u>37</u></u>

Note 7 Employee expenses

	2004 \$'000	2003 \$'000
Wages and Salaries	609	426
Long Service Leave Expense	13	7
Annual Leave Expense	23	11
Fringe Benefits Tax Expense	9	8
Total Employee Expenses	654	452

At the end of the 2004 financial year the Independent Competition and Regulatory Commission had nine staff employed (2003: eight staff).

Note 8 Superannuation expenses

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

	2004 \$'000	2003 \$'000
Superannuation Contributions to ACT Superannuation Unit	72	37
Total Superannuation Expenses	72	37

Note 9 Supplies and services

	2004 \$'000	2003 \$'000
Leased Equipment and charges	75	122
Professional Services	1,393	343
Staff Development	25	20
Travel and Accommodation	24	27
Postages and Printing	118	64
Fees to Commissioners	132	81
Advertising	15	13
IT Services	–	22
Utilities Act—Admin Expenses	475	501
Other	164	48
Total Supplies and Services	<u>2,421</u>	<u>1,241</u>

Note 10 Prior year licence fee refund

	2004 \$'000	2003 \$'000
Licence Fee Rebate Applied	244	378
Total Licence Fee Rebate	<u>244</u>	<u>378</u>

Note 11 Depreciation

	2004 \$'000	2003 \$'000
Depreciation		
Plant and Equipment	13	13
<i>Total Depreciation</i>	<u>13</u>	<u>13</u>
Total Depreciation	<u><u>13</u></u>	<u><u>13</u></u>

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

	2004 \$'000	2003 \$'000
Audit Services		
Audit Fees Paid to ACT Auditor-General's Office	6	5
Total Auditor's Remuneration	<u><u>6</u></u>	<u><u>5</u></u>

Note 14 Cash

	2004 \$'000	2003 \$'000
Cash at Bank	512	468
Total Cash	<u>512</u>	<u>468</u>

The ICRC held deposits at call throughout the year at a floating interest rate of 4.9 per cent per annum (4.6 per cent per annum in 2003).

Note 15 Receivables

	2004 \$'000	2003 \$'000
Current Receivables		
Trade Debtors	530	396
Accrued Revenue	170	–
Accrued Interest	3	2
GST Refund	15	21
<i>Total Current Receivables</i>	718	419

Split of Government/Non-Government Receivables

Receivable with Other ACT Government Entities:

Accrued Revenue	53	–
Trade Debtors	–	123

Receivable with Entities Outside Government

Trade Debtors	530	273
Accrued Interest	3	2
GST Refund	15	21
Accrued Revenue	117	–

Total Current Receivables	718	419
----------------------------------	-----	-----

Aging of Receivables

Receivables are Aged as Follows:

Not Overdue	188	358
Overdue for more than 60 Days	530	61
Total	718	419

Note 16 Plant and equipment

Plant and Equipment includes office furniture, fixtures and fittings.

	2004	2003
	\$'000	\$'000
Plant and Equipment		
Plant and Equipment at Cost	129	129
Accumulated Depreciation	(38)	(25)
Total Written Down Value of Plant and Equipment	91	104

Reconciliation of Plant and Equipment	Total	Total
	2004	2003
	\$'000	\$'000
Carrying Amount at beginning of Financial Year	104	117
Depreciation	(13)	(13)
Carrying Amount at the End of the Financial Year	91	104

Note 17 Payables

	2004 \$'000	2003 \$'000
Current Payables		
Trade Creditors	243	213
Accrued Expenses	134	108
Total Current Payables	<u>377</u>	<u>321</u>
Payables are aged as follows:		
Not Overdue	135	320
Overdue for Less than 30 Days	146	–
Overdue for 30 to 60 Days	50	1
Overdue for More than 60 Days	46	–
Total Payables	<u><u>377</u></u>	<u><u>321</u></u>
Split of Government/Non-Government Payables		
Payables with Other ACT Government Entities		
Trade Creditors	36	5
Accrued Expenses	120	108
<i>Total Payables with Other ACT Government Entities</i>	<u>156</u>	<u>113</u>
Payables with Entities Outside ACT Government		
Trade Creditors	206	206
Other Creditors	1	2
Accrued Expenses	14	–
<i>Total Payables with Entities Outside ACT Government</i>	<u>221</u>	<u>208</u>
Total Payables	<u><u>377</u></u>	<u><u>321</u></u>

Note 18 Employee benefits

	2004 \$'000	2003 \$'000
Current Employee Benefits		
Annual Leave	85	61
Accrued Wages and Salaries	5	22
Superannuation Expenses	—	1
<i>Total Current Employee Benefits</i>	<u>90</u>	<u>84</u>
Non-Current Employee Benefits		
Long Service Leave	86	72
<i>Total Non-Current Employee Benefits</i>	<u>86</u>	<u>72</u>
Total Employee Benefits	<u><u>176</u></u>	<u><u>156</u></u>

Note 19 Equity

	2004 \$'000	2003 \$'000
<u>Total Equity at the End of the Year</u>		
Accumulated Funds	768	514
Total Equity	<u><u>768</u></u>	<u><u>514</u></u>
<u>Accumulated Funds</u>		
Balance at the Beginning of the Financial Year	514	585
Operating Surplus (Deficit)	254	(68)
Net Effect of the Adoption of AASB 1028	—	(3)
Balance at the End of the Financial Year	<u><u>768</u></u>	<u><u>514</u></u>

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 ICRC as at 30 June 2004.

Financial Assets *Terms and Conditions*

Cash The ICRC's bank accounts are held with the Commonwealth Bank of Australia as part of the whole-of-government banking arrangement.

Receivables The ICRC has trading terms of 30 days for all trade debtors from the time the invoice is issued.

Financial Liabilities *Terms and Conditions*

Payables The ICRC normally settles its creditors within a 30 day period.

Interest Rate Risk

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

2004	Note	Fixed interest maturing in:					Total \$'000
		Floating interest rate \$'000	1 year or less \$'000	Over 1 to 5 years \$'000	More than 5 years \$'000	Non- interest bearing \$'000	
<u>Financial Assets</u>							
Cash	14	512	–	–	–	–	512
Receivables	15	–	–	–	–	718	718
<i>Total Financial Assets</i>		512	–	–	–	718	1,230
Weighted Average Interest Rate		4.9%	–	–	–	–	–
<u>Financial Liabilities</u>							
Payables	17	–	–	–	–	377	377
<i>Total Financial Liabilities</i>		–	–	–	–	377	377
Net Financial Assets		512	–	–	–	341	853

2003	Note	Fixed interest maturing in:					Total \$'000
		Floating interest rate \$'000	1 year or less \$'000	Over 1 to 5 years \$'000	More than 5 years \$'000	Non- interest bearing \$'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%					
<u>Financial Liabilities</u>							
Payables	17	–	–	–	–	321	321
<i>Total Financial Liabilities</i>		–	–	–	–	321	321
Net Financial Assets		468	–	–	–	98	566

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 ICRC.

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 ICRC's credit risk is limited to the fair value of the financial assets held by the agency.

A major proportion of the ICRC's receivables are from Utilities Licence holders and therefore the commissioners assess the credit risk of these as low.

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)

Robin Creyke (Commissioner)

Peter McGhie (Commissioner)

Ian Primrose (Chief Executive Officer)

	Actual 2004 \$'000	Actual 2003 \$'000
Income paid, or otherwise made available, to commissioners and related parties in connection with the management of affairs of the commission.	236	198

Income Band	Number	Number
\$10,000–\$19,999	1	2
\$20,000–\$29,999	1	–
\$50,000–\$59,999	–	1
\$80,000–\$89,999	1	–
\$110,000–\$119,999	1	1
Total	4	4

Note 22 Commitments

	2004 \$'000	2003 \$'000
Operating Leases		
Non-Cancellable Operating Lease Commitments are payable as follows:		
Within One Year	56	45
Later than One Year but not later than Five Years	59	50
Total Operating Lease Commitments	<u>115</u>	<u>94</u>

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

	2004 \$'000	2003 \$'000
Cash at Bank	512	468
Cash at the End of the Financial Year as Recorded on the Statement of Cash Flow	<u>512</u>	<u>468</u>
 Reconciliation of Operating (Deficit)/Surplus to the Net Cash Inflow/(Outflow) from Operating Activities		
Operating Surplus/(Deficit)	254	(68)
 Add/(Less) Non-Cash Items		
Effect of New Accounting Standard	–	(3)
Depreciation and Amortisation	13	13
Net Cash Before Changes in Operating Assets and Liabilities	<u>267</u>	<u>(58)</u>
 Changes in Operating Assets and Liabilities		
(Increase)/Decrease in Prepayments		–
(Increase)/Decrease in Receivables	(299)	(195)
Increase/(Decrease) in Payables	56	(83)
Increase/(Decrease) in Employee Benefits	20	32
Net Changes in Operating Assets and Liabilities	<u>(223)</u>	<u>(246)</u>
Net Cash Inflows/(Outflows) from Operating Activities	<u><u>44</u></u>	<u><u>(304)</u></u>

Note 24 Events occurring after balance date

There were no events occurring after balance date.

Note 25 Utility licence fee adjustments

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

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

Licence fees are calculated by reference to the weighted amount of regulatory activity for each utility, electricity, gas or water, and service, network or retail. The calculation also takes into account the difference between fixed and variable costs, the latter based on the utility's share of the market.

Appendix 3 External sources of labour and services

Table 10 shows the involvement of consultants and contractors in the commission's operations during the financial year. As reported in sections 3.6 and 5.1 of this report, the commission continued to use expert consultants to assist with the conduct of inquiries and other processes.

The approach adopted by the commission provided low-cost access to bodies of significant relevant expertise otherwise unavailable to the commission. The approach, in the commission's case, provided 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 members to expand their skills and experience through skills transfer.

Table 10 Contractor and consultant services, 2003–04

Consultant/contractor ^a	Service	Value (\$) ^b
Blake Dawson Waldron	Provide advice on network price reviews	67,677
Burns and Roe Worley	Provide advice on network price reviews	412,926
Independent Pricing and Regulatory Tribunal (NSW)	Provide advice on network price reviews	121,736
KPMG Consulting	Provide advice on utilities compliance report	70,363
Maunsell Australia	Provide advice on contestable electricity infrastructure review	81,818
McLennan Magasanik Associates	Provide advice on review of gas access arrangement	204,929
Project Consultancy Service	Provide advice on network price reviews	27,000
PricewaterhouseCoopers	Provide advice on network price reviews; provide advice on taxi fares inquiry	277,199
Victorian Department of Treasury	Provide advice on metrology costs	4,037
WordsWorth Writing	Provide editing and design services	68,751

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

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

Appendix 4 Staffing profile

Refer to sections 3.1.2 and 5.4 for discussion of the commission's staffing profile. The composition of the commission is summarised in Table 4.

Appendix 5 Government scrutiny and reports

Reports by the Auditor-General

Please refer to Section 3.6 for a discussion of the probity audit of the commission conducted by the Auditor-General in 2003–04.

Reports by the Ombudsman

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

Legislative Assembly committee inquiries and reports

The following committee report refers to the operations of the commission in the 2003–04 financial year:

- Legislative Assembly of the ACT, *Estimates Committee Report: 2003–04 Budget*.

Government inquiries and reports

During 2003–04 the commission conducted two government inquiries, and published final reports as follows:

- Independent Competition and Regulatory Commission, *Report 13 of 2003: Final report—Water abstraction charge*, October 2003
- Independent Competition and Regulatory Commission, *Report 9 of 2004: Final report—Review of contestable electricity infrastructure works*, April 2004.

The contribution of the inquiries to the commission’s performance is discussed in the body of this annual report.

Appendix 6 Legislation

The commission has core 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.*

Appendix 7 Other reportable activities

Regulatory activities

The commission had no regulatory activities to report in 2003–04 other than those reported in the body of the annual report.

Participation in advisory and consultative boards and committees

As in the previous reporting period, as part of its activities in 2003–04 the commission convened a steering community of community, business and government representatives to assist with a public information campaign associated with the introduction, and subsequent preliminary assessment, of full retail contestability in the ACT electricity market from 1 July 2003.

Service purchasing arrangements, community grants, assistance and sponsorship

The commission undertook no activities in these categories in 2003–04.

Appendix 8 Contact officers, website address and other sources of information

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

Subject/ commission report	Contact name	Contact details
Staffing issues Overview of commission performance Freedom of information requests	Ian Primrose	(02) 6205 0799 (02) 6207 5887 fax ian.primrose@act.gov.au www.icrc.act.gov.au
Reports 6 and 15 of 2003; Report 6 of 2004 <i>Investigation into prices for electricity distribution services in the ACT</i> Reports 7 and 16 of 2003; Report 8 of 2004 <i>Investigation into prices for water and wastewater services in the ACT</i> Reports 8, 10 and 13 of 2003 <i>Water abstraction charge</i> Reports 9 and 11 of 2003 <i>Alternative pricing methodology under Part E of the National Electricity Code</i>	John Logan	(02) 6207 0694 (02) 6207 5887 fax john.logan@act.gov.au www.icrc.act.gov.au
Reports 12 and 17 of 2003; Report 9 of 2004 <i>Review of contestable electricity infrastructure works</i> Report 1 of 2004 <i>Compliance and performance report for 2001–02</i>	Susan Faulbaum	(02) 6205 2773 (02) 6207 5887 fax susan.faulbaum@act.gov.au www.icrc.act.gov.au
Report 14 of 2003; Reports 3 and 11 of 2004 <i>Determination of taxi fares for the period from 1 July 2004 to 30 June 2007</i> Report 4 of 2004 <i>Review of access arrangement for ActewAGL natural gas system in ACT, Queanbeyan and Yarrowlunla</i>	Rod Woolley	(02) 6205 5460 (02) 6207 5887 fax rod.woolley@act.gov.au www.icrc.act.gov.au
Reports 2 and 5 of 2004 <i>Proposed associate contracts between ActewAGL Distribution and ActewAGL Retail</i> Reports 7 and 10 of 2004 <i>Assessment of associate contract between ActewAGL Distribution and AGL Wholesale Gas Limited</i>	Lynley Jorgensen	(02) 6207 0923 (02) 6207 5887 fax lynley.jorgensen@act.gov.au www.icrc.act.gov.au

Glossary and abbreviations

ACCC	Australian Competition and Consumer Commission
ACT	Australian Capital Territory
ACTION	Australian Capital Territory Internal Omnibus Network, the ACT's public bus service
AEMC	Australian energy marketing commission (to be established)
AER	Australian Energy Regulator (established in July 2004)
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
ESCC	Essential Services Consumer Council
FRC	full retail contestability
Freedom of Information Act	<i>Freedom of Information Act 1989</i>
ICRC Act	<i>Independent Competition and Regulatory Commission Act 1997</i>

MCE	Ministerial Council on Energy
MDBC	Murray–Darling Basin Commission
NEMMCO	National Electricity Market Management Company
OH&S	occupational health and safety
Parer Report	report of the 2002 review, commissioned by the Ministerial Council on Energy, of aspects the national energy market
price direction	statement issued by the commission, setting price paths and revenue caps for a utility for a specified period of years
Public Interest Disclosure Act	<i>Public Interest Disclosure Act 1994</i>
revenue cap	upper limit on revenue, set by the commission, to allow utility service providers to recover reasonable capital and operating costs
TCCI	taxi cost composite index
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
WAC	water abstraction charge
WACC	weighted average cost of capital
WCI	weighted cost index

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