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TRANSCRIPT OF PROCEEDINGS

INDEPENDENT COMPETITION AND REGULATORY COMMISSION OF THE AUSTRALIAN CAPITAL TERRITORY

MR PAUL BAXTER, SENIOR COMMISSIONER

Inquiry into

Pricing for Electricity Distribution Services in the ACT

CANBERRA

9.34 AM, THURSDAY, 5 FEBRUARY 2004

SENIOR COMMISSIONER: Well, welcome to these public hearings on the ICRC's draft report on electricity distribution services in the ACT. The hearings will continue through today. For those who wish to obtain a copy of an agenda, there is one on the table to my right.

There are probably spare copies of the draft report that the Commission has produced which are available and people are welcome to take copies of those. There is tea and coffee outside and biscuits which are there at all times, just please help yourself, they're free.

There is copies of submissions that have been made, or at least the public file which you can refer to, if you need copies we can arrange for that, again over on my right on that table over there. So people are welcome to access and use that material as they so wish.

The process that we adopt at these hearings is that they're public hearings, so even though we are in the Chatham(?) Room, they are open for public to participate - or at least to hear what is happening. The hearings are recorded and the transcript will be available for public review very shortly after the hearings themselves.

The process is one whereby we invite those who are appearing before us to speak to the report and maybe issues in their submissions or other things that they wish to raise. The Commission, which today is represented by Peter McGhie and myself, will take the opportunity then to ask questions and raise particular points, and there will be opportunity for dialogue between those who are presenting and the Commission as we proceed through that process.

If there are any who are present who may wish to appear before the Commission on this matter and have not previously had themselves listed on the agenda for the day, they should speak to the secretariat on my left and we can make arrangements for them to appear later in the day.

So we welcome to this first session the representatives from ActewAGL distribution, led by John Mackay. Thank you very much for being with us. I invite you just before we lead into presentation, if you just will indicate for the record who is attending, and then I will hand over to yourselves to present, and then we will have some questions and so forth from there.

MR MACKAY: Thanks, Mr Commissioner. John Mackay is my name, I am the Chief Executive Officer of ActewAGL.

MR WHITEHILL: Noel Whitehill, I am the General Manager, Networks.

MS STORTI: Maria Storti, Chief Finance Officer, ActewAGL.

MR GRAHAM: David Graham, ActewAGL, Director of Regulatory Affairs.

SENIOR COMMISSIONER: Thank you.

MR MACKAY: Mr Commissioner, we are here today to respond to your draft determination on electricity network pricing, and it seems a long time since 7 November when the report came out and certainly that particular day, as I recall, was the end of a very, very long day, a very, very long week, and certainly a very, very long year.

And we made some responses, or I made some responses, particularly to you personally, where I perhaps used some fairly colourful language, and expressed my disappointment in a colourful way. And in the media we indicated just how disappointed we were with a whole range of aspects of that draft determination.

And of course now we have had a chance to reflect on all of that for three months, a bit of Christmas leave down the coast, and guess what, I still feel exactly the same. We - I am not sure what I can add to what we have said in the past, although I would like to take the opportunity to summarise that, and certainly sitting in front of the Chief Financial Officer is the pile of paper that we have provided you since May last year, which you can see is probably three or four inches of paper, and that doesn't include of course the paper that you have provided to us in that time.

So we have had a lot of dialogue and a lot of discussions. But there are a number of aspects of this draft determination which give us very, very substantial concern and I would like to at least summarise those initially. The first area that we are concerned about is your rejection of our revised asset valuations.

And I guess the bottom line there is that we believe the electricity code allows you to go through this re-evaluation and to do it on a more objective basis, rather than a subjective basis. The Commission has given us an actual rate of return of around six percent on those assets, which is effectively less than the risk free rate.

So that's one of the areas, and certainly we would be willing to having clearly demonstrated that there are assets that have missed the process and ought to be included, we would certainly be willing to commit to not go off and look for more in the future, which might help at least open that

issue for consideration.

We also think a second area is the whole area of return on assets and the treatment of risk, and we just think that you have set a very tough WAC for us, weighted averaged cost of capital, and it just doesn't compensate us for the range of risks and so on. So again that's an area where I think you have been very tough.

And certainly even in comparison with other regulators, your colleagues in other states, you have been tough. The third issue is the one of relocated assets, where, you know, we relocate assets at the request of third parties, and effectively your decision provides a real disincentive for us to cooperate with those other parties when they want assets relocated.

The fourth area was your rejection of our gain share, that we have with our own staff. And I hasten to add that doesn't include the people - well, it doesn't matter, but who it does include is all of the workers out there who are putting in their heart and soul to deliver really efficient service, and to just give that incentive to work even harder and be more customer friendly, and improve our performance right across the board.

And I think it's a bit crook that because if we - well, if I took that away, first of all, I mean, it would have the exact opposite effect of what the thing's there to do. And secondly some of the efficiencies that have been achieved I believe as a result of that incentive would be lost or potentially lost.

And so I have written to you separately about that in some detail, and I hope that the Commission might take those arguments into consideration. I guess probably over - sitting right over the top of this is that it's beyond dispute that we have made something like 14 percent real efficiencies in the last five years.

So it is not as if we are starting as the lazy monopoly by any stretch of the imagination. We have shed a lot of staff during that time and I believe we are operating a lot more efficiently in that time. And all the while, and still today we effectively have the cheapest domestic electricity prices in the country.

So when you look at your determination, or your draft determination, which I think by any standard is harsh to be applied to the utility that delivers the cheapest in Australia I think is particularly tough. The - probably the next couple are the areas that cause me the greatest concern, and that is your limiting of our capex.

In the past period we actually spent more than you allowed us on capex, because we thought we had no choice. And I can tell you in the next period we won't have any choice but to spend more than you allowed us, substantially more that you have allowed us, if your current allowance remains.

The issue of pole safety and pole replacement is just absolutely critical to our business. Around about a year ago we had one of our employees ride a pole to the ground, and end up through a pergola and was seriously injured, and that has certainly caused serious concern amongst the workforce to whether they will climb the poles, because that's what they've got to do, and thanks to Walter Burley Griffin, that is not an easy thing to do with the poles in the backyards, with chook houses hooked up to them, and fences, and vines and God only knows what, but it's a really serious thing.

It's very difficult for us to go round and test the poles in a really - in a way that you can be absolutely certain these poles are safe. So our employees, particularly on the back of one of them being seriously injured, are understandably cautious, and they say, well, we're not going to climb that pole. You go and spend several thousand extra dollars to get some heavy equipment into the backyard and we'll go up using that.

Now, since your determination, your very determination, just three months ago, we've had two really serious pole failures, one in Lyneham and one in Deakin, where I've had the pleasure of going around to see a little old lady whose house has just burnt down.

Pole come down on her and she's in absolute disarray. Then again in Deakin just a couple of weeks ago, Maria who was acting CEO had exactly the same pleasure where somebody has just renovated this house, their dream home, they've spent hundreds of thousands dollars renovating this, and after our pole visited the roof of it, they had the fireman in there with axes and hoses in the lounge room to get that going again.

So we are out there, we are redoubling our pole inspections. We're under great pressure from our own workforce to replace more and more, and in fact we are. We're under - well, whether we're under pressure or not in terms of occupational health and safety doesn't matter, I mean we as an employer don't particularly want to have to go round and as I've had to do twice since I became CEO, go round to the houses of people who are not coming home that night. I mean, it's a really serious issue, and we just have to do more inspections. There's undoubted that we will have to replace more poles.

Unfortunately there's not a formula that will allow us to underground that stuff. I mean I would love to come up with some clever way to get you to - or somebody else to compensate me to put this stuff underground because it would take at least some of these problems away, although as Auckland found out a couple of years ago, not necessarily all of them, but in terms of safety for our workforce, for the community, bushfires, storms, all that stuff, undergrounding is really - and I'm sure those who are sitting at these tables in a hundred years' time will not be talking about poles somehow or other. Somebody will have more wit than we've got and work that one through.

But it's a big issue for us. It's just something that we are - it's our - effectively our number one priority, networks, and the bottom line is, you haven't given us a fair go in terms of the scope to get out and do what inevitably we will have to do, and do it somehow or other we will. Not only as I say because of health and safety considerations or in fact the new manslaughter legislation which could be a very interesting - I sure as hell hope that I'm not the first trial victim of that. We've just go to do it.

On the opex side which I think is the other, the capex and the opex are the ones that concern me in terms of operations. Again, as I've mentioned, we've made the reductions in opex going over the years gone by, and we're doing all sorts of things to try and keep that under control but you just haven't given us enough scope, and whilst I don't want to make a big deal about it, if we've got less opex, the major part of our opex is employees, and employees will have to go.

And if employees have to go, then we've got less scope, particularly in times of disaster or major storms to get out there and do what we have to do, as we did in the ten days or so particularly following the January bushfires last year, where the size of our workforce really made a very, very big difference.

And as it has done, although not so publicly seen, when we have storms come through, which inevitably we'd have half a dozen a year where we're just all hands to the pump and if the hands aren't there - we actually recently tried to recruit some extra employees and they're just not available, so as we terminate these people, they will disappear out of the industry I suspect, who knows?

Finally, which is the bit that I might ask my colleagues to address some more, is we've just spent a million dollars doing a study, as you know, as the Commission was closely involved, in terms of this community and what they want, and that study, if it shows nothing else, is they are not interested in cheaper prices if it means poorer service, more outages, and

less community safety. In fact you can conclude from that rigorous study that this community is actually prepared to pay more for better service and more reliability and less outages and more safety.

So we've spent a lot, that those studies have been independently verified by leading academics and so when you take all of that into account, I simply plead with you to have another look at the areas that we've addressed and form a wise judgement having done that. I'm sure you have your own priorities and you'll deal with them as you see fit, so, look, that's all I wanted to say by way of summarising where we sit.

MS SORTI: Just a few slides to reinforce the points that you've made, John, so we'll do that?

SENIOR COMMISSIONER: Please. Yes. Thanks.

MS SORTI: We'll just run through this presentation quite quickly, because I think John has summarised comprehensively the points that we'd like to make to the Commission.

The first slide just shows that the draft determination provided for a CPI minus 5.4 price ...(indistinct)... over five years. In our December submission to the Commission we have said, well, we have listened to and we have heard some of the comments that the Commission has made and have put forward a revised price ...(indistinct)... which features a p-nought adjustment, which means in the first year there's a significant change to the prices, and what we are asking the Commission to consider is a CPI minus point six percent for the first year and CPI adjustment for the remaining years of the determination.

Our proposal requires an extra 15 to 17 million dollars per year in revenue in order to ensure that safety and service standards can be met in the way that we consider they should be met.

The elements of our proposal relate to - we've asked for the Commission to consider the information that we've put forward on asset valuation and to accept a corrected roll forward. Our preference is to revalue the assets, accept a new valuation because of the improved information that we have available. However, if that is not possible then a corrected roll forward is our preference.

We've also asked the Commission to reconsider some of the parameters included in the weighted average cost of capital to reflect the additional risk that we consider that we bear. Appropriate treatment of relocated assets, which is what John spoke about, and we had said despite having

achieved a 14% opex savings over the last five years, we will strive to achieve a 2% opex saving per annum as requested by the Commission.

The major areas of difference that we have are summarised by John, in respect of the valuation of our asset base, the appropriate rate of return, the achievement of further efficiencies both in capex and opex, and also failure to compensate us for asset loss returns in respect of assets that are relocated.

On the Regulated Asset Base the most recent valuation of our asset base indicates that the return should be based on $586.6 million. In our December submission, we've indicated that if the omitted assets were included in the Regulated Asset Base, the appropriate value of the asset base is $567.7 million worth of return.

In the ICRC draft determination, the value attributed to our assets is $480.9 million, and we believe that that fails to recognise of the ActewAGL's investment in the ACT. I'm just looking for a quote. It's very important that the ICRC considers particularly the omitted assets because if the asset base isn't adjusted to include those omitted assets then we, ActewAGL, will not be receiving a return on those assets in perpetuity.

And the ACCC has stated, "If the RAB is not revalued then any errors will be perpetuated into the future. The regulator would be neglecting one of its main responsibilities under the code, which is to ensure that an efficient return is generated." For that reason, we really do believe that as a minimum, the omitted assets should be included in the Regulated Asset Base.

The relocation capital contribution, sometimes we are requested by - mostly be government to relocate some of our assets in order to enable future development within the ACT, and the example that we've put there is the Kingston Foreshore, where we've had to relocate significant quantum of assets and as that area develops we will relocating even more assets.

The current methodology - well, there is no methodology. We've not considered this issue previously. What we are asking is that the commission allows us to receive a rate of return on these assets. We've put forward about three different methodologies that could be applied, and what we would like is that whichever methodology is applied, we would like a rate of return on the assets that have been relocated.

On the return on assets, our proposal is that we consider a fair and

reasonable rate of return to be about 7.5% and the ICRC's draft decision has indicated no, 6.9%. We have differences in individual components that form part of that calculation, and as well as 6.9%, we're forced to bear risk outside of the event of our control.

What we have now is just some discussion on the willingness to pay study to provide the Commissioner with an understanding of that study and its outcomes.

MR GRAHAM: Before I do that, I'll just - we've reproduced this from the current ESAA. Both ACT ActewAGL the end here, this is average domestic network charges. So we've able now to actually show the network component of the bill separately. All the distributors do that. And for a typical domestic customer, you will see that ActewAGL has the lowest network charge.

I'll show the retail, just for interest, it's not a retail inquiry, but if you look at the overall retail price, we're still rock bottom and have been for a long time. It's worth just putting that on the record. You will see some of the prices get up around the 18 cents a kilowatt hour mark, we're sitting down around the - sort of just creeping up towards 12.

I put those up just to compare the effect on prices of the Commission's draft decision. Now, to 2003/4, where we are now, we've had a declining price, in the cents per kilowatt hour, and the commission's decision to take that much, much lower. And again, we look at that in the light of where our prices already are, and we say this is unwarranted.

Now, we can say that too in the light of service standard, which I think is the other side of the picture. We have very high service standards. The lowest level of unplanned outages across the country. We have the lowest prices. I think they need to be looked at together and the Commission's draft needs to be considered in that light. It's imposing more price cuts when we have the lowest level of unplanned outages, the highest reliability, the lowest prices.

In relation to service standards though, the Commission's looked at an S-factor to encourage us to be even more reliable. We're not opposed to that. We think this is - John has said that that's something our customers want, so we are really pleased to consider that work with the Commission on that. But we do dispute the Commission's statement that in a simplistic sense, customers would prefer to pay less while receiving the same levels of service.

I mean, that's a given, and it's a statement that we can all make, but the

reality is customers are telling us they prefer more and better and actually paying more, rather than less and pay less. I'm going to just touch on the willingness to pay study that we've done, John's mentioned as well.

I'll show you a few charts on that. In essence, customers, as I say, don't want a degraded level of service, and in some cases, they are willing to pay more for higher service standards. That study was done across all our customer base, so we are able to learn what our residential customers want and what our commercial customers, small business, the larger businesses and also the government sector.

Just on customer satisfaction, and again, given that we have low prices, high reliability, this chart shows - as an electricity - based on electricity supply, what we supply to our customers, we are getting over 95% of customers are saying our service is good or better. It's an outstanding result.

And as a supplier of electricity ActewAGL has a similar ranking. Now that result is repeated across our non-residential customer base as well. And if you look at the numbers that have said excellent, I mean, they are tremendous results. Excellent, very good, good, over 95%.

Just turning, and this is my last slide, to the willingness to pay study, look it was, it was world best practise, world leading in some ways, the study into willingness to pay and service standards. We have Professor Train(?) from Berkeley. Peer review, David Hincher(?), two of the best economic modellers in the world worked with us on this project.

And this is one of the outcomes but it's an important one. On the very left here, and we've got a number 1 there, that represents what customers currently get for their money, just say that's worth a 1. What would they think in terms of overall worth if we had more electricity outages and longer outages and dropped the price? Well, they're telling us very clearly, and that's these two charts - two bars here. That is, a less preferred outcome. They don't want less service and lower prices.

In fact, when we look at what they would say if we said, "Can we offer more service at a higher price?" they are saying to us, "Yes, that would be a preferred outcome." We've got to really look at this pretty closely and assess for our business planning what that means. But pretty clearly it's saying they don't want a degraded service, they'd actually prefer at least the maintenance of current standards, and we really have to have a look at what we can do to actually improve standards. That's what the customers want.

So that's all we've got on that one. I'm happy to talk about that as we need to. Is there anything else?

MS STORTI: No, that's it.

MR MACKAY: So that's - Mr Commissioner, that's how we would summarise our case and we've - as I've said at the start, given you a range of documentation with the aim of supporting that so thank you very much for the opportunity to address you.

SENIOR COMMISSIONER: Good, thank you very, very much. That was good, and thanks for those contributions. If I can run through just a few questions, just to try and clarify a couple of matters. We have had the benefit of your submission on some of these matters. The revised asset valuation matter, we've seen some material from you on that.

You mention that you're committed to not look for anymore. I mean, clearly there was some difficulty in the past that meant that some assets were not identified at the time we did the original valuation. Has that matter now been resolved? I mean, do we have some assurances that we're not going to see some more of this occur in the future?

MS STORTI: Yes, the 1992 valuation was based on more complete information being available on a range of matters, asset quantities, types, ages, unit costs as well as the useful life. It's a very comprehensive process, even more so than the previous valuation, and the assets that have been listed(?) are about $37,500,000 worth of connection assets. In identifying these assets we're confident that there are no other categories of assets we've missed in valuations either prior years or 2002.

SENIOR COMMISSIONER: Over - in your submission to us you were mentioning - and I think you mentioned on the way through to the presentation, about revenue foregone because those assets weren't included in the asset value. Now let me understand, my understanding is that over the last five years in actual fact your revenues have been much, much higher than we originally predicted in our first price determination.

Is there any suggestion here that I think there is an extra $44 million or something a rather that you generate, I think just off the top of my head, over the last five years that was originally anticipated. Is there any suggestion that you haven't, you know, at least sort of recovered enough to cover those past lack of revenue against assets that weren't included or are you saying we should have that on top of the 44 that you made extra over the last five years?

MS STORTI: The $44 million comprises of two components. It comprises the revenue foregone as well as the depreciation of those missed assets. In our view they are valid items that should be considered by the Commission and although we have experienced additional growth over the last five years, higher than anticipated, we've also had additional capex on which we haven't had return because in 1999 the Commission also cut our capex program by about 5% and in real terms we incurred an extra $22 million of capex over that five year period for which we haven't had a return and opex, although the efficiencies have been achieved, in the last two years of the determination the opex numbers are also higher than allowed by the Commission.

SENIOR COMMISSIONER: I'll come back to the capex matter in a minute if I can. If I just deal with maybe a couple of the matters as indeed you've presented them in the past, because I think we might just talk about the capex matter a little bit.

You mentioned on your way through concern about the return on assets - return on investment. I think you were proposing 7.5% against a draft which was 6.9 and as we know and for the benefit of the record the final rate of return will be determined by whatever the risk free rate finishes up being in the market place closer to the date of the final report and so that's actually lifted a little bit in recent months although the Reserve Bank held back on making any further changes yesterday, I note.

But you made the comment that sort of we've been particularly tough with you on that matter. Now, I'm a little concerned here. I mean, sort of while we might debate some of the individual components, the final income that we came up with, I note that other regulators have come in well below us in some recent decisions. When you say we're particularly tough, against what? I mean, I though actually we were probably a little bit lenient.

MR GRAHAM: I think we looked at the outcome in total and we had a whole set of pass through provisions as well that we were claiming to compensate us for risks that aren't in the cost of capital. And when you look at the Commission's decision on those pass through decisions, and let's be frank, not many were picked up and put into the draft report.

SENIOR COMMISSIONER: Yes.

MR GRAHAM: In light of that and the cost of capital outcome, we think the result - it doesn't properly compensate for the overall level of risk. So I think it's in that context we need to look at the outcome and we would want the Commission to not only look at the cost of capital but also those

pass through provisions, things like changes in service standards that might be imposed on us over time, but we're saying we need to make sure that they're covered somewhere, if not in the cost of capital than as a separate pass through provision.

MS STORTI: And the only matter I'd like to add to that is that the relocation of assets in the draft determination, the Commission has indicated that the risk stranded assets is compensated within the WAC. We've provided additional information to the Commission to indicate that that isn't the case. Therefore in a draft decision of 6.9% the Commission is asking ActewAGL to bear the cost of risks of events outside of our control as well as the risk of stranded assets so that doesn't seem like a reasonable return.

SENIOR COMMISSIONER: Yes. If the Commission was to take on board some of your arguments on the relocation of assets and the pass through arrangements, and we might come back to that in a minute, would that mean that your views on the toughness of the rate of return would change to some extent? I mean given sort of the precedent set by other decisions taken elsewhere?

MS STORTI: I think it would certainly assist us.

SENIOR COMMISSIONER: Yes.

MR MACKAY: Yes, Mr Commissioner, if you agree with all of the other things we've said I think we could probably settle on that one very easily.

SENIOR COMMISSIONER: Well, let's go - - -

MS STORTI: Adjusted as need be for the risk free rate movements.

SENIOR COMMISSIONER: Yes, the risk free rate movements I think are sort of agreed that they should reflect the current level just prior to the final decision being made. You might get a comment - we have a submission a bit later in the day - we will hear from people from ACTCOSS, they're arguing that indeed because ActewAGL is at least partly government owned that, you know, should we be paying a commercial rate of return anyhow, they were suggesting 3 and a half percent rather than the 6.9 that we had.

That in fact that, you know, given the government owned nature, is there a need for a commercial rate of return. It raises an interesting point which has been argued of course a number of times as to whether or not we really do need to have a commercial rate of return for a government

owned business.

And you're sitting there at the moment running this enterprise, you're reporting back to government and to your other shareholder. Can you give us any views as to whether or not there's any indication that government's willing to take a lesser return or a - - -

MR MACKAY: Well, I'm not aware that the government is. I mean, it's got a thing called the TOC Act which in legislation sets up how ACTEW, our other parent company, will perform, and it very clearly says you will operate this business as if it was a commercial business. And I haven't got a copy of that TOC Act in front of me, but I'm not aware of any intention of the government to change that legislation. So I mean, that would be the first thing.

And secondly - I mean, if we were to say, well, look this is, you know, just a good old government owned monopoly, well, we might as well all go home, because I mean we've gone through this whole process, and that's why they set you up to in fact try and make sure that the electricity assets throughout Australia were operated efficiently. And the theory of all of that is based on you will be given these incentives and some rules to operate within, but basically you will operate this in a commercial way using - and this is kind of all Economics 1 at university. I mean that's the theory.

Now like it or lump it, I mean ACTCOSS might not like that, but they need to go back to COAG in the first place and say this isn't how we will run the Australian electricity industry, and then go back to the ACT Government who were given many millions of dollars, tens of millions of dollars, to implement the whole system that we operate under.

And so I would say that if you were to change that then I mean effectively it would - and the government was to accept that then effectively the government would be reneging on what they undertook to do and got the many millions of dollars which I presume have been put into schools and looking after all sorts of social programs in this territory. So I mean I just - you can't just change that one thing, I don't think, anyway.

And certainly I think the government in its social plan which it - a very, very good and comprehensive social plan that it just announced two days ago, it's mindful of the effect of this basically hard economic way of regulating utilities by subsidising those disadvantaged in our community. And I'm very, very pleased to see that they are, and in fact have extended or promised to extend subsidies to the people less well off in this area, in water, and of course as a new area in gas as well. And we would welcome

that. But that's the area that the government's chosen to focus on. It could have said, well, look we won't do it that way at all, we'll just renege on everything we agreed with COAG, get rid of the Commission, give this mob 3.5% and be done with it.

SENIOR COMMISSIONER: Thanks for that. Let me go to relocations. Let me just go to relocations for a minute. Now, relocations caused sort of the Commission some difficulty when we went through and dd the draft report. And I've appreciated your submissions and comments on that particular matter since as we've been - as with all of the things that you've raised we've been doing further consideration to those matters. I guess the Kingston Foreshore would be seen, what, as the biggest relocation we've had, is that the sort of issue that we've - part of the - - -

MR WHITEHILL: Probably up to date, yes.

SENIOR COMMISSIONER: Yes, yes. I mean, there are other relocations that occur from time to time when we see smaller redevelopments in some of the inner suburbs which are being redeveloped, and new housing, or offices, or whatever located on those. In the past this hasn't been an issue, we haven't - I mean, it was never raised with the Commission prior to this current enquiry as being a major problem.

MR WHITEHILL: Most of those are very small relocations. We've got a couple of very big ones coming up in the near future, and it's the moving of a switching station to the Kingston Foreshore area which is probably around about $8 million to $10 million. And we have the zone substation at Belconnen that may have to be shifted, which is another $10 million worth of work. There's a whole heap of those sort of things coming up in the near future. And they're much bigger than the Kingston Foreshore relocation as well.

SENIOR COMMISSIONER: Right.

MR MACKAY: I think it's fair to say that in the last sort of eight years or so, the period we're talking, I mean the level of in fill in Canberra has just changed enormously. I mean I presume in the past we just had so much space and we were kind of moving outward, people designed stuff around our assets and it just doesn't make as much sense anymore. And there's greater pressure on in fill and things like the Kingston Foreshore is a classic example of that whereby there's no way in the world they could have achieved what they wanted with our whatever it was - - -

MR WHITEHILL: Underground cables.

MR MACKAY: Yes, we had these huge underground cables going smack through the middle of where they wanted to put underground parking and all sort so other - other services and they wanted to build, you know, very valuable apartment blocks over the top of them, which would have been impossible from our point of view. So the logical thing to get the best value out of that piece of land for the government was to move those assets and it's cost a lot of money, $5 million or more.

MS STORTI: It was costly both to the government and to ActewAGL, so the contribution was somewhere close to $5 million by the Kingston Foreshore Development Authority and the write-off of assets was somewhere around the $3 million and that was just one single relocation project. So yes, we are seeing a lot more relocations than in the past, it hasn't been an issue for us.

MR WHITEHILL: In the past I guess most of our relocations would be somebody that wanted to put a driveway in and there's a pole sitting right out the front of their place, so we'd shift it.

SENIOR COMMISSIONER: Shift it, yes.

MR WHITEHILL: It's a very small cost operation.

SENIOR COMMISSIONER: If the Commission was to put in place an arrangement whereby anticipating these relocations, the asset was written off at a faster rate, I mean, is that practical in sort of - do you know far enough in advance these things to sort of allow an earlier write-off of the asset so that effectively you recover the remaining life of the asset that gets moved, is that one option?

MR WHITEHILL: I suppose it's an option but the timeframe when we do get a final decision is that yes, we want to shift it. It could be a year, two years, we don't know.

SENIOR COMMISSIONER: Okay, so it's not as if you sort of look at it now and sort of say look, we can see in the next five, 10 years this - we're going to need to move. I mean, you mentioned the Belconnen one, clearly that's sort of one that is - it's a large exercise which you can see that you might have to do, but other ones we're saying might be a shorter timeframe?

MR WHITEHILL: Yes, could be a shorter timeframe, a lot depends on development. The housing prices may go down, the land may not be developed, all of those sort of things, they may defer it for another year,

they may want to bring it forward another year, and I guess we've just got to work with them on that.

SENIOR COMMISSIONER: Now at the moment, what we're talking about is something where, as part of the relocation, the developer or the people ultimately who buy the land, are paying for that relocated asset, the asset's moved and it's enhanced or whatever, but it's placed somewhere else to - and that's effectively paid for by the development and then passed through to the people who buy the land or the flats or whatever is built on it.

What if the cost of that relocation was to incorporate the loss of revenue that you get from the asset that's effectively been no longer required, in other words, sort of it's - you've got to pull it down and dismantle it and get rid of it. It's been moved somewhere else, they're paying for the move come building of the new asset, but you've also got some of the retained value in the existing asset which is being pulled apart which is what you're trying to recover.

What if that was built into the cost that you're charging the developer? So effectively, the people who benefit from that redevelopment, that nice piece of land by Kingston Foreshores or whatever it happens to be, to pick that one. They're the ones who pay rather than everybody else across Canberra.

MR WHITEHILL: I guess it's an interesting concept but we have an answer. Take the switching station at Kingston there, it's probably valued now at - I'm not too sure, it would be $5 million or something. It's not old in relation to the age ...(indistinct)... If you then ask the developer, instead of paying $10 million to put a new one in, you're now paying $15 million and it may affect that development either going ahead or it may just tip it over the edge, I don't know.

MS STORTI: Which could impact then the government imperatives.

MR MACKAY: Yes, I think you'd end up creating some negative externalities, undoubtedly, if you went about it that way.

SENIOR COMMISSIONER: Yes.

MR MACKAY: Well, that would be - I'd - -

SENIOR COMMISSIONER: Yes, sure.

MR MACKAY: - - - suspect, I'd need to think it through it bit more. I

think you'd probably end up having some inefficient use of land.

SENIOR COMMISSIONER: Yes. Okay.

MS STORTI: We've also put forward three methodologies for the Commission to consider.

SENIOR COMMISSIONER: Yes. Yes, no, I'm conscious of those, yes. I was just trying to - - -

MS STORTI: There are options, including the accelerated depreciation of that asset.

SENIOR COMMISSIONER: Yes. I was conscious of - - -

MR McGHIE: But do you think it's worth considering, including the dismantling and shifting or whatever of that asset when the new asset is put in? I mean, if I'm a developer, and I want to put it there and it's going to require all this stuff to be shifted, there's a certain amount of logic in really accepting that for me to go ahead with my development, you know, that's going to be a cost for me rather than a cost for the community, which is what happens if you guys have to cover part of the costs.

MR MACKAY: Well, certainly effectively at Kingston Foreshore with the government as the developer, the community is going to pay, whichever way you go.

SENIOR COMMISSIONER: Yes, interesting point.

MS STORTI: And it's really that - - -

MR McGHIE: Well, it depends how they price the final - what they put in it, but - - -

MR MACKAY: I suspect when you tumble down all of the sort of economic theory around it, the methodology that you're suggesting I think would have some negative consequences. I may be wrong, but I suspect that would be the case.

MS STORTI: We should also remember that once there has been a capital contribution, then that is netted - reduces the regulated asset base.

SENIOR COMMISSIONER: Yes, that's right. You don't get a return on a return of that asset - - -

MS STORTI: No, that's right. So if we relocate an asset, we don't then get a return on that relocated asset.

SENIOR COMMISSIONER: That's right, yes.

MR McGHIE: It just seems a touch - as they say about the farmers of capitalising the profits and socialising the losses, so far as the developer is concerned.

MR WHITEHILL: I guess the other problem we have is we have to maintain that asset, and we're not getting a return on it.

SENIOR COMMISSIONER: Yes.

MR WHITEHILL: And in the case of the switching station, the maintenance on those is pretty high.

SENIOR COMMISSIONER: If you take the Belconnen one, just let me explore this a bit further. I'm not as familiar with the Belconnen one. Is that yet another residential development occurring on that site, or is that occurring for - - -

MS STORTI: ...(indistinct)...

MR WHITEHILL: Yes, looking at more residential land out that way, they've got the zone substation sitting right in the middle of it.

SENIOR COMMISSIONER: Okay. So it's a similar type of - - -

MR WHITEHILL: It's a similar sort of thing.

SENIOR COMMISSIONER: Okay. Let me say, we're looking, as I've said before, in all these matters, looking at them all carefully. Can I just go on to the gain share matter, because I know - referring back to your introduction and so forth, what you failed to sort of remind everybody was that I actually interrupted a very good dinner you were having when I sort of rang you up on that particular matter.

But I know this is something that's very close to you and we've certainly had lots of argument and discussion on this matter. The Commission is trying to sort of make it quite clear, let me repeat. We're not against gain sharing and in fact sort of, you know, part of the whole process of, you know, running a business and achieving efficiencies and sort of gain sharing between sort of the staff and the business itself out of efficiencies that are achieved over time, ultimately they roll back to consumers, but

over time, there's an initial sort of gain sharing with - between the business and employees.

The Commission has no problems with that at all. The difficulty - and we also note sort of the 14%, the real efficiencies and so forth that are achieved under the previous price path. The difficulty the Commission's had all the way through here has been trying to understand the information that was originally given to us, and to get this into perspective.

The Commission saw the information that came from ActewAGL as saying that your operating costs were X and on top of that we needed another $2½ million so that we could sort of pay out some gain sharing arrangements going forward.

And of course, that's where the Commission sort of started running into difficulties because it appeared, and still appears in some ways to us, that what you're doing is you're asking the consumers to pay, on top of the efficient operating costs, an additional amount of $2½ million to do this gain share arrangement.

Now it may be that we've misconstrued the information that you've provided to us, and you might care to sort of, you know, elaborate upon this, in that the information that you've given to us, which broke down your costs into several various sort of sub groups and then had gain share as a separate cost area, you were meaning to imply something different, in terms of you know what were your actual efficient operating costs.

Now bear in mind we had some independent consultants do a review, and they made some suggestions and recommendations to us regarding some cost reductions that should occur, including taking out the gain share item, that line item that was in your breakdown of costs that you provided to us.

We have subsequently had some extensive debate on some of those cost reductions and the two percent efficiency arrangements which you have referred to, and we have included in our recommendation, or our decision - draft decision came out of that.

But the gain sharing element still represents a bit of this stumbling block, as to whether or not it was an additional cost on top of, or whether it was in actual fact a part of the efficient operating costs of running the business, which you intended to make savings of over the period, and you had shown those savings separately.

So in other words, has there been a misinterpretation?

MR MACKAY: Well certainly, if we had our time again, I can tell you we might have presented that information differently, because it has caused - just let me say straight up front. There are two issues I suppose with the gain sharing, and the ring fencing issue, I think we will address to the Commission's complete satisfaction, that won't necessarily be a problem.

But on the gain share, I mean the way I always looked at it was that it was almost a bit like an award condition. I mean, it's something that we have had as custom and practice for many years, four or five now I think. And it is tantamount to, you know, another clause in your award.

You've got a clause that says you get $30 an hour if you work overtime, and you've got another clause in the award that says - you know, if you achieve at these efficiencies you get a bonus each year based on that. So I mean I see it as just - from one point of view, just simply part of a worker's wage.

SENIOR COMMISSIONER: And the commission doesn't disagree with that, by the way, that's fine.

MR MACKAY: And if that became a stumbling block, I mean I am sure I could have it reflected in the award in two seconds flat. The only reason I didn't seek to have it reflected in the award is because it contains a very, very valuable clause in it a very valuable pre-requisite, which the unions would never put in an award, and that is any strike and you get nothing. And so the consumers of the ACT have not had, in the last six years, one second of industrial action.

Now you compare that with any utility, any other business in Australia, and again - so - now, how would you have dealt with a situation where we had, you know, God help us the thought of - you know, a week's strike with blackouts and all the rest of it.

The impact of that would be far more than the cost of this, on its own. So I see it as part of an award, I see the non-strike clause as being absolutely critical to the sort of service levels we have been able to deliver here which no one else in Australian can deliver.

And I see it, although you know, admittedly we haven't gone through this and sort of nickled and dimed it, but I see it as really critical to the sort of attitude that we try to push through the whole workforce, so that they will feel part of a family, which lots of workforces don't operate like that anymore.

It is really, really kind of important to that family attitude. I was speaking to some people last night and they said - you know, a couple of your blokes were round here the other day and they were - the 87 year old grandparents are there, and they're saying listen, you know, we're going to sort of take to you like you wouldn't believe, because you've got these branches hanging over the lines.

And of course they then got a lecture from the 87 year old grandfather about where he fought and how hard he worked, and all of his medical ailments, one after another, and they said, listen, this will only take us ten minutes and went in and cut the branches down themselves.

And that doesn't come from - that comes from feeling great about where you work and what you do, and that's what we try to do. Now, the icing on the cake is then the particular things we are trying to achieve which motivate people, and they are all about customer service, being very efficient, being innovative, working hard et cetera, et cetera.

So I mean I see the thing in that context, and you can argue if you go back to just a straight out no strike clause that Canberra gets its full value of that, straight from that. But if you wanted to just set that aside and say, well, let's look at the efficiencies, the Commission's basically saying, well, you're paying in a very simple, and I think over simplistic, you're paying this kind of two million dollars out for efficiencies, and we're not going to compensate you for that because you should be doing that anywhere.

But are you going to let us keep the efficiencies that we could then perhaps claim we get from that? Although I hasten to add, I see it as much more than that. Because I can say to you that we get all of the efficiencies out of that by just one clause in the thing.

We don't have the average level of industrial action in this industry across Australia, it's eliminated. So I don't know what more I can say. I see it as critical to the culture, critical to the whole package we provide, and a standard part of the wage.

And had I taken the step of putting it in the award, it would never have come to your attention, I don't think, because - I mean, you haven't gone back and looked at the other award bits and said, well, what about this and what about that. Why do you pay this level of overtime and why do people get four weeks' leave and - okay, so I see it in that context, Mr Commissioner.

SENIOR COMMISSIONER: So if I can just summarise that, I take it

then that sort of - you're saying that sort of - that the cost lines that you gave us were the actual, you know, sort of efficient cost lines which we reviewed, that the gain share amount of two million, two and a half, whatever it was, should be seen as being part of those cost lines, because they're part of the award, they're part - so they're not necessarily reflecting efficiency savings, out of which we would pay these things in sort of any other organisation per se. They really represent part of the aware payment that is being made to people.

MR MACKAY: Yes, but it's - - -

SENIOR COMMISSIONER: To provide that - the service that they're providing. Now, have I got that right? Just to make sure.

MS STORTI: I think you have got it right, Mr Commissioner. The cost - the efficient operating costs of the business we have taken the opportunity to look at between - I think it was our first submission was in about May, then August. In December we have set out what we believe to be efficient operating costs of the business, and also considered our ability to achieve operating cost savings.

SENIOR COMMISSIONER: Yes.

MS STORTI: And we have also provided over the course of the last six months the Commission with some information in terms of comparing the gain share arrangement that's in place in ActewAGL with other utilities. Just that - and some utilities have this within their remuneration package or EBA, and others sort of operate more in line with our own scheme.

MR MACKAY: I mean, I could say to you with some conviction that when we put together our current EBA where our workforce got five, five and five percent over the three years, we're in the middle of that now. Had the gain share not been there, I am sure I would have had at least another, you know, percent or something like that screwed out of me - the equivalent of it, I have got no doubt whatsoever.

MR McGHIE: So the thing is really is - as Paul said, it's become part of the award. I mean I think our thinking has been very much that if it's an incentive scheme for greater efficiency, an incentive scheme should actually be self financing because obviously if things are being done more efficiently and therefore at lower cost, well, then that's financing the scheme. I mean, that would be the justification for it - - -

MR MACKAY: Well, I think I am saying - - -

MR McGHIE: But you are saying there are other dimensions.

MR MACKAY: It is much, much, much further considerations than that, I think. It's part of the award. I think the no strike thing has a very considerable value which Canberra citizens have benefited from. I can think of several occasions where if it had been me I'd have gone on strike, some of the other things we've done to them, and I think that's been very, very positive.

And - well, I've always had in my mind, and I've got to be careful what I say because they will find out what I say here today, and there is some things I wouldn't want them to know. But I mean, we generally have a big staff breakfast at around about the end of July where all of the staff come in for some ungodly hour in the morning and have bacon and eggs and we talk and I announce what the number is for the year.

And I sure as hell wouldn't want to go to that breakfast the day we say, well, we didn't hit any of the targets, because I'd get tarred and feathered I can tell you.

SENIOR COMMISSIONER: Fair enough.

MS STORTI: And the last point on that, Mr Commissioner, is that the scheme is already in place so when you are reviewing the opex for the next five years, it's not a new scheme which will then generate that self-funding mechanism that you talked about. So it's a scheme that's helped us over the last five years and what we're saying is, we are proposing that that scheme be included as part of the operating - efficient operating cost for the next five years.

SENIOR COMMISSIONER: Okay. Let me go to the issue of capex if I can, sort of, because that was one of the ones that we covered. Now, you've made the point that, one, you spent more than we allowed last time, two, you're concerned about power poles obviously falling over and you know, I think the fact that you've spent more and so forth and the power poles are still falling over, I'm not going to, sort of, explore the links between those.

I'll let you follow those sort of things through yourself, but, you know, the Commissioner is just as concerned about power poles falling over because, as I said on a number of occasions, I have a power pole at the front of my place that I worry about sometimes, but it's been checked, it's all okay I'm sure, but the point is that, sort of, I think we're just very much part of the community as well so we're very conscious of these things.

I think it's worthwhile just responding to a couple of points and then just raising a couple of matters with you. First of all, it's important to note that the Commission has rolled into the asset base all your capital expenditure for the last five years, which has included that extra 22 or whatever it is million that you've spent, and having subjected that to review for prudency and the like, we've rolled it all in.

And of course the way the mechanism works, of course that's getting rolled in because we're dealing with a replacement cost equivalent at a indexed up value, over which you'll get complete recovery over a shortened time period in terms of the depreciation that'll - you'll get that written off and get that back, and indeed you'll be getting a return on that at that indexed value going forward for the life as well.

So you'll actually be getting, you know, somewhat more back on it over the next few years than you would have if we'd actually anticipated the 22 million properly five years ago, and rolled it in at that time. There is a timing issue which I'll grant you that occurs, but I'm not too sure just, overall, how significant if one looks at sort of the total life of that asset that would actually be. But I just make that point because I think it's sort of important to get the sort of the balance right.

In terms of going forward at the same time, we've proposed a 5% reduction, against by the way the consultants recommending to us, our consultants recommending to us a 15% reduction in your capital expenditure program, a 5% reduction in that capital expenditure program in terms of what we will allow.

But again, at the end of the period, prudent capital expenditure, whether it's that whole 5% or part of it, or a greater amount, because circumstances have changed beyond any of our projections, will be rolled in at that time, again at the higher index value, and again fully recovering et cetera.

I'm a little perturbed as to, sort of, you know, where you feel you're going to be seriously disadvantaged. Now, I don't want to sort of take away from the fact that, you know, there is a small timing difference, but also I'm conscious that, sort of, you know, that timing difference to some extent can be partly determined by some of your own decisions in terms of when you incur various capital expenditure over the five years.

So in terms of the debate on this particular matter, I'm not sure that, sort of, one, the decisions that we might make here are going to necessarily lead to more poles falling over, heaven forbid, and it might be the one out

the front of me, and other, sort of, dire consequences that are sort of being predicted, but at the same time, the Commission is trying to ensure that, and having had separate advice, which was suggested that we should have cut your expenditure by 15%, to trying to ensure that, sort of, that the business is efficient and prudent in terms of the monies that it spends. Do you want to comment upon that?

MR MACKAY: Well, just, I mean, the pole replacement, while we focus on that, is because we're living with it on a daily basis and it is a substantial proportion of our capex. We're - I mean - we're about to set our budget for the next year, couple of years, and that budget will have considerably more in it, for pole replacement and other capex than you're going to allow us.

And so what you're saying is, well, look, it doesn't matter, we'll catch all of this up down the track. I mean, my simple question is, when we can clearly see that that isn't going to be the case, that we are actually going to spend more, I mean, why cut it? Why cut it now and then artificially pick it up later, when it's at least clear to this side of the table, maybe not your side, that that's what we're going to have to spend, and spend it we will.

SENIOR COMMISSIONER: So are you saying there that actually you'll be spending more over this next ...(indistinct)...

MR MACKAY: No, I'm simply saying, in the area of pole replacement. I mean, we're just going to have to put together a budget that replaces "x" number of poles in the next year, and with that cut, I don't think we can live within it. Do you want to just - - -

MR WHITEHILL: Yes, just picking up on the consultant's report. My personal view on the report is they didn't understand our business very well, and I just stick to the pole issue, and looking at the numbers of pole replacements they sort of indicated we would have over the next five years, it just didn't add up to the sort of things that were happening in our business at the time, and they came up with things like, treat your poles, and in the two years time you won't have a problem with them basically, and that's just not the way it happens and I think I've discussed this with you and shown that that isn't the case.

We're going through some older suburbs at the moment, and some of the knockout rates we're getting and condemning rates are up around 10-12%, and I think the other - and it's very high, by industry standards, and I think they indicated something like 1 or 2% should be the knockout, which is ridiculous. They didn't understand the conditions.

We're going through the treatment process which probably, after the second treatment cycle, it will become effective, but it takes that sort of time, so over the next five years, we've got to tackle these ageing poles and they are, as I said, as we move through the older areas, the knockout rate is extremely high. At the moment we have, for instance, a backlog of 670 odd poles. Now, if you go to the consultant's report, they were going to replace that number over a two year period.

We've got a backlog now we have to replace, and this number is growing. Our inspection processes have changed, because of the backyard implications and the fact they've got fences around them, chook houses and all this, and it costs us twice as much to inspect the pole as you would do one in the street. They also indicated that, stake all your poles, well that's fine but the bulk of our poles are in backyards and you cannot stake them.

Then they compare this with, I think, United Energy, who haven't even got any poles in the backyards and they stay a considerable - you just cannot compare. And the reality is, we're going to be spending this sort of money. I've sort of said to John that the - we'll be probably spending something like 6 to 7 million dollars just on pole replacements for next financial year. Now, if we look at the consultant's report, I think they've got us down for 2 and a half million dollars for next financial year, so that's the sort of difference that we'll be spending, and we have to spend it.

MR MACKAY: You give us 2 and a half and we're going to spend 7, so, I mean, why, and I don't think we're going to waste that money. I think that is necessary for the safety of my workforce and the Canberra community. Now Mr Commissioner, we wrack our brains, day in and day out. There must be a better way, there must be a better pole, there must be a better way we can treat this. I mean, it's a conversation we just have all the time.

We're out there, we have been experimenting with a whole range of different poles because, I mean, if we'd had our time again, all of this stuff would be underground, but it isn't, and the cost of undergrounding it is just so prohibitive, I mean, just for a standard residential block, you're looking at roughly an average of $10,000 because you've basically got to redesign the entire network.

You can't just sort of say, well, we'll flip it underground, because, well, for a start, you'd be flipping it underground out the front not down the back, and so you're talking hundreds of millions of dollars. Perth's doing it, they've found a way, so I mean it can't be beyond the wit of man to do

it.

But we've got three piece aluminium poles, we've got aluminium, stainless steel, we've looked at all sorts of other spun concrete poles, so on and so forth. And we're doing our best, but our best, certainly if we followed the advice of the consultant, our best would be a long, long way short of what would be acceptable.

SENIOR COMMISSIONER: Just on the undergrounding matter, and again, you may not want to comment on this, but given something like the user's willingness to pay type of study, and what have you, and your comments about undergrounding, I mean, would ActewAGL be proposing at some stage to move down this route?

MR MACKAY: I think - we've looked at it in a cursory fashion a couple of times and at some stage in the near future we will look at it in a bit more serious detail, but every time we've looked at the sort of numbers on the back of an envelope you just can't make it stack up. I just don't think I could ever - unless the government was prepared to step in, I'd never convince, say, the residents of a street, take your own street, do you think I could convince all of them to pay $10,000, because - well, effectively you can get it undergrounded tomorrow. You want your power undergrounded, we'll do it, at cost. But you'd never, ever get the community saying.

You might go close in, you know, maybe Yarralumla or somewhere like that, where the wealth is high, and funnily enough for some reason our outages are high, much higher than anywhere else as well, so we're certainly fair across the community. But I think you probably need the government to step in say, well, look, we'll pay - we'll just give you a grant of half of the money or something like that, and then you might get there based on some sort of argument we could put to you in terms of return on that work, because it goes back to a lot of the things we have been talking about, and some sort of increase in price for the community to be prepared to pay it.

But I mean, if I sort of said to the community, well, what would you be prepared to pay? And I don't think we've really asked this question in the sort of detail necessary, but I mean, you know, you might get people who would be prepared to pay 10 or 20 bucks a bill, but not the sort of money we are talking about here.

SENIOR COMMISSIONER: Yes, that's fair enough, yes.

MR GRAHAM: The willingness to pay study focused not on solutions,

but on the willingness to pay to have better service, changes in service. So we weren't trying to prescribe solutions that were analysed.

MR MACKAY: But it's - I mean, we've had a pretty busy year or two, but it is something's that's kind of just on my to do list, to look at, you know, maybe a particular suburb in some considerable detail, plan it all our, work out the numbers, work out what we'd need to get out of it as a minimum, come and talk to the commission and say, well, what could you do to help us in these circumstances? And then go across the road and see what the government thought.

So it would - it would be somewhere fixed through pricing, some sort of an investment from us and some sort of an investment from government and, see, some of the payoff just would not necessarily be tangible in terms of a return that we could get. I mean, what is it worth to not have - well, the fires that went through last January. Had our stuff been underground the damage would have been probably, you know, 10% of what it was and we'd have had Canberra back up and running in a day not a fortnight. So what's the value of that? I'm sure it's valuable. How do you put a number on it?

MR McGHIE: We've talked about this before. There is a catch up component in the poles, isn't there, that in the years, I don't know how far gone by, there hasn't been enough maintenance and so we're at a point now where in fact we are having to do more and, as you say, the backlog in the older suburbs is getting quite high. But it is a catch up situation that you are talking about as well.

MR WHITEHILL: It think it's a combination of a number of things. One is that we've only started treating our poles over the last three years against fungus and rot and those sort of things, and that will come in and become effective probably about another five years down the track, after it's gone through two cycles.

We've also got - the assets are ageing and they're getting to a stage now where some of them, especially that - some of the species are getting near the end of their life. Now, in other distribution businesses, all they do is go along and put a steel stake beside them and it gives them another 10 or 15 years life. We can't do that. We've got to change the thing. So they've got the advantage. They can spend $400 or $500, put a stake beside the pole, and away they come back in 10, 15 years time. We can't. We've got to change it. So that's happening to us now.

Sure you'll see where we can get equipment in, like in streets and that, you'll see these steel stakes in there, but the bulk of our poles are in the

backyard, and we just cannot get machinery in there.

MR MACKAY: Can't get the guy wires in either.

MR WHITEHILL: No. And the unions won't climb a stake pole. They're considered unsafe. And it's the same in New South Wales. The unions won't allow their people to climb. So you've got to be able to get a bucket truck in there and EPV so the only ones we could do anyway would be in the streets where you get access to - the reality is we just can't get in backyards with the equipment to stake anyway, so. So it's those sort of things that are - we've just unique, we just can't - we've just to replace the pole.

MR MACKAY: And a lot of other jurisdictions, they'd whack up guy wires if you see a pole that - a lot easier than replacing the pole. And you tell me where you can put a guy wire in Canberra. It won't happen in the backyards and certainly won't have them in the front yards, so that makes us relatively unique as well.

SENIOR COMMISSIONER: Can I just ask a very brief question? You touched upon the willingness to pay study and so forth, and I'm conscious of that being around. One of the things that I guess we've been sort of waiting to receive from you, and nothing's been mentioned of this, and if I've missed some discussion on this I apologise, is some of the technical appendices and other material that goes behind that - we've had some presentations and preliminary results et cetera. What's happening with the rest of the material that goes behind that, that I thought we were going to get in due course? Is that still coming? Is that - - -

MR GRAHAM: Look, I think you've received the substantive part of the report, or the main conclusion.

SENIOR COMMISSIONER: Conclusion, yes.

MR GRAHAM: The technical aspects are more down to the individual records of what each customer said, and I don't think that would have particular use. What I think we did say we'd provide you, and we've touched on it in our December submission, was what we are trying to do with the information in terms of our expenditure to improve service standards to line up with what our customers want.

SENIOR COMMISSIONER: Yes.

MR GRAHAM: I've mentioned one specific initiative that we're having a look at, with reclosers on the lines. It could be very cost effective for

improving the liability and very much line up with what our customers are willing to pay. That's what we are trying to do now. But rest assured, if you'd like to be taken through that other information, I'd be very happy to sort of take you through that.

SENIOR COMMISSIONER: Yes, I think we might come back further on that. Okay. I think we've covered the main issues. We've covered a lot of things, and I could ask further questions to elaborate, but I think we've covered the main things we wanted covered. Is there anything you want to particular add or re-emphasise or anything at this particular point?

MR MACKAY: Commissioner, I think we've had a very fair hearing today and I very much appreciate it. We have nothing further to add.

SENIOR COMMISSIONER: Okay, we've appreciated it as well, and also the comments and so forth back. So look, thank you very, very much for that, and for all the material that you provided to us and rest assured we have given, and we will continue to give, the matters that you've raised some pretty careful consideration to try and improve the rest of your year, I think, Mr Mackay. So we'll see how we go. So thanks kindly.

We'll take a break now for 15 minutes. We're running a bit behind time, but we'll take a break for 15 minutes. Tea and coffee's outside, biscuits and so forth. Please help yourselves.

ADJOURNED [10.59 am]

RESUMED [11.21 am]

SENIOR COMMISSIONER: Okay, well, then we'll resume these public hearings on electricity distribution services. We have from the ESCC Peter Sutherland and Bill Pearcy. Thank you for being with us today and we invite you to present some comments or views that you might have at this particular point in time. I'll just get you - just for the tape I think, just to sort of identify who you are and then we'll go from there. So thank you very much.

MR SUTHERLAND: Okay, I'm Peter Sutherland, Chairperson of the Essential Services Consumer Council.

MR PEARCY: And I'm Bill Pearcy, a member of the Essential Services

Consumer Council.

MR SUTHERLAND: The Council did make a brief response, I think in the issues paper or possibly an earlier stage of this process, just talking about the supply fee and the basis of charging the supply fee. I'll come to that again but I might start off by saying that one of the problems in this area has been the lack of effective and informed consumer advocacy, this whole area of electricity or utility pricing.

The Council is very, very happy to note that consumer advocacy in the ACT is now to be funded by - I think it's a grant coming out at the national electricity arrangements. I'm not sure exactly where it's coming from but there's a substantial amount of funding for consumer advocacy in Australia in relation to the electricity markets and the ACT will be participating in that through the appointment of the project officer who I believe will be based at ACTCOSS but it is working with a steering group including the Consumer Law Centre and other groups.

The submission I presented to the Commission by the Consumer Law Centre and the ACT Council of Social Services is really a predecessor to this new advocacy process. This was - their submission was done on special money from the same source but as a one off but this has been followed up now by a project which will be ongoing and I think that will be excellent because, you know, in the past the resources simply haven't been available to the community sector or to the consumer interest generally to make informed advocacy, particularly in highly economic issues like this.

The Council - our Council has a consumer protection role under its Act but we have a fairly specific focus in our consumer protection role and low income people and we don't have really either the resources or the capacity to do detailed economic analysis and we essentially have to come to our task based on our actual experience of case work and some co-operation with our, you know, with other agencies of our type interstate so we can feed on consumer ombudsman type experiences but we're not in a position to do detailed economic analysis of reports like this.

And I believe that the new project will give and has already given the community sector the capacity to do this. The council, you know, it's probably not necessary for us to specifically adopt the submission of the consumer law centre and ACTCOSS but we certainly support its broad thrust.

You know, some of the specific recommendations the Council hasn't considered and therefore we can't be taken as endorsing absolutely

specific things such as the sharp price decrease rather than the five year phasing but we generally, you know, we are certainly supportive of the overall thrust in this and we've particularly picked up on some - the supply fee issues which are inherent, which are dealt with in the ACTCOSS submission - ACTCOSS/Consumer Law Centre submission.

So we'd certainly draw the commissioner's attention to that report - to that submission and give it our broad support without necessarily committing the council to specific detailed recommendations there because we haven't actually considered them as a Council.

In relation to the overall report, I don't think the Council is any particular position to comment on some issues such as the return on capital issue and so on, I'll leave that to the economic analysis of this advocacy group. The issue that we would want to - well, there are two issues that we would want to discuss and one is the pricing structure as it affects consumer - consumers in the second list, concessions.

In relation to the pricing structure it seems to me from report number 15 that you are not actually dealing with the - dealing in any great detail with the actual construction of the price, you know, but you're more or less saying to ACTEW here's your maximums and you can structure your pricing however you want except we'll approve it.

And I note this is quite different from water where an important part of your water draft report is of course analysing two different pricing options, one with a lower supply fee and one with a supply fee roughly equivalent to the current one and our submission on the water thing tomorrow is obviously very much focusing on this issue. I'm a little bit disappointed that you haven't taken the same approach in report number 15 because the actual construction of the price is an important social justice issue, not just the maximum price.

And in our view the construction of the price should be leaning towards lower supply fees and higher - or - and balanced by a higher level of consumption and I think in our opinion probably a stepped consumption tariff where the first live - you know almost like the domestic minimums are at a lower price and then beyond that you start moving into a higher price range. And we think that's appropriate for network charges as well as for, you know, in water and in electricity.

You know, I think we've, in our water paper, we've sort of analysed the supply issue and you could almost go to that and then pay that to electricity and we've also, I think, addressed it in here but it's quite important, the effect on your low income single consumer who tries to

save electricity or is very, you know, is trying to saving money, they virtually, they still face an enormously high supply fee and their consumption may only be five or $10 a quarter but they're paying - you know, the actual cost per unit - just say - well, look at, say, the single aged pensioner, they've got a small fridge in a one bedroom flat, very modest with their lights, hot water, very modest - they will still get, you know, they'll still pay a very substantial price for electricity because of the high supply element in the distribution charge.

MR PEARCY: Could I just make a comment there? There doesn't seem to be any particular connection between the network costing and the supply fee which was actually charged by the retailer and I think this is one of the difficulties that's - it's not related directly to your report but it flows out of it in that you're trying to get the network costing correct but that doesn't flow - or does not appear to flow down into the charging that the customer actually sees.

There's almost a complete disconnection and the supply fee in that sense is a misnomer in that it's not related to supply at all, it's simply a fixed charge or a fixed portion of the charging which the retail makes to the - - -

MR SUTHERLAND: Sorry, ...(indistinct)...

MR PEARCY: Well, it's moved on through from the distributor to the retailer so what I'm saying is that what you do in the network doesn't necessarily flow directly, in fact doesn't flow directly at all to the customer, there's an intervening body, the retail. And that's probably my major concern rather than the actual costing of the network charge itself.

MR SUTHERLAND: It's obviously very convenient for the utility, ACTEW, to have a high fixed charge up front because it means certain cash flow, you know, when it comes in right at the front of the cycle and it buffers them against, you know, the consumption ups and downs over the year but it - in our opinion it's socially inequitable and that while I wouldn't necessarily go to no supply fee I think the supply fee should be at a lower level.

You know, certainly it should be reflecting some really basic costs such as meter reading and possibly meter, you know - but that's nowhere, you know, the actual supply - the rest of the fixed charge is really just a way of paying for the poles and wire and the maintenance of them, and I think that should be done through consumption and through people of high consumption paying.

Now, there are low income people who have high consumption. In fact,

low income households - some low income households have far, far greater consumption than an average household because of the poor quality of their housing stock, but I think the way to deal with that is not through the high supply fee approach, but rather looking at our concession structure and our hardship protection through the Council. And of course, trying to keep prices down generally through good buying and, you know, clever hedging and all those sorts of things. So that's probably the point we'd make in pricing.

Now, I would say to the ESCC, while I don't think there - you know, while you are taking this view at the moment that the price path is for the utility to determine, I'd point to you the fact that you're - in your own Act you are instructed to consider social considerations and environmental considerations, and I think therefore your own Act instructs you not to be hands off on this issue, even if perhaps the Treasurer's price, you know, reference to you doesn't explicitly refer to it, you need to go back to your powers and functions in the Act and look at this issue.

I'm not saying that you necessarily direct ACTEW specifically, but you indicate to them that you would like to see a tariff with a lesser fixed element and in distribution flow through, and then they have got to come back to you with a proposal and you approve it. But I think your approval should be based not only that it looks like it will stay within the maximum cap you've imposed, but also that it meets the social objectives that you are indicating in your price path.

Okay, is there any - before we go onto other things, is there anything you want to ask on that or respond to?

SENIOR COMMISSIONER: Let me - in the draft determination we have extensive discussion as to sort of the co-requirements under part E of the code which addresses the points that you've raised and so forth. And in that we've endeavoured to sort of set out sort of a process and procedures whereby we will go to that. It's a little bit different than water where we don't have the code requirements and we are dealing of course with the retail price of water, whereas what we are dealing with in this inquiry here, of course, is the distribution charge per se.

But part E of the code, which we'd have regard to, and then it links with the other requirements under our legislation, requires us to go to sort of the issue about sort of appropriate recovery of costs in terms of the way in which the charges are structured.

So you're quite right. I mean, that's why we dealt with it in a slightly different way, because of the existence of a code and requirements in one

place and the fact that we were dealing with just the distribution charges and the fact we didn't have a code and those requirements were not in place and we were dealing directly with the retail price per se.

Now, in that - and I've taken on board then your comments and, you know, thoughts in terms of that, against the code part E requirements, and we've outlined in that. So we just need to go back, I think, and look at some of those aspects in terms of the points that you've particularly raised.

Now, I think that's just an observation I think I should make, that that was all. Did you want to raise anything?

MR SUTHERLAND: The observation I'd make is that, you know, the fixed costs are actually - there are very little fixed costs in it. It is actually an overall, you know - they are all up front costs, you know, the maintenance costs and so on, but you know, there is very little fixed costs in relation to the supply to an individual household. Perhaps the connection. But they recover some of those in connection fees anyway.

SENIOR COMMISSIONER: Well, that's right, yes. That's right. I think just the other point just to note, too, on the way through, while I think of it, that metering costs per se, of course they have to be treated now as sort of a contestable activity and they will be - - -

MR SUTHERLAND: But not for a few years, I believe.

SENIOR COMMISSIONER: No, no, that's right. But we've got them sort of separating - being separated out on the way through and so there will be a separate oversight arrangement and so forth on those as we move down that particular track. But the points you made are well made and, you know, I take them on board.

MR SUTHERLAND: Just speaking about metering, the council is quite keen to see better metering technology introduced, you know, and the more one does it as a whole community, the cheaper it will be, you know, rather than having it come through in dribs and drabs through competing retailers or whatever. You know, that doing in a coherent way across the whole community perhaps as a community investment may be a better approach than, you know, having it through the vagaries of the contestable market and so on. And that's something to be thought about in terms of pricing of electricity.

The reason why I'm sort of quite keen on the new metering technology is the capacity it gives for the consumer to perhaps better monitor their

usage. And it should be able to change their consumption patterns on sort of a daily or hourly basis once they understand how costing is working.

SENIOR COMMISSIONER: Yes. One of the questions in might just ask there, because it's a good point that you raise, it's been suggested that sort of, you know, we go down the track of new meters, and one of the difficulties may well be that the average consumer, which includes me, won't understand how to read these meters or, you know - - -

MR SUTHERLAND: I've not field tested them, but I'd like - I'd hope we can get a reasonably consumer-friendly one.

SENIOR COMMISSIONER: Yes. I think that's probably about it, isn't it? I mean - - -

MR SUTHERLAND: There are some areas of our population who won't read - they don't read their credit card statements, let alone anything else.

SENIOR COMMISSIONER: No, that's exactly right.

MR SUTHERLAND: And they can't understand them if they do. You can't work down to that level. But there are a lot of informed consumers.

SENIOR COMMISSIONER: Yes.

MR SUTHERLAND: And at the moment it's very raw, and, of course, from being informed about your daily usage pattern, the next step that comes, of course, is that you can start looking at charging.

SENIOR COMMISSIONER: Yes.

MR SUTHERLAND: You know, that you can actually look at peak charging and off peak charging and stuff.

SENIOR COMMISSIONER: Yes. But you generally agree and so forth that when we're trying to deal with these things that there are some people who are not going to be able to understand these no matter what we endeavour to do?

MR SUTHERLAND: Sure.

SENIOR COMMISSIONER: That we're always going to have that sort of difficulty. I mean, you try to make information as readily available as you possibly can, but - - -

MR SUTHERLAND: But the answer to that is, you know, it's separate and understandable education. You don't education through putting out a brochure, you educate by hands on in the room working with people and that's the sort of stuff that we can do with the individual or - - -

SENIOR COMMISSIONER: Yes. You contribute - - -

MR SUTHERLAND: And also like the project, the west project, that we were part of, it can also get very involved in that sort of - it's not as though people don't care, you know, they have to be trained in the understanding of the technology, it's just that they have to be trained in the understanding of drafts and, you know, fridges and lights and stuff like that.

SENIOR COMMISSIONER: Yes. No, that's helpful.

MR SUTHERLAND: It's something that, you know, the Commission might want to think about making some sort of recommendation to government about taking a community benefit approach to the metering changeover. You know, rather than have it being an absolutely disparate thing spreading like a virus through Canberra, with you know, three or four different incompatible types and - - -

MR McGHIE: Yes, well, you've certainly done the right thing in a compatible situation, but I just - you could argue that it's a competitive advantage if a new supplier comes in with meters that are going to allow people to have a much clearer idea of when it's best or cheapest to use electricity and so on.

MR SUTHERLAND: Sorry. I can't see meters as being - meters surely can't in the end be a retail thing because the retail margin is so tight. Meters are going to be - surely they are going to be a distributor thing. And theoretically - like in commercial situations, of course, metering is a retailer thing. But in the average household, the retail margin is so low that I can't believe that any retailer's going to start installing meters. They might sell meters, but, you know, I just hate to think of the poor, you know, the sort of hidden costs that people will pay for buying them a fancy new meter - - -

SENIOR COMMISSIONER: Exactly.

MR SUTHERLAND: - - - for, you know, the retailer's trying to capture their business.

SENIOR COMMISSIONER: Yes.

MR SUTHERLAND: And it will be the uninformed consumers who'll do it because it's a bit like buying the Encyclopaedia Britannica, I'm doing the right thing by my kids, you know.

SENIOR COMMISSIONER: Yes.

MR SUTHERLAND: Anyway, that's just an aside on metering.

SENIOR COMMISSIONER: No, no, but it's an important aside, because it's consistent with what you're saying.

MR SUTHERLAND: I think it would be good if the commission became active in that because I'm sure that the advocacy groups are going to start seeing ...(indistinct)... . And we are a small community. We've got one distributor. We are in a perfect position to get economies of scale, you know, and do a five year program whereby everybody is metered, starting with every new house has to have this meter, you know, and then moving through suburbs as we go. That sort of thing. A bit like the asbestos program.

SENIOR COMMISSIONER: Yes. Well, there's work obviously occurring at a national level at the moment addressed to the issue of metering and the best forms - - -

MR SUTHERLAND: Yes, but you might take the ACCC, and the ACCC are a bit like the Commission, always believes competition is God, and I think there's a natural monopoly here and we might as well use it to the best community benefit.

MR PEARCY: Yes, I would just like to flag that my mind boggles at the thought that the network owner is there, then someone else owns the meter and then the householder has got to deal somehow with this arrangement, and in terms of rentals and things like that, who owns the meter? It would just be a nightmare really. I think - - -

MR SUTHERLAND: And it's not going to work for tenants.

SENIOR COMMISSIONER: No, that's right.

MR SUTHERLAND: Anyway, it's just an aside because it's not an integral part of this particular reference. The next thing is just back to concessions. I'm not fully briefed on the electricity concessions. I've had a better look at the water ones, but at the moment the electricity

concessions do apply to health care card holders as well as pensioners. And I think they are the same amount for both. But I think those concessions are pretty small. They actually add up to a lot of dollars. I don't think they are an enormous amount in a bill.

We also find a lot of our consumers who approach us for the first time aren't aware of the rebate and, you know, haven't been getting it, so there's not a lot of advertising out there about it. We make a point of making sure they sign the form or go to ACTEW - that rate you'd go to ACTEW to do it, but we try to sort of force them across the road to - for that form if we ever come across one, but the take up rate's not fantastic, I think, particularly amongst health care card holders, but at least that concession is extended to health care card holders, unlike water. With electricity, of course, tenants pay that bill direct, so they can access the benefit as well as home owners, which is another problem with water.

In the concession structure obviously we need to make sure that the value of the concession is protected through changes in the price path and changes in perhaps - in the price composition, that's, you know, it's a government business, but you know, that's just important of course.

And I think we've taken the position in water, and it's probably true of electricity, that the concession should probably be based on a fairly standard amount per household or possibly a fairly standard amount per household composition rather than being a percentage of consumption, you know, which probably the concession is best addressed overcoming what supply fee there is or providing the basic first 1,000 kilowatts of living energy, and possibly the concession - you know, it might be desirable for it reflect family structure so that it's of more value to a family, you know, who are supporting four people than one but it's not discriminated like that now and it might be a bit difficult to administer. You know, Centrelink does those sorts of family based concessions, but I think it might be a bit difficult for ACT Government.

SENIOR COMMISSIONER: Yes.

MR SUTHERLAND: And for ACTEW to - you know, the costs of administering can become higher because you - you know, your basic concession card doesn't identify family structure. But at the very least, you know, the concession should, you know, it should be addressing those sort of up front costs, I think, rather than being larger the larger your usage, which I think is the way one of them works. I think - is it electricity?

MR PEARCY: I'm pretty sure it's electricity.

MR SUTHERLAND: Yes. It's a bit way up to ...(indistinct)...

SENIOR COMMISSIONER: But doesn't it address the issue of people who, say, rely upon electricity for heating as distinct from other forms of heating and so forth? I mean, it would reflect their actual consumption requirements?

MR SUTHERLAND: What is that - I mean it's like a concession.

SENIOR COMMISSIONER: It's ...(indistinct)... by having it on that sort of, you know - by how much you actually use rather than household composition.

MR PEARCY: One of the difficulties is that it's uncertain. Whereas with the fixed concession, people know what their concession is, we'll quite often get a query, well I don't know what the concession is because the concession varies depending on their usage.

SENIOR COMMISSIONER: I see what you're saying, yes.

MR PEARCY: So - - -

MR SUTHERLAND: I don't know what the concession - - -

MR PEARCY: - - - certainty - well, you can't say what it is because you don't - if it's linked to consumption, then you really don't know, in dollar terms, what it's going - your concession's going to be, and then it's capped anyway.

SENIOR COMMISSIONER: Yes.

MR PEARCY: So it's - at a practical level it's more sensible to say, well, you're going to have a concession of X and that's it.

SENIOR COMMISSIONER: Yes.

MR SUTHERLAND: And you deal with hardship issues in some other ways. Unfortunately, there are low income people with extremely high consumption paths, and that's primarily - sometimes that's just sort of - you know, just wilful disregard of bills, but more usually it's unsatisfactory housing. That's our strong experience in the West pilot, that, you know, there's a high correlation between very unsatisfactory houses and low income people, namely public housing.

SENIOR COMMISSIONER: Yes.

MR SUTHERLAND: And private tenancies.

SENIOR COMMISSIONER: Yes.

MR SUTHERLAND: And so unfortunately consumption is - but I would - I personally think that the more systemic way of approaching that is what we're doing in the West Project and that is actually improving the quality of that stock and thereby either reducing the cost of utilities for those people or giving them a more comfortable life for what they're paying, you know. We're better off putting the money - rather than constantly drip feeding concessions against a very high consumption, it's far better value to spend five times the concession and fix the house.

SENIOR COMMISSIONER: Yes.

MR SUTHERLAND: Which is exactly what the West Project is about and I note that in the social plan announcement two days ago, that there was some indication that the government seek more on those lines, too. And you know, we've really got to work on that one because - again, it's one of these things where a significant community investment now could - could have long term savings for low income people. Because the houses - particularly an investment in public housing stock, one off investment in some of the really unsatisfactory - the current public housing stock stuff that's been bought in the last five years is fine, but there's a tremendous deficit in houses acquired before about the mid-90s, and in pretty well all the apartment blocks.

SENIOR COMMISSIONER: Now, the government has made some announcements of which - you know, I don't think anybody's clear at the moment as to what the details are, other than that they're going to do something. The Commission has made various recommendations in various reports over the years relating to some of these matters. Is there some things that you particularly would like the Commission to pick up as part of this final report at this time, that you might want to sort of - - -

MR SUTHERLAND: In electricity?

SENIOR COMMISSIONER: - - - bring this together in the reports you've made.

MR SUTHERLAND: Just the things you've said, I think.

SENIOR COMMISSIONER: Yes.

MR PEARCY: Perhaps I might mention that there does not seem to be a uniform approach to all the essential services, water, gas and electricity, particularly in terms of the - this arrangement of fixed charge and consumption charge, you know, you flagged that the codes mean you've got to approach things somewhat differently, but it would certainly seem to me it would be helpful if, across these essential services, the building was similar, if not identical, and I think I've already mentioned the fact that the supply charge isn't really a supply charge and if that reflected the fixed costs of the networking, then you'd have a much more comprehensive and sensible system across the board.

So although this doesn't relate to this particular inquiry about the networking costs for electricity, it's an issue which really flows right across all essential services and so - I guess I'd just like to foreshadow that would be a better thing and it will probably come up tomorrow in the water.

SENIOR COMMISSIONER: In the water, yes.

MR PEARCY: One other point I'd like to make, if I could, about the ACTEW presentation, the study that they said about customer preferences. I haven't seen that study and I don't know its basis, but I would suggest that for low income people, their primary interest is in keeping the costs down rather than improving service.

I don't think they want to see a worse service, but they certainly don't want the costs to go up and I think they would prefer the costs, if anything, to go down. But I cannot comment on the study itself because I haven't seen it and I don't know the basis of it.

SENIOR COMMISSIONER: Yes, fair enough. No, the Commission is going to look further into that study as well.

MR PEARCY: No, I just - I guess I would just comment also that I've been back over my bills and it would appear to me that there was no supply charge, no fixed charge back in about 1995, and that issue was introduced then. Perhaps in relation to provision of the supply charge on water - the supply charge on water was - actually was a supply charge at that stage because it included the provision of water and now it's actually sort of drifted.

So I guess what I'm alluding to is there seems to be no comprehensive systematic approach to what's a fixed charge in inverted supply charge and what's a consumption charge in this whole area of essential services?

SENIOR COMMISSIONER: Okay.

MR PEARCY: And it would certainly be helpful to the customer if they could see what the fixed component is. In other words, that this network charge actually is reflected in their bill rather than there being some intervening thing.

MR SUTHERLAND: The contestable bills at present give you a very clear view of how the network charges and other charges are going through. Perhaps a little bit complex for the consumer, but, you know, we might be able to ...(indistinct)... a bit.

SENIOR COMMISSIONER: Okay. Do you have things to ...(indistinct)... Look, I appreciate those points, I'll follow up on some of those points that you've raised on sort of the billing arrangements and the elements that are in there.

The - I noted your comments re costs and that sort of thing were all endorsed but appreciate that the council hasn't considered that, so I won't query you on aspects of that because that would be unfair. And the pricing structure matters will look at, in terms of what's here, in terms of part E and how that operates and take into consideration some of the points that you've raised on that particular matter.

And also, in particular I have noted the - on the concessions the issue of people being able to be clear as to exactly what they're getting, in terms of what - what is the concession that's being offered as distinct from sort of something that they're not sure, and therefore it has been …(indistinct)…

Just as an aside there, you deal with sort of, you know, a lot of households who for various reasons have either got themselves in a difficulty, or sort of come from situations where they have difficulty in paying their accounts. The ability of people to actually respond to the signals that might come from knowing the availability of the concession, or indeed the sort of prices that they've paid, what's your reading on this?

I mean, presumably sort of, you know, you're seeing situations where some people are able to sort of adjust their sort of consumption behaviour, be it in this case water or electricity if you like. But others maybe not because of household size or other sort of constraints, going back to the public housing matter you were talking with before, I mean, is that - - -

MR SUTHERLAND: There are some people who try very hard to conserve - to reduce their power bill. We see sole parents who try really

hard, they're in public housing with a lot of barriers.

SENIOR COMMISSIONER: Yes.

MR SUTHERLAND: Because their housing is inadequate, they try really hard, but the pension is just not enough.

SENIOR COMMISSIONER: Yes.

MR SUTHERLAND: You know, and they're still in trouble. We have other people - there are some people who just simply don't care. In fact we have perhaps a small group of clients who now realise that we'll stop them from being disconnected, so therefore they don't - they're just not prepared to make the effort. And that can be sometimes psychiatric difficulties.

SENIOR COMMISSIONER: Sure.

MR SUTHERLAND: And we've just got to work with those people and identify.

SENIOR COMMISSIONER: Fine, yes.

MR SUTHERLAND: Because quite often the irresponsibility is the actual penalty is invested on the kids in the household not - - -

SENIOR COMMISSIONER: Yes.

MR SUTHERLAND: Not the adults. The majority of people, you know, sort of try to keep their utility costs under control, but in many cases there have been some very adverse circumstances in their house, and often also they have very poor education levels about what's actually important and what isn't.

You know, because as I understand it, you know, there is some key elements to saving money on heating, and that's not - often not very well understood in terms of, you know, the individuals. And that - there's all sorts of reasons for that, if you come from a household where you have never learnt nutrition, or never learnt - - -

SENIOR COMMISSIONER: Yes.

MR SUTHERLAND: - - - you know, energy efficiency, then that's what's going to carry through in life until it's changed in some way.

SENIOR COMMISSIONER: Yes.

MR SUTHERLAND: But the majority of people are really concerned by their utility bills, because they are high compared to their income. You know, it's an important - rent's also a difficult problem, particularly for private tenants, but utility bills are always really difficult because they come in such big lumps. And when you get that lump it's really hard, you know.

And the other things, of course, is that low income households just don't have access to the easy fixes like buying a new fridge with beautiful energy efficiency qualities, rather than the one that is not working very well as a fridge, and is costing you, you know, every year costs you as much as a new fridge.

You know, they just don't have access to that sort of capital capacity. …(indistinct)…

SENIOR COMMISSIONER: No, no, I'm just trying to get sort of a bit of a feel for it because you're dealing with these folk daily.

MR PEARCY: There's one comment I think I would add, and that is that the actual energy costs in Canberra are higher than in other states. And it's on occasion we get people coming from interstate and they get into trouble, because they simply haven't realised that they're going to use a lot more energy than they are, particularly for heating. That's the major area which they just don't understand.

And it's not possible really to say to someone, well, just don't have any heating. I mean, you might be able to say that in Sydney and put up with it and put on another coat, and of course we advise people those sorts of things, but in the end you must have heating in Canberra, it's as simple as that.

SENIOR COMMISSIONER: So it's not really a matter of sort of the per unit costs of the electricity which actually presented earlier today, suggesting that sort of we are the cheapest place in Australia or at least the - - -

MR SUTHERLAND: Yes, the pricing, yes.

SENIOR COMMISSIONER: - - - graphs that they've presented - - -

MR SUTHERLAND: The pricing might be fine it's - - -

SENIOR COMMISSIONER: But it's the fact that you've got to use it.

MR SUTHERLAND: You've simply got to use in winter.

MR PEARCY: And it's either gas or electricity, and again I flag if you've got both then you're paying a fixed charge for both.

SENIOR COMMISSIONER: Yes, yes.

MR PEARCY: Which again distorts the whole energy consumption.

SENIOR COMMISSIONER: Okay. I think we're right? I think we're right unless you've got anything else that you want to add.

MR PEARCY: No.

SENIOR COMMISSIONER: Thank you very, very much.

So we would like just to welcome representatives from ACTCOSS and thank you for being here for our hearings today on electricity distribution. As is our normal practice we will get you maybe just to speak for a few moments or whatever you wish to, your submission which we have, thank you. And raise any particular points that you want to raise at that time and then we will take the opportunity to maybe ask some questions that have arisen from that or from other places in relation to that submission.

But just to start off with, can I just each of you to sort of identify who you are for the purposes of the tape and then we will go from there, so if I can hand over to you.

MR STUBBS: Daniel Stubbs, Director of the ACT Council of Social Services, ACTCOSS

MR MACAULEY: Ian Macauley, University of Canberra

MR STUBBS: Thanks, Mr Baxter, I'll just introduce and then Ian will speak in more detail to our submission. We, together with the ACT Consumer Law Centre, have actually overseen the preparation of this submission.

We have identified the fact that the issue under consideration is only about transmission costs, although we have taken the liberty of going slightly outside your terms of reference because we felt there were some other issues that were important, that related to the terms of reference, but maybe not exactly covered by your terms of reference.

Those key issues include the fact that - well, fixed charges are of some considerable concern to us. In general we find that fixed charges are in fact probably one of the most regressive ways to charge for any form of service, because they do penalise most those who are consuming the least.

And although there are many people on low incomes who have high levels of consumption, there are also many people on low incomes who are trying to get their consumption down, and fixed charges tend to work against any incentives to reduce consumption.

So we have raised some serious concerns about fixed charges. The point where we have actually recommended reducing fixed charges down to practically zero, notwithstanding the need to possibly have some fixed charges just to cover the basic costs of connection and reconnection and that kind of thing.

We have also raised the concern that in general, and we have raised this concern with the Commission in the past, that the electricity market is not necessarily a genuine market, or a true operating market. We have a lot of consumers out there who don't have full information about how much they're consuming and how it's working in terms of how much they might be consuming and how much that's costing them.

How much different things that they do in their home might cost them. So information is the most obvious aspect of the fact that this market isn't necessarily operating the true market. We have in fact constructed a lot of things around this market to try and make it operate like a truly efficient market, but we contest that it's not. And things like retail contestability have so far only brought in costs for consumers and not benefits for consumers.

And our final area of concern, I suppose, is that - and we've raised in our submission, and as we've raised obliquely in the past, but we raise fairly squarely in this one that we feel that the ICRC has, as part of its responsibilities, issues of social considerations and that's - you know, that's identified in the Act and we feel that the ICRC only deals with these issues in a periphery kind of way rather than fairly and squarely in the middle of its work, and we'd like to see the ICRC take a greater sense of responsibility about recommending things from socially equitable pricing policies right through to CSOs and you know, recommending to government how they might best ensure that they meet their social responsibility, so we'd like to see the ICRC take their responsibilities a little further in that area mainly because we feel it's an obligation based on the Act.

We - the Consumer Law Centre and ACTCOSS contracted Fiona Tito and Ian Macauley to help us put together this submission, it's one of the more thorough and in-depth submissions we've done in this area because we were fortunate enough to get a little bit of funding from the National Electricity Market Consumer Advocacy Panel to put this together.

I now would like to refer to Ian Macauley who helped us put this submission together to speak in more detail to our submission then we'd be really pleased to enter into some discussion in questions.

SENIOR COMMISSIONER: Good, thank you.

MR MACAULEY: Okay, thank you very much Daniel. There's three parts, I'll just talk about the first one. There's - some of the immediate things that are very clearly within the brief that the ICRC adopted for itself, second, some things where I think the ICRC could go somewhat further but these are tied up with national competition policy and third, some of the longer term policy issues, where I would agree absolutely with Daniel, that the ICRC, I think, has taken a very conservative view and I don't know whether these issues are within the ICRC's brief or the government's brief, it's not clear.

But if they are in the government's brief it's probably worthwhile for the ICRC to bring them up with the government. But the first is the technical issue, I think the easy one, of saying whether these price reductions should be stepped or immediate.

We've done a short calculation, said, hey look, let's make that immediate because - and that might be at the cost of some slight longer term average price but we've done a DCF analysis and said, hey look, as an average price which was only 1% higher than that recommended by the Commission you could have an immediate price reduction, still give the same present value to ActewAGL and give those benefits immediately to low income consumers because their discount rates are certainly a lot higher than those of ActewAGL.

In fact, I don't know what the discount rates are, Peter Sutherland has suggested, you know, you could be looking at discount rates as high as 30% or so and I think once you get up to that level even - what do you mean if our discount rate gets to be a very nebulous concept.

So yes, there's that benefit in immediate reduction. But the main point is about the structure of tariffs, fixed versus variable. Now obviously distribution costs are pretty well largely fixed and you acknowledge that

in your report, there is obviously a small long term variable component. But that doesn't mean that those costs have to be passed through to the consumer in a fixed form.

There are plenty of industries, airlines, software, in the private sector, where obviously costs are largely fixed but practical pricing is that these costs have to be passed through on a - on a unit basis. Now, also industries like that do practice economically responsible price discrimination and we believe that there can be price discrimination in relation to those fixed costs to reduce the fixed costs for identified groups in need and to increase them for others.

And you might say, hey, don't cost subsidies distort economics? Well, in some cases they do and some cases they don't but where demand is quite inelastic, and demand for electricity connection is quite inelastic, leaving aside the people that are going to put up a generation on top of their own house, we'd say demand for the supply is inelastic and you can charge more to those who have capacity to pay and less to those that don't have a capacity without distorting resource allocation.

So keep the per kilowatt charge where it is and it is reasonably low in comparison to the rest of Australia but price discriminate in relation to the fixed costs. Obviously the size of that price discrimination depends on your target group and the degree of concession.

But we would say that is an area where ActewAGL could behave in a way which is both socially desirable and does not cause any economic distortion. Those are the two immediate aspects. Now, slightly longer term, and I think this does come into national competition policy, the CAPM process which is used and I know it's used by the ACCC, it's used throughout - really it gives a very generous deal to the regulators - sorry, to the regulated industries.

In fact I should declare perhaps a conflict of interest or whatever at this point, being - approaching retirement myself, I've put a lot of money into shares in companies like ActewAGL, Alinta, et cetera, because they pay so well and I'm over generously compensated with dividends and capital gain because of the nature of the regulator.

CAPM is great in terms of measuring volatility but volatility is not a measure of risk. Yes, sure, to a day trader volatility is a measure of risk but AGL and Actew are in it for the long haul and volatility doesn't matter to them, the trend is still upwards.

Also of course the risk is reduced by the fact that it is a regulated industry,

they're not going to let them go bust, and I notice that in the method you use which is precisely a method I always use or asked to do a CAPM in this and you've looked at other situations, you know, what's been their ...(indistinct)... well, they're all regulated industries too.

There's a certain self referential system going on here. I would argue that the appropriate discount rate for a utility of a regulated utility is the government long term bond rate - real rate, which is around 3 to 4%, and that issues of risk should be taken up not in terms of adding a ...(indistinct)... or a premium to risk, but should be based on calculated risk of events such as bushfires, stranded assets, et cetera.

That's been the approach taken in the Fitzgerald review in Victoria and to a certain extent it's simply a reversion to older public finance practice. Whether AGL would want to be in that I don't know but that same review, of course, is critical of private/public partnerships in capital intensive industries.

The other point which I must say is more speculative than what we have written and is about the ratio of residential to commercial tariffs. Now, that has risen tremendously in the ACT, admittedly less than it is in some other states, and I've really got to question whether this reflects the cost of supply or bargaining power.

We know from various studies cited in our submission that the price elasticity of demand for residential consumers is lower than for commercial and industrial consumers and I suspect that's simply a reflection of the spreading of the surge costs. Since we prepared that we have a little bit more data from the USA which is perhaps a very unregulated market which shows - and if I may table this - - -

SENIOR COMMISSIONER: Sure, yes.

MR MACAULEY: It shows the ratio of commercial, although they haven't included an industrial in that graph, but over the years residential tariffs have been no more than about 5% greater than commercial tariffs. Obviously industrial tariffs are something a bit different but they're often displayed at higher voltage.

I think it's a question which I can't provide a great deal of information now, but I think it's something that the regulator should certainly look into and they'd say, this comes back - and it's not just this jurisdiction, it's all jurisdictions where we see this huge difference and I suspect it relates to the third aspect I want to talk about which is - and I think Peter Sutherland has talked about this very much, is the disadvantage that consumers -

particularly low income consumers out in this market - it is not a perfect market as Daniel has said.

In fact in the briefing we prepared I said to the group at ACTCOSS, so how would you like it if gasoline was sold on the basis of there are no prices at the pump, you fill your car up every week, but you don't know how much you're putting into it, you don't know what it costs, you don't even know what it is and each quarter you get a bill. It wouldn't be a very perfect market and for a market to work there are two requirements.

One is that people know what they're buying, how much it costs at the time, what they're using and the second is to have some control. Now, Peter has talked about control quite a bit so I won't but I'll come back to the prior question, do we know what we're buying, do we know what it costs, so I'll make a confession to you, when I started this project I thought, well, not a bad basis, looked at my own electricity bills, and I discovered I was paying $200 too much per year for electricity because I was on the wrong tariff.

Now I teach public finance, I teach CAPM, I teach people spreadsheet modelling. After I set up a spreadsheet and looked at the quarterly variation, I thought, fine, that's very easy for anyone on a low income with a low education to do. I have trouble enough getting the students to do it and even myself so you can have that anecdote at my expense, but it is, it is difficult. How many people know what a kilowatt hour is?

Now, I think a lot can be done in relation to metering. The J meter, which is the standard meter used in electricity, is primitive. It's 60 year old technology. It's Heath Robinson's stuff. And there is no reason why we couldn't have decent metering inside houses which combined other utilities.

Spot price, immediate, what you've consumed today, not just an accumulation meter, but a consumption, a rate of expenditure meter, and it would allow of course for spot pricing, would allow for more economic rationality in pricing.

But the conservatism of the utilities and metering is extraordinary. There are also such metering connected to Telecom lines, would allow for easy, quick, cheap disconnection, reconnection, which is another burden on people who have to move quite a bit. So I would say that the Commission really needs, and I'm pleased to see it has done something on metering, but hasn't gone quite far enough into those limits of contestability.

This is not - the transaction costs, the search costs, et cetera in

contestability are very high and I'm certainly one who is not convinced that intangible commodities like water and electricity that they have justified the structural separation.

SENIOR COMMISSIONER: Thank you. Let me just preface a remark by, sort of, saying how pleased we've actually been to receive the quality of the submission and the arrangements that you've got in place to sort of allow some funding for some of this.

It's been a concern to us and I know to others that various consumer groups have had the access to those funds and so that, we've been pleased about that, and I should have actually made that comment before when Peter Sutherland was there, because, it's very, very useful to get a variety of views into this process because it causes us to think and go back and test and ask questions so thank you for that, extremely helpful.

Let me come to a couple of matters if I can arising out of the comments that you've made and the submission. I've taken on board the point that you've made regarding - or we've taken on board the point you've made regarding a p-nought adjustment and, so the Commissioner is looking very closely at that.

ActewAGL has also made some mention to that effect to us as well, and so we're looking very, very closely at that in terms of, you know, how we might go forward to the final decision, and it's interesting to sort of see that not only your comment about, sort of, some of those in the lower income groups have a higher discount rate and so therefore you sort of can see greater value out of getting that but also I gather from just what you've said and the way you put it that sort of people will also sort of appreciate the fact that sort of that they're seeing that sort of event occur at one particular time notwithstanding that means we'd probably go more for a CPI adjustment into the future.

The issue of the fixed versus variable and charges that you've raised. The - you've suggested to us that what should be happening is we should have some form of discount arrangement applied to certain groups on that particular matter. Do you care to elaborate how that should operate? I mean one of the issues seems to me that we strike every time we go into this, and we have looked at the matter, but you know, appreciate being kept on our toes on it, but is identifying who the appropriate people are, who the appropriate groups that this should apply to and then how to actually administer that, that's the practical - one of the practical issues. Have you had any thoughts on that matter?

MR STUBBS: It's a perennial problem in any - you know, not just this

area, but all sorts of areas of trying to support people on low incomes because, you know, every method of identifying the group will miss some, and maybe capture some that may be shouldn't be in there, you know, you've got, virtually a dead weight loss kind of result, but the best way and the most common way is to use the system which is used across all areas is, you know, people holding a health care card.

You know, short of the supply system setting up its own system of analysing people's incomes and people having to come in and prove how much they're earning this year or last financial year or whatever, which, in real - you know - as much as we might like you to do that in theory so you capture the right group of people, in practice the best way to do it is through an existing system of concessions, and that's - you know, probably the best way to do that is through health card.

SENIOR COMMISSIONER: So health care card probably the best one to use. Yes, okay, does that pick up other maybe aged pension groups or something like that or are we missing out on any particular groups as a result of that? They would get picked up by that.

MR STUBBS: Yes, and it's about an income level.

SENIOR COMMISSIONER: Yes, okay, fine, so helping my ignorance in that area.

MR STUBBS: No, it's all right.

MR McGHIE: So it's a proxy for income level, really, isn't it?

MR STUBBS: That's right, yes. And it's fairly low, so you're not going to - we're not talking enormous numbers of people, it's actually not terribly generous but it's the best thing going, it's the most common thing going, so it's probably the one that we would have to point you to.

SENIOR COMMISSIONER: Right, right. And you would still see there would be some other safety net arrangements that might apply beyond that to pick up people who fell outside of that area, is that where I'm being taken, from your comments?

MR STUBBS: Yes. Absolutely.

SENIOR COMMISSIONER: That you have in mind?

MR STUBBS: Yes.

SENIOR COMMISSIONER: The - have you got any suggestions to us if we were to do this, how we might consider appropriate division of the fixed element? I mean, is there - have you done any back of the envelope calculations or anything on this ...(indistinct)...

MR STUBBS: My first question to you is are we going to continue having a fixed cost - fixed charge?

SENIOR COMMISSIONER: Yes.

MR STUBBS: We are.

SENIOR COMMISSIONER: Well, sorry, that's one of the things we've got to look at but yes, okay, I accept your ...(indistinct)...

MR STUBBS: Assuming we continue with a fixed charge then, in the great tradition of economists, my recommendation would be that you waive the fixed charge.

SENIOR COMMISSIONER: Okay, right. Well, that's what I was trying to sort of get at ...(indistinct)... .

MR STUBBS: Yes. Because that's - that is one of the single greatest distorting factors for, you know, trying to encourage people to use less electricity and that kind of thing when more than half their bill is a fixed - or, sorry, a significant proportion of their bill, is a fixed charge so reducing their usage of electricity has quite a marginal effect.

SENIOR COMMISSIONER: Yes. Yes. I understand what you're saying.

MR MACAULEY: And many utilities - many electricity utilities in Australia do not have a fixed charge.

SENIOR COMMISSIONER: No, I know that your table 2 I think in your submission - - -

MR MACAULEY: Yes.

SENIOR COMMISSIONER: - - - where you outlined some aspects of that, and I'll look further at that matter to follow that through.

The - you touched upon CAPM and the rate of return matters and noted some particular issues in relation to sort of CAPM and the like. We raised with ActewAGL this morning your submission on this particular matter.

They referred us to the TOC Act and the requirements that they have to meet an appropriate rate of return and so forth of their business and that was the requirement, and, you know, if the government wanted to change its mind on that matter, that it would be up to the government to do so.

Do you have any particular comments or thoughts on that matter?

MR MACAULEY: Well, I didn't think they would endorse the approach we took on CAPM but I think it is emerging that public and private partnerships such as this one do come at a higher cost of capital. I mean that's traditional economics and that CAPM is really something devised in competitive markets and very much for the short term but I don't really see those applying to electricity. I mean, that's my thought.

Now, if I were in AGL and if that argument could prevail, I think I would say, well, look, we'd better get out of this industry. We - you know - we're not going to be in a regulated industry or hand it back to the government, and I think, by way of a policy recommendation, that's - well, it's not unprecedented in the post-war era.

A number of Australian governments went through the process of nationalising electricity supply. That wasn't an ideological matter, it was a practical matter, concerned with cost of capital, concerned with ensuring long term investment. They were just different time horizons, different discount rates and social sphere, and electricity is a social good and commercial sphere.

SENIOR COMMISSIONER: So to follow this through, because I mean the comment will come back because it will create distortion between, say, ActewAGL's operation and those of investor or one of the other private operators per se elsewhere, I mean, to follow that logic through your view of it would be that basically this should go back to public ownership anyhow, I mean that's really what you're saying.

MR MACAULEY: Yes. And the distortions, yes, obviously they would be there, but this comes right back to the whole question of national competition policy and that's why I say - - -

SENIOR COMMISSIONER: Yes, that's right.

MR MACAULEY: - - - it would be very hard for one jurisdiction to deal with it. I think it certainly is worth raising. Someone has to raise it because not many people have an incentive to raise it, certainly not the shareholders - or in this case, of course, the Territory Government, which is getting good dividends from ActewAGL.

SENIOR COMMISSIONER: Yes, that's right.

MR STUBBS: I guess the thing to bear in mind - we recognise that we're operating in a context of national competition policy and utilities all over the country, and the notional competition which does or may not exist. At a minimum we wanted to make the point that there are some generous aspects to the way pricing is calculated in this regulatory regime, and so as much as ActewAGL may respond to your draft determinations and almost, you know, by definition will bleat, you know, we just wanted to - you know, there's a need to balance that by saying, well, there are some very generous aspects to the way all of this is calculated and you need to be armed with that.

SENIOR COMMISSIONER: Yes. No, fair enough, I understand. Yes. I mean, in terms of the work - if I can put to you - in terms of the work, Professor Macauley, that you've done on CAPM modelling and some of these aspects and so forth, have you looked at the various elements that we've used in our current WAC calculations and come to any views on those? I mean, we've had various submissions from ActewAGL on aspects of where we've applied risk adjustments and so forth.

MR MACAULEY: I mean it's, you know, distinction, perhaps high distinction level, you know, as a CAPM assignment. You've gone out and found the values of the parameters and the equation is quite orthodox. You could dispute whether one should accept a given debt equity ratio inside a regulated utility, that's often an important issue, but I think - I can't remember whether it's 60/40 or 50/50 - - -

SENIOR COMMISSIONER: 60/40, yes.

MR MACAULEY: 60/40. I mean, that seems to me to be reasonable. I can't fault it within that framework. It's a framework, unfortunately.

SENIOR COMMISSIONER: Yes. I mean, ActewAGL - and I'm not suggesting they're using your words, I think, Mr Stubbs, bleating, but they're arguing that we've been particularly hard on them in terms of these numbers and have drawn us back to individual elements that have been used to build up the numbers, and that's - I was just wondering whether or not you'd looked at any of those and formed any views as to whether or not we were out of the ballpark or - - -

MR MACAULEY: Well, I'm certainly not going to say you're out of the ballpark on the price side. But - no, quite genuinely. I mean, even with our economic detachment, I think you've been more than reasonable in

accepting the beaters and accepting a debt beater - I mean I've even got doubt as to whether one should ever talk about a debt beater unless you're dealing with HIH or perhaps NAB. So I think you're being generous again.

SENIOR COMMISSIONER: Right. I trust you haven't got any superannuation shares in those organisations at the moment. Can I just go into this material that you've given us and also comments that you've made in relation to this relationship between retail and business tariffs and the like.

Now you've - you're basically sort of highlighting - I mean, over a period of time, we were anticipating there would be an unwinding of certain cross-subsidies that have previously existed, and to some extent that's what we've seen, but you seem to be arguing that sort of, you know, we've gone too far. Is that - - -

MR MACAULEY: I'd certainly say I'm not convinced but - we haven't gone to the point where we're now cross-subsidising in the opposite direction. Particularly seeing a lot of the commercial customers in Canberra would be taking low voltage, 240 volt or 415 volt electricity - we're not dealing with the sort of big industries we'd have in other places.

Many of them, such as tourist accommodation, of course, would have a heat pattern which is similar to households. So I'm not even certain that their costs on the supply system are different. But I am reasonably convinced that they've got the capacity to research - to monitor their metering, to monitor their use and to negotiate with the supplier.

Whereas, of course, those search costs are very high for even the well informed individual. So if you think of normal pricing theory, and you'd say, well, you apply the higher prices to those who have least elasticity and lower prices to those who have more elasticity, because those people can bear the search costs.

They're commercial providers, they would have lower elasticity. That would just seem to be rational pricing. But it stems from an irrationality in the market, in that domestic consumers do not know their consumption.

SENIOR COMMISSIONER: We will look further into the data behind the table and so forth, that you've got here and so forth. I mean, were you aware that when you were looking at these numbers - actually, they relate to 2002-2003 actually, so they were prior to introduction of the safety net number under contestability and a couple of other things.

MR MACAULEY: Yes, sure.

SENIOR COMMISSIONER: Yes, okay, fine. We'll - - -

MR MACAULEY: They're ESAA numbers, in the figures - - -

SENIOR COMMISSIONER: Yes, okay.

MR MACAULEY: - - - which are prior to these.

SENIOR COMMISSIONER: And we'll go back and have a look at those - - -

MR MACAULEY: And of course, they're averages based on their - on ESAA's average consumer.

SENIOR COMMISSIONER: Yes. We'll go back and have a look at those, to sort of see just where they're going and thank you for this latest table and the associated data which lies behind it.

MR MACAULEY: Yes, sorry, I put the - - -

SENIOR COMMISSIONER: No, no, that's fine. That's provided to us.

You've raised the issue and indeed the whole question about sort of, you know, people being fully informed, I had to pick up your earlier points and subsequent sort of comments on sort of metering and the like. Now the - we were raising this matter just briefly with the ESCC before, as to sort of, you know, people's general ability to be able to understand all the information that's available. I mean, do you have any particular views on this matter in terms of, you know, people's ability to be able to get their heads around everything that - - -

MR STUBBS: We'd support what the ESCC were saying and - and it's, as I'm sure they're aware, it's not just people on low incomes, although often people on low incomes, whether it be due to educational attainment or due to the fact that, you know, often people on low incomes are struggling with a whole lot of other things in life but, you know, utilities bills are way down the list and way ahead of that are a whole lot of other things that might be related to paying your rent or mental illness or being a single parent and a whole range of other things and utilities bills are only - make it towards the top of that list on the day they come in.

SENIOR COMMISSIONER: Yes.

MR STUBBS: In between times, you just use it to make sure you can get by in life and sometimes we don't always appreciate that issue in Canberra. But you know, you've got to put that in the context of the fact that there wouldn't be very many consumers in this town anywhere that have a thorough understanding of how much they're consuming and what - at what price that is.

SENIOR COMMISSIONER: Yes.

MR STUBBS: So you know, we might have nationally put a lot of work in to try and make this supply system emulate a market, but we haven't got anywhere near that at the consumer end.

SENIOR COMMISSIONER: Does this, however, suggest that sort of, you know, that if we go down the track of the sophisticated metering and so forth that you're talking about, that people are going to be able to sort of use it any better.

I mean, I am just sort of trying to test you out on this particular thought, because it seemed to me that sort of that …(indistinct)… metering you were talking about were actually sort of very, very sophisticated sort of - -

MR STUBBS: It's a necessary but not sufficient condition. We need to at least provide the information to people before we can even expect people to be able to then make decisions. There is possibly, for at least some parts of the community, some community education that would need to follow that.

SENIOR COMMISSIONER: Yes.

MR STUBBS: But we can't even start with the current information that people are provided.

SENIOR COMMISSIONER: Yes.

MR STUBBS: So you've got to have the information before you can even start to think about using it in any - any even slightly sophisticated way. And I don't think we are talking about sophisticated decisions here.

SENIOR COMMISSIONER: Yes. One of the things that - sorry that - one of the things that the ESCC commented, because we talked about sort of the costs of implementing some of these, you know providing metering arrangements and so forth, was that, sort of, this might be something that is looked at, not just from the point of individual consumers paying, it may well be sort of something that might be shared elsewhere. I mean, do

you have any views on this, I mean, how we go about funding these new meters and the like?

MR MACAULEY: Obviously scale economies in funding, in providing the …(indistinct)… education. I would suggest that's one of the reasons - and you allude to the ...(indistinct)... report, that metering has got aspects of …(indistinct)… monopoly it might not contain.

SENIOR COMMISSIONER: Yes.

MR MACAULEY: But I would certainly suggest that until standards are developed, then it should remain a monopoly, and that will give the suppliers, let's say it's email - - -

SENIOR COMMISSIONER: Yes.

MR STUBBS: - - - some capacity to spread those fixed costs of developing something in accordance with standards, and they won't have to charge too high a unit price in order to develop it. And I don't think that's entirely academic and hypothetical. I mean, imagine the cost of developing a J meter, with all those cogs, from start.

You know, they would be a couple of thousand bucks per unit. So if there were some assurance to a supplier of long term contracts, continuity of supply, the sort of assurance that can be given only - either with a mandated standard or a natural monopoly, then I think that they would come to the party.

SENIOR COMMISSIONER: Yes, I mean there are various moves at a national level to try and address just the point that you are raising with a view to deal with those particular matters. I am conscious of time so if - did you want to raise any other point?

I have taken on board the comment that you have made right at the very beginning which was to do with the ICRC Act and sort of responsibilities and so for the we have under that Act, so I haven't gone back specifically to that, but tried to touch point on some of the other questions.

Is there anything that you want to sort of particularly emphasise that we haven't touched upon?

MR STUBBS: We've - I guess in general we would just like to see the ICRC put as much effort into trying to create a market, in trying to support a market, we would like to see as much effort go into supporting some socially equitable outcomes. Because the market doesn't always create

socially equitable outcomes, and we shouldn't pretend that it does. I think we will continue to have this discussion over time. We will probably both continue to learn each others' constraints.

SENIOR COMMISSIONER: Yes, yes, and I think - just to comment on that, the Commission has endeavoured in its reports over the years to push a number of issues there and I am waiting to see the details of the government's announcement of earlier this week. But I am hoping that sort of some of the things that we have by trying to push through there will actually emerge.

MR STUBBS: And Mr Baxter, at the risk of sounding condescending, I think it is getting better.

SENIOR COMMISSIONER: Yes, yes hopefully so. But I think you're right, I think there is sort of the need to work away at it, and I think that's - - -

MR STUBBS: It's an ongoing challenge.

SENIOR COMMISSIONER: That's the point, yes.

MR STUBBS: And we will continue to raise the challenge.

SENIOR COMMISSIONER: Yes, no, that's good. No, that's good, I think that's what we want. Okay, well I don't think we've got anymore questions from our side. You're comfortable? Well listen, thank you very, very much for that, greatly appreciate that.

MR STUBBS: Anytime.

SENIOR COMMISSIONER: Yes, thank you kindly.

Unless we have a late attendee who wishes to make a presentation to the Commission that will bring to a close our public hearings today and we will resume tomorrow morning at 9.30 where we are addressing water charges. So thank you all very, very much.

ADJOURNED **[12.35 pm]**