

**NSW TRANSMISSION NETWORK
SERVICE PRICING AND REVENUE
REGULATION REVIEWS**

STATEMENT OF PROCESS

IPART and ACCC

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1 INTRODUCTION

The Australian Competition and Consumer Commission (ACCC), in accordance with its responsibilities under the National Electricity Code (the Code), is currently conducting an inquiry into the appropriate revenue cap to be applied to the non-contestable elements of the New South Wales (NSW) transmission network (TransGrid) transmission network services from 1 July 1999.

At the same time, the Independent Pricing and Regulatory Tribunal (IPART) has been directed by the NSW Premier to review network service pricing for TransGrid for the five year period from 1 July 1999.

As the scope of the work involved in both inquiries are similar, IPART and the ACCC have agreed to closely co-ordinate their work programs and consultation processes in order to:

- avoid unnecessary duplication
- simplify the processes by which TransGrid and other stakeholders provide information and submissions to both regulators
- simplify the processes by which TransGrid and other stakeholders participate in consultations organised by IPART and the ACCC.

This paper:

- outlines the scope of the IPART and ACCC reviews and the responsibilities of each regulator
- sets out a timetable for the conduct of the reviews
- identifies the issues papers, planned consultancies, discussion papers and consultation processes relevant to both reviews.

2 THE SCOPE OF THE ACCC AND IPART'S REVIEWS

2.1 The ACCC's review

The National Electricity Code (the Code) provides the framework for the National Electricity Market (the NEM) which is scheduled to commence in late 1998. The NEM will establish a single wholesale market across southern and eastern Australia and an access regime for the transmission and distribution networks in participating jurisdictions, including NSW.

Under the Code, the ACCC will assume responsibility for the regulation of transmission network revenues in the NEM on a progressive basis, commencing with NSW and the ACT from 1 July 1999. All transmission networks within the NEM will come under the ACCC's regulation by 31 December 2002.

The Code outlines the general principles and objectives for the transmission revenue regulatory regime to be applied by the ACCC. In particular, Chapter 6 of the Code limits the ACCC's role to the determination of the maximum allowed revenue for the naturally monopolistic (non-contestable) activities of the transmission network businesses.

The ACCC's current review will therefore determine, according to the principles contained in the Code, the appropriate revenue cap in respect of non-contestable transmission network services provided by TransGrid which will apply for a period of at least five years from 1 July 1999. The ACCC plans to release its determination in mid-May 1999. Prior to doing so, a draft report will be published and submissions invited from interested parties (see 3.7, below).

The derogations contained in Chapter 9 of the Code make it clear that IPART's existing electricity determination (Determination 5.1 of July 1996) will continue to apply in respect of NSW transmission network revenues until 30 June 1999.

The ACCC notes that it has an obligation under Clause 6.2.4 of the Code to publish a description of the process and timetable it plans to follow in setting the revenue cap and considers that this statement of process meets that obligation.

2.2 IPART's review

In order to facilitate the transition from the regulation of NSW transmission network service pricing by IPART to regulation by the ACCC, the NSW Premier has directed IPART to review transmission prices for the five year period from 1 July 1999.

That review will be conducted in accordance with section 12A of the *Independent Pricing and Regulatory Tribunal Act 1992* (the IPART Act). Unlike determinations made by IPART under sections 11 and 12 of the Act, a report made to the Premier under section 12A does not include legally enforceable price or revenue caps. The Premier's request to have IPART review transmission network pricing is therefore not inconsistent with the provisions of the Code.

The key provisions of the Premier's terms of reference are that:

- IPART is to prepare a two part report on the appropriate pricing of electricity services in NSW. The first part of that report is to cover electricity transmission network services and the second part is to cover electricity distribution network services and franchise supply.
- The report's recommendations are to be based on the provisions of the National Electricity Law and the Code.
- The report's recommendations must take into account the objectives of protecting the long term commercial value of the affected businesses for the benefit of the State's taxpayers and the long term interests of the customers of these businesses.
- IPART is to co-ordinate closely with the ACCC in undertaking the review of transmission network service pricing.
- IPART is to investigate and report to the Premier no later than 30 April 1999.

Concurrently, with the transmission price review, IPART will also be reviewing pricing of electricity distribution and franchise supply.

The full terms of reference and components for both reviews appear at Appendix 1.

3 TIMETABLE FOR THE REVIEWS

The following provides indicative dates in relation to the work expected to be performed by both regulators:

Action	Date					
Issues papers released	ACCC Statement of Regulatory Intent (SRI) issues paper released May 1998 IPART Electricity Networks and Retail Supply issues paper released September 1998 ACCC TransGrid issues paper to be released late Nov 98					
Submissions on issues papers due	Comments on the ACCC's TransGrid issues paper due 21 December 1998. Submissions on the ACCC SRI and IPART issues papers have already closed*					
Consultants	<i>Asset valuation</i>	<i>Asset base roll-forward</i>	<i>Capital expenditure</i>	<i>WACC</i>	<i>Efficiency and benchmarking</i>	<i>Service standards</i>
	Joint consultant ¹	ACCC to engage consultant	ACCC to engage consultant to review report of IPART consultant ²	In-house work at this stage. ACCC may engage consultant	Joint consultant(s)	Joint consultant
Consultants' reports due	Early Feb 1999	Early Jan 1999	Late Jan 1999	Jan 1999 (if engaged)	Mid-Jan 1999	Mid-Jan 1999
Discussion papers released	Joint paper in late Feb 1999	IPART: Late Nov 1998 ACCC: Late Jan 1999	Joint paper in mid-Feb 1999	IPART: late Nov 1998 ACCC: late Jan 1999	Joint paper(s) in early Feb 1999	Joint paper in early Feb 1999
Presentation and discussion with EICG ³	5 March 1999	5 Feb 1999	5 March 1999	5 Feb 1999	19 Feb 1999	19 Feb 1999
Submissions on discussion papers due	12 March 1999	12 Feb 1999	12 March 1999	12 Feb 1999	5 March 1999	5 March 1999
Draft ACCC report released	2 April 1999					
Final EICG	14 April 1999					
Submissions on draft ACCC report due	16 April 1999					
IPART reports to Premier	30 April 1999					
Final ACCC report released	12 May 1999					

¹ The consultant's report will include consideration of a review of TransGrid's asset base commissioned by NSW Treasury. That review is expected to be completed in mid-December 1998.

² Worley International was engaged by IPART to report on the adequacy and appropriateness of TransGrid's capital expenditure program. That report is expected to be finalised by the end of November 1998.

³ EICG – the Electricity Industry Consultation Group (see 3.4, below).

* IPART and the ACCC are always willing to consider additional submissions provided by stakeholders during the review process.

3.1 Issues papers

Both IPART and the ACCC have publicly released issues papers relevant to their reviews.

3.1.1 The ACCC's Statement of Regulatory Intent issues paper

Chapter 6 of the Code envisages that the ACCC will develop a set of guidelines outlining how it will exercise its power to regulate transmission network revenues. Those guidelines will be contained in a Statement of Regulatory Intent (SRI) which the ACCC plans to release in early 1999.

In May this year, the ACCC published a paper which contained a discussion of the issues relevant to the guidelines⁴. That issues paper set out the ACCC's preliminary view that the maximum allowable revenue to be applied to non-contestable transmission network services should be determined using the accrual building block approach while having some regard to other financial indicators.

A number of submissions were received in response to the issues paper. Those submissions, as well as those made in response to the issues papers discussed below, will inform the development of those guidelines and the direction of the ACCC's review of TransGrid's revenue cap.

3.1.2 IPART's issues paper

On 18 September 1998, IPART released an issues paper in relation to the current section 12A review⁵. The paper outlines IPART's views regarding the approach it plans to adopt in assessing the appropriate level of TransGrid revenues and called for submissions be provided by 30 October 1998. Submissions were received from TransGrid, the six NSW distribution businesses and other interested parties.

3.1.3 The ACCC's TransGrid issues paper

In addition to its SRI issues paper, the ACCC will shortly release an issues paper specific to its current review of TransGrid. The paper will provide an update on the material contained in the SRI issues paper in light of recent regulatory developments including the ACCC's final decision concerning the access arrangements for gas transmission pipelines in Victoria⁶.

Both regulators have been pleased by the number and quality of submissions made in response to the SRI issues paper and the section 12A issues paper. Therefore, although the ACCC welcomes comments in relation to its TransGrid issues paper, it will not formally call for submissions. However, any comments which interested parties wish to put to the ACCC must be received no later than 21 December 1998.

3.2 Consultants

As noted in the timetable, both IPART and the ACCC intend to engage a number of consultants to assist them in carrying out their reviews. As there is a degree of overlap in the work involved, consultants will be jointly appointed where possible.

⁴ That issues paper is available at the ACCC's website located at <http://www.accc.gov.au>

⁵ That issues paper is available at IPART's website located at <http://www.ipart.nsw.gov.au>

⁶ *Final decision concerning Victorian gas access arrangements*, 6 October 1998, also available at the ACCC's website.

Copies of the consultancy reports will be made publicly available as they are received by IPART and the ACCC. The reports will be used to inform a number of discussion papers being prepared by the regulators (see below). They will also be taken into account by the ACCC as part of the development of the guidelines contained in its SRI.

It should be noted that the results of the consultancies engaged by IPART in relation to its concurrent review of NSW distribution network service pricing will also, where relevant, inform the TransGrid reviews.

3.3 Discussion papers

Both IPART and the ACCC plan to release discussion papers concerning a range of issues during the course of the current reviews. At this stage, both regulators expect that most papers will be jointly released. There are two exceptions to this:

- IPART is currently finalising a paper in relation to the issue of rolling forward the asset base of utilities generally. It expects to release that discussion paper in late November 1998. Consideration of the paper by interested parties will inform a paper to be drawn up by the ACCC which will focus solely on the optimisation and depreciation of TransGrid's asset base. That paper should be made available in late January 1999.
- IPART will also shortly release a discussion paper concerning the application of the weighted average cost of capital (WACC) in setting the revenues of the NSW network service providers. The ACCC does not intend to be bound by the content of that paper but, rather, plans to release its own paper in late January 1999 discussing the application of the WACC in the context of TransGrid alone. More information concerning the WACC may be found in both regulators' issues papers.

Copies of all discussion papers will be made available to the public and placed on the websites of both regulators. Interested parties will be invited to provide written submissions in response to the issues raised in the discussion papers. Those submissions should be made to the author of the paper or, where the papers are joint papers, to IPART which will then provide copies to the ACCC.

3.4 The Electricity Industry Consultation Group

In addition to inviting submissions from interested parties on the discussion papers, the regulators intend to hold a number of 'round table' discussions with members of the Electricity Industry Consultation Group (EICG) shortly after the release of those papers.

The EICG has been formed to facilitate broad based consultation in the conduct of the reviews currently being undertaken by IPART and the ACCC. Membership of the group covers key stakeholders, including the utilities, consumer and community groups, environmental groups, generators and government agencies.

It is proposed that the EICG will meet on the following dates:

- 10 December 1998 (will include discussion of IPART's WACC and asset base roll-forward discussion papers)
- 14 January 1998 (will include discussion of efficiency and benchmarking issues in relation to the NSW distribution businesses)

- 5 February 1999 (will include discussion of ACCC's WACC and asset base roll-forward discussion papers)
- 19 February 1999 (will include discussion of efficiency and benchmarking and service standards papers)
- 5 March 1999 (will include discussion of asset valuation and capital expenditure discussion papers)
- 14 April 1999 (this meeting will be open to all interested parties and will include discussion of the ACCC's draft report).

3.5 Other information

IPART and the ACCC also expect that, as the reviews progress, further supporting information may need to be collected from TransGrid. In such cases, staff from one or both regulators may need to attend the premises of the transmission business to meet with TransGrid employees and representatives directly to discuss particular aspects of the matters under review. The number of staff and the timing of any such visits will be agreed to in advance with TransGrid and shall occur no more often than is reasonable.

3.6 Written submissions and confidentiality

Interested parties should note that, where a written submission is or has already been made to either IPART or the ACCC in response to matters raised in an issues paper or a discussion paper, a copy of that submission will be provided to the other regulator. This approach is being adopted in order to ensure that both reviews are as fully informed as is possible. Those submissions may also be taken into account by the ACCC as part of the development of the guidelines contained in its Statement of Regulatory Intent.

Although submissions may be accepted on a confidential basis, both regulators encourage interested parties to make their submissions on the public record as this will add considerably to the quality of debate. Greater weight may be placed on information which appears on the public record and which has been subject to review and testing by other stakeholders. Where a party considers it necessary to claim confidentiality in respect of all or part of its submission, that claim should be made separately to each regulator. Both IPART and the ACCC will then consider the request in the context of the Code and the legislative regimes under which each operates.

3.7 Draft ACCC report and IPART process

Once the round of EICG discussions has taken place and submissions concerning the discussion papers have been considered, the ACCC will release a draft report to the public. This is expected to occur on or about 2 April 1999. Interested parties will then have until 16 April 1999 to make submissions to the ACCC concerning the draft. In addition, a final public forum is planned for 14 April 1999 where members of the EICG and any other interested parties will have an opportunity to discuss the contents of the ACCC's report.

Section 12A of the IPART Act, which provides the legislative basis for IPART's review, does not require that IPART publish a draft of its findings. However, both regulators anticipate that any comments made in respect of the ACCC's draft report will be taken into consideration by IPART before it reports to the Premier by 30 April 1999.

The ACCC expects to make its final determination in mid-May 1999.

APPENDIX 1 – TERMS OF REFERENCE AND ARRANGEMENTS FOR IPART'S REVIEWS



INDEPENDENT PRICING AND REGULATORY TRIBUNAL OF NEW SOUTH WALES

Pricing for Electricity Networks and Retail Supply

The Independent Pricing and Regulatory Tribunal (IPART) is conducting a review of pricing for electricity services. The review has been referred to IPART by the Premier, under Section 12A of the Independent Pricing and Regulatory Tribunal Act 1992 (reference 98/144).

Final Terms of Reference

In conducting this review the Tribunal will investigate and report on the following matters.

Having regard to the need to effect a smooth and reasonable transition to a national electricity market and the following developments affecting the State's electricity industry:

- delays in the commencement of the national market;
- issues raised by the NECA network pricing review and the ACCC Statement of Regulatory Intent on transmission pricing under the National Electricity Code;
- the jurisdictional regulators review of distribution pricing under the National Electricity Code;
- the timetable for retail contestability in NSW; and
- the State based regulatory arrangements for the electricity industry, including any reset principles advised by the Government

the Tribunal is to prepare a report, in two parts, on the appropriate pricing of government electricity services comprising:

Part 1: Electricity Transmission – covering:

- government monopoly electricity transmission services provided by TransGrid for the five year period from 1 July 1999; and
- the transmission assets of the Snowy Mountains Hydro-electric Authority which are notified to IPART by the Treasurer as the assets proposed for transfer to TransGrid under section 14 of the Snowy Hydro Corporatisation Act 1997.

The Tribunal is to coordinate closely with the ACCC in undertaking this review.

Part 2: Electricity Distribution and Franchise Supply – covering:

- government monopoly electricity network services (provided by energy distributors) for the five year period from 1 July 1999; and
- government monopoly electricity services provided to franchise customers (by energy distributors) for the period from July 1999.

The report's recommendations are to be based on the application of the National Electricity Law and National Electricity Code with the objectives of protecting the long term commercial value of the affected businesses for the benefit of the State's taxpayers and the long term interests of the customers of these businesses.

Matters for consideration

Both parts of the report are to have regard to:

- the State's obligations under national competition policy;
- the efficient cost of supplying the relevant services and future capital expenditure requirements;
- transitional arrangements for any price changes;
- service quality (including reliability) taking into account the potential for network service providers to offer price/quality trade offs above minimum standards;
- the Government's targeted average 20% real price reduction target (commencing from 1995) for the industry as a whole;
- the form of the regulatory arrangements including the incentive structures established by the existing and alternative arrangements; and
- comparable interstate arrangements.

The report on Electricity Transmission, Distribution and Franchise Supply is to comment on the effect of the pricing recommendations on:

- the matters listed in section 15(1) of the Independent Pricing and Regulatory Tribunal Act 1992; and
- rural and remote consumers.

The Tribunal is to investigate and report on both matters no later than 30 April 1999.

Issues Paper and Arrangements for Submissions

An Issues Paper is available from the Tribunal's office and website (www.ipart.nsw.gov.au). The Paper outlines issues and questions which the Tribunal considers relevant to the review to assist with the preparation of submissions. Submissions which contain confidential material must be clearly marked.

The due date for submissions is 30 October, 1998. Copies of public submissions will be available for inspection at the Tribunal's website.

Public Hearings

The Tribunal will be holding public hearings in Sydney on 8 and 9 December, 1998. The hearings will commence at 10.00 am and will be held at the Tribunal's Meeting Rooms, Level 2, 44 Market Street, Sydney.

To obtain copies of the Issues Paper or for enquiries about the review please phone Renee Smith or Jennifer White on (02) 9290 8498.

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