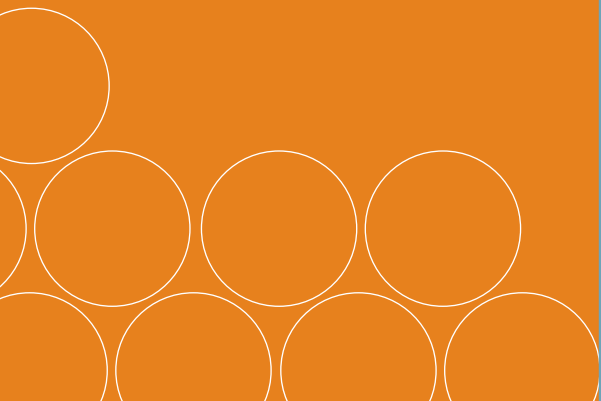
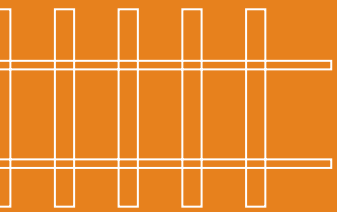
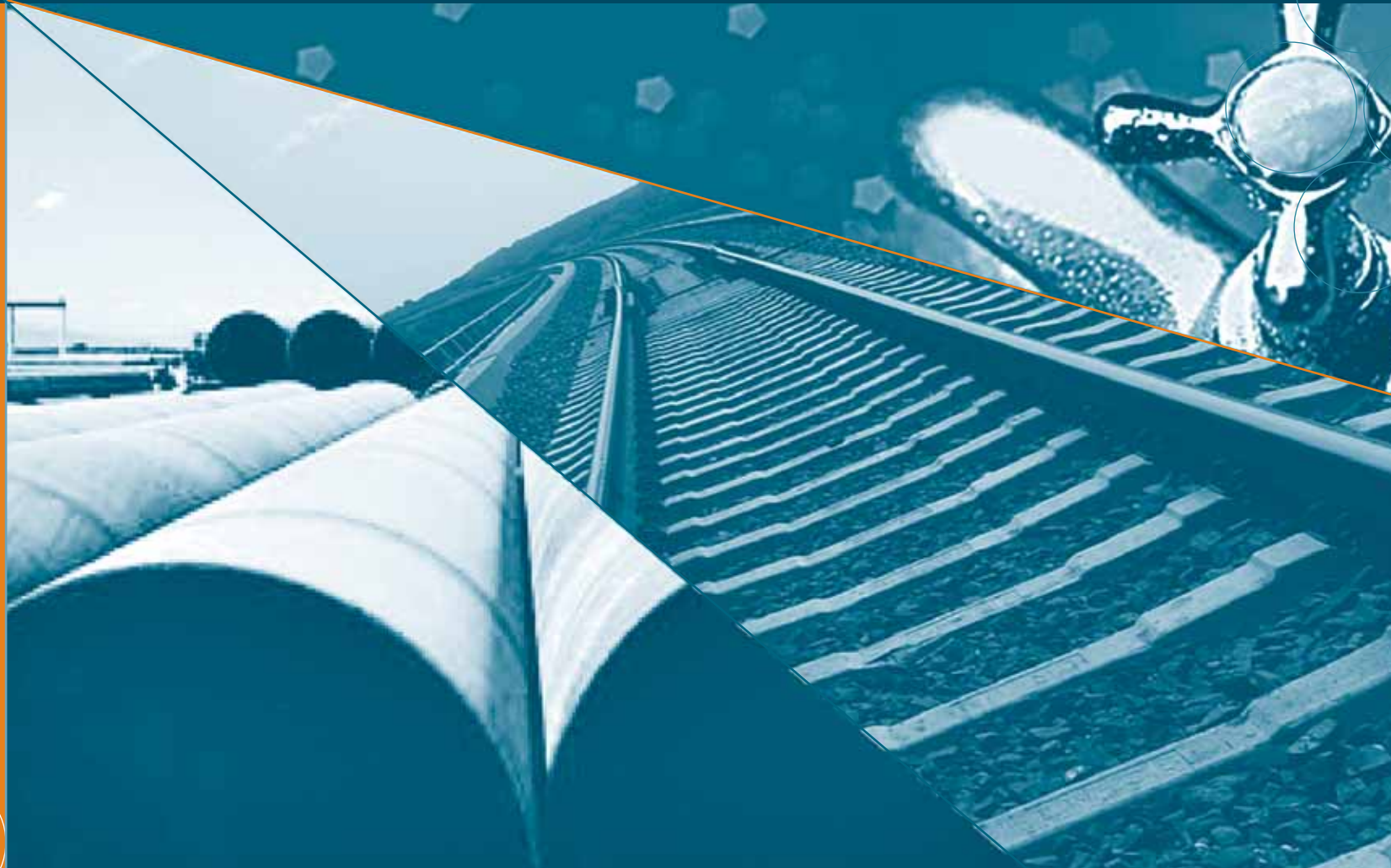




Economic Regulation Authority

ANNUAL REPORT 2003-04



**Economic Regulation Authority****Hon Eric Ripper BA, Dip Ed, MLA
Treasurer of Western Australia**

In accordance with section 66 of the *Financial Administration and Audit Act 1985*, we hereby submit the Economic Regulation Authority's Annual Report for the year ended 30 June 2004 for your information and presentation to Parliament.

The Annual Report has been prepared in accordance with the provisions of the *Financial Administration and Audit Act 1985* and Treasurer's Instructions.

MR LYNDON ROWE - **CHAIRMAN**
31 August 2004

MR CHRIS FIELD - **MEMBER**
31 August 2004

ANNUAL REPORT 2003-04

The Economic Regulation Authority was established on 1 January 2004, and subsumed the regulatory functions previously performed by the Office of Gas Access Regulation, Office of the Rail Access Regulator and relevant functions of the Office of Water Regulation.

This report will include the operations of these offices for the period 1 July to 31 December 2003 plus the operations of the Authority for the period 1 January to 30 June 2004.

The Authority's role includes an inquiry function to report on matters referred to it by the Western Australian Government. A number of gas-related functions in licensing and full retail contestability have been transferred to the Authority from the Office of Energy.

Financial information will reflect only the cost of the operations of the Authority since inception on 1 January 2004.

The report can be viewed online at the Authority's website www.era.wa.gov.au.

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THE ROLE OF THE AUTHORITY

Purpose

The Economic Regulation Authority was established on 1 January 2004, combining the functions of the Independent Gas Pipelines Access Regulator, the Rail Access Regulator and the water licensing and performance monitoring functions previously undertaken by the Office of Water Regulation.

The Authority is also responsible for gas licensing and certain customer-related aspects of full retail contestability in gas. The Authority is further empowered to inquire and report on matters referred to it by the Western Australian Government. These matters can relate to 'regulated' and 'non-regulated' industries in the areas of pricing, quality, business practices and compliance costs.

The Authority is shortly to assume functions in the regulation of access to electricity transmission and distribution systems, the licensing of electricity generation, transmission, distribution and retail activities, compliance monitoring, customer protection and wholesale market monitoring.

Mission

The Authority's mission is to promote competitive outcomes through the efficient and effective regulation of utility services in Western Australia at the lowest practicable regulatory cost.

Vision

The Authority's vision is a competitive Western Australia involving minimal regulatory oversight of monopoly utility services.

Objectives

The principal objectives of the Authority are to:

- promote regulatory outcomes that are in the public interest;
- promote the long-term interests of consumers;
- encourage investment in relevant markets;
- provide for the legitimate business interests of investors and service providers in relevant markets;
- promote competitive and fair market conduct;
- prevent abuse of monopoly or market power; and
- promote transparent decision-making processes.

Clients

The clients of the Authority include owners and operators of gas, rail and water infrastructure, users and consumers of these services, and other interested parties.

Functions

The main functions of the Authority are to approve arrangements for third party access to regulated monopoly infrastructure, approve licence applications, monitor the performance of licensees and undertake any independent inquiries requested by the government.

Support

The Authority consists of a governing body (Chairman and two part-time members) and a secretariat which provides support to the governing body to facilitate its decision-making role. The Authority makes use of contract staff and expert consultants as required.

HIGHLIGHTS

- The Economic Regulation Authority was established on 1 January 2004.
- Mr Lyndon Rowe, formerly Chief Executive Officer of the Chamber of Commerce and Industry of Western Australia was appointed on 8 March 2004 as full-time Chairman of the governing body of the Authority. At the same time Dr Ken Michael AM, formerly the Independent Gas Pipelines Access Regulator and Rail Access Regulator and Mr Chris Field, Executive Director of the Consumer Law Centre of Victoria and National Chair of the Australian Consumers' Association, were appointed as part-time members.
- The further final decision and approved access arrangement for the Dampier to Bunbury Natural Gas Pipeline (DBNGP) were issued on 30 December 2003.
- On 14 January 2004, Epic Energy Transmission (WA) Pty Ltd, Western Power Corporation and North West Shelf Gas made application to the Western Australian Gas Review Board for a review of the Regulator's decision to issue his own access arrangement for the DBNGP.
- A final decision concerning full retail contestability costs for AlintaGas Networks Pty Ltd was issued on 1 October 2003.
- Full retail contestability of the gas market commenced in Western Australia on 31 May 2004. The Authority acquired customer protection-related obligations on that date, and will assume Retail Market Scheme-related obligations on 31 May 2005.
- The Supreme Court of Western Australia issued a decision on 2 December 2003 that was of significance to the Independent Gas Pipelines Access Regulator's (Regulator) assessment of the proposed access arrangement for the Goldfields Gas Pipeline.
- The amended draft decision for the Goldfields Gas Pipeline (GGP) was issued on 29 July 2004.
- A revised access arrangement for the Mid-West and South-West Gas Distribution Systems, to apply from 1 January 2005, was lodged by AlintaGas Networks Pty Ltd on 31 March 2004.
- The gas licensing function was transferred from the Office of Energy to the Authority on 19 March 2004.
- Alinta Sales Pty Ltd notified the Authority that gas retail tariffs would be increased from 1 July 2004. The proposed increases were found to be in accordance with the *Energy Coordination (Gas Tariffs) Regulations 2000*.
- Floor and ceiling costs were determined for the following rail lines in the WestNet Rail (WNR) freight network on 9 July 2004:
 - Main lines (Kwinana to Bunbury, Forrestfield to Kalgoorlie, Kalgoorlie to Esperance, and Kalgoorlie to Leonora);
 - Brunswick to Premier on the Worsley line; and
 - Avon to Goomalling, Katanning to Tambellup, Kulin to Yilliminning, and Mullewa to Narngulu grain lines.
- Ceiling costs for seven terminal route sections of the South-West main line were determined on 9 July 2004. These short route sections (less than 2 kilometres each) are part of the WNR freight network.
- Over-payment rules for the Public Transport Authority (PTA) were approved on 24 July 2003. Over-payments are amounts received for a route section that exceed the total costs attributed to that route section in a year.

- Agreement was reached during the financial year with WNR and PTA on key performance indicators (KPIs) to monitor and enforce compliance by railway owners with the provisions of the *Railways (Access) Act 1998 and the Railways (Access) Code 2000*.
- A determination on the Weighted Average Cost of Capital to apply for the next twelve months to urban passenger and freight rail infrastructure in Western Australia was issued on 1 July 2004.
- Compliance audits were conducted for three water service licensees. The effectiveness of their asset management systems were also reviewed.
- An independent inquiry on Urban Water and Wastewater Pricing was referred to the Authority by the Western Australian Treasurer on 16 June 2004. The inquiry will cover the Water Corporation, Bunbury Water Board and Busselton Water Board, with the final report due on 12 August 2005.
- The Water Performance Information Report which examined water services in 32 major Western Australian cities and towns between 1999 and 2003 was approved for publication by the Authority on 7 May 2004.
- The "Global Developments in Water Industry Performance Benchmarking" conference was held in October 2003.
- A "Review of Rate of Return Methodologies and Practices" discussion paper, prepared by the Curtin University Institute for Research into International Competitiveness was issued for public comment on 31 December 2003.
- An "Incentive Mechanisms for Code Regulated Gas Pipeline Systems" discussion paper, prepared by Farrant Consultancy Pty Ltd, was issued for public comment on 17 May 2004.
- The final report on the "Estimation of CPI-X for the WA Rail Industry" was issued on 15 June 2004.
- Submissions were made to the Productivity Commission on its review of the national gas access regime on 5 September 2003 and 13 April 2004.
- The Office of Gas Access Regulation (subsumed by the Authority on 1 January 2004) received a Bronze Award for "Distinguished Achievement in Accountability through Annual Reporting" for its 2002-03 Annual Report.

THE CHAIRMAN'S OVERVIEW



The creation of the Economic Regulation Authority is both an exciting and challenging opportunity for Western Australia. The Authority was established to consolidate the regulatory functions previously performed by a range of ministers,

regulators and public sector officials across the gas, rail and water industries in Western Australia. The Authority's scope will be expanded in the early part of 2004–05 to include regulation of the electricity industry.

Accommodating these functions in a single economic regulator will realise administrative synergies and consolidate regulatory expertise. This will improve regulatory outcomes and reduce costs.

I am particularly pleased to have the opportunity to play a leading role in this early development phase. I am grateful to Dr Ken Michael who has continued as a part-time member of the Authority after five years as the Independent Gas Pipelines Access Regulator and, in the last three years, also as Rail Access Regulator.

Dr Michael introduced independent regulation to Western Australia and brings this valuable experience to the new Authority. As Chair of the implementation working group that established the Authority, Dr Michael also played a crucial role in its early conceptual phase.

Both Dr Michael and I are delighted to have Mr Chris Field, the Executive Director of the Consumer Law Centre of Victoria and National Chair of the Australian Consumers' Association, join us as a part-time member of the governing body.

While the Authority came into existence on 1 January 2004, Dr Michael acted as Alternate Chairman until the governing body was appointed on 8 March 2004.

Our most immediate task since taking office has been to amalgamate the regulatory functions performed by the Office of Gas Access Regulation, the Office of the Rail Access Regulator and relevant parts of the Office of Water Regulation into a single, effective and coordinated body. Whilst attending to the organisational, administrative and governance issues involved in establishing the new agency, particular attention has also been given to meeting the regulatory challenges ahead.

Substantial progress has been made toward finalising decisions and determinations in gas, rail and water as discussed in detail in the Report on Operations below.

A number of discussion papers were issued relating to regulatory rates of return, incentive mechanisms and CPI-based escalation methodologies. A water performance information report was also issued providing information on water services in 32 major Western Australian cities and towns. These publications are accessible on the Authority's website www.era.wa.gov.au.

An application for review of the existing access arrangement for the AlintaGas Networks Mid-West and South-West Gas Distribution Systems was lodged on 31 March 2004. This review is scheduled to be completed by the end of the calendar year.

An application for review of the access arrangement for the DBNGP was also scheduled to be lodged by 1 April 2004 but, on application by Epic Energy, this deadline was extended to 1 December 2004.

With floor and ceiling cost calculations for five route sections in the urban rail network due to be finalised in September 2004, all the requirements for the establishment of the Rail Access Regime in Western Australia will be completed.

The Authority also acquired a range of new functions and tasks relating to gas licensing and full retail contestability in gas. We have also been asked by government to conduct an inquiry on urban water and wastewater pricing. Additional new functions in electricity regulation, licensing and compliance monitoring are scheduled to commence in the early part of 2004–05 and the Authority is making preparations for the resourcing of these functions.

The immediate challenge will be to progress the establishment of the physical and human resources necessary for the operation of the Authority. A priority is to centralise all operations to one address in order to achieve the planned administrative synergies and facilitate cross-fertilisation of regulatory methods and techniques.

The Authority seeks to develop the intellectual and organisational capacity to deliver the outcomes expected by government and the community, and to be recognised in Western Australia and elsewhere as a highly professional and independent organisation making a positive contribution to world's best practice in economic regulation.

The Authority expects to continue providing input and responding to issues raised as part of the review of the gas access regime on which the Productivity Commission made recommendations in their final report of 10 August 2004. In September 2004, the Authority will also commence a review of the *Railways (Access) Code 2000* as required by legislation.

Clearly, the challenge ahead is significant and requires that the Authority achieves public confidence and trust in the regulatory processes that it administers. The Authority needs to be seen as efficient and effective as well as open and transparent in the performance of its functions.

Finally, I would like to acknowledge the significant contribution made by the staff of the Authority, ably led by General Manager Peter Kolf and on behalf of Dr Ken Michael and Mr Chris Field, thank them for their enthusiasm, support and professionalism in this exciting and challenging undertaking.



LYNDON ROWE
CHAIRMAN

REPORT ON OPERATIONS

This report includes six months of the operations of the Office of Gas Access Regulation, the Office of the Rail Access Regulator and relevant functions of the Office of Water Regulation for the period 1 July to 31 December 2003. The Economic Regulation Authority (Authority) subsumed the functions of these agencies on 1 January 2004.

Further information on the functions of the Authority may be accessed on the Authority's website www.era.wa.gov.au.

GAS DIVISION

The National Third Party Access Code for Natural Gas Pipeline Systems (the Code) specifies many of the functions of the relevant regulator, which in Western Australia are assigned to the Authority.

The functions of the relevant regulator include the approval of contractual arrangements proposed by owners of regulated pipelines for third party access to such facilities (access arrangements) and the oversighting of regulatory arrangements for pipelines subject to regulation under the Code (covered pipelines).

The following are covered gas pipelines in Western Australia:

- Dampier to Bunbury Natural Gas Pipeline;
- Goldfields Gas Pipeline;
- Mid-West and South-West Gas Distribution Systems;
- Kalgoorlie to Kambalda Pipeline; and
- Tubridgi Pipeline System.

APPROVAL OF ACCESS ARRANGEMENTS

Dampier to Bunbury Natural Gas Pipeline (DBNGP)

The final decision to not approve the proposed access arrangement for the DBNGP was issued on 23 May 2003. Epic Energy (WA) Transmission Pty Ltd (Epic Energy) submitted a revised proposed access arrangement on 8 August 2003.

The original access arrangement proposed by Epic Energy and assessed by the Regulator did not make provision for expansion of the pipeline during the initial five-year access arrangement period.

However, in its revised proposed access arrangement, Epic Energy sought to extend the access arrangement period by five years to 31 December 2009 and included new capital and operating expenditure programs.

The Independent Gas Pipelines Access Regulator (Regulator) examined the revised proposed access arrangement to determine whether it incorporated, substantially incorporated or otherwise addressed the reasons for the amendments required in the final decision issued on 23 May 2003.

As interested parties were unable to comment on Epic Energy's proposal to extend the period, the Regulator considered it inappropriate to approve the revised proposed access arrangement and issued a further final decision on 30 December 2003 to this effect.

The Regulator issued his own access arrangement to commence on 14 January 2004 in accordance with the provisions of the Code. Following this decision, four applications for review of the Regulator's decision were lodged with the Western Australian Gas Review Board (Board).

On 10 February 2004, Mr Robert Edel was appointed as the presiding member of the Board to hear and determine these applications. The appeal hearings are scheduled to be completed by November 2004.

As the access arrangement approved by the Regulator was to expire on 31 December 2004, Epic Energy was scheduled to submit a revised access arrangement on 1 April 2004. However, Epic Energy has made two applications for extensions of time with the result that the lodgement and commencement dates for the revised access arrangement have been extended to 1 December 2004 and 1 July 2005 respectively.

Goldfields Gas Pipeline (GGP)

The draft decision on the proposed access arrangement for the GGP was issued on 10 April 2001.

On 23 August 2002, the Full Court of the Supreme Court of Western Australia handed down its decision in proceedings brought by Epic Energy in respect of the Regulator's draft decision on the proposed access arrangement for the DBNGP. This decision dealt with matters concerning the determination of the Initial Capital Base (ICB) for a pipeline, which has significant implications for the setting of the reference tariff under the regulatory regime.

As the Court decision in the case of Epic Energy had implications for the GGP, the Regulator issued a notice on 6 November 2002 advising that he intended to amend the draft decision on the proposed access arrangement for that pipeline.

However, on 10 June 2003, WMC Resources Ltd sought a writ of prohibition to forbid the Regulator considering or determining whether, under clause 21(3) of the *Goldfields Gas Pipeline Agreement Act 1994*, the Code shall not have effect in relation to the GGP. This matter was heard by the Court on 6-7 October 2003 with the decision being issued on 2 December 2003.

The Court found that clause 21(3) of the State Agreement was not enforceable as a binding contractual provision.

The Court indicated that, whatever its legal force and effect, clause 21(3) was not able to be read as conferring, or purporting to confer, any role or function or jurisdiction on the Regulator. Therefore, the Court found that part of the process proposed by the Regulator in his notice of 6 November 2002 was not required or authorised.

On 18 March 2004, the Supreme Court handed down declaratory orders on this matter which stated that:

"On the proper construction of the State Agreement ratified by the Goldfields Gas Pipeline Agreement Act 1994 and on the proper construction of that Act, s3 of the Government Agreement Act 1979 and the Gas Pipelines Access (Western Australia) Act 1998, the Regulator is required to perform his functions under the Code without regard to cl21(3) of the State Agreement."

In addition to the above, the owners of the GGP applied on 27 March 2003 to the National Competition Council (NCC) for revocation of coverage of the GGP from the regime. The Code makes provision for the revocation of covered pipelines where it can be shown that the coverage criteria is not met.

On 2 July 2004, the Western Australian Treasurer, on recommendation of the NCC, decided that coverage of the pipeline should not be revoked. The Treasurer's decision has, however, been appealed to be heard by the Western Australian Gas Review Board.

The amended draft decision was issued on 29 July 2004.

Mid-West and South-West Gas Distribution Systems

AlintaGas Networks Pty Ltd (AGN) lodged its proposed revisions to the approved access arrangement for the Mid-West and South-West Gas Distribution Systems on 31 March 2004, enabling the assessment process to commence on schedule.

An issues paper to assist with submissions was published on 17 April 2004. Five public submissions were received and AGN responded to these submissions on 22 June 2004. All of these documents are accessible on the Authority's website www.era.wa.gov.au.

The assessment of the proposed revised access arrangement is progressing and a draft decision is expected to be issued in December 2004.

Kalgoorlie to Kambalda Pipeline

On 7 April 2004, Southern Cross Pipelines Australia Pty Ltd, owner and operator of the Kalgoorlie to Kambalda Gas Pipeline, made application for a further two-year extension to submit a proposed access arrangement.

After considering all the relevant issues, the Authority granted a further extension until the earlier of:

- two years from 1 July 2004, being 1 July 2006; or
- a date which is 90 days after the date on which a User or Prospective User approaches the Regulator to seek access to this pipeline.

Tubridgi Gas Pipeline Systems

The final decision and approval of the Tubridgi Pipeline System access arrangement was issued on 19 October 2001. A revised access arrangement is due 19 December 2005.

OVERSIGHTING OF REGULATED PIPELINES

Scope

Oversighting regulated pipelines includes a diverse range of activities, and applies to any pipeline which has been deemed to meet the requirements of coverage under the Code.

Examples of oversighting activities include:

- making application to the National Competition Council, at the request of another person, for coverage of a pipeline;
- notifying a pipeline service provider of the requirement to submit separate access arrangements;
- assessing changes to reference tariffs;
- approving guidelines prepared by a pipeline service provider;
- applying accounting guidelines to a pipeline;
- imposing ring fencing obligations;
- monitoring compliance with ring fencing obligations;
- assessing an application for the issue of a notice waiving ring fencing obligations;
- assessing an information package;
- assessing an application for approval to enter into an Associate Contract;

- assessing an application for an extension of time to submit access arrangement documents;
- assessing a written application seeking pre-approval of proposed capital expenditure; and
- initiating civil proceedings in respect of a civil penalty provision, a regulatory provision or a conduct provision under the gas access law.

The oversighting role also involves membership of national or local committees or steering groups involved in the development or review of gas industry initiatives or regulations.

Full Retail Contestability (FRC)

In late June 2003, AGN applied to the Regulator for approval of the costs of developing a Network Management Information System needed to facilitate FRC in the Western Australian gas market.

Following an assessment of the proposed expenditure, the Regulator issued his final decision on 1 October 2003 approving up to \$12 million in capital costs.

AGN also asked for a non-binding acknowledgement that non-capital costs of \$1.3 million per annum were likely to satisfy the requirements of the Code.

The Regulator considered that it was inappropriate for him to give this non-binding acknowledgement as this was not provided for in the Code.

On 31 May 2004, FRC commenced for the Western Australian gas market. This includes customer protection-related obligations such as approving standard customer contracts, establishing a Gas Marketing Code of Conduct, overseeing the Gas Industry Ombudsman scheme and defining retail market scheme-related obligations.

Licensing

On 19 March 2004 the Authority became responsible for gas licensing functions under the Energy Coordination Act 1994. Previously, licensing was the responsibility of the Coordinator of Energy.

The Authority's role in this area is to:

- administer the licensing scheme, involving granting, renewing, transferring and amending gas distribution and trading licences;
- monitor licence obligations and report to the Minister on the operation of the licensing scheme and on compliance of the licensees with their licence conditions; and

- enforce licence obligations and report to the Minister about any failure by a licensee to meet performance criteria or other requirements of the licence.

In accordance with its gas trading licence, Alinta Sales Pty Ltd notified the Authority that gas retail tariffs would be increased from 1 July 2004. The proposed increases were found to be in accordance with the *Energy Coordination (Gas Tariffs) Regulations 2000*.

Other activities

Other oversighting activities in 2003–04 included:

- fourteen extensions of time;
- two submissions to the Productivity Commission on the Review of the gas access regime;
- five presentations at conferences held during the year; and
- the preparation and release of four discussion and issues papers for public information and comment.

DISCUSSION PAPERS

Rate of Return Methodologies and Practices

A discussion paper on the Review of Rate of Return Methodologies and Practices, prepared by the Institute for Research into International Competitiveness at the Curtin University of Technology, was released on 31 December 2003 for comment.

The aim of the report was to consider evolving best practice in the determination of allowed rates of return in utility regulation. The review draws from literature and regulatory practice in both Australia and other parts of the world. A special focus of the review is the treatment of diversifiable and non-diversifiable risk.

The report also examines and comments on the approach taken by the Independent Gas Pipelines Access Regulator in Western Australia in setting regulatory rates of return.

Seven submissions were received, and a response to these submissions will be made public as soon as possible.

Incentive Mechanisms

A discussion paper prepared for the Authority by Farrant Consultancy Pty Ltd on "Incentive Mechanisms for Code Regulated Gas Pipeline Systems" was released on 17 May 2004 for comment.

The aim of the discussion paper was to explore issues related to the design of incentive mechanisms appropriate for inclusion in access arrangements. The discussion paper limits its scope specifically to the provisions of section 8 of the Code.

Incentives may be included in an access arrangement in order to encourage the operator to improve efficiency and promote efficient growth of the gas market.

The discussion paper examines issues on the sharing of efficiency gains and losses between the operator of a regulated pipeline and users of the regulated services of that pipeline.

Five submissions were received and are accessible on the Authority's website. A response to these submissions will be made public as soon as possible.

RAIL DIVISION

DETERMINATIONS

Costing and Overpayment

The Regulator approved the Public Transport Authority (PTA) over-payment rules on 24 July 2003.

Weighted Average Cost of Capital (WACC)

The Authority issued the WACC for urban passenger and freight railway infrastructure on 1 July 2004. This determination includes adjustments to the risk-free rate and inflation rate that will apply in calculating the WACC for the period 1 July 2004 to 30 June 2005.

Floor and Ceiling Costs

The Regulator approved the WestNet Rail (WNR) revised floor and ceiling costs for the four main lines in the rail freight network, consisting of 23 route sections on 24 September 2003.

The Regulator also approved WNR's floor and ceiling costs for the nine route sections from Brunswick to Premier on the Worsley line on 15 October 2003.

Alcoa World Alumina formally requested that the Authority determine the ceiling costs of seven terminal end sections on the South-West Main line in May 2004. The review was completed in June and the determination was approved by the Authority on 5 July 2004.

The Authority completed its review of WNR's revised floor and ceiling costs for nominated rail routes in the grain line network in June 2004. This determination was approved by the Authority on 5 July 2004.

Progress was made on the determination of the floor and ceiling costs for the urban passenger network. There were no submissions received from the public consultation process which ended on 30 June 2004.

Performance Indicators for Railway Owners

The Regulator determined a set of KPIs on 1 July 2003 for monitoring compliance of WNR's operations with the *Railways (Access) Act 1998* (the Act) and *Railways (Access) Code 2000* (the Code). The Authority will publish these KPIs annually on its website.

The Authority determined another set of KPIs on 11 February 2004, to be used for monitoring the compliance of PTA's operations with the Act and Code. These KPIs will also be published annually on the Authority's website.

REGULATORY ISSUES

Reports

On 12 January 2004, the Authority released the findings of the audit undertaken by PricewaterhouseCoopers on PTA's costing model. This model is used to determine the floor and ceiling costs of route sections in PTA's urban passenger rail network.

A report on calculating a cost escalation (CPI-X) for the Western Australian Rail Industry was completed in March 2004. This report followed the completion of a scoping study in July 2003, which assessed the appropriate measures for price adjustment in revenue cap regulation. The study identified some issues when using CPI as an escalator, outlined a methodology using total factor productivity to calculate the X-factor and suggested directions for research.

The Regulator commissioned the report to test the proposed methodology on parts of the WNR rail network. The report identified a methodology that could be used to calculate the X-factor. However, the Authority decided to continue with the existing approach, monitor the development of CPI-X regulation in Australia and overseas, discuss the proposed methodology with stakeholders and reassess the applicability of the proposed methodology at the next regulatory reset of floor and ceiling costs in 2006.

The Authority completed a Rail Operations Manual on 18 May 2004. The Operations Manual outlines the key legislative tasks that need to be conducted on a regular basis to ensure compliance with the Act, the Code and the outcomes of the Rail Regulator's determinations.

The Authority approved the scope of the compliance audit to be undertaken by WNR and PTA at the conclusion of the financial year. The scope of the audit for both railway owners covers segregation arrangements, train path policy and train management guidelines. Audit of overpayments is also required for WNR as outlined in the determination on overpayment rules. Results of the audit will be published on the Authority's website by October 2004.

Arbitrators Workshop

A workshop was conducted by the Authority in February 2004 to update members of the Institute of Arbitrators and Mediators on the various determinations completed by the Authority as well as the recent rail arbitration outcome in Victoria.

WATER DIVISION

The *Water Services Licensing Act 1995* confers a number of functions on the Authority, including:

- administering the licensing scheme;
- monitoring and reporting to the Minister on the operation of the licensing scheme, and on compliance by licensees;
- informing the Minister of any failure by a licensee to meet licence requirements; and
- monitoring the performance of the water services industry.

Water service providers in Western Australia are required to be licensed by the Authority. Each licence sets out the conditions by which water supply, sewerage, irrigation and drainage services operate. The licences are designed to maintain a high quality of water services to the public.

There are 30 water service licensees including six potable (drinking water) and 24 non-potable (wastewater or irrigation water) water services. The largest service provider for both potable and non-potable water services is the Water Corporation, which holds approximately 97 per cent of the market share in nearly all market segments.

The other two major potable water service providers are the Busselton Water Board and Aqwest (Bunbury Water Board). There are also four Cooperatives that supply irrigation services and 21 local governments which operate sewerage services.

LICENSING

Compliance Audits

Compliance audits and asset management system reviews were conducted for:

- Shire of Victoria Plains in July 2003;
- Hamersley Iron Pty Ltd in August 2003; and
- Preston Valley Irrigation Co-operative Ltd in December 2003.

Transfer of licence for Williams to the Water Corporation

The Authority approved the Water Corporation's operating licence to include responsibility for wastewater in Williams on 1 July 2004, while at the same time revoking the Shire's licence.

This decision followed Cabinet approval on 29 March 2004 of a decision by the Shire of Williams to handover its wastewater scheme to the Water Corporation from 1 July 2004.

Peaceful Bay

A licence application from the Shire of Denmark for a non-potable water service to 203 leasehold cottages in Peaceful Bay is being reviewed. The estimated population of Peaceful Bay rises to 2,000 during holiday periods, and the Authority is liaising with the Department of Health and the Shire of Denmark regarding possible licence conditions.

Chittering Valley Irrigators

A licence application from Chittering Valley Irrigators Ltd was rejected by the Authority on 23 March 2004. Chittering Valley Irrigators Ltd has appealed the decision under division 8 of the *Water Services Licensing Act 1995*.

Water Industry Performance Report

The Authority recently released a Water Performance Information report which examined water services in 32 major Western Australian cities and towns between 1999 and 2003.

The report identified that water restrictions contributed to a 16 per cent decline in the total volume of water consumed in Western Australian towns between 1999–2001 and 2001–2003.

This decline constituted a "saving" of 73,611 megalitres of water, or approximately 51 litres per person per day as compared to the first two-year period.

The key information for 2002–2003 included:

- On average, Western Australian residents consumed around 291 litres of water per day. (Perth residents consumed around 276 litres per day while regional residents consumed around 353 litres per day.)
- Due to reduced dam storage, there has been a greater need to extract water from groundwater sources. (65 per cent of all water is now extracted from groundwater.)
- The number of water quality complaints and leaks and bursts have remained relatively stable over comparable reporting periods for both metropolitan and regional areas. (19 complaints per 1,000 properties in Perth, seven complaints per 1,000 properties in the average Western Australian town, and 12 leaks and bursts per 100 kilometres of water mains for all towns.)

Operational audit planned for Water Corporation

Operational audits are conducted every two years under section 37 (1) of the *Water Services Licensing Act 1995*. The audit is a performance audit of the effectiveness of measures taken by the licensee to maintain quality and performance standards as referred to in the licence.

An operational audit will be conducted of the Water Corporation, Western Australia's largest water service provider with approximately 97 per cent of all customers serviced by water licensees.

The 2004 audit will adopt a risk management approach to focus on those risks which are most likely to cause problems for customers, the community and the State. The final report is due by 31 October 2004.

Global Developments in Water Industry Performance Benchmarking Conference

This international conference was hosted by the Office of Water Regulation, and held in Perth from 29 September to 2 October 2003.

The range of benchmarking tools, techniques, methods, perspectives and approaches throughout the world is substantial, with many highly significant benchmarking developments taking place in respect of network industries, particularly the water industry.

The conference drew together an extensive international audience of over 100 delegates, dedicated to explore and share global developments, and seek to reach consensus on future water industry benchmarking methods.

Subsequently, State regulators are developing a national performance indicator framework for the water industry.

INQUIRIES

Inquiry on Urban Water and Wastewater Pricing

On 16 June 2004, the Western Australian Government announced that the Authority would conduct an independent inquiry on urban water and wastewater pricing.

The inquiry is to investigate the pricing structures and tariff levels of the Water Corporation's urban water and wastewater services, and the Bunbury and Busselton Water Boards' water services.

The inquiry will establish whether water prices are justified and comply with national competition policy. This is the first independent evaluation of water prices within the State, and an important step in ensuring transparency and accountability in water pricing – a key obligation under the Council of Australian Government's water reform agreement.

The inquiry is to provide advice to government on the level and structure of water prices to apply from July 2006. Prices for the Water Corporation, Bunbury Water Board and Busselton Water Board are set by the Minister for the Environment.

The matters that the Treasurer has requested the Authority consider in undertaking the inquiry include:

- the efficient cost of providing water and sewerage services;
- the standards of service that apply, including standards of quality, reliability and safety;
- the need to encourage investment in the water industry;
- water supply demand management;
- the protection and development of future water sources;
- ecologically sustainable development; and
- the social impact of the recommendations.

In accordance with the terms of reference, the Authority released an issues paper on 22 July 2004 calling for submissions from interested parties. A draft report is to be published by 18 March 2005, which will include a further call for submissions. The final report is to be submitted by 12 August 2005 to the Treasurer who will have 28 days to lay the final report before each House of Parliament.

PERFORMANCE INDICATORS

STATEMENT OF CERTIFICATION

We hereby certify that the accompanying performance indicators are based on proper records, and are relevant and appropriate to assess the performance of the Economic Regulation Authority (Authority).

These performance indicators fairly represent the performance of the Authority for the six-month period from inception on 1 January 2004 to 30 June 2004.



ACCOUNTABLE AUTHORITY
ECONOMIC REGULATION AUTHORITY

31 August 2004

INDEPENDENT AUDIT OPINION

To the Parliament of Western Australia

ECONOMIC REGULATION AUTHORITY PERFORMANCE INDICATORS FOR THE SIX MONTHS ENDED JUNE 30, 2004

Audit Opinion

In my opinion, the key effectiveness and efficiency performance indicators of the Economic Regulation Authority are relevant and appropriate to help users assess the Authority's performance and fairly represent the indicated performance for the six months ended June 30, 2004.

Scope

The Authority's Role

The Authority is responsible for developing and maintaining proper records and systems for preparing performance indicators.

The performance indicators consist of key indicators of effectiveness and efficiency.

Summary of my Role

As required by the Financial Administration and Audit Act 1985, I have independently audited the performance indicators to express an opinion on them. This was done by looking at a sample of the evidence.

An audit does not guarantee that every amount and disclosure in the performance indicators is error free, nor does it examine all evidence and every transaction. However, my audit procedures should identify errors or omissions significant enough to adversely affect the decisions of users of the financial statements.



DDR PEARSON
AUDITOR GENERAL

November 1, 2004

4th Floor Dumas House, 2 Havelock Street
West Perth 6005 Western Australia
Tel: 08 9222 7500 Fax: 08 9322 5664

PERFORMANCE INDICATORS FOR 2003-04

SCOPE

As the Authority is subject to new legislation and has new functions not previously undertaken by the agencies that were combined to form the Authority, a fresh approach to the reporting of performance indicators has been taken.

Because the previous gas, rail and water regulation offices were subsumed by the Authority on 1 January 2004, performance indicators in this report will only relate to the operations of the Authority for the six-month period of its existence from 1 January 2004 to 30 June 2004.

FORMULATION OF THE AUTHORITY'S PERFORMANCE INDICATORS

Broad, high-level government strategic goals are supported at agency level by more specific desired outcomes. Agencies deliver outputs to achieve these desired outcomes, which ultimately contribute to meeting the higher level government strategic goals.

These outputs are the basis for performance indicators.

The strategic high-level government goal relevant to the Authority is:

To develop a strong economy that delivers more jobs, more opportunities and greater wealth to Western Australians by creating the conditions required for investment and growth.

The desired outcome of the activities of the Authority in support of this high-level strategic goal is:

The efficient, safe and equitable provision of utility services in Western Australia.

The Authority cannot achieve this high-level outcome directly, but instead seeks to play its part towards the achievement of this goal.

More directly, the Authority seeks:

To encourage economic development of the State of Western Australia by regulating vital infrastructure in a fair, independent and transparent manner, including independent reviews as referred by government.

However, decisions of the Authority in support of this revised outcome are very difficult to measure objectively, as they must balance the interests of the various parties impacted upon.

The requirement of the Authority to prepare performance indicators has, therefore, been modified by legislation to limit them to management functions. Section 23 of the Economic Regulation Authority Act 2003 states that:

"... any requirement under the Treasurer's Instructions (issued under section 58 of the Financial Administration and Audit Act 1985) that the Authority prepare performance indicators is to be limited to the Authority's management functions (including financial management), and is not to apply to the performance of any other function of the Authority."

A more objective and administrative measure of performance is the quality, quantity and cost of the submissions that are considered by the Authority's governing body to facilitate its decision-making.

Therefore, the essential measurable output for the Authority in support of this revised outcome is:

Submissions by the Secretariat to the Authority's governing body.

Effectiveness

The key effectiveness indicators are:

Quantity

Number of submissions made to the Authority's governing body.

Quality

Rating by the Authority's governing body as to the content, accuracy and presentation of these submissions.

Timeliness

Number (percentage) of submissions provided by the required deadline.

These ratings are assigned and collated monthly. This enhances the accuracy and therefore value of the indicators, and provides important feedback on the quality and timeliness of submissions received each month.

The timeliness indicator has been expanded to include a rating by the Authority's governing body as to their perception of the timeliness of the submissions.

Efficiency

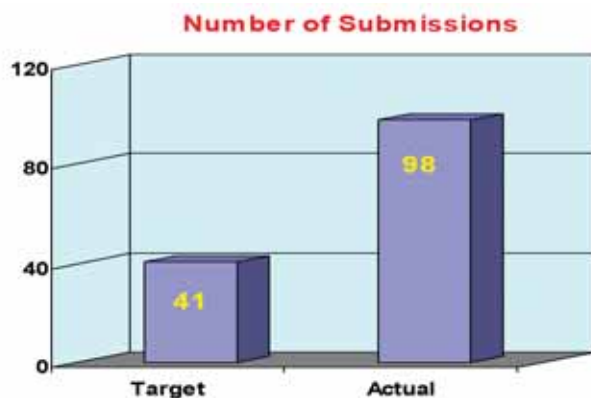
The key efficiency indicator is:

Cost

Average cost per submission.

This cost is calculated to include the costs of all personnel and other resources involved since 1 January 2004.

Submissions : 2003-04



Three meetings of the Authority's governing body have been held since 1 January 2004 to review and discuss submissions. In addition to the meetings, some urgent submissions were reviewed by email and/or teleconferencing. The number of submissions exceeded the target significantly for two main reasons:

- the process of making submissions to the Authority's governing body is new and there was no other relevant information on which to estimate a target; and
- there was a larger than anticipated number of submissions requiring formal approval.



The Authority's governing body rates the submissions each month for quality and timeliness. The ratings are averaged for the three members of the governing body.

Ratings are assigned on a range of one to five, where one is "well below expectations", three is "expected level of performance" and five is "well above expectations".

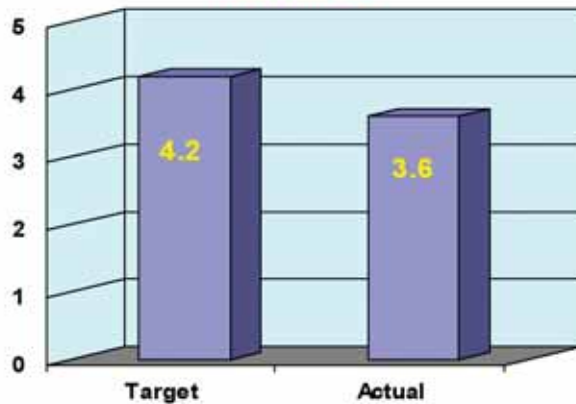
The quality rating increased from 3.8 at the first meeting to 4.0 at the last.



Of the 98 submissions reviewed, 14 had deadlines. These related to, for example, extensions of time for assessing access arrangements, updates to tariffs at key dates and requirements of the courts to present material.

Of the 14 submissions with deadlines, 12 were provided on or before the deadline. This equates to 86 per cent of submissions achieving their deadline, marginally above the target of 85 per cent.

Timeliness

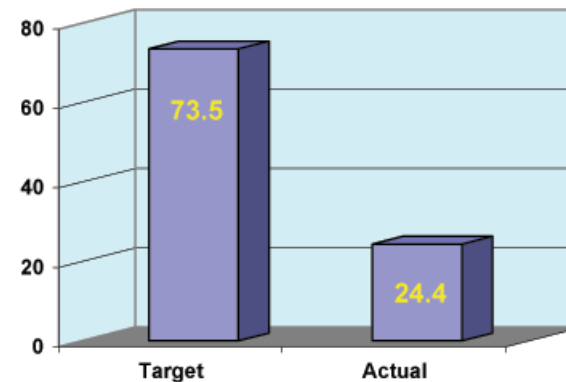


Timeliness in this case refers to the ratings assigned by the Authority's governing body of its perception of timeliness of submissions.

The target was not met because the Authority experienced a rapid growth in workload, partly due to the number of tasks required to establish the Authority.

In order to address these timeliness issues, a number of initiatives were implemented resulting in the ratings increasing from 3.4 at the first meeting to 3.8 at the last.

Average Cost - '\$000



The total cost of the operations of the Authority for the six months since inception was \$2.4 million compared to the budget of \$3.0 million. There were 98 submissions compared to the target of 41.

The average cost per submission of \$24,400 was well below the expected average of \$73,500.

ISSUES AND TRENDS

The Economic Regulation Authority was established on 1 January 2004 and combined the functions of the Independent Gas Pipelines Access Regulator, the Rail Access Regulator and the water licensing and performance monitoring functions previously undertaken by the Office of Water Regulation.

The Authority has taken over responsibility for the planned and actual achievements of these functional areas.

The gas licensing function was transferred from the Office of Energy to the Authority in March 2004.

Customer protection-related obligations, which form part of the full retail contestability program for the Western Australian gas market, were also transferred from the Office of Energy on 31 May 2004. Retail market scheme-related obligations will transfer to the Authority on 31 May 2005.

Electricity licensing, compliance monitoring and the regulation of access to electricity transmission and distribution systems will also become part of the Authority's responsibilities early in the next financial year.

PLANNED ACHIEVEMENTS

The most pressing issues facing the Independent Gas Pipelines Access Regulator in 2003-04 were approvals of access arrangements for the DBNGP and the GGP.

There was also a need for the Regulator to prepare for the review of two access arrangements, those being for AlintaGas' Mid-West and South-West Gas Distribution Systems and Epic Energy's DBNGP. These reviews were due to commence on 1 April 2004.

The Rail Access Regulator's plans for 2003-04 included determining the PTA's floor and ceiling costs for the Perth to Midland and Fremantle to Perth rail lines.

Key performance indicators were needed to monitor and enforce compliance by railway owners with the provisions of the *Railways (Access) Act 1998* and the *Railways (Access) Code 2000*.

A model to calculate the CPI-X escalation was scheduled for release in the first half of 2003-04, and the Weighted Average Cost of Capital to apply to urban passenger and freight rail infrastructure in Western Australia in 2004-05 was due by 1 July 2004.

An international conference on "Global Developments in Water Industry Performance Benchmarking" was convened by the Office of Water Regulation in September 2003.

Compliance audits including reviews of the effectiveness of asset management systems were planned for three water service licensees.

Finally, the transition to the new Economic Regulation Authority, whilst maintaining the impetus and high standards appropriate to a regulatory body, was recognised as a major achievement planned for each of the gas, rail and water agencies involved.

ACTUAL ACHIEVEMENTS

The majority of the planned achievements have been accomplished. A number of activities, determinations and reports that were beyond those originally planned were also completed.

The most important achievement has been the finalisation of the assessment of the access arrangement for the DBNGP on 30 December 2003. The assessment of this access arrangement has been a major undertaking involving critical State infrastructure.

Another major achievement was the progress made in respect of the access arrangement for the GGP with the amended draft decision being issued on 29 July 2004. It is anticipated that this assessment will be finalised in the near future.

With the review of approved access arrangements commencing during the financial year, discussion papers were prepared and issued on regulatory rates of return and incentive mechanisms. The purpose of these papers was to assist the review process which in Western Australia commenced on 1 April 2004.

Achievements in the rail area have included floor and ceiling cost calculations for the mainlines in the freight network, some grain lines and terminal end sections of the Kwinana to Bunbury rail line and the identification of KPIs for both railway owners.

With the floor and ceiling cost calculations for five route sections in the urban passenger network due to be finalised in September 2004, all the requirements for the establishment of the Rail Access Regime will have been completed.

All planned asset management reviews and operational audits in the water area have been completed.

A performance report on the provision of water services to 32 major towns was published. The report compares performance relative to a number of operational performance indicators and provides statistical information on the size and nature of services.

Considerable progress was also made in developing the systems, policies and procedures relating to the operations of the Authority since its inception on 1 January 2004.

FINANCIAL ACHIEVEMENTS

Financial details of the operations of the Authority from 1 January 2004 to 30 June 2004 are reported and explained in the Statement of Financial Performance below.

Financial information relating to the operations of the Office of Gas Access Regulation and the Office of the Rail Access Regulator for the period 1 July 2003 to 31 December 2003 are available on the Authority's website www.era.wa.gov.au.

Financial details for the period to 31 December 2003 relating to water regulatory functions transferred to the Authority are available on the website of the Office of Water Policy at www.owp.wa.gov.au which links to the Office of Water Regulation website www.wrc.wa.gov.au/owr/.

Section 23 (3) of the Economic Regulation Authority Act 2003 provides that:

"Despite subsection (1), section 42 of the Financial Administration and Audit Act 1985 does not apply in respect of the Authority, but the expenditure that may be incurred to enable the functions of the Authority under a particular written law to be performed in any one financial year is limited to the amount specified by the Minister under this subsection in respect of that written law for that year."

The original amount specified by the Minister that may be incurred in the six months ending 30 June 2004 was \$3.9 million. However, the Authority's budget was subsequently reduced to \$3.0 million as part of the supplementary budget process.

The total cost of services as shown in the financial statements below is \$2.4 million. The main reason for the difference between the revised budget and actual cost of services reflects work committed that remains to be completed.

By legislation, the Authority is able to recoup operating expenses from gas pipeline operators and levy fees and charges in respect of its licensing functions in both water and gas. In the six months to 30 June 2004, the Authority obtained revenue from ordinary activities amounting to \$700,000 including some interest on bank accounts. The net cost of services for the six-month period therefore was \$1.7 million.

The amount contributed by government toward the Authority's cost of services was \$2.5 million. This included an amount of \$800,000 of doubtful debts from the Office of Gas Access Regulation (*OffGAR*). These doubtful debts had been funded by a Treasurer's Advance amounting to \$1.0 million. The \$800,000 contributed by government was therefore applied toward reducing the Treasurer's Advance to \$200,000.

The doubtful debts, which had been provided for by *OffGAR* in 2002-03, related to the cost of legal proceedings in respect of the DBNGP and the GGP. The cost of these legal proceedings could not be recovered from pipeline service providers.

METHODS OF ACHIEVEMENT

The Authority was established to regulate access to significant monopoly infrastructure, issue licences and monitor performance in key utility industries including gas, rail, water and electricity. The Authority also has an inquiry function to make recommendations on matters referred to it by government.

The Authority was established to achieve an efficient and effective regulatory environment in Western Australia to inspire public and commercial confidence through an independent and transparent framework of clearly specified functions, responsibilities and powers.

This framework was designed to achieve a better separation of regulation from policy-making to promote a consistent and predictable approach in the application of regulatory principles and practices.

The framework seeks to facilitate the achievement of the benefits such as preventing monopoly pricing and promoting upstream and downstream competition in the utilities sector.

The functions of the Authority are laid out in various codes and Acts including the *Economic Regulation Authority Act 2003 (Act)*.

In performing its regulatory functions, the Authority is guided by the various codes and acts that specify the principles and factors to be taken into consideration. The Act, for example, lists the following matters that the Authority must have regard to in performing its functions:

- the need to promote regulatory outcomes that are in the public interest;
- the long-term interests of consumers in relation to the price, quality and reliability of goods and services provided in relevant markets;
- the need to encourage investment in relevant markets;
- the legitimate business interests of investors and service providers in relevant markets;
- the need to promote competitive and fair market conduct;
- the need to prevent abuse of monopoly or market power; and
- the need to promote transparent decision-making processes that involve public consultation.

The decisions and recommendations of the Authority are enhanced by extensive and open communication with infrastructure owners, operators, users, prospective users and others that have an interest in such matters.

Quality and independence is achieved through the use of highly-skilled, professional staff, contractors and consultants to provide independent analysis and review.

The Authority makes extensive use of its website www.era.wa.gov.au as an efficient and effective means of communication. All decisions, determinations and reports are posted to the website and details of public forums, invitations for submissions and links to relevant information and related organisations are provided.

News items are displayed prominently on the website and an email service provides details of significant news events to interested parties registered with the Authority for this purpose.

THE CHALLENGE AHEAD

In the short time of its existence, the Authority has sought to maintain the momentum to progress the regulatory matters that were the priority of the areas brought together to form the single economic regulator, whilst also implementing the administrative procedures, policies and guidelines needed to promote better regulatory outcomes in the State.

The Authority seeks to encourage economic development by regulating vital infrastructure in a fair, independent and transparent manner, including independent reviews as referred to it by government.

The challenge ahead for the Authority will be to deliver the specific outcomes envisaged by government as the basis for establishing a single economic regulator in the State.

These outcomes include:

- achieving consistent and predictable regulatory outcomes across Western Australia's key utility industries to provide greater certainty and promote investment;

- removing any perception of unwarranted influence in regulatory decisions that could adversely impact on investment and competition;
- reducing duplication and achieving administrative synergies through consolidating scarce regulatory expertise;
- ensuring the cross-fertilisation of regulatory methods and techniques across all utility industries;
- responding to changing regulatory needs in a timely fashion to promote investment;
- providing government with improved information on which to make decisions relating to regulation.

Over the next few years, the Authority will strive to achieve public confidence and trust in the regulatory processes that it administers and be recognised as efficient and effective in the performance of its functions.

The Authority seeks to develop the intellectual and organisational capacity to deliver the outcomes that are the basis for its existence and be recognised in Western Australia and elsewhere as a highly professional organisation making a noticeable contribution to world's best practice in economic regulation.

The immediate challenge will be to progress the establishment of the physical and human resources necessary for the operation of the Authority and to centralise its operations to one address in order to achieve planned administrative synergies and facilitate cross-fertilisation of regulatory methods and techniques.

On the regulatory side, the Authority seeks to approve an access arrangement for the GGP and approve revised access arrangements for AlintaGas' Mid-West and South-West Gas Distribution Systems and the DBNGP.

In addition, a number of operational audits and asset management reviews will be conducted, including Alinta Sales gas trading licences and AlintaGas Networks' gas distribution licences. New standard form contracts are to be approved for all gas trading licensees following the commencement of full retail contestability in the gas market.

Regulation of the electricity industry will also pose significant challenges for the Authority. The regulation of access to electricity transmission and distribution systems, the licensing of electricity generation, transmission, distribution and retail activities, compliance monitoring, customer protection and wholesale market monitoring are functions scheduled to be undertaken by the Authority commencing in the early part of 2004-05.

The Authority also expects to continue providing input and responding to issues raised as part of the review of the gas access regime on which the Productivity Commission made recommendations which were issued in a final report on 10 August 2004.

Commonwealth, State and Territory governments have agreed that a joint government response to the review of the gas access regime will be developed through the Ministerial Council of Energy (MCE). A working group of the MCE, consisting of officials from all Australian jurisdictions, will prepare a response, expected to be considered by Ministers later this year.

In relation to rail access in Western Australia, the *Railways (Access) Act 1998* requires a review of the *Railways (Access) Code 2000* to be carried out commencing September 2004, which is after the third anniversary of its commencement.

The Authority has scheduled to undertake this review in 2004-05, focusing on the provisions of the Code and on the extent to which these give effect to the Competition Principles Agreement in respect of railways.

A significant challenge in water will be to progress the inquiry on urban water and wastewater pricing scheduled for completion on 12 August 2005.

This inquiry is the first of its type referred to the Authority by government and offers the opportunity for the Authority to develop the procedures and processes for handling this type of inquiry.

In addition, a number of operational audits and asset management reviews will be conducted, including those for the Water Corporation and the Busselton Water Board.

REPORT ON CORPORATE ACTIVITIES

ORGANISATION STRUCTURE

The Economic Regulation Authority was established on 1 January 2004 as a body corporate with perpetual succession.

Dr Ken Michael AM CitWA, previously the Independent Gas Pipelines Access Regulator and Rail Access Regulator, was initially appointed as the Alternate Chairman until the governing body of the Authority was appointed.

On 8 March 2004, Mr Lyndon Rowe, formerly Chief Executive Officer of the Chamber of Commerce and Industry of Western Australia, was appointed full-time Chairman for a period of five years.

Dr Michael and Mr Chris Field, the Executive Director of the Consumer Law Centre of Victoria and National Chair of the Australian Consumers' Association were appointed as part-time members of the governing body.

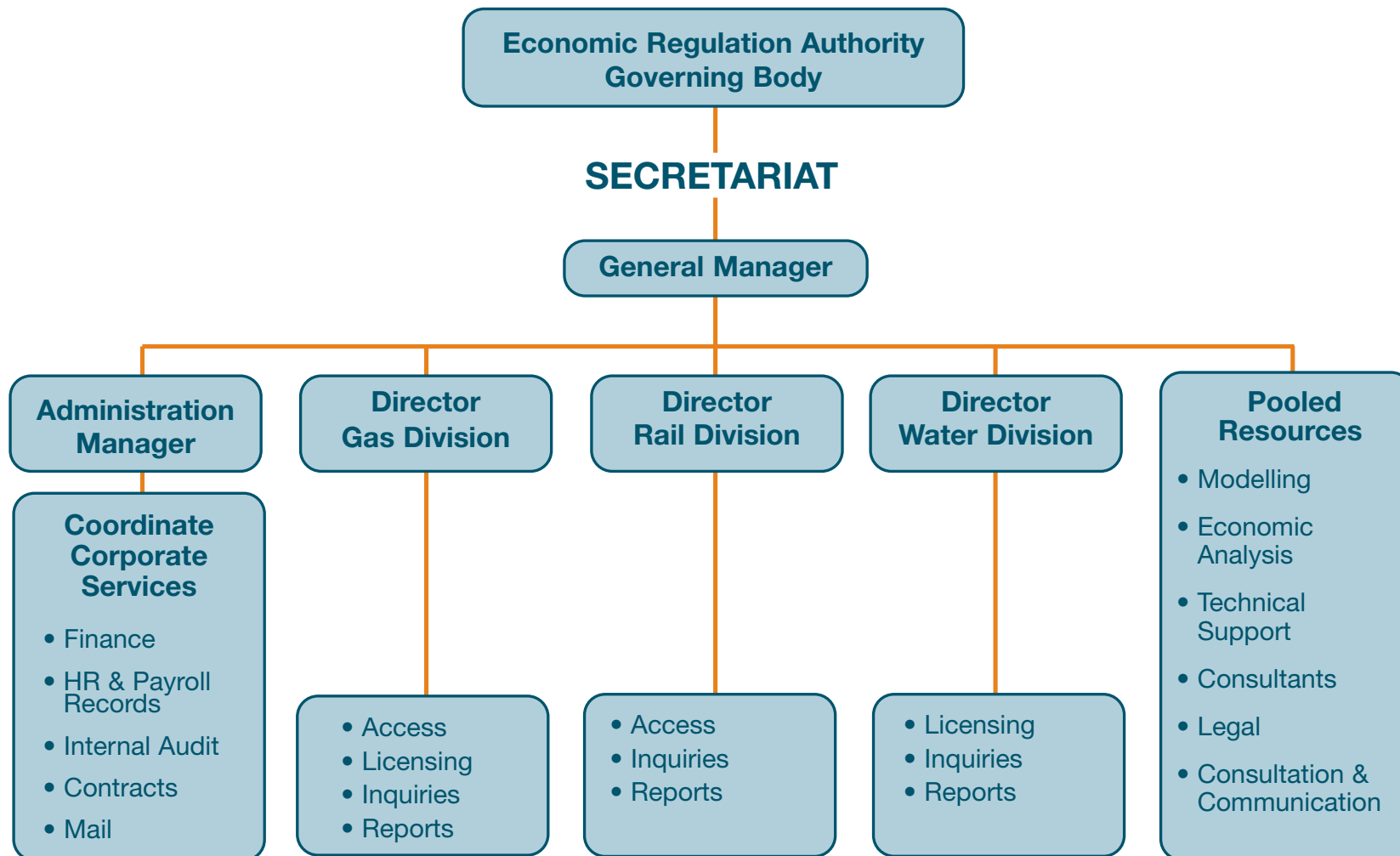
These part-time positions are for periods of one year and five years respectively, commencing on 8 March 2004.

The Authority also provides secretariat support to the Gas Disputes Arbitrator whose position is established by the *Gas Pipelines Access (Western Australia) Act 1998*.

Authority staff are the initial point of contact in day-to-day dealings on matters concerning gas pipeline, rail and water regulation. While Authority staff may provide advice or other assistance in relation to these matters, it is the governing body of the Authority that is responsible for regulatory decisions.

While the governing body and Arbitrator obtain assistance from Authority staff to enable them to perform their respective functions, they may also obtain professional, technical or other assistance from other sources.

ORGANISATION STRUCTURE AS AT 30 JUNE 2004



Key Personnel



Mr Lyndon Rowe – Chairman

Mr Rowe has an Honours degree in Economics from the University of Adelaide, South Australia. Prior to his appointment as Chairman, he was Chief Executive Officer of the Chamber of Commerce and Industry of Western Australia since 1990.

After working for the National Bank and Flinders University in South Australia, Mr Rowe came to Perth to teach Economics at the Western Australian Institute of Technology (now Curtin University of Technology).

Mr Rowe has a strong interest in labour economics, microeconomics, education and training and has published a number of papers dealing with Australia's industrial relations system. He was the recipient of the 1999 Austin Holmes Award awarded by the Economic Society of Australia (WA), and was awarded the Centenary Medal for service to Australian society and to commerce and industry in 2003.

In addition to his role at the Authority, Mr Rowe is also a member of The University of Western Australia Senate, Chairman of Sevenoaks Senior College Board and a Director of Industry Capability Network Limited.



**Dr Ken Michael AM CitWA –
Member of the Governing Body**

Dr Michael has a Bachelor of Engineering degree with first class Honours from the University of Western Australia and has a PhD from the University of London.

Dr Michael is Chancellor of the University of Western Australia, Chairman of the Board of

Trustees of the Western Australian Museum and Chairman of the East Perth Redevelopment Authority.

He is a former Commissioner of Main Roads Western Australia and concurrently served as Public Service Commissioner in 1993–94. He is also a former Chairman of Commissioners of the City of Albany.

Dr Michael was appointed to the position of Western Australian Independent Gas Pipelines Access Regulator for a period of three years in June 1999 after having acted in the position since February 1999. He remained in the position from June 2002 in an acting capacity, and was reappointed in April 2003 for a further five years.

He was also appointed as the Rail Access Regulator on 27 August 2001, and remained in that position until the Authority subsumed the functions of that role on 1 January 2004.



Mr Chris Field –
Member of the Governing Body

Mr Chris Field holds Arts and Law (Honours) degrees from La Trobe University, Victoria.

He is the Executive Director of the Consumer Law Centre of Victoria, Chairman of the Australian

Consumers' Association and an Adjunct Professor of La Trobe University. Prior to working at the Centre, he was employed as a lawyer at Arthur Robinson and Hedderwicks (now Allens Arthur Robinson).

Mr Field is well known for his work in advancing fair competitive markets, informed consumer choice and effective consumer protection.

Mr Field is also a Director of the Energy and Water Ombudsman in Victoria, Deputy Chair of the Consumer Utilities Advocacy Centre and sits on the Consumer Consultative Committee of the Australian Competition and Consumer Commission. In 2003, the Federal Government appointed him to the Health Services Advisory Committee.



Mr K. Peter Kolf –
General Manager

Mr Kolf has a Master of Economics degree from Adelaide University and a Bachelor of Commerce degree with Honours from the University of Melbourne.

Mr Kolf's previous positions include the Executive Director of

the Office of Gas Access Regulation, Senior Manager with the Western Australian Office of Energy, Director of the Independent Air Fares Committee (responsible for regulating air fares under the two airlines policy) and Manager, Pricing Policy, Telecom Australia.

Mr Kolf was appointed to the position of General Manager in July 2004 after having acted in the position since 1 January 2004.

Management Team

In addition to the General Manager, the management team are:

Mr Robert Pullella – Acting Director, Gas Division



Mr Paul Kelly – Acting Director, Water Division



Mr Bruce Chan – Acting Director, Rail Division



Ms Pam Herbener – Acting Administration Manager



Permanent Employees

The remaining positions in the Authority will be defined and advertised over the second half of 2004.

Contract Employees

In addition to permanent staff, the Authority also employs contract employees to assist the office in meeting particular demands.

PERMANENT AND CONTRACT EMPLOYEES

Classifications	Number of Permanent Employees 30 June 2004	Number of Contract Employees 30 June 2004
Class 3	1	-
Level 9	3	-
Level 7	3	2
Level 6	3	3
Level 5	1	-
Level 4	3	-
Level 3	-	1
Level 2	2	-
Level 1	1	-
Totals	17	6

Boards and Committees

The Independent Gas Pipelines Access Regulator was a member of the National Gas Pipelines Advisory Committee (NGPAC) that is responsible for maintaining the Code under the gas access regime.

The Code forms part of the uniform Gas Pipelines Access Law under the Natural Gas Pipelines Access Agreement entered into between all States and Territories and the Commonwealth in November 1997. The agreement allows for changes to be made to the Code on recommendation of NGPAC.

For changes affecting core provisions, the agreement of all relevant Ministers is required. For other changes, two thirds of relevant Ministers must agree.

A current copy of the Code is maintained by the Code Registrar based in South Australia and can be downloaded from the Code Registrar's website:

www.coderegistrar.sa.gov.au/code.htm.

Changes to the Code become law in Western Australia when they are gazetted in South Australia, however, any changes to the Code are also gazetted in Western Australia.

Details of the changes made to the Code since its enactment as part of the *Gas Pipelines Access (Western Australia) Act 1998* are also available from the Code Registrar's website referred to above.

With the review of the gas access regime by the Productivity Commission, NGPAC has not called a meeting in the year ending 30 June 2004.

EXPENDITURE

Expenditure against written laws

Section 24 of the *Economic Regulation Authority Act 2003* requires that, without limiting section 43 of the *Financial Administration and Audit Act 1985*, the Authority must keep separate records of expenditure incurred in respect of each written law under which it has functions. The following table provides details of this expenditure.

Written Law	Expenditure
<i>Economic Regulation Authority Act 2003</i>	\$24,939
<i>Gas Pipelines Access (Western Australia) Act 1998;</i>	\$1,136,978
<i>Railways (Access) Act 1998</i>	\$625,594
<i>Water Services Licensing Act 1995</i>	\$472,846
<i>Energy Coordination Act 1994</i>	\$26,578
Costs of Appeals lodged under the <i>Gas Pipelines Access (Western Australia) Act 1998</i>	\$137,687
TOTAL	\$2,424,622

Expenditure on Consultants

Consultants engaged by the Authority during the year were managed under a panel contract that has been in place since October 2003. This panel arrangement was put in place by the Office of Gas Access Regulation for a period of two years with a one-year extension option.

EXPENDITURE ON CONSULTANTS for the year ended 30 June 2004		
Value of Consultancy	Number of Consultancies Commissioned*	Expenditure in 2003-04
Up to \$50,000	82	\$605,528
Over \$60,000	-	-
TOTALS	82	\$605,528

* A consultancy is defined as the total of all work performed by a consultant on a specific task.

The contract was transferred to the Authority under Transitional and Savings Provisions set out in section 3.11 of the *Economic Regulation Authority Act 2003*.

The panel arrangement covers legal and economic advice. All other requirements have been sourced in compliance with normal State Supply Policies.

Work areas in which consultancies have been commissioned include:

- analysis and assistance in the preparation of regulatory decisions;
- expert legal and regulatory advice in relation to legal action brought against the Regulator; and
- expert regulatory, financial and economic advice on specific regulatory studies.

Expenditure on consultancies during 2003–04 is summarised in the adjacent table.

FUNDING AND PRICING POLICIES

The activities of the Authority are funded by:

- appropriations from government;
- fees and charges payable in respect of licences issued by the Authority; and
- fees and charges payable by operators of regulated gas pipelines and by other persons in accordance with the provisions of the *Economic Regulation Authority (Gas Pipelines Access Funding) Regulations 2003 (gazetted 30 December 2003)*.

Payments to the Authority by operators of regulated pipelines comprise standing charges and service charges, determined in accordance with regulations 4 and 6, respectively, of the *Economic Regulation Authority (Gas Pipelines Access Funding) Regulations 2003* and regulations 4 and 5, respectively, of the *Economic Regulation Authority (Transitional) Regulations 2003*.

Standing charges comprise charges levied on pipeline operators in respect of costs incurred by the Authority that are not directly attributable to activities in respect of particular pipeline systems. The pipeline operators that are liable for standing charges and the percentage allocations of costs between these pipeline operators are set out in Schedule 1 of both the Regulations and Transitional Regulations.

The service charges payable by pipeline operators comprise charges levied in respect of the performance by the Authority of certain functions listed in Schedule 2 of both the Regulations and Transitional Regulations.

The total amounts of standing charges and service charges paid by pipeline operators in the year ending 30 June 2004 are indicated in the table below.

Standing charges and service charges are assessed in arrears for each pipeline operator. Standing charges are assessed at the end of each calendar quarter.

Service charges are raised when expenditure has been incurred by the Authority and are issued on a monthly basis.

The Funding Regulations also provide for the Regulator to levy fees in respect of:

- provision of documents prepared by or on behalf of the Regulator;
- admission to a meeting held by the Regulator for the purposes of public consultation;
- lodgement of notifications of a dispute under section 6.1 of the Code; and
- interest on any outstanding amounts.

There were no document fees received in 2003–04.

CHARGES PAID BY PIPELINE OPERATORS for the year ended 30 June 2004

Service Provider	Standing Charges	Service Charges	Standing Charges Levied but not yet received	Service Charges Levied but not yet received
AlintaGas Networks Pty Ltd	\$69,281	\$8,154	\$46,770	\$69,053
Epic Energy (WA) Transmission Pty Ltd	\$295,119	\$76,507	\$117,933	\$0
Goldfields Gas Transmission	\$122,188	\$78,615	\$141,612	\$0
SAGASCO SE Inc	\$19,517	\$0	\$0	\$0
Southern Cross Pipelines Pty Ltd	\$16,264	\$0	\$0	\$0
TOTALS	\$522,369	\$163,276	\$306,315	\$69,053

CORPORATE ENVIRONMENT

Website

The Economic Regulation Authority website www.era.wa.gov.au is a key communication tool for the Authority. Currently it consists of an "ERA Home Page" with a brief description of the Authority, contact details, employment information and links to the three previous regulation websites of gas, rail and water.

There is also a link on the home page to the Electricity Reform Implementation Unit page on the Office of Energy's website, with updates on the status of this initiative.

New gas licensing and full retail contestability functions have been added to the gas section of the website, and a revised version of the water regulation website has been created to reflect their revised responsibilities within the Authority. The Rail website has also been updated to reflect its role within the Authority.

The Authority's website can be used to access information on anything relevant to the operations and activities of the Authority. All notices issued by the Authority are placed on the site in addition to documents relating to access arrangements, determinations, licensing applications, issues papers and public submissions. These can all be viewed or downloaded from the website.

There are also interested parties lists for those wishing to be advised of decisions or documents issued by the Authority. These facilities will be developed further to provide greater benefits for both the Authority and the individuals and organisations that have an interest in the activities of the Authority.

Information received by the Authority in submissions relating to regulatory decisions or issues papers is made public unless it is designated as confidential.

The previous websites relating to gas, rail and water regulation were used extensively. The number of times that internet users have accessed a new screen or document from the combined website since its creation on 1 January has averaged 16,000 per month. Access rates have increased each month with the highest level of activity being 22,000 in June.

Publications

The following publications were issued during 2003-04:

- WA Independent Gas Pipelines Access Regulator Annual Report 2002-03
- WA Independent Gas Pipelines Access Regulator Final Report 1 July 2003 to 31 December 2003
- Information paper concerning the Supreme Court decision on the draft decision for the DBNGP on the process the Regulator will follow to finalise the DBNGP Access Arrangement having regard to the Supreme Court decision
- Tariff Variation Report 2004 for the Mid-West and South-West Gas Distribution Systems
- Information Paper on the Recovery of Costs for Full Retail Contestability in the WA gas market
- Further Final Decision and Approved Access Arrangement – Dampier to Bunbury Natural Gas Pipeline
- Rail Access Regulator Annual Report 2002-03
- Rail Access Regulator Final Report: 1 July 2003 to 31 December 2003
- Determination for Weighted Average Cost of Capital to apply to WNR and PTA from 30 June 2003

- Final Determinations on WNR's Floor and Ceiling Costs on four major routes and Worsley line
- Determination on Key Performance Indicators pertaining to WNR's and PTA's operations
- Audit review of PTA's access pricing model
- PTA's Over-payment Rules
- Compliance Audit for WNR and PTA for 2002-03
- Scoping Study and Final Report for Estimation of CPI-X
- Office of Water Regulation Annual Report 2002-03
- Water Performance Information Report on 32 Major Western Australian Towns 1999-2003.

All publications are on the Authority's website www.era.wa.gov.au.

Internal Audit

An internal audit of the Authority was undertaken in accordance with the requirements of section 55(f) of the *Financial Administration and Audit Act 1985* and relevant *Treasurer's Instructions*.

The Authority's inaugural internal audit focused on revenue, expenditure, fixed assets and payroll. The primary objectives of the audit review were to determine the:

- level of compliance with relevant laws, established procedures and regulations;

- reliability and integrity of information; and
- accomplishment of specified goals and objectives.

The auditors concluded that there has generally been a good level of control over procedures maintained by the Authority. A number of comments were received in relation to minor risk ratings which are being addressed.

Performance Evaluations

Section 7(e) of the *Public Sector Management Act 1994* states that public sector bodies should strive for "continued improvement in the efficiency and effectiveness of their performance". As explained previously under Issues and Trends, and Performance Indicators, procedural and environmental initiatives are being implemented to further improve the performance of the Authority.

Risk Management

The risk management policy and risk register are monitored on an annual basis and reviewed as part of the internal audit function.

An initial plan had been prepared for the Authority and reviewed as part of the internal audit process. The audit considered the plan to be a comprehensive and thorough assessment of the risks to the Authority.

Progress has also been made on the preparation of a disaster recovery plan and action has been taken to improve the security of the computer network.

Corporate Services

Corporate services are provided by the Department of Treasury and Finance (DTF) under a service-level agreement. This agreement does not, however, include the provision of Information Services. These are managed internally and supported through a contract with a Western Australian IT service provider.

The Authority procures goods and services in accordance with Western Australian State Supply Commission policies.

Accounting Services

Accounting services are provided by DTF under a service-level agreement between the two agencies.

Accounting Manual

With the amalgamation of economic regulatory functions in gas, rail and water in the Authority, responsibility for accounting services was contracted to DTF under a service level agreement. Accordingly, a new accounting manual is being developed in conjunction with DTF and is due to be completed in the early part of 2004-05.

Employment Policies

With the exception of the governing body, all permanent and contract employees are employed under the provisions of the *Public Sector Management Act 1994*. The Government Officers Salaries, Allowances and Conditions General Agreement prescribes the conditions of employment for all staff.

All employee recruitment is performed in accordance with the public sector standards in human resource management and the approved procedures under the *Public Sector Management Act 1994*.

Equal Employment Opportunity (EEO)

While the employees' knowledge of and commitment to EEO in the workplace are unchanged from the previous regulatory areas, the Authority is still in the process of completing and approving its EEO Policy and Plan.

Workers' Compensation

There were no claims for workers' compensation in any of the previous offices of regulation or the Authority during 2003–04.

Human Resource Policies

Human resource services are provided by DTF in accordance with a service-level agreement between the two agencies.

The Authority currently relies on the use of specialist external consultants and contract staff to provide necessary expertise on an "as needed" basis in addition to permanent employees. The creation of a single Authority to regulate a number of functions provides a resource pool of specialist analysts who can undertake work and contribute to various aspects of each type of infrastructure.

The establishment of this resource pool is underway, with a view to creating permanent positions.

Code of Conduct

Employees of the Authority and consultants are bound by the Western Australian public sector Code of Ethics. In addition, the Authority has developed a Code of Conduct which applies to employees and consultants.

The Authority's Code of Conduct elaborates on the public sector Code of Ethics so as to more clearly relate the broad principles and values to executive personnel, other employees and consultants.

It is available in either hard copy form at reception or on the home page of the Authority's website www.era.wa.gov.au.

Public Interest Disclosure

The Public Interest Disclosure Act 2003 has been enacted to protect the privacy and confidentiality of both the individual making a disclosure and the subject of that disclosure. The General Manager has been appointed the Public Interest Disclosure Officer for the Authority and procedures are in place to process any public disclosure that is referred to it.

There were no public disclosures referred to the Authority in the 2003–04 financial year.

Complaints Handling

There are three areas that may be the source of complaints for the Authority. These are the administration of the Secretariat, employment-related matters and matters concerning the regulatory functions of the Authority.

Handling of complaints relating to administration of the Secretariat and employment-related matters are dealt with under the Code of Conduct. This is available in either hard copy form at reception or on the home page of the Authority's website www.era.wa.gov.au.

The Code of Conduct advises that anyone having a serious concern about the actions of any member of the Authority in relation to their observance of the Code should refer the matter to the General Manager.

Employees and consultants working for the Authority are provided a copy of the Code of Conduct that sets out relevant policies in some detail, including the handling of complaints on administrative and employment-related matters.

There were no formal complaints lodged on administrative or employment-related matters during the reporting period.

A variety of circumstances may give rise to complaints in the performance of the Authority's functions. The performance of many of these functions involves the exercise of discretion in circumstances where the competing interests of owners of infrastructure, users or prospective users of such infrastructure or other interested parties may give rise to complaints.

Complaints relating to regulatory matters are handled through comprehensive public consultation involving submissions, public forums, specific purpose conferences and meetings with the Authority or Secretariat.

Submissions may be made on either a public or confidential basis. Public submissions are published on the Authority's website www.era.wa.gov.au.

In the event that parties are unable to resolve a dispute, several avenues are available for review.

Specific decisions by the Authority under the *Gas Pipelines Access (Western Australia) Act 1998 (Act)*, such as to impose an access arrangement, may be referred to the Western Australian Gas Review Board.

Four appeals were lodged in relation to the approved access arrangement for the DBNGP and the Gas Review Board has been established to deal with them.

Under the Act, a prospective user of a covered gas pipeline in dispute with the owner of that pipeline may make application to the Western Australian Gas Disputes Arbitrator to resolve that dispute.

One dispute was raised with the Gas Referee, but this is currently in abeyance and not expected to be revived.

A decision of the Authority under the *Water Services Licensing Act 1995* is subject to appeal whereby a disaffected person may make application to the Minister for the Environment for review of the decision concerning the licensing of a water service.

One appeal was lodged in relation to a licence application by Chittering Valley Irrigators Ltd.

The Railways (Access) Act 1998 makes provision for the *Railways (Access) Code 2000* to include the arbitration of disputes between railway owners and a proponent.

No disputes were lodged.

Record Keeping

Section 21 of the *State Records Act 2000* requires that any Government organisation must submit a draft record-keeping plan within six months of its creation.

The Authority submitted a draft record-keeping plan to the State Records Office in June 2004. In the draft plan, the Authority advises that it has put in place a record-keeping improvement strategy to achieve compliance within two years.

The Authority is currently assessing a range of document management systems with a view to implementing a system in the new financial year.

Freedom of Information

The *Freedom of Information Act 1992* does not apply to the Authority in respect of the Authority's regulatory function relating to access to gas pipelines.

In all other respects, the Act does apply and the Authority's Information Statement is available on request in either hard copy form at reception or on the home page of the Authority's website www.era.wa.gov.au.

ENABLING LEGISLATION

The *Economic Regulation Authority Act 2003* (Act) was passed on 27 November 2003. This allowed for the establishment of the Authority with inquiry, reporting, access regulation, licensing and other functions to be performed in respect of utility industries in Western Australia.

The Authority was created on 1 January 2004, and subsumed the regulatory functions of the previous Office of Gas Access Regulation, the Office of the Rail Access Regulator and the Office of Water Regulation.

Functions

The functions of the Authority comprise:

- (a) the inquiry, reporting and other functions given by the Act;
- (b) the functions referred to in section 11AA of the *Energy Coordination Act 1994*;
- (c) the functions referred to in section 36(1) of the *Gas Pipelines Access (Western Australia) Act 1998*;

- (d) the functions referred to in section 20(1) of the *Railways (Access) Act 1998*;
- (e) the functions referred to in section 4 of the *Water Services Licensing Act 1995*; and
- (f) the functions given by or under any other enactment.

The Authority is to have regard to certain matters

In performing its functions, other than (c) and (d) above, the Authority must have regard to:

- the need to promote regulatory outcomes that are in the public interest;
- the long-term interests of consumers in relation to the price, quality and reliability of goods and services provided in relevant markets;
- the need to encourage investment in relevant markets;
- the legitimate business interests of investors and service providers in relevant markets;
- the need to promote competitive and fair market conduct;
- the need to prevent abuse of monopoly or market power; and
- the need to promote transparent decision-making processes that involve public consultation.

Functions (c) and (d) refer to legislation that separately specify factors to be taken into consideration.

The Authority has discretion as to the weight it gives to each of the matters to be taken into consideration in the performance of a particular function.

Nothing in the matters to be taken into consideration limits a provision of another written law that requires the Authority, in performing a particular function, to have regard to, or take into account, particular objectives, considerations or other matters.

If there is any conflict or inconsistency between the matters to be taken into consideration and a provision of another written law, the latter provision prevails to the extent of the conflict or inconsistency.

Powers

The Authority may do all things necessary or convenient to be done for, or in connection with, the performance of its functions.

The Authority may also produce and publish information on matters relating to its functions.

Independence of Authority

The Authority is independent of direction or control by the State or any Minister or officer of the State in the performance of its functions.

There were no such directions given.

However, the Minister may give directions in relation to general policies to be followed by the Authority in matters of administration, including financial administration.

If a direction is given by the Minister, the Authority must, within 14 days:

- cause the text of the direction to be published in the Gazette; and
- send a copy of the direction to the Code Registrar under the *Gas Pipelines Access (Western Australia) Act 1998*.

A copy of any direction must also be laid before each House of Parliament within 14 days. In addition, the text of a direction must be included in the annual report of the Authority.

There were no such directions given.

The *Economic Regulation Authority (Gas Pipelines Access Funding) Regulations 2003*, gazetted on 30 December 2003 under the *Economic Regulation Authority Act 2003*, provide for costs incurred in connection with the performance of the functions of the Authority under the *Gas Pipelines Access (Western Australia) Act 1998*, to be recovered from pipeline operators.

The regulations set out the methodology for determination of the amounts payable by operators of covered pipelines to which the activities of the Authority relate. The *Economic Regulation Authority (Transitional) Regulations 2003* also gazetted on 30 December 2003 provide for the Authority to recover costs incurred by the previous gas regime.

The *Energy Coordination Act 1994* provides for fees to be paid for gas distribution and trading licences. The licence fees are prescribed by the *Energy Coordination (Licensing Fees) Amendment Regulations 2002*, gazetted on 19 March 2004.

Responsible Minister

The Minister responsible for the administration of the Act is the Hon. Eric Ripper MLA, Treasurer of Western Australia.

The Regulatory Regimes

While the administration of the regulatory regimes for gas, rail and water has been transferred to the Authority, the underlying Acts and Codes remain substantially unchanged.

Detailed descriptions of the gas pipelines, rail and water regulatory regimes are available on the Authority's website www.era.wa.gov.au.

Impacting Legislation

As an agent of the State, the Authority must comply with all legislation that is binding on the Crown in the right of the State of Western Australia.

COMPLIANCE

Statement of Compliance

Compliance with *Public Sector Management Act 1994* section 31(1) for the six months from 1 January 2004 to 30 June 2004

In the administration of the Economic Regulation Authority (Authority), I have complied with the Public Sector Standards in Human Resource Management, the Western Australian Public Sector Code of Ethics and the Authority's Code of Conduct.

Procedures are in place and designed to ensure that ongoing compliance and appropriate internal assessments have been made.

No Applications for Breach of Standards were made during the year.



MR K. PETER KOLF
GENERAL MANAGER
ECONOMIC REGULATION AUTHORITY

31 August 2004

Shares in Subsidiary Bodies

Treasurer's Instruction 903 requires inclusion in the report on operations, details of shares in any subsidiary body of the agency held as a nominee or held beneficially by a Senior Officer of the agency. There are no such shares.

Interest in Existing or Proposed Contracts

Treasurer's Instruction 903 requires inclusion in the report on operations particulars of any interest in any existing or proposed contract which a Senior Officer, or a firm of which a Senior Officer is a member, or an entity in which a Senior Officer has a substantial financial interest, has made with the agency or any related or affiliated body. There are no such interests.

Electoral Act Disclosure Requirements

Section 175ZE of the *Electoral Act 1907* requires public agencies to include a statement in their Annual Reports detailing all the expenditure incurred by, or on behalf of, the public agencies during the reporting period in relation to advertising agencies, market research organisations, polling organisations, direct mail organisations and media advertising agencies.

Expenditure was incurred by the Economic Regulation Authority during the period 1 January to 30 June 2004 as shown in the following table.

ELECTORAL ACT DISCLOSURE REQUIREMENTS 1 January 2004 to 30 June 2004	
Advertising Agencies	nil
Market Research Organisations	nil
Polling Organisations	nil
Direct Mail Organisations	nil
Media Advertising Organisations - Marketforce Productions	\$6,633
Note: Amounts shown include GST	

Directions Given

Section 28(2) of the *Economic Regulation Authority Act 2003* provides for the Minister to give directions in writing to the Authority in relation to general policies to be followed by the Authority in matters of administration, including financial administration. The text of any such direction is required to be included in the Authority's Annual Report.

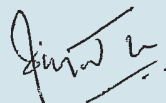
There were no directions given to the Authority since its inception on 1 January 2004. In addition, no directions were given to the Independent Gas Pipelines Access Regulator or the Rail Access Regulator prior to 1 January 2004.

STATEMENT OF FINANCIAL PERFORMANCE

CERTIFICATION OF FINANCIAL STATEMENTS

The accompanying financial statements of the Economic Regulation Authority have been prepared in compliance with the provisions of the *Financial Administration and Audit Act 1985* from proper accounts and records to present fairly the financial transactions for the six months ending 30 June 2004 and the financial position as at 30 June 2004.

At the date of signing we are not aware of any circumstances which would render any particulars included in the financial statements misleading or inaccurate.



PRINCIPAL ACCOUNTING OFFICER

Date: 31 August 2004



ACCOUNTABLE AUTHORITY

Date: 31 August 2004

Independent Audit Opinion

To the Parliament of Western Australia
ECONOMIC REGULATION AUTHORITY
FINANCIAL STATEMENTS FOR THE
SIX MONTHS ENDED JUNE 30, 2004

Audit Opinion

In my opinion,

- (i) the controls exercised by the Economic Regulation Authority provide reasonable assurance that the receipt and expenditure of moneys, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions; and
- (ii) the financial statements are based on proper accounts and present fairly in accordance with applicable Accounting Standards and other mandatory professional reporting requirements in Australia and the Treasurer's Instructions, the financial position of the Authority at June 30, 2004 and its financial performance and cash flows for the six months ended on that date.

Scope

The Authority's Role

The Authority is responsible for keeping proper accounts and maintaining adequate systems of internal control, preparing the financial statements, and complying with the Financial Administration and Audit Act 1985 (the Act) and other relevant written law.

The financial statements consist of the Statement of Financial Performance, Statement of Financial Position, Statement of Cash Flows and the Notes to the Financial Statements.

Summary of my Role

As required by the Act, I have independently audited the accounts and financial statements to express an opinion on the controls and financials statements. This was done by looking at a sample of the evidence.

An audit does not guarantee that every amount and disclosure in the financial statements is error free. The term "reasonable assurance" recognises that an audit does not examine all evidence and every transaction. However, my audit procedures should identify errors or omissions significant enough to adversely affect the decisions of users of the financial statements.



DDR PEARSON
AUDITOR GENERAL

November 1, 2004

4th Floor Dumas House, 2 Havelock Street
West Perth 6005 Western Australia
Tel: 08 9222 7500 Fax: 08 9322 5664

Statement of Financial Performance*For the six months ending 30 June 2004*

	Note	30 June 2004 \$'000
COST OF SERVICES		
Expenses from Ordinary Activities		
Employee expenses	2	1,172
Depreciation and amortisation expense	3	37
Supplies and services	4	835
Administration expenses	5	188
Accommodation expenses	6	129
Capital user charge	7	37
Other expenses	8	26
Total Cost of Services		2,424
Revenues from Ordinary Activities		
<i>Revenues from operating activities</i>		
User charges and fees	9	692
<i>Revenues from non-operating activities</i>		
Interest revenue	10	21
Other revenues from ordinary activities	11	4
Total Revenues from Ordinary Activities		717
NET COST OF SERVICES		1,707
REVENUES FROM STATE GOVERNMENT		
Output appropriations	12	2,500
Resources received free of charge		14
Total Revenues from State Government		2,514
CHANGE IN NET ASSETS		807
TOTAL CHANGES IN EQUITY OTHER THAN THOSE RESULTING FROM TRANSACTIONS WITH THE WESTERN AUSTRALIAN STATE GOVERNMENT AS OWNER		
		807

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

Statement of Financial Position*As at 30 June 2004*

	Note	30 June 2004 \$'000
Current Assets		
Cash assets	13	765
Receivables	14	1,422
Prepayments	15	7
Amounts receivable for Outputs	16	18
Total Current Assets		2,212
Non-Current Assets		
Amounts receivable for Outputs	16	11
Furniture, fittings and equipment	17	101
Total Non-Current Assets		112
TOTAL ASSETS		2,324
Current Liabilities		
Payables	18	33
Provisions	19	173
Other Liabilities	20	329
Amount due to the Treasurer	21	200
Total Current Liabilities		735
Non-Current Liabilities		
Provisions	19	150
Total Non-Current Liabilities		150
Total Liabilities		885
Equity		
Contributed equity	22	632
Accumulated surplus/(deficiency)		807
Total Equity		1,439
TOTAL LIABILITIES AND EQUITY		2,324

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

Statement of Cash Flows

For the six months ending 30 June 2004

CASH FLOWS FROM STATE GOVERNMENT

Output appropriations

Net Cash provided by State Government

Utilised as follows:

CASH FLOWS FROM OPERATING ACTIVITIES

Payments

Employee costs

Superannuation

Supplies and services

Administration expenses

Accommodation expenses

GST payments on purchases

Receipts

User charges and fees

GST receipts on sales

GST receipts from the Australian Taxation Office

Other receipts

Net Cash provided by/(used in) Operating Activities

CASH FLOWS FROM INVESTING ACTIVITIES

Payments for the purchase of non-current assets

Net Cash provided by/(used in) Investing Activities

CASH FLOWS FROM FINANCING ACTIVITIES

Repayment of Treasurer's Advance

Net Cash provided by/(used in) Financing Activities

Net increase/(decrease) in Cash Held

Cash assets at the beginning of the financial year

Cash assets transferred (to)/from other sources

CASH ASSETS AT THE END OF THE FINANCIAL YEAR

Note	30 June 2004 \$'000
	2,500
	2,500
	(812)
	(42)
	(823)
	(256)
	(126)
	(149)
	387
	0
	19
	22
23 (b)	(1,780)
	(40)
	(40)
	(800)
	(800)
	(120)
	0
	885
23 (a)	765

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

Notes to, and forming part of, the Financial Statements

For the period 1 January to 30 June 2004

The Authority was established on 1 January 2004, combining the functions of the Gas Pipelines Access Regulator, the Rail Access Regulator and the Water Licensing and Performance Monitoring functions previously undertaken by the Office of Water Regulation.

1. Significant accounting policies

The following accounting policies have been adopted in the preparation of the financial statements.

(a) General Statement

The financial statements constitute a general purpose financial report which has been prepared in accordance with Australian Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board and Urgent Issues Group (UIG) Consensus Views as applied by the *Treasurer's Instructions*. Several of these are modified by the *Treasurer's Instructions* to vary the application, disclosure, format and wording. The *Financial Administration and Audit Act 1985* and the *Treasurer's Instructions* are legislative provisions governing the preparation of financial statements and take precedence over Australian Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board, and UIG Consensus Views.

The modifications are intended to fulfil the requirements of general application to the public sector together with the need for greater disclosure and also to satisfy accountability requirements.

If any such modification has a material or significant financial effect upon the reported results, details of that modification and where practicable, the resulting financial effect, are disclosed in individual notes to these financial statements.

(b) Basis of Accounting

The financial statements have been prepared in accordance with *Australian Accounting Standard AAS 29*, "Financial Reporting by Government Departments".

The statements have been prepared on the accrual basis of accounting using the historical cost convention.

(c) Output Appropriations

Output Appropriations are recognised as revenues in the period in which the Authority gains control of the appropriated funds. The Authority gains control of appropriated funds at the time those funds are deposited into the Authority's bank account or credited to the holding account held at the Department of Treasury and Finance.

(d) Contributed Equity

Under UIG 38, "Contributions by Owners Made to Wholly-Owned Public Sector Entities" transfers in the nature of equity contributions must be designated by the Government (owners) as contributions by owners (at the time of, or prior to transfer) before such transfers can be recognised as equity contributions in the financial statements. Capital contributions (appropriations) and non-discretionary transfers of net assets from other government agencies have been designated as contributions by owners and have been credited directly to Contributed Equity in the Statement of Financial Position.

(e) Funding

Funding for the Gas Division of the Economic Regulation Authority was provided through authority to recover the costs of operations from pipeline owners in Western Australia to the extent provided for in the Gas Pipelines Access (Western Australia) (Funding) Regulations 1999.

(f) Depreciation of Non-Current Assets

All non-current assets having limited useful lives are systematically depreciated over their useful lives in a manner that reflects the consumption of their future economic benefits.

Depreciation is calculated on the straight-line basis, using rates, which are reviewed annually. Useful lives for each class of depreciable asset are:

- Furniture and equipment 5 years
- Computer equipment 3 years
- Office upgrade 5 years

(g) Leases

The Authority has entered into operating lease arrangements for motor vehicles and office equipment where the lessors effectively retain all of the risks and benefits incident to ownership of the items held under the operating leases. Equal instalments of the lease payments are charged to the Statement of Financial Performance over the lease term as this is representative of the pattern of benefits to be derived from the leased property.

(h) Employee Benefits

Annual leave

This benefit is recognised at the reporting date in respect to employees' services up to that date and is measured at the nominal amounts expected to be paid when the liabilities are settled.

Long service leave

The liability for long service leave expected to be settled within 12 months of the reporting date is recognised in the provisions for employee benefits and is measured at the nominal amounts expected to be paid when the liability is settled. The liability for long service leave expected to be settled more than 12 months from the reporting date is recognised in the provisions for employee benefits and is measured at the present value of the expected future payments to be made in respect of services provided by employees up to the reporting date. Consideration is given, when assessing expected future payments, to expected future wage and salary levels including relevant on-costs, experience of departures and periods of service. Expected future payments are discounted using market yields at the reporting date on national government bonds with terms to maturity and currency that match, as closely as possible, the estimated future cash flows.

Superannuation

Staff may contribute to the Pension Scheme, a defined benefits pension scheme now closed to new members, or to the Gold State Superannuation Scheme, a defined benefit and lump sum scheme now also closed to new members.

All staff who do not contribute to either of these schemes become non-contributory members of the West State Superannuation Scheme, an accumulation fund complying with the *Commonwealth Government's Superannuation Guarantee (Administration) Act 1992*. All of these schemes are administered by the Government Employees Superannuation Board (GESB).

The superannuation expense is comprised of the following elements:

- (1) change in the unfunded employer's liability in respect of current employees who are members of the Pension Scheme and current employees who accrued a benefit on transfer from that Scheme to the Gold State Superannuation Scheme; and
- (2) employer contributions paid to the Gold State Superannuation Scheme and the West State Superannuation Scheme.

The superannuation expense does not include payment of pensions to retirees, as this does not constitute part of the cost of services provided by the Authority in the current year.

The Authority is funded for employer contributions in respect of the Gold State Superannuation Scheme and the West State Superannuation Scheme. These contributions were paid to the GESB during the year.

The GESB subsequently paid the employers contribution in respect of the Gold State Superannuation Scheme to the Consolidated Fund.

(i) Employee Benefit On-costs

Employee benefit on-costs are recognised and included in employee benefit liabilities and costs when the employee benefits to which they relate are recognised as liabilities and expenses (See notes 2 and 19).

(j) Accrued Salaries

Accrued salaries represents the amount due to staff but unpaid at the end of the financial year, as the end of the last pay period for that financial year does not coincide with the end of the financial year. Accrued salaries are settled within a few days of the end of the financial year. The Authority considers the carrying amount of accrued salaries to be equivalent to the net fair value.

(k) Receivables

Receivables are recognised at the amounts receivable as they are due for settlement no more than 30 days from the date of recognition. Collectability is reviewed on an ongoing basis. Debts, which are known to be uncollectable are written off. A provision for doubtful debts is raised where some doubt as to collection exists.

(l) Payables

Payables, including accruals not yet billed, are recognised when the Authority becomes obliged to make future payments as a result of a purchase of assets or services. Payables are generally settled within 30 days.

(m) Revenue Recognition

Revenue from the sale of goods, disposal of other assets and the rendering of services is recognised when the Authority has passed control of the goods or other assets or delivery of the service to the customer.

The Gas Division revenue from the recovery of costs, standing and service charges and fees is recognised quarterly when pipeline operators are charged.

(n) Resources Received Free of Charge or for Nominal Value

Resources received free of charge or for nominal value, which can be reliably measured are recognised as revenues and as assets or expenses as appropriate at fair value.

(o) Acquisitions of Assets

The cost method of accounting is used for all acquisitions of assets. Cost is measured as the fair value of the assets given up or liabilities undertaken at the date of acquisition plus incidental costs directly attributable to the acquisition.

(p) Rounding

Amounts in the financial statements have been rounded to the nearest thousand dollars, or in certain cases, to the nearest dollar.

(q) Comparative Figures

As this is the first year of operation of the Authority, the financial statements do not disclose any comparative figures.

(r) Interest Revenue

Interest revenue is recognised when the interest has been credited to the bank account.

(s) Amounts due to the Treasurer

The Authority holds a Treasurer's Advance for the purposes of funding legal costs associated with Supreme Court actions. This is represented by amounts due or repayable to the Treasurer.

Notes to the Financial Statements

For the six months ending 30 June 2004

	2003-04 \$'000
2 Employee expenses	
Salaries	916
Superannuation	48
Annual leave	78
Long service leave	111
Other related expenses	19
	1,172
3 Depreciation and amortisation expense	
Depreciation:	
Furniture and equipment	7
Computer equipment	24
	31
Amortisation:	
Office fit-out	6
	6
	37
Total depreciation and amortisation expense	37
4 Supplies and services	
Consultants and contractors	759
Consumables	34
Travel	19
Other	23
	835
5 Administration expenses	
Communication	12
Other expenses	8
Memberships	9
Insurance	10
Legal costs	130
Motor vehicles	19
	188

6 Accommodation expenses

Lease rentals	113
Other accommodation expenses	4
Repairs and maintenance	11
Cleaning	1
	129

7 Capital user charge

A capital user charge rate of 8 per cent has been set by the government for 2003-04 and represents the opportunity cost of capital invested in the net assets of the Authority used in the provision of outputs. The charge is calculated on the net assets adjusted to take account of exempt assets. Payment is made to the Department of Treasury and Finance.

37**8 Other expenses**

Software and office equipment previously capitalised, now expensed	26
	26

9 User charges and fees

Standing charges	685
Service charges	2
Licence fees and charges	5
	692

10 Interest revenue

Interest	21
	21

11 Other revenues from ordinary activities

Motor Vehicle GVS Scheme	4
	4

12 Revenues from State Government

Appropriation revenue received during the year:	
Output appropriations *	2,500
	2,500

Resources received free of charge
Determined on the basis of the following estimates provided by agencies

Department of Justice	
- legal service charges	14
	14

Total	2,514
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*Output appropriations reflect the full price paid for outputs purchased by the government. The appropriation revenue comprises a cash component and a receivable (asset). The receivable (holding account) comprises the depreciation expense for the year and any agreed increase in leave liability during the year.

13 Cash assets

Operating Account

765

765**14 Receivables**

Accounts receivable for services supplied

492

Accrued Revenue

706

Goods and Services Tax receivable - ATO

224

1,422**15 Prepayments**

Salaries

5

Other

2

The payroll for the fortnight ended 1 July 2004 was paid on 30 June 2004 resulting in a pre-payment of one day's salary.

7**16 Amounts receivable for Outputs**

Current

18

Non-current

11

Total amounts receivable for outputs

29

This asset represents the non-cash component of output appropriations.

It is restricted in that it can only be used for asset replacement or payment of leave liability.

17 Furniture, fittings and equipment*Furniture and equipment*

At cost

38

Accumulated depreciation

(7)

31*Computer equipment*

At cost

94

Accumulated depreciation

(24)

70*Total*

At cost

132

Accumulated depreciation

(31)

101

Reconciliation of property, furniture, fittings, equipment and software

Reconciliation of the carrying amounts of each class of asset at the start and end of the financial period are set out below

Furniture and equipment

Carrying amount at the start of the financial period	0
Additions	38
Disposals	0
Depreciation expense	(7)
Carrying amount at the end of the financial period	31

Computer equipment

Carrying amount at the start of the financial period	0
Additions	95
Disposals	(1)
Depreciation expense	24
Carrying amount at the end of the financial period	70

Office upgrade

Carrying amount at the start of the financial period	0
Additions	31
Disposals	(25)
Depreciation expense	(6)
Carrying amount at the end of the financial period	0

Total

Carrying amount at the start of the financial period	0
Additions	164
Disposals	(26)
Depreciation expense	(37)
Total carrying amount at the end of the financial period	101

18 Payables

Trade payables	33
	33

19 Provisions**Employee benefits**

Current:

Annual leave

Long service leave

118

55

173

Non-current:

Annual leave

Long service leave

66

84

150

The settlement of annual and long service leave liabilities gives rise to the payment of employment on-costs including superannuation and workers' compensation premiums. The liability for such on-costs is included here. The associated expense is included under Other related expenses (under Employee expenses) at Note 2.

Employee Benefits Liability

The aggregate employee benefits liability recognised and included in the financial statements is as follows:

Provision for employee benefits:

Current

Non-current

173

150

323**20 Other Liabilities**

Accrued salaries

Accrued expenses

82

247

329**21 Amount due to the Treasurer**

Treasurer's Advance

200

200**22 Equity**

Equity represents the residual interest in the net assets of the Authority. The government holds the equity interest in the Authority on behalf of the community.

Contributed equity

Opening balance

Contribution by owner (this relates to transfer of the net assets from other agencies*)

Closing balance

0

632

632

Accumulated surplus

Opening balance	0
Change in net assets	807
Closing balance	807

* Assets/liabilities transferred from the Office of Gas Access Regulation, the Office of the Rail Access Regulator and the Office of Water Regulation.

Cash	885
Receivables	933
GST receivable	35
Accrued revenue	1
Prepayments	23
Amounts receivable for outputs	29
Computer hardware	65
Plant and equipment	17
Office establishment	31
Payables	(283)
Treasurer's advance	(1,000)
Employee provisions	(104)
	632

23 Notes to the Statement of Cash Flows

(a) Reconciliation of cash

Cash at the end of the financial year as shown in the Statement of Cash Flows is reconciled to the related items in the Statement of Financial Position as follows:

Cash assets	765
	765

(b) Reconciliation of net cost of services to net cash flows provided by/(used in) operating activities

Net cost of services**(1,707)****Non-cash items**

Depreciation and amortisation expense	37
Resources received free of charge	14
(Increase)/decrease in assets:	
Receivables	510
Prepayments	16
Amounts receivable for outputs	0

Increase/(decrease) in liabilities:

Accrued salaries	0
Provisions	219
Payables	(708)
Other liabilities	0
Change in GST in receivables/payable	(180)
Net GST receipts/(payments)	19
Net cash used in operating activities	(1,780)

24 Financial instruments(a) Interest rate risk exposure

The following table details the Authority's exposure to interest rate risk as at the reporting date:

	Weighted average effective interest rate %	Variable interest rate \$'000	Non- interest bearing \$'000	Total \$'000
Financial Assets				
Cash assets	4.75	765		765
Receivables	n/a		1,422	1,422
Total financial assets	n/a	765	1,422	2,187
Financial Liabilities				
Payables	n/a		362	362
Amounts due to the Treasurer	n/a		200	200
Total financial liabilities			562	562

(b) Credit risk

The carrying amount of financial assets recorded in the financial statements, net of any provisions for losses, represents the Authority's maximum exposure to credit risk without taking account of any collateral or other security obtained.

(c) Net fair value of financial instruments

The carrying amount of financial assets and financial liabilities recorded in the financial statements are not materially different from the net fair values, determined in accordance with the accounting policies disclosed in Note 1 to the financial statements.

25 Remuneration of Members of the Accountable Authority and Senior Officers

Remuneration of Accountable Authority

The number of members of the Accountable Authority whose total of fees, salaries and other benefits received, or due and receivable, for the financial year, who fall within the following bands is:

\$	No. of Board Members 2003-04
30,001 - 40,000	1
40,001 - 50,000	0
50,001 - 60,000	1
120,001 - 130,000	1

The superannuation included here represents the superannuation expense incurred by the Authority in respect of senior officers.
No senior officers are members of the Pension Scheme.

Remuneration of Senior Officers

The number of senior officers other than senior officers reported as members of the Accountable Authority, whose total of fees, salaries, superannuation and other benefits for the financial year, fall within the following bands are:

\$	No. of Senior Officers 2003-04
40,001 - 50,000	1

The superannuation included here represents the superannuation expense incurred by the Authority in respect of senior officers other than senior officers reported as members of the Accountable Authority.
No senior officers are members of the Pension Scheme.

26 Commitments for expenditure

(a) Lease commitments

Commitments in relation to leases contracted for at the reporting date but not recognised as liabilities are payable:

Within one year	69
Later than one year and not later than five years	60
Later than five years	0
	129

27 Contingent liabilities

The Authority has no contingent liabilities as at 30 June 2004.

28 Events occurring after reporting date

The Authority is unaware of any event occurring after reporting date that would materially affect the financial statements.

29 Adoption of International Accounting Standards

The Economic Regulation Authority is adopting international accounting standards in compliance with AASB 1, "First-time Adoption of Australian Equivalents to International Financial Reporting Standards (IFRS)".

AASB 1 requires an opening balance under IFRS to be stated as at 1 July 2004 and the restatement of the financial statements for the reporting period to 30 June 2005 on an IFRS basis. These financial statements will be presented as comparatives in the first annual financial reporting standards prepared on an IFRS basis for the period ending 30 June 2006.

AASB 1047, "Disclosing the impacts Adopting Australian Equivalents to International Financial Reporting Standards" requires financial reports for periods ending on or after 30 June 2004 to disclose:

(a) How the transition to Australian equivalents to IFRS is being managed

The Authority has not considered it necessary to establish a project team or steering committee due to the low impact of IFRS upon its accounting policy. The Chief Finance Officer of the Department of Treasury and Finance has been assessing and monitoring the impact of IFRS. There is a need to determine opening balances as at 1 July 2004. It has been determined that the Department of Treasury and Finance has adequate Accounting Information Systems to collect the necessary information on behalf of the Authority to comply with IFRS. The impact on the Authority of the transition to IFRS is low.

(b) Key differences in accounting policies expected to arise from adopting Australian equivalents to IFRS

The Authority has identified the following key differences:

Accounting Standard AASB 119, "Employee Benefits requires Employee Entitlement Provisions", which have to be valued under a discounted cash flow basis. On behalf of the Authority, the Department of Treasury and Finance has arranged for PriceWaterhouseCoopers Actuaries to provide these calculations.