

Dr the Hon D Crean MHA
Treasurer
Level 9
Executive Building
15 Murray Street
HOBART TAS 7000

Dear Minister

I have pleasure in submitting to you the Annual Report of the Government Prices Oversight Commission for the year ended 30 June 1999, in accordance with Section 40 of the *Government Prices Oversight Act 1995*.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A J Reeves', written in a cursive style.

Andrew Reeves
COMMISSIONER

November 1999

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Commissioner's Report

This report describes the third full year of operation of the Government Prices Oversight Commission. The Commission was established in January 1996 primarily to investigate the pricing policies of the major Tasmanian public sector monopolies.¹ In 1997, the *Government Prices Oversight Act 1995* was amended to provide the Commission with powers to investigate National Competition Policy competitive neutrality complaints.

The powers to investigate the pricing policies of electricity entities were transferred from the Commissioner to the Tasmanian Electricity Regulator on 1 July 1998 and responsibility for the electricity pricing investigation that commenced in 1997-98 was taken over by the Regulator from that date. As Commissioner of the Government Prices Oversight Commission, I also hold the office of the Tasmanian Electricity Regulator.

Pricing Investigations

During 1998-99, the Commission completed an investigation into the pricing policies of the three bulk water authorities, the Hobart Regional Water Authority, the Esk Water Authority and the North West Regional Water Authority.

Following this review, the Commission commenced a consultancy on the cost-effectiveness of two-part pricing and the implementation of other Local Government urban water reforms.

Terms of Reference for a further consultancy to propose maximum prices for Local Government urban water supply were expected to be received in July 1999.

¹ The *Government Prices Oversight Act 1995* provides for the investigation of the pricing policies of certain Government Agencies, Government Business Enterprises, Local Government Bodies, statutory authorities and State-owned companies that are monopoly or near monopoly providers of goods and services in Tasmania.

Competitive Neutrality Complaints

The Act was amended in 1997 to provide the Commission with the power to investigate alleged breaches of the Competitive Neutrality Principles under National Competition Policy. The Competitive Neutrality Complaints Mechanism is detailed in the *Government Prices Oversight Regulations 1998*. During 1998-99, the Commission received one formal complaint in regard to the operations of the Printing Authority of Tasmania. In this instance the Commission did not uphold the complaint.

New Initiatives

In May 1999, as part of the 1999-2000 Budget, the Government announced that the Commission would be requested to monitor and report on petrol pricing from July 1999.

The Commission's work has been consistently well-received by Government and the Government Business Enterprises as thorough, comprehensive and practical. The independence of the Commission is highly valued and places it in a privileged position to undertake further research as a contribution to economic reform.

The consultancies that the Commission has been requested to undertake are a significant addition to the core work undertaken by the Office. Commission staff have considerable professional expertise and investigative experience and, with the co-location of the Office of the Tasmanian Electricity Regulator, a broad set of financial, economic and legal research skills. The consultancies I have accepted to date are, in the main, extensions of work undertaken by the Commission as part of its normal function. I expect that the volume and breadth of this strand of the Commission's work will increase as Government increasingly seeks independent practical research and advice.

Andrew Reeves
COMMISSIONER

November 1999

The Government Prices Oversight Commission

The Government Prices Oversight Commission is an independent body with responsibility for investigating the pricing policies and practices of Government Business Enterprises (GBEs), Government Agencies, Local Government Bodies, statutory authorities and State-owned companies that are monopoly, or near monopoly, suppliers of goods and services in Tasmania.

The Commission was established under the *Tasmanian Government Prices Oversight Act 1995* (the Act), which commenced on 1 January 1996.

The Commission has been set up as part of Tasmania's commitment to the National Competition Policy (NCP) Agreements that were signed by the Council of Australian Governments (COAG) in April 1995.

The COAG Competition Principles require that the source of prices oversight advice have the following characteristics:

- (a) it should be independent from the Government Business Enterprise whose prices are being assessed;
- (b) its prime objective should be one of efficient resource allocation but with regard to any explicitly identified and defined community service obligations imposed on a business enterprise by the Government or legislature of the jurisdiction that owns the enterprise;
- (c) it should apply to all significant Government Business Enterprises that are monopoly, or near monopoly, suppliers of goods or services (or both);
- (d) it should permit submissions by interested persons; and
- (e) its pricing recommendations and the reasons for them should be published.

The Tasmanian Government Prices Oversight Commission has been set up according to these principles.

The Act was amended in 1997 to provide the Commission with powers to investigate alleged breaches of the National

Competition Policy Competitive Neutrality Principles by State and Local Government business activities.

The Competition Principles Agreement (CPA) requires Government businesses to operate within a framework that ensures that they do not enjoy any net competitive advantage simply as a result of their public ownership. This is the concept of competitive neutrality. As a general principle, significant Government businesses should reflect full Commonwealth and State taxes or tax equivalents, debt guarantee fees, face the same regulatory framework as their private sector counterparts and earn a commercial return on the capital invested in them. The CPA also requires that there be a mechanism to consider complaints relating to the application of the competitive neutrality principles.

The complaints mechanism, applicable to Tasmanian State and Local Government businesses, is contained in the *Government Prices Oversight Regulations 1998*. In February 1999, the Commission issued *National Competition Policy Competitive Neutrality Principles Complaints Mechanism Guidelines*. The purpose of these Guidelines is to set out the processes for the review of complaints from businesses or persons about alleged breaches of, and non-compliance with, competitive neutrality principles. The Guidelines also describe the role of the Commission in relation to the review of complaints, the procedures to be followed by complainants and the internal review process required of Government bodies in relation to complaints made against Government business activities. The Commission does not have the power to investigate complaints in regard to Commonwealth Government businesses or private sector businesses.

The Role of the Commission

During 1998-99, the Commission had three key roles:

- ⇒ prices oversight of government monopolies;
- ⇒ investigating competitive neutrality complaints; and
- ⇒ consultancies regarding the economic framework for water pricing.

Prices Oversight

In providing prices oversight of Government monopolies the Commission is required to investigate prices charged by government bodies for monopoly services and to recommend maximum prices to apply for the ensuing three-year period. An investigation is initiated on receipt of the terms of reference issued by the Minister. The Commission is required to take account of the terms of reference and the specific matters set out in Section 31 of the Act. These matters include:

- ⇒ the cost of supplying or providing the monopoly service;
- ⇒ interstate benchmarks for prices and costs;
- ⇒ the need to protect consumers from the adverse effects of the exercise of monopoly power;
- ⇒ the need for the monopoly provider to be financially viable;
- ⇒ the need for a reasonable return to the State, including the payment of dividends;
- ⇒ the Ministerial Charter of the GBE prepared in accordance with Section 36 of the GBE Act;
- ⇒ any community service obligations; and
- ⇒ the quality of the supply of the monopoly service.

In essence, the Commission is required to consider and recommend maximum prices based primarily on grounds of economic efficiency. These outcomes do not always accord with the Government's social and economic objectives, and the Government has the opportunity to reflect its policies in the Minister's determination of maximum prices, which is set out in an Order.

The creation of the Commission was not intended to take away the ability to use prices of Government monopoly services as instruments of policy, but to bring greater transparency.

The *Government Business Enterprises Act 1995* provides for the identification and payment of community service obligations where it requires a GBE to undertake a non-commercial activity. Non-commercial activities could include providing services at a concessional rate to a particular class of customer. The Ministerial Charter may also require a GBE to carry out certain activities required by Government.

Nevertheless, there is an expectation that the Commission will address social and other issues in its investigations. In practice, the Commission meets these expectations by accepting submissions not only on matters that specifically address the terms of reference, but also on related issues. These issues are then raised for the information of Government in the Commission's reports. The Commission expects that this treatment allows Government to make better informed decisions when maximum prices are prescribed.

To assist it in undertaking its price investigation role, the Commission seeks the expert contributions of persons appointed as Assistant Commissioners and its consultants. It also draws upon the experience of other regulators, similar investigations in other jurisdictions, and informed comment from the community and stakeholders.

Competitive Neutrality

The CPA requires that the State has a complaints mechanism in place to consider complaints relating to the application of the competitive neutrality principles.

Potential complainants are encouraged by the Commission to discuss concerns relating to the application of the competitive neutrality principles, with the Government body providing the business activity in question. Some complaints will be resolved informally by the complainant obtaining further information about the costing structure and regulatory environment of the Government body business activity. However, in other instances the complainant may wish to take the matter further by lodging a formal complaint with the Commission concerning the manner in which a business activity is undertaken by a Government body.

Within 30 days of receiving a complaint, the Commission will acknowledge receipt of each complaint it accepts and refer the complaint to the appropriate Government body for review. As noted above, the Commission will only accept complaints where it is satisfied that:

- ⇒ the complaint contains matter to support the allegation that the principles have been contravened;
- ⇒ the complainant may have been adversely affected by the contravention by the Government body; and
- ⇒ the complaint is not vexatious or frivolous.

If the Commission does not accept the complaint, the complainant will be advised of the reasons.

The Commission is required to refer the complaint to the relevant Government body for review. Following this review the Government body is required to prepare and forward to the Commission, a statement of facts regarding the alleged breaches. The Commission then reviews this statement and, if necessary, will seek additional information from the Government body or other relevant bodies prior to preparing a final report.

The final report containing a summary of findings and recommendations in relation to each matter is then forwarded to the relevant Government body, the complainant, the Minister and Treasurer. The findings of the Commissioner are final.

Composition of the Commission

The Commission consists of the Commissioner (appointed for three years from 1 January 1996) and any Assistant Commissioner/s appointed for a particular investigation.

The first Commissioner, Mr Andrew Reeves was appointed for an initial three-year term on 1 January 1996. This appointment was renewed for a further three-year period from 1 January 1999.

To assist the Commission in performing its functions and powers, the Department of Treasury and Finance provides staff to the Commission under Section 19(1) of the Act.

From 1 July 1998, the Commissioner was also the independent Regulator under the *Electricity Supply Industry Act 1995*. While the Commissioner and the Regulator are separate and discrete statutory entities, in practice there is a common set of core skills required. The staff of the Commission are co-located with the Office of the Tasmanian Electricity Regulator. The Regulator's staff are also employees of the Department of Treasury and Finance and sharing of resources improves the efficiency and experience of the two organisations.

The Department of Treasury and Finance also provides assistance and facilities to the Commission for human resources management, information technology and accounting services.

Research Director, Libby Marstrand left the Commission in February 1999 to take up a position with the Independent Pricing and Regulatory Tribunal (IPART) in New South Wales. IPART is fortunate to have been able to recruit an officer with such experience in prices oversight and regulation.

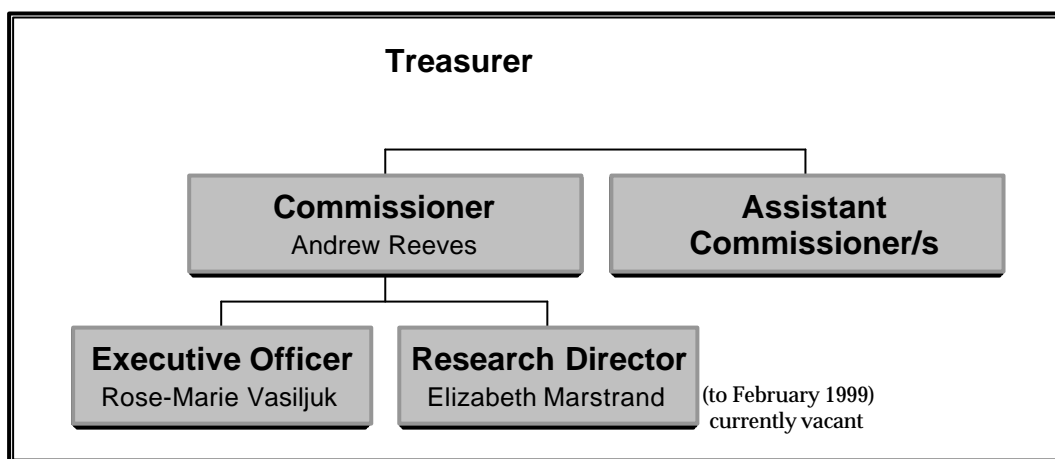


Figure 1: Commission Organisation Chart

Note: The Executive Officer and Research Director are employees of the Department of Treasury and Finance.

Scope of the Government Prices Oversight Act

Prices Oversight

The Act provides for the investigation of the major public sector, State and Local Government, monopolies in Tasmania at least once in every three years. The Commission may also be required to investigate any other monopoly service provided by a State or Local Government body. To date the following investigations have been completed:

⇒ Hydro-Electric Commission 31 January 1996¹

¹ As noted above, responsibility for investigation of the pricing policies of electricity entities in Tasmania (including those of the former Hydro-Electric Commission) was transferred to the Tasmanian Electricity Regulator on 1 July 1998.

- ⇒ Metropolitan Transport Trust 30 September 1996
- ⇒ Motor Accidents Insurance Board 31 May 1997
- ⇒ Hobart Regional Water Authority
North West Regional Water Authority
Esk Water 31 December 1998

The Commission also commenced a second investigation into the pricing policies of the Hydro-Electric Corporation in 1998. However, this investigation was transferred to the Office of the Tasmanian Regulator following the establishment of that Office and was subsequently deferred following the election of a new State Government in August 1999. Further information in regard to this investigation is included in the Annual Report of the Tasmanian Electricity Regulator.

The *Government Prices Oversight (Amendment Act) 1998* further extended the scope of the Commission to provide for investigations of prices charged by statutory authorities and State-owned companies.

Conduct of Investigations

The procedures for the conduct of major investigations, the requirements for reports and the procedures for setting of prices are described in Appendix A to this Report.

Public Consultation

Public consultation is an important component of the Commission's work.

Assistant Commissioner/s are appointed for their expertise on the matter under investigation, but the Commission draws on business and community knowledge to identify the particular issues of each investigation.

Each investigation has included the release of a background or issues paper to encourage initial submissions and a draft report with the Commission's proposals. The draft report becomes the focus for further submissions which are then taken into account in preparing the final report and recommendations.

While the Act provides for the Commission to convene public hearings, none were held for the Bulk Water Investigation. Rather, the Commission preferred to meet with interested parties. The formality of a public hearing is daunting for some

and the process, while effective in some circumstances for gathering information, gives less opportunity for meaningful exchange than consultations with interested parties.

The Commission has established a website (www.gpoc.tas.gov.au) to assist access to reports and submissions.

Information Gathering

Submissions from the monopoly business whose pricing policies are under investigation are a major source of information. In addition, the Commission has powers under Section 29 of the Act to require material to be provided. This provision was used for each investigation as follows:

	Number of Section 29 Requests
Bulk Water Pricing Investigation (to 30 June 1998)	
• Hobart Regional Water Authority	13
• Esk Water Authority	12
• North West Regional Water Authority	12

The Commission also held regular briefings and consultations with officers of each organisation under review.

Complaints Mechanism

The *Government Prices Oversight Amendment Act 1997*, conferred on the Commission the power to investigate complaints of breaches of the National Competition Policy Competitive Neutrality Principles.

The prescribed process for making and investigating complaints is contained in the *Government Prices Oversight Regulations 1998*. To support the Regulations and assist potential complainants, the Commission issued Guidelines in February 1999. The Guidelines are available from the Commission or its web site www.gpoc.tas.gov.au. An outline of the complaints mechanism is provided in Appendix B.

Any business that is in competition (including potential competition) with a Government service provider may now lodge a complaint with the Commission if it believes that the

Government provider is competing on an unequal footing. In particular, the prices charged by Government providers should reflect the full range of taxes and charges that are incurred by the private sector. Complementary Regulations were developed in 1998. These Regulations set out the mechanism for the lodging and investigation of a complaint.

Report on the Performance of the Commission's Functions and Powers: 1998-99

During the year the Commission completed its Investigation into the pricing policies of the three Tasmanian bulk water authorities and completed an investigation into one complaint in relation to an alleged breach of the Competitive Neutrality Principles by the Printing Authority of Tasmania.

Bulk Water Pricing Policies Investigation

In January 1998 the Commission was requested to undertake an Investigation into the pricing policies associated with the provision of bulk water by the Hobart Regional Water Authority (HRWA), the North West Regional Water Authority (NWRWA) and the Esk Water Authority (EWA).

At the commencement of the Investigation, the ownership of both the HRWA and the EWA had recently been transferred to Local Government and the entities had been re-established under the *Local Government Act 1993* as joint Local Government authorities. As part of the transfer arrangements, it was agreed that these authorities would be corporatised and subject to full tax equivalent, dividend and guarantee fee regimes, in accordance with NCP requirements. At the time the Investigation commenced, the NWRWA remained a State Authority, but it was expected that it would be transferred to Local Government ownership prior to the completion of the Investigation. However, due to unforeseen delays, the transfer was finally completed in August 1999.

The Terms of Reference required the Investigation to be completed by 30 November 1998. As part of the Investigation, the Commission was requested to prepare a paper, by 31 August 1998, on the general water pricing principles that should apply in Tasmania.

The Terms of Reference requested that the Commission take into account:

- (a) The desirability and feasibility of uniform and consistent pricing principles being developed for, and applied by, the Hobart Regional Water Authority, the Esk Water Authority and the North West Regional Water Authority;
- (b) The need for the pricing principles developed in (a) to be consistent with:
 - the water pricing principles and other related matters required by the COAG Agreement on the Efficient and Sustainable Reform of the Australian Water Industry, which forms part of the National Competition Policy agreed by all Australian Governments in April 1995; and
 - further work on water pricing undertaken by the National Taskforce on COAG Water Reform established by SCARM under ARMCANZ.

As part of the consultation process, on 31 August 1998 the Commission released a draft paper on the general water pricing principles that should apply in Tasmania. Following receipt and consideration of a number of submissions the Commission released its draft report on 6 November 1998. A further six submissions were received in response to the report. Submissions received in response to both papers were received from the Water Authorities, councils and industry customers as well as the Tasmanian Chamber of Commerce and Industry.

The Commission took into account all submissions received and the views of those consulted during the course of the investigation in preparing its final report and recommendations. The final report set out the Commission's recommendations in relation to the appropriate maximum prices to be charged by each of the three Authorities in respect of the provision of bulk water during the period of three years after the completion of the Report. In addition, the Report also contained the Commission's recommendations on appropriate pricing principles to be applied uniformly to the three Authorities.

Competitive Neutrality

During 1998-99 a number of informal complaints were raised with the Commission, with the first formal complaint being received in April 1999.

The complaint alleged breaches of the Competitive Neutrality Principles by the Printing Authority of Tasmania (PAT). These alleged breaches related to:

- ⇒ the receipt of a Government subsidy for the period 1992-93 to 1995-96;
- ⇒ the rental paid on the premises occupied by the PAT in Salamanca Place; and
- ⇒ the sourcing of printed material by Tasmanian Government Departments.

In relation to each of the above matters the Commissioner concluded:

- ⇒ On the evidence provided by the Valuer-General and the PAT, the rental paid by the PAT on the Salamanca Place premises is in accordance with normal commercial practice. On this basis, there is no evidence that the PAT is receiving a net competitive advantage from Government ownership. Therefore, the PAT is not in contravention of the Competitive Neutrality Principles and as such would not be required to change its practices to recognise a rental subsidy in its accounts, nor was there any action required by the Government to address this matter.
- ⇒ The issue of the payment of a subsidy predates the Application Statement and since that time no further subsidies have been paid to the PAT. Therefore, no breach of the CNPs was incurred by the Government nor the PAT.
- ⇒ The matter concerning the sourcing of printing by Government Agencies is a procurement policy issue for Government and is not a competitive neutrality issue, therefore there has been no breach of the CNPs by the PAT.

The Complainant also asserted that the PAT exploits a provision of its enabling Act whereby it is able to undertake printing for private sector entities that are in receipt of Government funding. That is, the PAT is extending its customer base beyond that intended, by treating any money paid to a private sector entity by the Commonwealth or State Government as 'funding'. Such 'funding' could include payments received by way of training allowances or sales. This matter was not investigated, as the Commissioner determined it was not a competitive neutrality issue per se, as competing for work against the private sector in itself does not contravene the CNPs.

Following investigation of these complaints, the Commissioner determined that no further action was required by either the PAT or the Government.

On 30 June 1999, notice of a second formal complaint was received. This complaint was in regard to the non-application of full cost attribution by the Hobart City Council to the services provided by the Tattersall's Hobart Aquatic Centre. Investigation of this complaint commenced in July 1999.

Consultancies

In December 1998 the Commission was engaged by the Department of Primary Industries, Water and Environment to investigate the cost-effectiveness of local councils implementing two-part pricing for urban water services. The consultancy also addressed other Local Government water reforms required under the COAG Water Reform Agenda.

The Commission was required to develop a set of guidelines to establish measurable criteria which will assist local councils to individually assess whether the implementation of a two-part pricing structure is cost-effective. The intent is that the application of the guidelines would be assessed by a 'peer review group'.

The Commission engaged Mr Ross Kelly to assist in this work. The report was delivered in June 1999 and was followed up by a workshop with Local Government representatives.

The second part of the brief required the Commission to develop a set of principles which would assist local councils to meet the asset renewal and asset maintenance requirements of the ARMCANZ Water Pricing Guidelines.

Freedom of Information Act 1991

During 1998-99, no requests for information were made of the Commission under the *Freedom of Information Act 1991*.

FINANCIAL STATEMENTS

For the period ended 30 June 1999

The following financial statements are included:

- ⇒ Certification
- ⇒ Audit Report
- ⇒ Notes to the Statement of Expenditure and Receipts
- ⇒ Statement of Expenditure and Receipts.

Government Prices Oversight Commission

Certification of Financial Statements
For the period ended 30 June 1999

The accompanying Financial Statements of the Government Prices Oversight Commission have been prepared in compliance with the provisions of the *Government Prices Oversight Act 1995*. The statements are in agreement with the relevant accounts and records so as to present fairly the financial transactions for the period ended 30th June 1999 and such components of financial position as at 30th June 1999 which the Minister requires under section 40(3) of the *Government Prices Oversight Act 1995* to be disclosed in the Financial Statements.

At the date of signing I am not aware of any circumstances which would render the particulars included in the Financial Statements misleading or inaccurate.



Andrew Reeves
COMMISSIONER

20 August 1999

INDEPENDENT AUDIT REPORT

To the Members of the Government Prices Oversight Commission

Scope

I have audited the special purpose financial report comprising a financial statement prepared on the cash basis of accounting, including notes and supplementary information, of the Government Prices Oversight Commission for the year ended 30 June 1999. The Members of the Government Prices Oversight Commission are responsible for the preparation of the financial report on the cash basis of accounting in accordance with the Ministerial directive given under Section 40 (3) of the Government Prices Oversight Act 1995. I have conducted an independent audit of the financial report in order to express an opinion on it to the Members.

The audit has been conducted in accordance with Australian Auditing Standards and used procedures which included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report, and the evaluation of significant accounting estimates. These procedures have been undertaken to form an opinion whether in all material respects, the financial report is presented fairly in accordance with the cash basis of accounting which does not require the application of Accounting Standards and other mandatory professional reporting requirements.

The audit opinion expressed in this report has been formed on the above basis.

Audit Opinion

In my opinion the financial report presents fairly, in accordance with the cash basis of accounting the financial transactions of the Government Prices Oversight Commission for the year ended 30 June 1999 and such components of financial position at that date as are disclosed in the financial report.


C I Bogus
SENIOR AUDIT MANAGER

29 September 1999

HOBART

Government Prices Oversight Commission

Notes to the Statement of Expenditure and Receipts

1. Basis of Accounting

The Financial Statements have been prepared in accordance with the *Government Prices Oversight Act 1995* and Ministerial Directives under section 40(3) of that Act.

The transactions of the Government Prices Oversight Commission are funded through the Consolidated Fund. The records are maintained on the cash basis of accounting by the Department of Treasury and Finance on behalf of the Commission.

Figures presented have been rounded to the nearest thousand dollars and as a consequence may not add to totals. Records are maintained and controls apply to figures in dollars and cents.

2. Non-Current Assets

The Commission has a policy of recording all assets regardless of value in its asset register. These assets are recorded at cost and are not depreciated. However, for reporting purposes assets with a value greater than \$2 000 and an estimated useful life greater than two years are shown below. Assets are shown in total and are not segregated into classes.

As at 30th June 1999 the Commission controlled assets to the value of \$80 852.

3. Debtors

As at 30th June 1999 the Commission had no outstanding debtors.

4. Creditors

As at 30th June 1999 creditors for the Commission amounted to \$3 060.18.

Government Prices Oversight Commission

Statement of Expenditure and Receipts For the period 30 June 1999

1998 \$'000		1999 \$'000
	Expenditure	
241	Salaries and Related Payments	158
14	Materials and Supplies	10
8	Communications	9
28	Travel and Transport	19
58	Property Services	80
11	Office Machines	7
9	Information Technology	4
19	Recruitment and Personnel	2
49	Consultants	26
28	Other	13
465	Total Expenditure	328
	Receipts	
244	Recoveries from Monopoly Service Provider	347
2	Sale of Submissions and Publications	0
246	Total Receipts	347

Government Prices Oversight Commission

Summary of Procedures

This appendix summarises the Commission's Investigation procedures and the procedures for setting of prices following an investigation.

Conduct of Investigations

The Notice

An investigation is initiated by the Minister administering the Act (now the Minister for Finance) with the agreement of the Portfolio Minister (the Minister with responsibility for the 'monopoly provider'). Upon receiving the requirement to conduct an investigation, the Commission is required to give notice to the monopoly provider and in Tasmanian daily newspapers.

Such a notice must include the terms of reference and specify the purpose of the investigation, how submissions may be made to the Commission and the matters that the Commission would like submissions to address.

Matters To Be Considered

In addition to issues specifically mentioned in the Terms of Reference, Section 31 of the Act requires the Commission to consider certain matters. These include:

- ⇒ the cost of providing the monopoly service;
- ⇒ interstate or international benchmarks for prices, costs, revenues and return on assets;
- ⇒ the need to protect consumers from any adverse exercise of monopoly power;
- ⇒ any community service obligations of the monopoly provider;
- ⇒ the need for efficiency in the provision of the monopoly service and for the monopoly provider to be financially viable; and

⇒ the impact on pricing policies of any borrowing, capital, dividend and tax equivalent obligations of the monopoly provider, including obligations to renew or increase assets.

The Investigation Process

In conducting an investigation, the Commission may receive written and oral submissions, consult with any person, hold hearings and seminars and conduct workshops.

Preliminary notice of any hearing is required to be advertised in the Tasmanian daily newspapers. The hearing is to be held in public unless the Commission considers that for reasons of public interest, or because the evidence to be presented is likely to be confidential or commercially sensitive, the hearing should be held in private.

Freedom of Information Act 1991

The *Freedom of Information Act 1991* (FOI Act) applies to the activities of the Prices Oversight Commission. However, where the Commission gives directions prohibiting or restricting the publication of information provided to it, the FOI Act will not apply in respect of that information.

Section 29 Requests

The Commission may require any person, normally an Agency or GBE, to supply information by a request under Section 29(1) of the Act. This information may be in oral or written form. Section 30(2) enables the Commission to give directions prohibiting or restricting the publication of all or part of this information.

As noted above, where the Commission gives such a direction under Section 30(2), the FOI Act will not apply in respect of that information or to records relating to the production of such information.

If information is provided in response to a Section 29 requirement and the provider of the information requests that the Commission give a direction under Section 30(2) to prohibit or restrict the publication of that information, the Commission will not make that information available to any person without prior consultation with the provider.

Reports and Recommendations

Draft Report

The Commission may prepare a draft report when required by the terms of reference, or by the Minister and Portfolio Minister, or by its own decision. If a draft report is made public, any person may make submissions. The Commission is required to take these submissions into consideration before making a final report.

Final Report

The Commission must prepare a final report containing a recommendation in relation to the appropriate maximum prices chargeable by the monopoly provider for the monopoly service during the three years after completion of the report.

Section 4 of the Act sets out the form in which maximum prices may be expressed. These include:

- ⇒ maximum prices or the maximum rate of increase or the minimum rate of decrease in maximum prices;
- ⇒ average prices or average rates of increase or decrease in such average prices;
- ⇒ pricing policies or principles; and
- ⇒ by reference to a general price index, the cost of production, revenue, a rate of return on assets or any other factor.

Price-setting

The Portfolio Minister must lay a copy of the Final Report before each House of Parliament within 20 sitting days of receiving the report. Copies are to be available for purchase by members of the public.

Where the monopoly provider sets its prices by statutory rule, or has been declared a "prescribed monopoly provider", then the process for price-setting includes Parliamentary oversight as described below:

- ⇒ Within 60 days of receiving the final report, the Portfolio Minister is required to consult with each Minister of the Crown and the monopoly provider in relation to the recommendations of the Commission. The Portfolio Minister must either accept the Commission's recommendations in relation to the

maximum prices, or take some alternative decision about those maximum prices.

- ⇒ The Portfolio Minister must then make an order (which is disallowable in Parliament) that gives effect to that decision.
- ⇒ The Act further requires that the monopoly provider must, during the 60 days between when the order is made and when it takes effect, re-determine its prices, tariffs or charges so that new arrangements are in place to conform with the order from the day it commences.
- ⇒ In re-setting its prices and in varying those prices at any time during the next three years, the monopoly provider must obtain a certificate from the Commission to the effect that the proposed prices are within the maximum prices which have been established by the order.

In all other cases, the Act simply requires that after receiving a final report the Portfolio Minister, after consulting with each Minister of the Crown and the monopoly provider, must determine the maximum prices to be charged by the monopoly provider during the next three years and take such action as is necessary to ensure that those maximum prices are met.

Government Prices Oversight Commission

Complaints Mechanism

The CPA requires that the State have in place a complaints mechanism to consider complaints relating to the application of the competitive neutrality principles.

The Government has decided that the Commission will be responsible for overseeing the complaints process within Tasmania in addition to its existing function of oversight of the prices charged by public sector businesses that are monopoly, or near monopoly, suppliers of goods or services.

The Commission has been empowered to administer the complaints mechanism by the inclusion of this function under Section 10 of the *Government Prices Oversight Act 1995* (the GPO Act) and by procedures set out in the *Government Prices Oversight Regulations 1998*.

The Commission will consider complaints about the application of the competitive neutrality principles. However, the Commission will:

- ⇒ only consider complaints by ‘a person who believes that a Government body has contravened any of the principles¹ and is adversely affected by that supposed contravention’²; and
- ⇒ only formally consider complaints after the person ‘has discussed that supposed contravention with the Government body’³ against which the complaint is made.

The Commission will report on its findings to the Treasurer and the Portfolio Minister and make its recommendations public in an annual report.

Where a complaint is lodged concerning a government business activity which, in accordance with the relevant Application Statement, is not subject to the competitive neutrality principles, the Commission will consider whether the

¹ The national competition policy competitive neutrality principles as set out in clause 3 of the Competition Policy Agreements.

² See clause 4 of the *Government Prices Oversight Regulations 1998*.

³ See clause 4 of the *Government Prices Oversight Regulations 1998*.

person has been adversely affected by the failure to apply the competitive neutrality principles to that business activity.

The process, which governs the review of complaints concerning the application of the competitive neutrality principles, can be divided into three stages:

Stage 1 - Identification and Lodgement of a Complaint: by the body or person adversely affected by the alleged non-compliance with the competitive neutrality principles.

Stage 2 - Review of the Complaint: by the Commissioner.

Stage 3 - Reporting on the Review Outcomes: to the Minister responsible for the Government business (in the case of a local Government body to the Minister for Local Government) and the Minister responsible for administering NCP.

APPENDIX B**Government Prices Oversight Commission
Payment to Consultants 1998-99**

KPMG	\$875	Remuneration review
Jeffrey Human Resources	\$150	Future staffing requirements
R Kelly	\$12 445.85	Two-part water tariff pricing consultancy
J Cox, Independent Pricing & Regulatory Tribunal	\$1 019.40	Presenter for water seminar