FIRST TRANCHE ASSESSMENT: VICTORIA

SUMMARY

Victoria has led the way in introducing competition into the electricity supply industry. Since December 1994, it has operated a competitive State-based market in wholesale electricity, with progressively reducing customer thresholds for participation. Electricity arrangements have been substantially restructured and privatised to promote competition in generation and distribution. The five restructured distribution businesses, each comprising a (progressively) competitive energy retailing arm and a regulated local geographic wires monopoly were privatised in the second half of 1995. Victoria has also privatised its three wholly-owned generation businesses and its share of the Loy Yang B generator. The Government is now seeking to sell its remaining generation and transmission utilities.

Victoria has also been to the forefront of the move to a fully competitive national electricity market. On 4 May 1997, Victoria, New South Wales and the ACT established the first stage of an interim national market in advance of the fully competitive market. This was achieved through harmonisation of the arrangements in the Victorian and New South Wales electricity markets to enable electricity generators to compete to supply power to retailers in the three jurisdictions, and indirectly in South Australia.

In addition to the electricity sector, Victoria has extensively restructured many of its other government businesses. The Public Transport Corporation has been separated into five distinct businesses. There has been extensive reform of Victorian ports, particularly to break up and regulate commercial shipping channels. Victoria has submitted a regime to provide third party access to its shipping channels for certification by the Council. Flowing from the Government's reforms, port authority charges at the Port of Melbourne have fallen considerably since December 1994.

Victoria has also taken significant steps to introduce competition into its gas sector, and has restructured its gas industry. Following resolution of the State's long-standing concerns regarding the Petroleum Resource Rent Tax (PRRT) in November 1996, the Government announced a series of reforms, expected to take effect in 1997, aimed at removing restrictions on competition in the gas sector. Esso and BHP will no longer be prevented from selling gas to consumers in Victoria. Restrictions on Esso, BHP and GASCOR selling gas interstate will be removed. GASCOR will no longer be obliged to take gas exclusively from Esso and BHP. Customers of GASCOR will be permitted to on-sell gas, and restrictions on Esso and BHP, which have prevented them from building pipelines in certain areas of Victoria, will be removed. The Government is also taking a logical next step in restructuring GASCOR and GTC in preparation for privatisation in 1998.

In addition, Victoria has recently signalled its intention to seek certification of its State access arrangements for gas pipeline systems as an effective third party access regime. The Government intends that its regime operate as a transitional measure prior to the introduction by all jurisdictions of the National Access Code. Victoria has endorsed the substance of the draft National Access Code and has agreed to implement it within the timeframe endorsed by COAG.

Victoria has also developed a comprehensive reform agenda based around all other aspects of the NCP reform program. It has an extensive program of legislation review and reform, and has made significant inroads in its review schedule for 1996-97. The Government has emphasised the importance of completing its review and reform program within the period set by COAG. Similarly, the evidence indicates that Victoria has significantly progressed its competitive neutrality reform

agenda. A competitive neutrality complaints unit within the Department of Treasury and Finance has operated since July 1996.

Victoria is leading the other jurisdictions in the applying the competition principles to local governments. It has corporatised or has proposed for corporatisation a number of local government business activities, and intends to apply commercialised pricing principles to all significant local government business activities from July 1997.

COMPETITION CODE

Reform commitment: **Enact legislation applying the Competition Code (the Schedule version of Part IV of the *Trade Practices Act 1974*) within Victoria, with effect by 20 June 1996**.

Implementation: The *Competition Policy Reform (Victoria) Act 1995* received the Royal Assent on 14 November 1995.

Assessment

Complies with the commitment.

COMPETITIVE NEUTRALITY

Reform commitment: **Provision of a policy statement detailing the implementation of competitive neutrality policy and principles in Victoria, including an implementation timetable and a complaints mechanism, and progress against undertakings in the policy statement.**

Victoria provided a competitive neutrality policy statement and an annual report in accordance with clauses 3(8) and 3(10) of the Competition Principles Agreement.

Issue: **Adequacy of the reform agenda: the scope and timing of the intended competitive neutrality reform and the progress to date.**

Assessment

The Victorian Government has two models for applying competitive neutrality principles to its significant business activities. The first, aimed primarily at full corporatisation of GBEs, involves:

- corporatisation, including commercial accounting and rate of return requirements;
- application of Commonwealth tax equivalent payments;
- application of State taxes or tax equivalent payments and State utility charges;
- application of local rate or rate equivalent payments;
- application of debt guarantee fees; and

- application of relevant regulations to which the private sector is normally subject.

Victoria's June 1996 policy statement reported that 21 of the State's 32 significant GBEs were already corporatised. A further seven GBEs were to be reviewed, with the objective of corporatisation.

The Victorian annual report updated progress in imposing the competitive neutrality arrangements required under the Competition Principles Agreement, including extension of the Commonwealth tax equivalent regime (TER) to the Melbourne Ports Corporation, Melbourne Ports Services, the Victorian Channels Authority and the Victorian Plantations Corporation, although the scheduled extension of the TER to the Victorian Financial Management Corporation has not yet occurred due to an organisational restructure. Victoria also stated that the State's commitment to increase the exposure of its GBEs to the Financial Accommodation Levy and to local rates and State taxes and charges is proceeding as planned.

Victoria has also examined relevant legislation to determine whether its GBEs are treated preferentially in comparison to private sector competitors. As a result of these reviews, the *Heritage Act 1995* was introduced to replace the *Historic Buildings Act*, and a proposal to amend the *Building Act 1993* has been introduced to the Autumn session of the Parliament.

Victoria's second model involves reforms designed to place the Government's significant business activities on a more commercial footing. It comprises:

- examination of the most appropriate on-going structural arrangements for the delivery of the business or service delivery activity, including commercialisation or the adoption of a Service Agency model; and
- adoption of pricing principles which take account of and reflect full cost attribution for the net competitive advantages conferred on the activity by public sector ownership.

Victoria is considering this approach for a range of government commercial and non-commercial activities, including general government businesses and GBEs for which the corporatisation model is not appropriate. There are 19 significant business activities proposed for reform in this way, operating in areas ranging from agriculture and natural resources to community services to sport and the arts.

A further 10 significant business activities are under review to determine whether application of competitive neutrality reforms are appropriate, and if so, whether corporatisation or commercialisation reforms should be applied.

The Victorian annual report also described progress in applying competitive neutrality reforms to local government. By June 1997, all councils will have reviewed their business activities to identify reform candidates and the appropriate competitive neutrality model. Where appropriate, full cost pricing arrangements will be in place from July 1997, while councils are expected to complete corporatisation reform by July 1998. Victoria has since advised the Council that it will achieve its objectives for the reform of local government businesses.

The Council is satisfied that the scope and progress of the competitive neutrality reform achieved by Victoria to date meets first tranche reform commitments.

Issue: Adequacy of the reform agenda: operation of the competitive neutrality complaints mechanism.

Assessment

Victoria has established a competitive neutrality complaints handling mechanism within the Department of Treasury and Finance. The mechanism considers complaints about business enterprises or activities to which competitive neutrality reforms are applied. Guidelines on the function and processes of the Competitive Neutrality Complaints Unit are available.

Victoria indicated that its Complaints Unit has been operating since July 1996, and dealt with nine complaints in the review period. Complaints have been made in relation to:

- commercial waste disposal services at the City of Greater Bendigo;
- transportation of non-urgent patients by Ambulance Services Victoria;
- bidding for Medicare funded artificial limb work by hospital departments;
- the use of an internal database by the City of Greater Geelong childcare services to compile a mailing list;
- hospital laundry services;
- the production of table tennis tables by prison industries;
- the establishment of a new saleyard by Baw Baw Shire Council;
- statutory food analysis services provided to councils by the Melbourne Diagnostic Unit of the University of Melbourne; and
- provision of security instruction courses by TAFE colleges.

The Complaints Unit found no technical breach of competitive neutrality principles in any of the above cases. However, it reported that it would have found a breach of the Government's competitive neutrality policy for the first six of the above allegations, once the policy applies in July 1997. The findings of the Complaints Unit were sent to both the complainant and the target of the complaint.

The Council accepts that Victoria has established a mechanism for dealing with complaints consistent with the Competition Principles Agreement. However, the Council draws attention to its earlier comments concerning the desirability of an independent process separate from the agency that is formally responsible for developing and applying the State's competitive neutrality policy. The Council also believes there is value in using the Complaints Unit to also deal with complaints about government business activities which are not subject to the Government's competitive neutrality policy. Victoria's experience to date indicates the wide scope of potential competitive neutrality concerns, and the Government has recognised in its policy statement the scope for complaints to signal priorities for reform.

The Council is satisfied that Victoria's approach to competitive neutrality complaints handling meets first tranche reform commitments, noting the need to monitor the effectiveness of arrangements for complaints handling.

STRUCTURAL REFORM OF PUBLIC MONOPOLIES

Reform commitment: **Before a party introduces competition to a sector traditionally supplied by a public monopoly, it will remove from the monopoly responsibilities for industry regulation to prevent the former monopolist from enjoying a regulatory advantage over its rivals. Before a party introduces competition into a market traditionally supplied by a public monopoly and before a party privatises a public monopoly, it will undertake a review of the structure and commercial objectives of the monopoly.**

Issue: Adequacy of progress against reform objectives

Assessment

Clause 4 of the Competition Principles Agreement requires that, before competition is introduced to a sector traditionally supplied by a public monopoly, responsibility for industry regulation is removed from the monopoly. Before competition is introduced, and before a public monopoly is privatised, governments have undertaken to review the commercial operation of the monopoly.

Victoria has extensively privatised its electricity supply industry. In line with this, the State Electricity Commission of Victoria has been vertically and horizontally separated into five distributors, five generators, Power Net (the manager of the transmission assets), and the Victorian Power Exchange (the operator of the transmission network and the manager of the wholesale electricity market). Victoria has also restructured its gas industry in preparation for national trading in gas. Accordingly, the Gas and Fuel Corporation of Victoria has been structurally separated into the Gas Transmission Corporation (GTC) and a gas distributor, GASCOR. The Public Transport Corporation of Victoria has also been restructured and now comprises five separate businesses — V/line Passenger, V/line Freight, Met Trains, Met Tram and Met Bus.

There has also been structural reform of Victoria's ports. The monopoly element (shipping channels) has been broken up and regulated (along with prescribed services). The Port of Melbourne Authority's policy and environmental regulation functions have also been separated. Victoria pointed to the reductions in the port authority charges which have occurred in recent years, citing a 33 per cent overall reduction in charges at the Port of Melbourne since December 1994. Victoria submitted for certification by the Council its regime for third party access to commercial shipping channels in late 1996. The Council has provided its recommendation to the Commonwealth Treasurer and a decision is expected shortly.

The Council is satisfied that Victoria has met its first tranche structural reform obligations arising from clause 4 of the Competition Principles Agreement.

LEGISLATION REVIEW

Reform commitment: **Provision of a timetable detailing Victoria's program for the review and reform of existing legislation restricting competition by the year 2000, and satisfactory progress against the timetable.**

Victoria provided a timetable for the review and reform of existing legislation which restricts competition in accordance with clause 5(3) of the Competition Principles Agreement and an annual

report covering progress on implementation in accordance with clause 5(10) of the Competition Principles Agreement.

Issue: Adequacy of the review program

Assessment

Victoria has an extensive legislation review schedule containing more than 400 pieces of legislation or regulation. The Council has not identified any Victorian legislation restricting competition which is not scheduled for review.

Victoria has indicated its intention to ensure that the review and reform agenda is completed by the end of 2000 on several occasions. Although six reviews are scheduled for completion in December 2000,[18] Victoria has assured the Council that there is sufficient time factored into the review and reform process such that the year 2000 target will be met.

The Council is satisfied that Victoria's legislation review and reform program has met first tranche legislation review obligations.

The coverage of each jurisdiction's legislation review program will be an ongoing assessment issue. Any pieces of legislation which restrict competition subsequently found not to be on the timetable will need to be listed for review for jurisdictions to be assessed as continuing to meet the spirit of the Competition Principles Agreement.

Issue: The competition policy implications of new legislation are routinely examined

Assessment

In January 1996, the Victorian Government provided its agencies with guidelines to assist their examination of the competition policy implications of all new legislation. This publication, entitled *Guidelines for the Application of the Competition Test to New Legislative Proposals,* requires that all new legislative proposals be assessed to ensure that anti-competitive elements of legislation provide a benefit to the community as a whole.

The Victorian Government also advised the Council that, since January 1996, new legislative proposals have been rigorously assessed to ensure that any anti-competitive provisions are justified on public interest grounds and that, in each instance, the Cabinet has been satisfied that the competition test was appropriately completed. Victoria undertook to provide details of all new legislative proposals as part of the State Government's annual reporting obligations.

The Council is satisfied that Victoria has met its first tranche obligations with respect to the consideration of the competition implications of new legislation.

[18] Specifically, the *Adoption Act 1984* (and regulations), the *Heritage Act 1995*, the *Mental Health Act 1986*, the *Transport Act 1983* - Part 6, Division 8 (Tow Trucks), the *Transport (Tow Truck) Regulations 1994* and *the National Rail Corporation (Victoria) Act 1991.*

Issue: Adequacy of progress with legislation review and reform

Assessment

In July 1996, Victoria released a publication entitled *"Guidelines for the Review of Legislative Restrictions on Competition"* which sets out administrative and methodological guidelines to ensure that reviews are undertaken in a manner consistent with NCP principles.

There have been 73 variations to the June 1996 Victorian legislation review timetable. Most of these appear to reflect the repeal and consolidation of legislation, the consolidation of review processes so that reviews sometimes encompass a number of pieces of related legislation and the earlier commencement of programmed reviews.

In its annual report, Victoria indicated that at April 1997 it had completed nine reviews. These reviews resulted in the removal of unjustified restrictions on competition in almost two dozen pieces of legislation through removal of particular anti-competitive provisions or repeal of entire laws. A further nine reviews were in progress, with seven deferred or still to commence.[19] At April 1997, Victoria had also completed or commenced more than two-thirds of the 70 review processes scheduled for completion by July 1997.

There appears to be some deferral and rescheduling of Victoria's early review program, although the Council acknowledges that Victoria has set itself an extensive review schedule for 1996 and 1997 and the evidence available to the Council suggests that reforms have been implemented quickly. The Council considers that Victoria's progress satisfies first tranche assessment requirements.

APPLICATION TO LOCAL GOVERNMENT

Reform commitment: Provision of a policy statement detailing the application of competition principles to local government in Victoria, and progress against undertakings in the policy statement.

Victoria provided a policy statement in accordance with clause 7 of the Competition Principles Agreement.

Assessment

Victoria set out a range of competition policy objectives for local government in its policy statement. By June 1997, councils are to have reviewed the corporate structure of their business activities and determined appropriate competitive neutrality reforms. Full cost pricing principles are to apply where appropriate from July 1997, and businesses identified for corporatisation are to be corporatised by July 1998. Councils are to ensure that all new local laws comply with the competition principles from July 1997 and that existing local laws comply by June 1999. All councils have been subject to the Competition Code since July 1996.

Victoria's annual report and information subsequently provided indicate significant progress in application. For example, most local councils have undertaken audits of their compliance with the Competition Code and prepared strategies to ensure ongoing compliance. Two businesses have been corporatised - City Wide Service Solutions and Prahran Fruit Market - and a further two have

[19] This does not include legislation scheduled for review which relates to electricity and gas which are the subject of the COAG related reform agenda.

been approved for or are being considered for corporatisation. State Government guidelines on the preparation of new local laws are expected to ensure that laws enacted from July 1997 are consistent with competition principles. The Office of Local Government, in consultation with one metropolitan council, is reviewing that council's laws and developing draft local laws for public comment.

The Council considers that Victoria's local government policy statement provides a comprehensive framework, and believes Victoria has substantially met the first tranche reform requirements. The Council's assessments indicate that Victoria's progress on local government is in advance of other jurisdictions. However, a crucial element of the reforms is the application of competitive neutrality pricing principles from July 1997, which the Council will assess over the next 12 months.

Accordingly, the Council proposes to reassess Victoria's progress with the application of the competition principles to local government before July 1998. The Council anticipates being in a position to be satisfied that Victoria has clearly met its first tranche commitments at that time.

PROGRESS ON RELATED REFORMS

ELECTRICITY

Recent history of reform in Victoria

At the COAG meeting of May 1992, Victoria committed itself to participation in a national electricity market. Subsequently (COAG, June 1993), Victoria gave an unambiguous commitment to structurally reform its electricity arrangements in the lead up to the national market.

In October 1993, the Victorian Government reformed the State Electricity Commission of Victoria (SECV) into three separate businesses — Generation Victoria (generation), National Electricity (transmission) and Electricity Services Victoria (distribution).

National Electricity was separated into two businesses — the Victorian Power Exchange (to administer the market and oversee system control) and PowerNet Victoria (a transmission network company). Electricity Services Victoria was separated into five distribution businesses, each comprising a (progressively) competitive energy retailing arm and a regulated, local, geographic wires monopoly. Generation Victoria operated as an interim structure comprising five groups of power stations trading as independent, competing generators. During the second half of 1995, all five distribution businesses were sold to the private sector. Victoria now has privatised three wholly-owned generation businesses and its share of the Loy Yang B generator. The Victorian Government is seeking to sell its remaining generation and transmission utilities.

A competitive market for State-based trade in wholesale electricity has been operating since December 1994. Customer thresholds for participation in this market have been, and will continue to be, progressively reduced. On 1 July 1996, approximately 2000 customers with annual consumption each of at least 750 MWh became contestable.

In November 1996, Victoria executed a Heads of Agreement with New South Wales and the ACT to introduce an interim market (NEM1) in the movement to the proposed National Electricity Market. On 4 May 1997, the first stage of NEM1 commenced, which involved the harmonisation of market rules in the New South Wales and Victorian electricity markets to enable generators to bid against each other to supply power to energy retailers in New South Wales, Victoria and the ACT, and indirectly South Australia.

Reform commitment: **Agreed to implement an interim national electricity market by 1 July 1995, or on such other date as agreed between the parties.**

Implementation: Subsequent agreement has been reached on the reform process proposed by the Prime Minister on 10 December 1996. The first stage of NEM1 (harmonisation of the Victorian and NSW electricity market rules) commenced on 4 May 1997. NEM1 is expected to be completed by 5 October 1997 with full implementation of the National Electricity Market expected to commence on 29 March 1998.

Assessment

Victoria has shown strong commitment to implementing the agreed reforms, and significant progress has been made. While concerned about the delays to date, the Council accepts that action to date by Victoria has been in good faith and has met its first tranche electricity reform commitments.

Noting earlier delays in the national reform program, the Council considers that any further slippage in the implementation of agreed electricity reforms would be unacceptable. It will be according high priority to this area in conducting its second tranche assessments.

Reform commitment: **Agreed to subscribe to NECA and NEMMCO.**

Implementation: Subscribed to NECA and NEMMCO.

Assessment

Complies with commitment.

Reform commitment: **Agreed to the structural separation of generation and transmission.**

Implementation: Generation and transmission have been completely structurally separated.

Assessment

Complies with commitment.

Reform commitment: **Agreed to the ring-fencing of the 'retail' and 'wires' businesses within distribution.**

Implementation: Ring-fencing is by the application of an accounting framework. The Office of the Regulator-General has issued regulatory information requirements for the electricity distribution businesses, which includes the disaggregation of the distributor's consolidated financial statements.

Assessment

Complies with commitment.

GAS

Recent history of reform in Victoria

The Gas Industry Act 1994 separated the transmission and distribution functions of the former Gas and Fuel Corporation of Victoria into two new state-owned utilities: the GTC and GASCOR (trading as Gas and Fuel).

Resolution of the PRRT issue in November 1996 was accompanied by the announcement of further reforms in the gas industry, including:

- removal of restrictions preventing Esso or BHP from selling gas to consumers in Victoria;
- removal of GASCOR's obligation to take gas exclusively from Esso/BHP;
- removal of any restrictions on the right of GASCOR, Esso and BHP to market gas freely interstate;
- removal of restrictions on customers of GASCOR from on-selling gas; and
- removal of restrictions on Esso or BHP which prevent them from building pipelines in certain areas of Victoria.

The Council understands that these reforms are expected to form part of a legislation package (also covering the establishment of a third party access regime and privatisation of gas utilities) to be implemented in 1997.

In March 1997, the Victorian Government announced the restructuring of GASCOR and GTC to prepare for privatisation of the industry in 1998:

- GASCOR is to be unbundled into three businesses, each comprising a separate retailer and distributor, operating in separate geographical areas; and
- GTC is to take on the additional role of the new Gas Transmission System Operator (GTSO) to manage the gas wholesale market. The GTSO would operate a pool mechanism in which net imbalances in the supply and demand for wholesale gas in the transmission system would be settled via adjustments to spot prices.

In April 1997, Victoria informed the Council that it would seek certification of its access regime for gas pipeline systems. The regime would operate as a transitional measure prior to the introduction by all jurisdictions of the National Access Code. Victoria has endorsed the substance of the draft National Code and has agreed to implement it within the timeframe agreed by COAG.

Reform Commitments in Relation to Implementation of a National Framework for Access to Gas Transmission Lines

Reform commitment:	**Agreed to implement complementary legislation so that a uniform national framework applies to third-party access to all gas transmission pipelines both between and within jurisdictions by 1 July 1996.**
Reform commitment:	**Noted that legislation to promote free and fair trade in gas, through third-party access to pipelines, should be developed co-operatively between jurisdictions and be based on the following principles:**

- pipeline owners and/or operators should provide access to spare pipeline capacity for all market participants on individually negotiated non-discriminatory terms and conditions;

- information on haulage charges, and underlying terms and conditions, to be available to all prospective market participants on demand;

- if negotiations for pipeline access fail, provision be made for the owner/operator to participate in compulsory arbitration with the arbitration based upon a clear and agreed set of principles;

- pipeline owners and/or operators maintain separate accounting and management control of transmission of gas;

- provision be made for access by a relevant authority to financial statements and other information necessary to monitor gas haulage charges; and

- access to pipelines would be provided either by Commonwealth or State/Territory legislation based on these principles by 1 July 1996.

Reform commitment: **Noted that open-ended exclusive franchises are inconsistent with the principles of open access expounded in points 1, 2 and 3 above:**

- agreed not to issue any further open-ended exclusive franchises; and

- agreed to develop plans by 1 July 1996 to implement more competitive franchise arrangements.

The above agreed reforms were subsequently amended at the COAG meeting of 14 June 1996 and should be read in conjunction with the following commitments.

Reform commitment: **Agreed that the national access framework would be finalised as follows:**

20 June 1996	**Finalisation of the principles in the draft Access Code.**
30 June 1996	**Release of the draft Access Code for a two month stakeholder consultation period.**
30 September 1996	**Access Code and associated draft Inter-Governmental Agreement to be finalised and submitted to Heads of Government for endorsement.**

Reform commitment: **Agreed:**

(a) the Access Code should apply to distribution systems as well as transmission pipelines:[20] and

(b) the Commonwealth Minister for Resources and Energy would convene a meeting of State and Territory Energy Ministers to settle on a mode of regulation that would maximise competition and facilitate investment in the gas industry.

Assessment

As accepted by the Council, the Prime Minister's letter of 10 December 1996 amended the previous timeframes flowing from the 1994 and 1996 Communiques. In accepting the Prime Minister's proposals, jurisdictions agreed to give legislative effect to the National Access Code by 1 July 1997. This will not be achieved.

The Council acknowledges that Victoria is committed to implementing the National Access Code and is contributing to the development of an Intergovernmental Agreement to implement the Code through nationally-based legislation. The Council is also aware that the timetable for this process now envisages South Australia, as lead legislature, passing the legislation in October/November 1997, with other jurisdictions following later that year or in early 1998. This timetable has not yet been the subject of formal agreement between the jurisdictions.

There has been considerable slippage from the original timetables in the 1994 and 1996 Communiques and from the timetable outlined in the Prime Minister's letter. The Council is concerned that jurisdictions meet the timetable now being developed through the Gas Reform Implementation Group and to be provided in the Intergovernmental Agreement.

The Council recommends that, for Victoria to be assessed as having satisfied its first tranche commitments in respect of implementation of the National Access Code, it will need to have implemented the Code in accordance with the timetable to be agreed in the Intergovernmental Agreement. The Council recognises that Victoria is proposing to move ahead of the national process, intending to introduce a transitional access regime by November 1997, and considers that Victoria will not have any difficulty in achieving the commitment. The Council proposes to reassess this matter for report to the Commonwealth Treasurer prior to July 1998.

Reform Commitments in Relation to Issues Other than a National Framework for Access

Arising from the February 1994 and June 1996 meetings of COAG, all jurisdictions undertook to put in place a range of reforms designed to permit the free and fair trade in gas between and within jurisdictions.

Reform commitment: **Agreed that reforms to the gas industry to promote free and fair trade be viewed as a package, that each government would move to implement the reforms by 1 July 1996.**

[20] See footnote 7.

Assessment

The Council sees this as a general statement that would encompass all the agreed reform commitments in relation to both the commitments in respect of a national framework for access to gas pipelines and the other gas reforms detailed below. The Council sees the 1 July 1996 deadline as binding unless it has been amended by subsequent unanimous agreement between the parties.

Reform commitment: **Agreed to remove all remaining legislative and regulatory barriers to the free trade of gas both within and across their boundaries by 1 July 1996. (Heads of Government noted that Victoria's ability to commit to this timetable is contingent upon satisfactory and timely resolution of the Petroleum Resources Rent Tax issue.)**

Assessment

A report by officials to Heads of Government in August 1994, *Implementation of a Pro-Competitive Framework for the Natural Gas Industry, Within and Between Jurisdictions* (the August 1994 Report) reported that the *Gas and Fuel Corporation Act 1958* would need to be reviewed and amended to provide for:

- structural separation of gas transmission and distribution functions of the Gas and Fuel Corporation of Victoria (GFCV);

This reform has since occurred under the *Gas Industry Act 1994*, which separated the GFCV into the GTC and GASCOR.

- removal of the exclusive franchise provisions under which the GTC and GASCOR have exclusive rights to convey gas in Victoria through transmission and distribution networks respectively.

Significant reforms were announced in this area to accompany resolution of the PRRT dispute:

- removal of restrictions which prevent Esso or BHP from selling gas to consumers in Victoria;
- removal of GASCOR's obligation to take gas exclusively from Esso/BHP;
- removal of any restrictions on the right of GASCOR, Esso and BHP to market gas freely interstate;
- removal of restrictions on customers of GASCOR from on-selling gas; and
- removal of restrictions on Esso or BHP which prevent them from building pipelines in certain areas of Victoria.

The August 1994 Report also noted that the *Pipelines Act 1967* would require reform to permit third party access.[21]

The Council understands that these reforms are expected to form part of a legislation package (also covering privatisation of gas utilities and a third party access regime) to be implemented in late 1997.

The Council is satisfied that Victoria has either removed, or is in the process of removing, the remaining legislative or regulatory barriers to free and fair trade in gas and considers that Victoria has met its first tranche commitments in this area. However, the Council considers this matter an on-going commitment and will take into account any legislative or regulatory barrier that is subsequently discovered, in future assessments.

Reform commitment: **Agreed to adopt AS 2885 to achieve uniform national pipeline construction standards by the end of 1994 or earlier.**

Assessment

The Victorian *Pipelines Act 1967* requires all pipelines to be constructed in accordance with prescribed standards. The Specification Schedule in each licence requires construction to be in accordance with AS 2885.

The Council is satisfied that Victoria complies with its first tranche commitments in this area.

Reform commitment: **Agreed that approaches to price control and maintenance in the gas industry be considered in the context of agreed national competition policy.**

Assessment

Reforms currently underway in Victoria will adopt the provisions of the draft National Access Code, including the requirement for approval of access arrangements by independent regulators bound by competition objectives.

Under the proposed industry restructure, gas prices will be capped below the cost of inflation until the year 2001, with the service and pricing of the three distributors and retailers being regulated by the Office of Regulator General under a general tariff order.

All new legislative proposals in Victoria (including those impacting on price control and maintenance) are subject to a comprehensive review against competition principles.

The Council considers that Victoria has met its first tranche commitments in this area.

Reform commitment: **Agreed that where publicly-owned transmission and distribution activities are at present vertically integrated, they be separated,**

[21] Third party access reforms are addressed earlier in this section.

and legislation introduced to ring-fence transmission and distribution activities in the private sector by 1 July 1996. (Heads of Government noted that Victoria's ability to commit to this timetable is contingent upon satisfactory and timely resolution of the PRRT issue.)

Assessment

Victoria's GFCV was structurally separated under the *Gas Industry Act 1994* into two new, publicly-owned organisations – the GTC (transmission services) and GASCOR (distribution and retail services). Technical and regulatory functions have been transferred from the former GFCV to a separate agency responsible to the Minister for Energy and Minerals.

In December 1996 (shortly after resolution of the PRRT dispute), the Victorian Government announced plans to privatise its gas transmission, distribution and retail businesses. In preparation, GASCOR is expected to be disaggregated into three businesses comprising a separate retailer and distributor, operating in separate geographical areas. The first privatisation is expected to take place in the second half of 1997[22].

The Council is satisfied that Victoria complies with its first tranche commitment in this area.

Reform commitment: **Agreed to place their gas utilities on a commercial footing, through corporatisation by 1 July 1996.**

Assessment

GTC and GASCOR are corporatised entities.

The Council is satisfied that Victoria complies with its first tranche commitments in this area.

ROAD TRANSPORT

Reform commitment: **Adopt the first reform module (heavy vehicle charges) with effect from 1 July 1995. Commit to the MCRT timetable for future road transport reforms.**

Assessment

Victoria implemented the heavy vehicles charges and associated permit reforms on 1 January 1996. The Council notes some delay from the originally agreed implementation timetable due to the need for Victoria to first remove existing permit schemes relating to heavy vehicles operating at higher mass limits in order to introduce the charges.

Victoria has confirmed its commitment to implementing the reform agenda agreed at the meeting of the MCRT on 14 February 1997.

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[22] The Australian 11-12-96

The Council considers Victoria has complied with its first tranche road transport reform commitments.