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# Regulatory issues

## Electricity

Also see the *Adjudication* chapter for summaries of recent electricity authorisation determinations.

### Regulatory review of transmission service standards

On 27 May 1999 the Commission released its draft statement of regulatory principles for the regulation of transmission revenues.

The draft regulatory principles outlined the Commission's initial views on service standards that it would impose on transmission network service providers (TNSPs). To further develop these service standards it is reviewing regulatory service standards.

The review will propose appropriate service standards and benchmarks to apply across the national electricity market and for each transmission network. It will consider national and international developments and existing statutory requirements. Market-based service standards and the development of an incentive scheme for the maintenance of service standards will be analysed.

After a round of consultations with TNSPs and other market participants the project consultant will design an incentive mechanism and deliver a final report to the Commission at the end of May 2002. The Commission expects to release its final version of transmission service standards later this year after appropriate public consultation.

### Guidelines for negotiating electricity transmission discounts

On 21 September 2001 the Commission released its determination on network pricing code changes (see *ACCC Journal* no. 36). The code now provides for network users to negotiate discounts on their transmission charges, and sets out the circumstances under which such discounts can be recovered from other network users. It states that transmission network service providers may recover the costs of discounts to transmission use of system general charges and common service charges if the discounts meet guidelines to be promulgated by the Commission.

On 10 October 2001 the Commission released its draft guidelines for the negotiation of discounts on transmission charges and sought submissions from interested parties on them (a copy of the draft guidelines can be obtained from the Commission's website at <<http://www.accc.gov.au>>). It is currently reviewing submissions and it is planned that the finalised guidelines will be released by the beginning of May 2002, after the Commission has had a chance to review a couple of real-world discount applications.

The Commission's network pricing determination also contains transitional arrangements allowing discounts negotiated before the guidelines are finalised to be submitted to the Commission for approval of cost recovery. In assessing these applications the Commission intends to be as consistent as possible with the draft guidelines. To date the Commission has received one application. This was approved by the Commission on 31 January 2002.

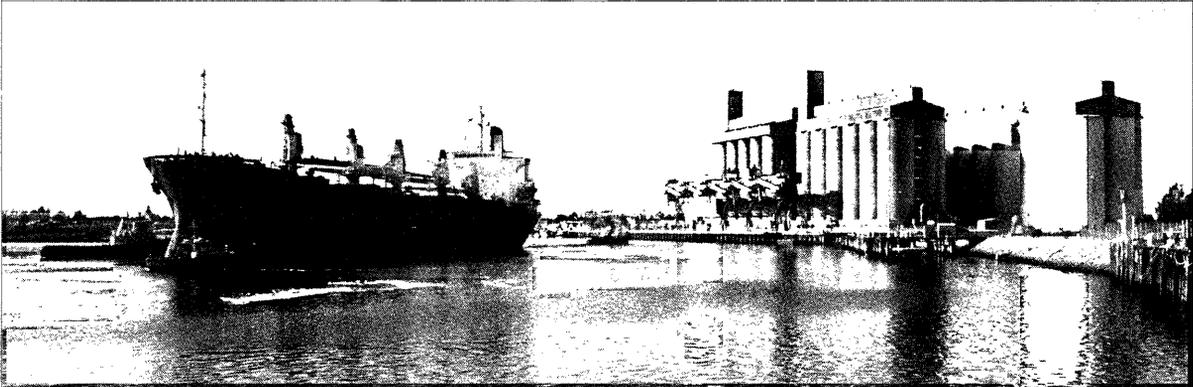
## Shipping

### ACCC rejects Adsteam Marine's proposed rate increases

Adsteam Marine Limited's harbour towage operations in the ports of Sydney (Port Jackson and Port Botany), Melbourne, Brisbane, Adelaide, Fremantle and Newcastle are declared services under the Prices Surveillance Act. Harbour towage operations cover tug boats that help vessels enter and exit various Australian ports. As a declared company, Adsteam must notify the Commission of any proposed price increases at these ports.

On 14 December 2001 Adsteam lodged several price notifications with the Commission outlining its proposed towage rate increases for its operations in the ports of Sydney (Port Jackson and Port Botany), Melbourne, Brisbane and Adelaide. The intended rate increases ranged from 11.7 per cent in Brisbane to 26.2 per cent in Port Jackson.

According to Adsteam it sought towage rate increases for its operations in the five ports because of a significant fall in operating margins in the 2000-01



financial year. Adsteam attributed this to fewer tug jobs and decreased revenue. The argument made by Adsteam was that, over time, average vessel sizes are increasing, necessitating investment in larger and more powerful tugs. Further, the number of annual vessel calls is falling. This leads to both increased capital and operating costs for Adsteam and to reduced revenues.

Adsteam argued that it required an 18 per cent 'margin over costs' to form the basis of its proposed towage rate increases for the five ports. It used charter rates (leasing costs) as a proxy for the capital costs of a tug.

During the Commission's assessment process, the Commission sought comments from interested parties. This included releasing an issues paper on financial modelling and alternative approaches to analysing Adsteam's financial position. Several organisations provided feedback to the Commission on the proposed increases. These included Shipping Australia Limited (SAL) representing various shipping lines, P&O Nedlloyd, Sydney Ports Corporation, Brisbane Ports Corporation, Melbourne Ports Corporation, the Australian Peak Shippers Association and the Association of Australian Ports and Marine Authorities.

The interested parties unanimously called for a public inquiry into towage to examine the issues in greater detail than possible in the short periods allowed under the Prices Surveillance Act. SAL provided information on the capital costs of alternative tug designs, suggesting that Adsteam has over-capitalised its tug fleet. SAL also provided the Commission with its own costs and revenue estimates model for an efficient towage operation at all five ports, against which to benchmark the Adsteam financial data. Sydney and Brisbane Ports Corporations provided data on ship-call trends and trends in vessel sizes for their respective ports.

The Commission examined the claims of Adsteam. Although it found the concept of employing charter rates as a surrogate measure of capital costs instead of a depreciated optimal replacement cost was reasonable, Adsteam's adoption of this approach raised some fundamental concerns. The results of Adsteam's approach were compared with those obtained using Adsteam's information and the standard building block approach used by the Commission. The Commission sought advice from Professor Kevin Davis who concurred with the Commission's analysis.

The Commission found that Adsteam double counted its margins when employing the charter rates measure. The charter rates already include a rate of return on capital that an owner of a tug would expect to earn from leasing tugs. It also includes a rate of return of capital (depreciation). However, instead of determining its revenue requirement by applying a target rate of return to its investment base, Adsteam proposed rate increases based on an 18 per cent margin over total costs, including operating costs. Adsteam therefore proposed rates that included a rate of return on capital and a rate of return over its costs that already included a return on capital.

Using the approach set out in the Commission's publication *Draft Statement of Principles for the Regulation of Transmission Revenues*, an estimate was made of the revenues that Adsteam would require to derive a reasonable rate of return on its investment. The Commission found that Adsteam achieved adequate rates of return at the current level of prices for its operations at all five ports and that no increase in prices could therefore be justified. The cost efficiency of Adsteam's operating and indirect costs for its towage businesses in the five ports was not examined in detail, for the discovery of cost inefficiencies would only strengthen the case that Adsteam is making adequate returns. Under the

Prices Surveillance Act the Commission cannot enforce rate declines to place pressure on companies to lower costs to efficient levels.

On 19 February 2002 the Commission decided that Adsteam's proposed increases in towage charges for all five ports for which it submitted price notifications could not be justified. A week later the Commission publicly released a statement of reasons for the decision.

On 20 February the Government announced that the Productivity Commission is to conduct a six-month public inquiry into the economic regulation of harbour towage services and particularly into the future of the harbour towage declaration under the Prices Surveillance Act, which lapses on 19 September 2002. The Commission will provide a submission to the inquiry. The Minister for Transport, the Hon. John Anderson, asked that Adsteam defer any price increases pending the Productivity Commission inquiry.

On 6 March Adsteam announced that it had increased its harbour towage rates at the five ports in line with those notified to the Commission. Once price increases have been notified to the Commission the Prices Surveillance Act does not provide for any penalty if those prices are subsequently increased, notwithstanding the decision made by the Commission on that notification.