

Australian Capital Territory

Independent Competition and Regulatory Commission (Regulated Water and Sewerage Services) Terms of Reference Amendment Determination 2007

Disallowable instrument DI2007–293

made under the

Independent Competition and Regulatory Commission Act 1997 (“the Act”), Section 15 (Nature of industry references) and Section 16 (Terms of industry references)

EXPLANATORY STATEMENT

Legislative Provisions

Under subsection 15(1) of the *Independent Competition and Regulatory Commission Act 1997* (“the Act”) a referring authority may provide an industry reference to the Commission in relation to a number of matters, including prices for regulated services. Section 16 of the Act allows the referring authority to determine written terms of reference for an investigation on an industry reference.

A determination under subsection 16(1) of the Act is a disallowable instrument (see subsection 16(3)).

Section 46 of the *Legislation Act 2001* states that the power to make a statutory instrument includes the power to amend or repeal the instrument and is exercisable in the same way.

Background

On 28 February 2007, the Minister issued a Terms of Reference to the Commission requiring the Commission to undertake an inquiry into, and make a determination for, water and waste water prices for the period from 1 July 2008. The issuing of this Terms of Reference was effected under sections 15 and 16 of the Act by way of a Disallowable Instrument (see DI 2007 – 65).

As part of the Terms of Reference, the Commission was required to complete the inquiry by 1 March 2008. The purpose of setting a deadline for the delivery of the Final Report was to allow sufficient time for ACTEW, the water and wastewater

service provider, to complete any final administrative tasks prior to the commencement of the new price direction from 1 July 2008.

Outline

It has become apparent however; that the deadline of 1 March as originally set for the review cannot be met for the following reasons:

- Delays in the assembly of all the necessary data
- Delays in the completion of some of the consultant studies being undertaken for the Commission, and
- The need to take into account in the Draft Report the Government's recent announcements concerning the undertaking of additional works on the Cotter Dam, the Murrumbidgee/Googong Pipeline, and the contingency arrangements for the Tantangara transfer and the establishment of a pilot treatment plant as part of the water reuse project.

The Commission needs to consider the funding implications of these proposals and to include this analysis in the modelling that has already been undertaken to establish price paths going forward into future years.

Following discussions with ACTEW and ACT Treasury, and with the agreement of both parties, the Commission is proposing that the deadline for the completion of the inquiry be extended to 11 April 2008.