

Independent Competition and Regulatory Commission (Reference for Investigation) Determination 2003 (No 4)

Disallowable instrument DI2003—292

Independent Competition and Regulatory Commission Act 1997 section 16
(Terms of industry references)

and industry reference made under

Independent Competition and Regulatory Commission Act 1997 section 15
(Nature of industry references)

EXPLANATORY STATEMENT

The *Independent Competition and Regulatory Commission Act 1997* (the “Act”) establishes the Independent Competition and Regulatory Commission (the “Commission”) to regulate pricing, access and other matters in relation to industries involving the provision of water, electricity and sewerage, and other industries.

Section 15 of the Act provides the means by which the Commission may be provided with an industry reference to review competition for regulated services, such as the provision of electricity infrastructure. Section 15 also allows an industry reference to be withdrawn before the Commission has delivered its report and specifies that, if an industry reference is withdrawn, the referring authority must prepare a written notice setting out the reasons for the withdrawal. Such a notice is a notifiable instrument. Section 16 of the Act allows the referring authority to determine, by disallowable instrument, terms of reference for an investigation on an industry reference.

This Instrument revokes Disallowable Instrument DI2003-182 of 1 July 2003 (“DI2003-182”). The purpose of DI2003-182 was to determine the terms of reference for an investigation on an industry reference, including the period within which a report on the investigation on the industry reference was required. However, I also utilised DI2003-182 to actually provide the industry reference to the Commission under section 15 of the Act (the “Section 15 Industry Reference”) to provide advice on whether there is a net benefit to the community as a whole in the introduction of contestable electricity infrastructure works in the electricity distribution network.

The Commission has requested an extension of the period within which it must report, from 12 December 2003 to 16 February 2004. This requires that aspect of the terms of reference set in DI2003-182 to be changed. Therefore this Instrument determines new terms of reference for the investigation on the Section 15 Industry Reference, which amend the period within which the Commission’s final report is required but otherwise remain unchanged from the original terms of reference.

Consequent upon the revocation of DI2003-182 is the withdrawal of the industry reference of 1 July 2003 it contained. Therefore this Instrument also reissues to the Commission the original reference to investigate and provide advice on whether there is a net benefit to the community as a whole in the introduction of contestable electricity infrastructure works in the electricity distribution network.