



**Essential Services
Commission**
Annual Report
2021-22

About this report

This annual report summarises the commission's performance for 2021–22 against the goals, objectives and targets of our operational plan.

This report and earlier reports can be found on our website: esc.vic.gov.au

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Designed by Nuttshell Graphics

Acknowledgement

We acknowledge Victoria's Aboriginal and Torres Strait Islander communities and pay our respects to their Elders past, present and emerging.

We acknowledge Aboriginal people as the Traditional Owners and custodians of the land and water on which we rely.

As the world's oldest living culture and First Peoples of our land, we recognise and value the ongoing contribution of Aboriginal people and communities to Victorian life and how this enriches us.



27 October 2022

The Hon. Danny Pearson MP
Assistant Treasurer
Department of Treasury and Finance
Level 3, 1 Treasury Place, East Melbourne, VIC 3002

Dear Assistant Treasurer

We are pleased to present the Essential Services Commission's annual report for the year ending 30 June 2022.

The annual report has been prepared in accordance with Part 7 of the *Financial Management Act 1994* and as required by Section 31 of the *Essential Services Commission Act 2001*. It also satisfies the requirements of Regulation 7 of the Essential Services Commission Regulations.

I would like to record my appreciation of commission staff for their commitment to delivering our regulatory, administrative and advisory program in 2021–22.

Yours sincerely

A handwritten signature in black ink, appearing to read "Kate Symons", with a long horizontal flourish extending to the right.

Kate Symons
Chairperson
Essential Services Commission

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Who we are

The Essential Services Commission promotes consumer interests by regulating Victoria’s energy, water and transport sectors, and overseeing the Fair Go Rates system.

We also administer the Victorian Energy Upgrades program, which aims to reduce greenhouse gases by making energy efficiency improvements more affordable for consumers.

Our purpose

We promote the long-term interests of Victorian consumers with respect to the price, quality and reliability of essential services.

Our values



Integrity

- Being transparent and consistent in making decisions.
- Clearly explaining the rationale behind decisions.
- Acting openly and honestly.



Collaboration

- Sharing information and knowledge across the organisation.
- Adopting an open and constructive approach to addressing and resolving issues.
- Providing or taking opportunities across the organisation to jointly deliver influential outcomes.



Impartiality

- Basing advice and decisions on merit, without bias, caprice, favouritism or self-interest.
- Acting fairly by objectively considering all relevant facts and fair criteria.



Excellence

- Being rigorous in the assessment of data and information.
- Exhibiting clear, evidence-based decision-making.
- Challenging traditional approaches and exploring new ideas based on the latest economic and regulatory thinking.



Respect

- Treating people fairly, objectively, and with dignity.
- Considering the views of others to improve outcomes on an ongoing basis.



Commissioner Sitesh Bhojani, Chairperson and Commissioner Kate Symons, Commissioner Rebecca Billings and Commissioner Simon Corden.

We had



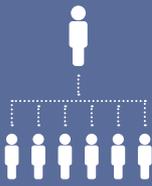
162 employees



1 commission chairperson



**3 commissioners
(1 full-time, 2 part-time)**



1 chief executive officer leading the organisation
supported by
6 executive team

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Snapshot 2021–22



We supported Victorian households and small businesses affected by COVID restrictions by:

- maintaining safeguards against disconnection and debt collection
- requiring energy companies to help customers applying for relief grants and concessions
- consulting on changes to our water codes to enhance minimum customer protections
- reporting on customer support provided and sharing best practice approaches to customer help.



9 actions to bring the voice of consumers into our work

We continued to progress our three-year *Getting to fair* roadmap to help us provide more responsive, inclusive and accessible services to consumers experiencing vulnerability. The strategy is built around three key objectives: working with consumers, working with regulated businesses, and working on ourselves.



Land Access Statement of Expectations

We released the *Electricity Transmission Company Land Access Statement of Expectations* in May 2022 to balance the rights of landowners with the statutory right of licensed transmission companies to access private lands where necessary to provide their essential services.



Victorian Default Offer

The Victorian Default Offer – a fair price for electricity – was increased by five per cent mainly due to rising wholesale electricity costs, with 2022–23 standing offer prices remaining below where they were prior to the introduction of the Victorian Default Offer in 2019.



Facilitating Victorian energy market entry and exit

We issued 14 energy licences including:

- five electricity generation licences
- five electricity retail licences
- four retail gas licences.



**7.57 million +
certificates registered**

More than 7.57 million Victorian energy efficiency certificates were registered as part of the Victorian Energy Upgrades program. Households are anticipated to save an average of \$117 on their annual energy bill, and small businesses are expected to save an average of \$2,208 per year.



**494
penalty notices**

Five energy companies were issued penalty notices totalling \$6.485 million for alleged breaches of the energy rules, affecting more than 77,000 Victorians. This included: wrongful disconnection, wrongly including prohibited exit fees in energy contracts, and conducting planned electricity outages without notifying customers (including life-support customers).



**water bills
to increase**

Water prices were set for 2022–23 with average Melbourne household bills to increase by \$10 a year, and \$45 in regional Victoria due to inflation.



**79
councils complied
with rate cap**

For the first time since the introduction of rate capping, no councils applied for a higher cap and no higher caps approved in previous years remained in force. As a consequence, all councils were subject to an average rate cap of 1.50 per cent.



**32
events**

Almost 2,000 representatives from regulated businesses, consumer groups and community sector organisations participated in 32 online public and stakeholder events.

From the chairperson



Chairperson and Commissioner
Kate Symons

Year in review

The past 12 months saw Victorians navigate a new set of challenges and change. We joyfully reconnected with family, friends and colleagues while grappling with the ongoing health and economic impacts of the COVID-19 pandemic.

We strengthened our resilience and resolve in the face of uncertainty and disruption, but these have been testing times for many individuals, households and businesses.

The long tail of the pandemic has highlighted the importance of the commission's role to ensure the price, quality and reliability of essential services in the long-term interests of Victorians. These services keep our communities healthy, safe and productive.

It has brought our mission to protect and promote the interests of Victorian consumers – including people on low incomes and those experiencing vulnerability – sharply into focus. This is reflected in our programs, projects and decisions over the past 12 months.

Supporting all Victorians

The commission continued to collaborate closely with government, regulated businesses and community services to support Victorians impacted by the pandemic to access essential services. I thank everyone involved in this united effort to provide meaningful assistance to consumers through effective pandemic responses and hardship protections.

Supporting Victorians experiencing vulnerability is an enduring priority for the commission. We are bringing this to life through progressing our three-year *Getting to fair* strategy. This includes completing our review of the implementation of the Payment Difficulty Framework which requires energy retailers to provide assistance to Victorians facing bill stress. The review found that the framework does help consumers to manage their energy costs, but retailers can do more to improve the effectiveness of their assistance.

Our work on the strategy has shown us that consumers experience vulnerability in different ways. We heard this in feedback from senior Victorians and First Nations communities in relation to Telstra Energy (Retail) Pty Ltd.'s application to sell gas and electricity in Victoria. This informed our decision to impose additional conditions on Telstra Energy's retail licences to ensure effective protections for consumers.

Seeking out customer views and experiences was a key objective in our review of the water customer service codes to ensure they continue to meet the needs of customers, particularly those facing financial difficulties. We assembled a community panel of 27 Victorian consumers to hear directly from people experiencing vulnerability or financial stress. This engagement will help to improve payment difficulty support, consumer protections and communications to customers as part of the final industry standards that will take effect from 1 March 2023.

Protections for consumers experiencing family violence is an ongoing area of focus for the commission, and we believe the water and energy businesses we regulate are making progress in these important areas. To further improve outcomes, this year we engaged experts and lived-experience advisors to develop a series of industry resources for regulated businesses seeking to better support consumers affected by family violence.

Delivering value for Victorians

Our decision for the Victorian Default Offer for 2022–23 followed a careful assessment of the cost to supply electricity to customers. The outcome was a price increase generally in line with the current rate of inflation. The Victorian Default Offer is an important safety net for Victorians who are unable or unwilling to engage in the energy market, particularly as we enter this period of higher wholesale energy prices.

The commission acted to support Victorians who may be affected by higher wholesale energy prices. We informed consumers of their rights and made sure their electricity and gas supply were not disrupted by energy retailers exiting the market. We continue to monitor the conduct and performance of energy retailers amid changing market conditions.

We worked with stakeholders to promote and enforce compliance with the Victorian Energy Upgrades program, the biggest energy efficiency scheme in Australia. The program delivered over 692,000 energy efficiency upgrades to Victorian homes and businesses, equating to more than 7.5 million tonnes reduction in greenhouse gas emissions.

The commission also completed our first five-yearly examination of the Port of Melbourne's compliance with the Victorian Government's Pricing Order.

Upholding critical consumer protections

We provided guidance to assist energy businesses to comply with their obligations and held businesses to account when they failed to follow the rules, with a focus on our compliance and enforcement priorities. This led to five energy retailers paying \$6.485 million in penalties following alleged breaches of rules relating to planned outages, exit fees on contracts and wrongful disconnections.

In December, the commission was granted expanded enforcement powers to hold regulated energy businesses to account. These new tools boost our capabilities as a strong, fair and active regulator and help us to deliver improved outcomes for consumers.

Making a positive difference

When I reflect on the challenges we have faced and the progress we have made on behalf of Victorian consumers over the past year, I am so proud of our organisation.

I am immensely proud of the commission's ongoing efforts to engage diverse voices and experiences to inform our work. This helps us to be clear in our expectations of regulated businesses, and responsive in our actions and decisions on behalf of consumers.

My thanks to my fellow commissioners Sitesh Bhojani, Rebecca Billings and Simon Corden for their support and the expertise they bring to our decision-making. My appreciation also to our chief executive officer John Hamill and his executive team for their focused leadership and proactive support to staff and stakeholders through another pandemic year.

Finally, I want to recognise the care and determination of our people who continue to work hard to make a positive difference for all Victorians. To the entire team at the commission, thank you for your contribution and your service this year.



Kate Symons

Chairperson
Essential Services Commission

From the CEO



John Hamill
Chief Executive Officer

The commission delivered on its regulatory commitments in the 2021–22 financial year to promote the long-term interests of consumers.

I am proud of our efforts and achievements to deliver an ever more demanding work program. The team embraced the challenges and opportunities of new projects, new powers and new possibilities in a rapidly shifting economic environment. We formed expert multidisciplinary teams and welcomed new stakeholder connections as we embarked on projects such as the Land Access Statement of Expectations, executed Retailer of Last Resort customer transfers to ensure continuity of energy supply, and prepared for significant reforms to the Victorian Energy Upgrades program.

As an organisation, we strive to be an active, strong and fair regulator, focused on supporting Victorian consumers through the key economic and environmental challenges of our time. This year we made important progress on that strategy, shifting to a new hybrid funding model involving the establishment of two trust funds – an operating fund and an enforcement fund. The new funding model gives the commission greater flexibility to manage workflow

peaks and troughs, particularly associated with regulatory pricing. The newly-established enforcement fund gives the commission a valuable additional tool in our regulatory toolkit that supports significant new enforcement powers.

The ongoing challenges of the pandemic again underscored the importance of the health and wellbeing of our staff. We continued to follow public health advice and concentrated on promoting a safe, inclusive and collaborative workplace culture. We remained focused on employee health and wellbeing, using regular pulse surveys to help guide our initiatives to support our people. And we assessed and adjusted our business continuity plans constantly to make sure our people had the tools and support they needed to work effectively and efficiently remotely or from the office. We continue to evaluate and adapt our ways of working to make sure our team is empowered and set up to successfully deliver on our responsibilities to Victorian consumers.

It has been another extraordinary year, on all fronts. I would like to take this opportunity to thank everyone at the commission for their courage, resilience and persistence. In particular I would like to thank our chairperson Kate Symons and the other commissioners, my executive team and all our colleagues – for your invaluable contribution and warm support.

A handwritten signature in black ink, appearing to read 'J Hamill'.

John Hamill
Chief Executive Officer
Essential Services Commission

Our leadership team

Organisational chart as of 30 June 2022



Our organisational structure

We are led by four commissioners and our chief executive officer. Our commissioners are responsible for approving the determinations, reviews, penalty notices, litigation and other decisions that respond to our primary responsibilities as an economic regulator.

Our commissioners



Kate Symons
Chairperson and Commissioner

Kate was appointed full-time commissioner and chairperson in September 2019 after being a part-time commissioner since October 2016. As a lawyer with qualifications in public administration and corporate governance, Kate has experience across several sectors.

Kate has particular expertise in risk, compliance and governance issues. She acted as solicitor-assisting for the HIH Insurance Royal Commission, has held roles within the university sector and the Federal Court of Australia, and has worked in private practice both in Australia and overseas.

She holds a Bachelor of Arts and Bachelor of Laws (Hons) from the University of Adelaide, a Master of Public Administration from Flinders University and a Graduate Diploma of Applied Corporate Governance from the Governance Institute of Australia.



Sitesh Bhojani
Commissioner

Sitesh commenced as a commissioner in September 2019. He is a barrister and is highly experienced in competition and consumer law.

Sitesh's previous roles include practicing law as a barrister with the Western Australian Bar Association, the New South Wales Bar Association and Victorian Bar. He was also a member and deputy chairman of the Competition and Consumer Committee of the Law Council of Australia, and was a commissioner at the Australian Competition & Consumer Commission from 1995 to 2003.

Sitesh has a Bachelor of Science and a Bachelor of Laws from Monash University.



Rebecca Billings
Commissioner

Rebecca was appointed part-time commissioner in February 2020. Rebecca is an economist with over 18 years' experience providing economic and policy advice to government across a diverse range of regulatory systems.

Rebecca's consulting roles include being a director at PwC, NERA Economic Consulting and Deloitte Access Economics. She was previously a senior economist at the Department of Treasury and Finance, where she supported the implementation of the Reducing Regulatory Burden reforms.

Rebecca has a Bachelor of Commerce (Economics) and Bachelor of Arts (Politics) from Monash University.



Simon Corden
Commissioner

Simon was appointed part-time commissioner in April 2019. He is an expert in economics and regulatory policy.

Simon's previous roles include senior executive positions in the Victorian Department of Premier and Cabinet, the Department of Treasury and Finance, the Victorian Competition and Efficiency Commission, WorkSafe Victoria and the Productivity Commission. From 2011 to 2018 he was Director, Policy, Programs and Evaluation, at KPMG Australia.

Simon has a Masters of Science (Economics) from the London School of Economics, a Bachelor of Economics (Honours) from Monash University, and Bachelor of Applied Science (Photography) from the Royal Melbourne Institute of Technology.

The executive team



John Hamill
Chief Executive Officer

John has been the commission's chief executive officer since February 2016. He leads the executive team and is responsible for the organisation's overall operations.

Before working at the commission, John was general manager regulation at the Commerce Commission in New Zealand. He has extensive experience in regulatory reform and public sector governance.

John has a Masters degree and PhD in English from Victoria University in Wellington, New Zealand.



Carmel Bordignon
Head of Strategic Communication

Appointed in April 2022, Carmel oversees external and internal communication, digital and social media, media and issues management, reputation, branding and stakeholder engagement at the commission.

Carmel has a Bachelor of Arts from the University of Melbourne and a Postgraduate Diploma (Public Relations) from RMIT University. She has extensive experience providing strategic communications advice and tactical support in professional advisory and in-house corporate affairs roles for the energy and resources, financial services, healthcare, and media and technology sectors.

Michelle Bryne

Head of Strategic Communication
Michelle was in the role from 1 July 2021 to 10 December 2021.



Jeff Cefai
Director, Victorian Energy Upgrades

Jeff oversees all aspects of the Victorian Energy Upgrades program within the commission. These include assessing and registering certificates, approving products, and accrediting participants. He also oversees the management of project-based activities, monitoring and enforcement under the commission's audit and compliance functions, overall stakeholder engagement, and collaboration with policy makers through our data-driven insights.

Jeff has a Bachelor of Engineering (Chemical Engineering) from RMIT and over 30 years of experience in the energy sector, with 15 years in regulation.



Marcus Crudden
Executive Director, Price Monitoring and Regulation

Marcus oversees projects including, approving metropolitan and regional water businesses prices, setting the Victorian Default Offer for retail electricity prices, administering local government rate caps, setting maximum unbooked taxi fares, and regulatory functions related to the Port of Melbourne.

Marcus has a Master of Business Administration from the Australian Graduate School of Management. He also has a Graduate Diploma of Water Engineering, Hydrology and Water Resources Science, and a Bachelor of Engineering, both from Monash University.



Nick Field
Director, Organisational Performance

Nick started his role at the commission in June 2020. Nick oversees key internal functions, including IT, people and culture, finance, information management, governance and risk.

He has over 15 years' experience as a management consultant to the Victorian Public Sector and more recently as a Chief Operating Officer at the Victorian Government Solicitor's Office. Nick has a Bachelor of Arts (Social Science) from the University of Leicester, and qualifications in facilitation, training, project management and leadership. He is an active volunteer in the local school, junior sporting and emergency management communities, and a board member of Carers Victoria and Carers Australia.



Sarah Sheppard
Executive Director, Energy

Sarah oversees our energy program, including market entry and exit of energy companies, our compliance and audit program, and enforcement action. She is also responsible for the development of energy codes and guidelines, and the release of market performance reports such as the Victorian Energy Market Report.

Sarah has degrees in law and arts from the University of Adelaide and has extensive experience in economic regulation and the energy sector, including six years with the Victorian Government, a decade at the Australian Competition & Consumer Commission and experience as a competition lawyer in the private sector.

Our strategy

Our three-year strategy describes our priorities and how we are adapting to changes, to reinforce our standing as a leading regulator.

Our changing environment

The regulatory space is changing, which presents us with several challenges and opportunities over the next three years.



Regulators are increasingly being challenged to take effective and appropriate enforcement action. Recent legislative reforms will enable us to take a broader range of compliance and enforcement actions.



The economic and fiscal environment has changed as we emerge from the COVID-19 pandemic, resulting in increased cost of living pressures on consumers, stress on supply chains, low unemployment and fiscal constraints on government.



Climate change and the increased frequency and intensity of extreme weather is driving demand for greater energy efficiency and innovation and putting greater demands on infrastructure.



The increasing use of data and knowledge is driving changes to technology requirements, information security, privacy considerations and decision-making.



Understanding how our role affects customers experiencing vulnerability has become critical to our work in promoting the long-term interests of Victorians.



The energy market is transitioning as Victoria moves to net zero by 2050. Significant investments in transmission networks and renewable energy are being fast-tracked to meet governments' climate goals.

Delivering for Victorians

To achieve our purpose and respond to the changing environment, we will focus on four goals:

1 We will be a strong and fair regulator

To increase trust that we will deliver in the best interests of consumers, we will:

- hold regulated businesses to account and deter behaviour that is not consistent with the rules we administer
- promote behaviour that is in the best interests of consumers
- make use of all legislative powers available to us.

2 We will be an active regulator

To continue to respond effectively to the changing environment and solve real problems, we will:

- engage with the community and stakeholders to understand their needs and expectations
- use data sources and intelligence to assess what is happening in regulated sectors
- continuously improve our regulatory processes and reform our codes
- look for ways to proactively solve issues
- break down barriers to consumers accessing essential services.

3 We will create incentives for regulated businesses to provide value for customers

To ensure regulated businesses deliver value for customers, we will:

- ensure our regulatory frameworks and practices are designed to create effective relationships between those who deliver essential services and their customers
- create incentives for regulated businesses and markets to have strong governance, systems and culture
- promote transparency and accountability for and in regulated businesses
- hold events and campaigns to inform consumers about their rights.

4 We will deliver value to Victorian consumers

To enable us to deliver our services effectively and efficiently, we will:

- prioritise to ensure resources are focused on areas providing the most value
- be innovative in our delivery of projects
- have a clear understanding of our effectiveness
- make quality and timely decisions.

Creating the right culture, systems and processes

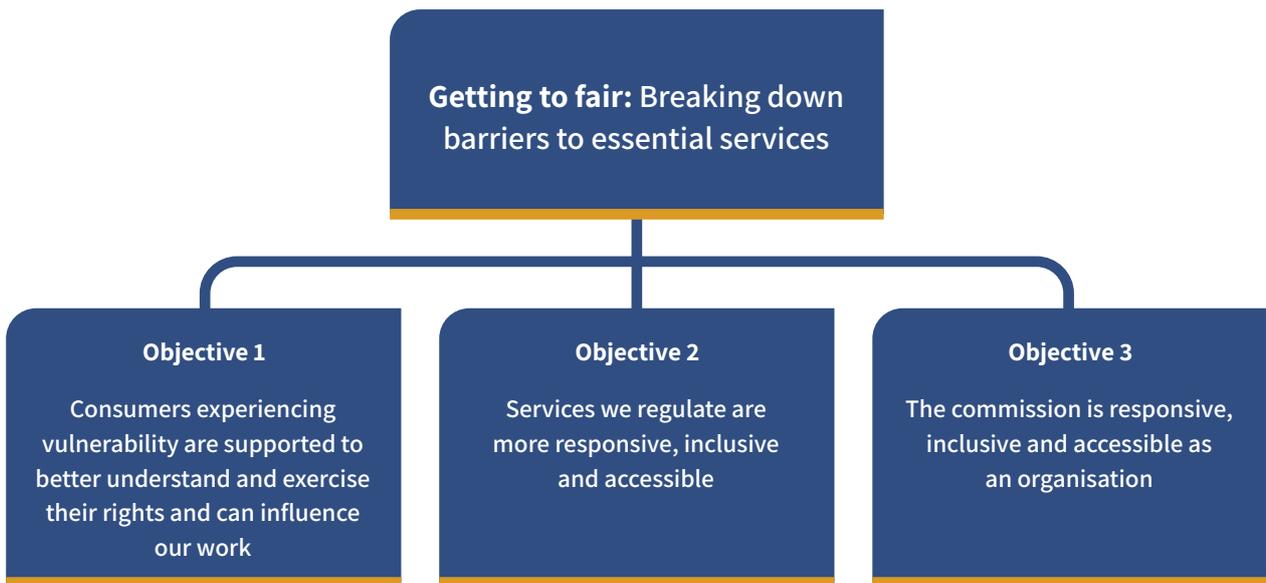
Our business processes support us in achieving our goals by ensuring we have:

- effective processes for engaging with stakeholders
- effective data, evidence and information management
- people with the right mix of skills and knowledge
- a workplace that promotes diversity, inclusion and flexibility.

Getting to fair: Breaking down barriers to essential services

Getting to fair: Breaking down barriers to essential services is a three-year roadmap to help the commission improve the experience of consumers who are experiencing vulnerability by supporting our regulated and administered sectors to provide more responsive, inclusive and accessible services.

The commission launched *Getting to fair* in August 2021. The strategy is built around three key objectives: working with consumers, working with regulated businesses, and working on ourselves.



The strategy defines vulnerability as: ‘A person experiencing, or at risk of experiencing, vulnerability is someone who experiences barriers to accessing or engaging in the essential services we regulate or administer.’

In the first twelve months we have delivered actions that have focused on bringing the voice of consumers into our work. A snapshot of these is provided below.

- We ran forums for Victoria’s water businesses to outline our expectations around inclusive engagement with First Nations people and customers experiencing vulnerability for the **2023 Water Price Review**.

- We engaged with energy businesses, government and community service organisations to draw out experiences, insights and ideas as part of our review into how energy retailers are implementing the **Payment Difficulty Framework** to support Victorians facing bill stress.

- We commissioned experts and lived-experience advisors to develop functional resources to help regulated businesses to support **better practice responses to consumers experiencing family violence**.

- We elevated the experiences and expectations of consumers via a dedicated community panel as part of our review to ensure **Victoria’s water customer service codes** continue to meet the needs of customers, particularly those facing financial difficulty.

- We consulted with diverse community and consumer representatives to inform our decision to impose additional **licence conditions** to protect consumers, when granting Telstra Energy’s application for retail licences to sell gas and electricity in Victoria.

- We pursued **compliance and enforcement matters in the energy sector** that focused on protecting the safety of Victorians affected by family violence, and those relying on energy for life-support equipment including for any planned outages.

- We adopted the Department of Treasury and Finance’s **social procurement strategy** as part of our commitment to be a more responsive, inclusive and accessible organisation that reflects the communities we serve.

- We renewed our commitment to working towards gender equality and enhancing the experience of our diverse workforce and stakeholders with the delivery of our **Gender Equality Action Plan 2021–2025**.

- We participated in a pilot program run by the Victorian Public Sector Commission to develop an action plan to improve our **cultural capability and safety** in support of First Nations colleagues and communities.



Getting to fair spotlight:

Supporting more universal and inclusive engagement practices by water businesses when preparing their submissions to us

The commission ran two workshops for water businesses to signal new expectations about engagement practices for the 2023 Water Price Review.

Workshop 1: Applying universal engagement principles

The first workshop in September 2021 outlined the commission’s expectations on how businesses must demonstrate inclusive engagement with First Nations people and with customers experiencing vulnerability, in the development of their price submission. We released a report that promotes sensitive and appropriate engagement and discussed how these changes will influence water businesses’ approach to the 2023 Water Price Review.

Workshop 2: Bringing engagement insights together

The second workshop in November 2021 featured in-depth discussions about inclusive and effective engagement, especially when working with customers who are experiencing vulnerability.

Topics included:

- Shared learnings about deliberative engagement processes.
- Face-to-face and online engagement.
- Using third-party representatives and the challenges this can present.
- Leveraging existing forums and networks.



Getting to fair spotlight:

Water customer service codes review: customer experience

The commission's review of the water customer service codes included the formation of a community panel who explored issues relating to consumer protection and how these could be reflected in the rural and urban customer service codes.

Twenty-seven Victorian consumers came together across one week in March to provide insights and recommendations to the commission about the customer service codes. With representatives from across the state, panel members developed an understanding of the role of the commission, the customer service codes for water businesses and the National Principles.¹ Their discussions focused on the impacts on those who may be experiencing vulnerability and many shared stories from their own lived experience. The panel also discussed how water businesses can work with people experiencing financial stress and the processes currently in place.

'I just thought 'wow' at the ideas that come in and proud to think that in some ways we may make a difference.'

'I wanted to say to the ESC thank you for giving everyday people a voice, how proactive they are it is certainly a credit to them.'

– Community panel members

Topics the panel discussed included:

- supporting customers experiencing financial stress
- communication from water businesses
- reminder and warning notices
- actions before restricting water supply or legal action
- e-bills
- small businesses.

As part of our review, we also ran a series of three workshops with the water industry and the community sector to reflect on the National Principles, communication assistance and action for non-payment of water bills.

¹ In August 2020, in response to the coronavirus pandemic, the water customer service codes were amended to include the *National Support Principles* for customers facing hardship due to the effects of the pandemic.



Getting to fair spotlight:

Recognising and responding to the needs of all consumers, particularly those experiencing vulnerability

The commission undertook extensive community consultation including with Aboriginal Victorians, older Victorians and culturally and linguistically diverse Victorians to determine whether Telstra Energy (Retail) Pty Ltd.'s licence application to sell gas and electricity was in the long-term interest of Victorian consumers. In granting the licence, the commission imposed additional conditions on Telstra Energy to protect consumers. These included requiring Telstra Energy to establish a specialist team dedicated to handling all enquiries and complaints for its Victorian energy customers.

Telstra Energy must comply with Victoria's comprehensive customer protection framework, including requirements to assist:

- customers who have trouble paying their energy bills
- customers who are affected by family violence
- customers who need life-support equipment.

In addition, Telstra Energy is required to ensure senior executive accountability for disconnections for non-payment and for its compliance breach reporting to the commission.

There will be an independent review of Telstra Energy's compliance with Victoria's energy laws and findings will be reported to the commission by June 2024.





Getting to fair spotlight:

Supporting Victorians who are experiencing family violence

The commission supports the long-term interests of Victorians by ensuring that they have access to essential services. Our work to support Victorians experiencing family violence has contributed to developments in the energy and water sectors with the aim to provide these customers with safe and flexible support.

Better practice responses to victim survivors of family violence

The commission released the *Guidelines for Better Practice Responses to Family Violence for the Essential Services Commission and Essential Service Providers* in May 2022. The guidelines were developed in partnership with **Safe and Equal** in collaboration with the **University of Melbourne's Safer Families Centre**.

These reports are available to all essential services providers and other businesses. They provide practical guidance about how to engage with survivor advocates and customers experiencing family violence.

Stakeholder and community consultation is central to developing regulations and guidance for essential services providers as it informs our understanding from both the industry and consumer perspectives.

'Our work on family violence has been a collaborative process from the beginning. Without the input, energy and patience of our community and industry partners we would not be here today. I would like to acknowledge and thank all of the industry and community stakeholders who were interviewed for this project and took part in workshops. Your time and insights are greatly appreciated and have helped to ensure this work is relevant for us all.'

'We believe the regulatory approach we've taken in responding to family violence over the last six years reflects strong messages from the community about what is needed; and translates into systems that will support businesses to create better outcomes for consumers. This is work we have done together, in partnership and collaboration with you all.'

– Kate Symons, Chairperson and Commissioner (Guidelines launch)

See the Essential Services Commission's website to access the Family violence resources for businesses.

For inclusive engagement resources see:

- Sensitive and appropriate engagement with consumers experiencing vulnerability.
- Engagement resources to help navigate the COVID-19 pandemic.

Compliance and enforcement

‘We use our compliance and enforcement powers across all sectors in the public interest. We act to protect all consumers, especially those experiencing vulnerability. We want to ensure that all customers are treated fairly, trust is enhanced in the relevant market or sector, and there is a level playing field for all businesses. The new policy is a further piece in the commission’s transition as a compliance and enforcement-focused regulator.’

– Commissioner Sitesh Bhojani, [Compliance and Enforcement Policy 2021–2022 launch](#)

Compliance and Enforcement Policy

The commission published a new Compliance and Enforcement Policy this year. The policy sets out our approach to compliance and enforcement and how we will use our expanded investigative and enforcement powers following legislative amendments that took effect during December 2021 and March 2022.

The amendments recognise the essential role energy plays in the health, safety and productivity of all Victorians. The new rules provide the commission with a broader range of enforcement options in respect of the energy sector, including penalty notices, civil litigation, or criminal prosecution.

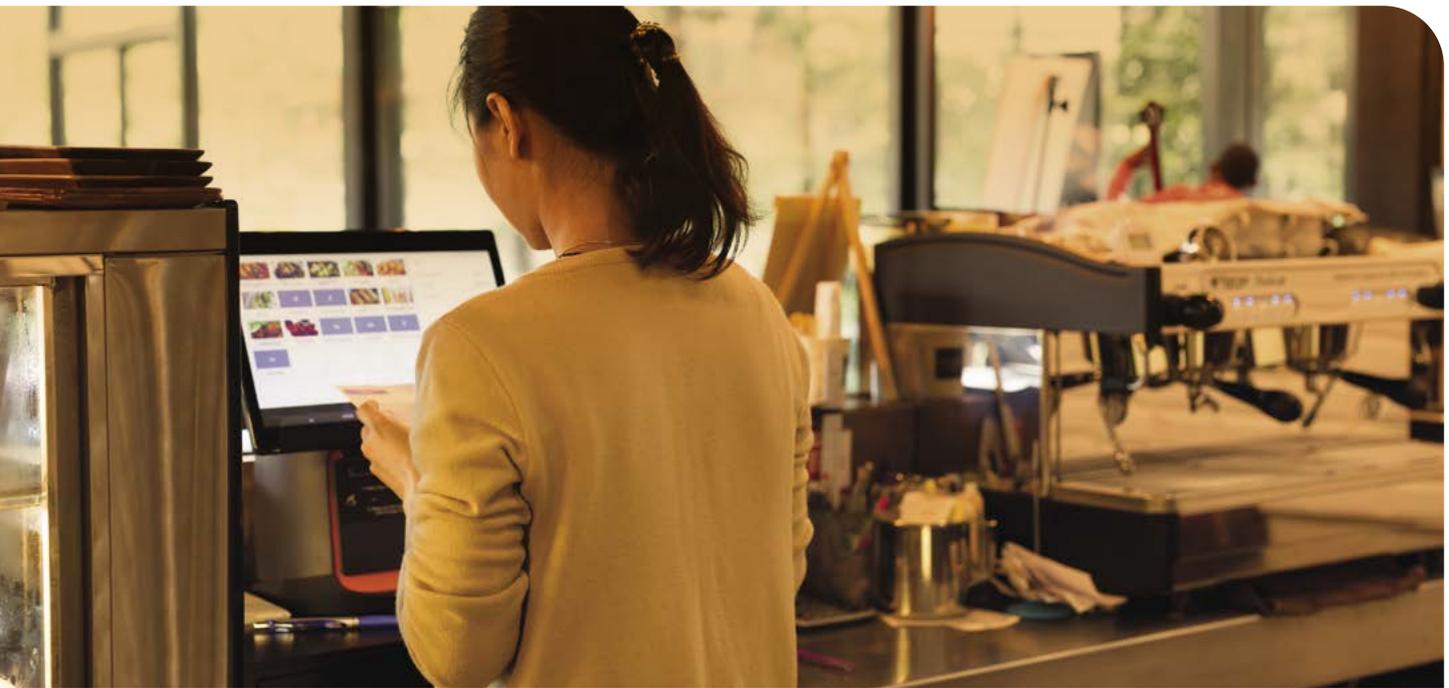
The rules also provide us with extensive investigative powers appropriate for a modern regulator. We now have enhanced powers to obtain information or documents, the power to apply for search warrants and the ability to examine witnesses on oath.

The new policy is part of a package that modernises our compliance and enforcement framework. It outlines a risk-based approach and applies well-established regulatory practices to the specific industries we regulate.

We updated our key regulatory instruments and, to assist compliance with the legislative changes, we published or updated a number of guidelines about how the commission interprets regulatory obligations. These include the:

- Energy Retail Code of Practice: sets out enforceable obligations for energy retailers, including, for example, providing family violence assistance.
- Compliance and Performance Reporting Guideline: specifies timeframes for self-reporting obligations which will now be enforceable.
- Electricity Distribution Code of Practice: sets out enforceable obligations for electricity distribution businesses.

The policy also provides a strong framework for the commission to pursue our annual compliance and enforcement priorities.



Energy compliance and enforcement priorities 2021–22

This year we worked to restore trust in the energy market by promoting and enforcing compliance in the following areas:

Explicit informed consent

We received many reports about consumers who were transferred to a different retailer or energy plan without them knowing exactly what was involved in the new contract. ‘Explicit informed consent’ is achieved when a business has clearly, fully and adequately told a customer, in plain English, all matters relevant to the customer’s agreement to a contract and the customer clearly agrees to it. We work with retailers to provide guidance on this issue. We have zero tolerance for unethical or fraudulent conduct, and we are watchful of instances where third-party sales agents are involved, especially when we know of past inappropriate work practices.

Wrongful disconnection of customers

There are clear rules that energy businesses must follow before they disconnect a residential or small business customer’s energy supply. We developed these rules because a consumer’s welfare can be put at risk if they are disconnected. A retailer disconnecting a customer because of non-payment should only happen as a last resort, when all other options have been explored with the customer. Disconnection cannot be used by a retailer as a debt collection tool.

Energy compliance and enforcement priorities 2021–22 (continued)

Payment Difficulty Framework

Our Payment Difficulty Framework requires all energy customers who are having difficulty paying their energy bills be offered help by their energy retailers. The framework safeguards a consumer from being immediately disconnected when they face financial problems. This is because retailers must reach out to their customers who are having difficulty paying their bills and help them by giving them payment options. Retailers can accept instalment plans, provide additional time to pay, put payments on hold, and give information about government help like the Utility Relief Grant Scheme.

Billing practices

All energy consumers have the right to expect that they are billed appropriately for their energy use. Our energy rules require retailers to give their customers regular and accurate billing, or to take appropriate and timely steps when a customer pays too much or is undercharged. We revise our rules on billing practices when needed. Recently, we stopped retailers from being able to back-bill customers for their energy use when the customer's usage is more than four months in the past.

Embedded networks

Many Victorians get their electricity through an embedded network, such as those in apartment buildings and caravan parks. These customers sometimes cannot easily access the benefits that result from competition in the retail electricity market. While we do not require those that manage embedded networks to hold a licence to sell electricity, they must register with us and join the Energy and Water Ombudsman Victoria's scheme to resolve disputes. Embedded network operators also have to comply with the parts of the Energy Retail Code of Practice that are relevant to them. We prioritise matters relating to embedded networks, particularly in relation to their membership with the Energy and Water Ombudsman Victoria and compliance with the code of practice.

Enduring priorities for those experiencing vulnerability

We are committed to helping all Victorians who are experiencing vulnerability access essential services. We have two ongoing priorities in this area for energy:

Customers affected by family violence

Energy retailers must avoid actions that might endanger their customers affected by family violence. Since 1 January 2020, we have required energy retailers to help their customers affected by family violence, and to ensure they have appropriate policies in place to treat these customers with care and respect. Given the reported rise of family violence incidents, especially during the coronavirus pandemic, we are working with retailers to ensure appropriate protections are provided to those customers who may be affected.

Planned interruptions for energy supply to life-support customers

Planned outages can cause disruptions in the Victorian community, particularly for those on life support. When our rules around planned interruptions for energy supply are not followed, the impact can be life threatening. We have made new rules that strengthen and clarify protections for Victorian customers who require life-support equipment, which we regard to be among the most important safeguards that we administer. We prioritise matters involving alleged breaches regarding life-support customers.

Fair electricity prices for Victorians

The Victorian Default Offer is a simple and trusted electricity price that is set by the Essential Services Commission, not energy companies. It provides all Victorian households and small businesses access to a fair electricity deal, including those who are unable or unwilling to engage in the retail market.

We set the Victorian Default Offer each year based on the latest information on the efficient costs retailers need to recover to provide electricity to customers, and after undertaking extensive consultation on the methodology.

An electricity retailer must make the Victorian Default Offer available to its existing customers who request it, but they can also offer customers contracts that differ from the Victorian Default Offer through market offers.

The Victorian Default Offer also applies to the estimated 140,000 customers in embedded networks, such as apartment buildings and caravan parks, where it is the maximum that can be charged.

The Victorian Default Offer acts as a reference price that retailers must use to advertise the discounts on their market offers. It won't necessarily be the lowest offer, but it can help customers find the market offer that will give them the best value for money on their electricity use.

Wholesale prices drive price rise in 2022–23 Victorian Default Offer

Changing market conditions were behind our decision to increase the Victorian Default Offer by about five percent from 1 July 2022.

Forecast wholesale electricity prices drove the underlying increase, accounting for almost two thirds of the increase in the Victorian Default Offer for households.

As at June 2022, around 12 per cent of households and 17 per cent of small businesses were on the Victorian Default Offer. On average, annual bills for households on the default electricity offer are estimated to increase by \$61 (or around five per cent), with a rise of around \$270 for small business customers (also around five per cent) in the 2022–23 financial year.

This is around the current rate of inflation, so prices will remain relatively steady in real terms.

Movements in the Victorian Default Offer largely reflect changes in the market. However, they don't reflect changes in the costs facing specific retailers, which help to determine the prices they charge for market offers.

We encourage consumers to:

- contact their energy retailer regularly to check if they are on the best deal
- use [Victorian Energy Compare](#) to seek out a better price.

Figure 1: Change in Victorian Default Offer annual bills for domestic customers

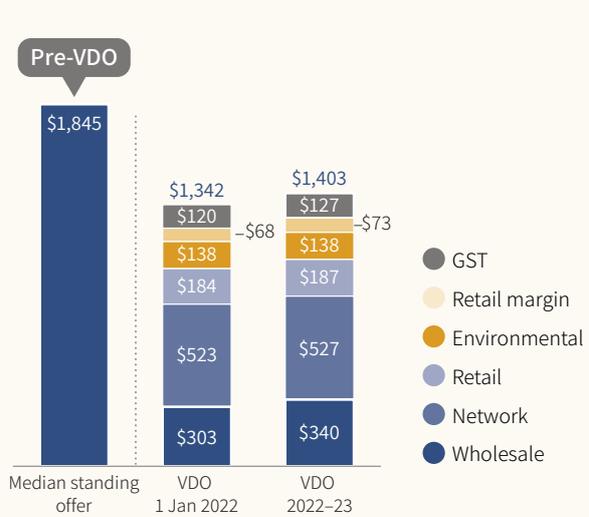
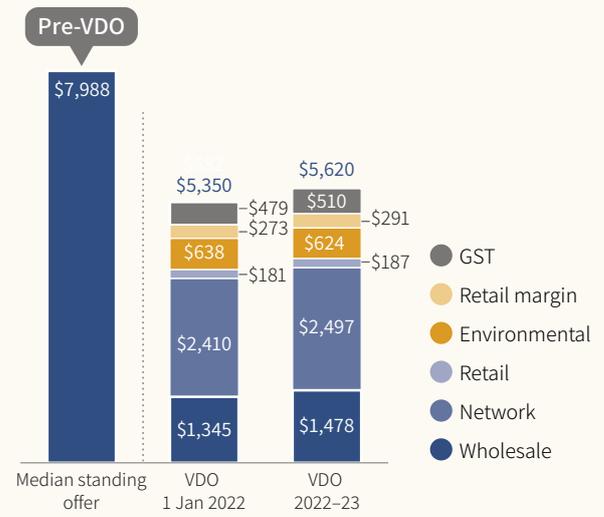


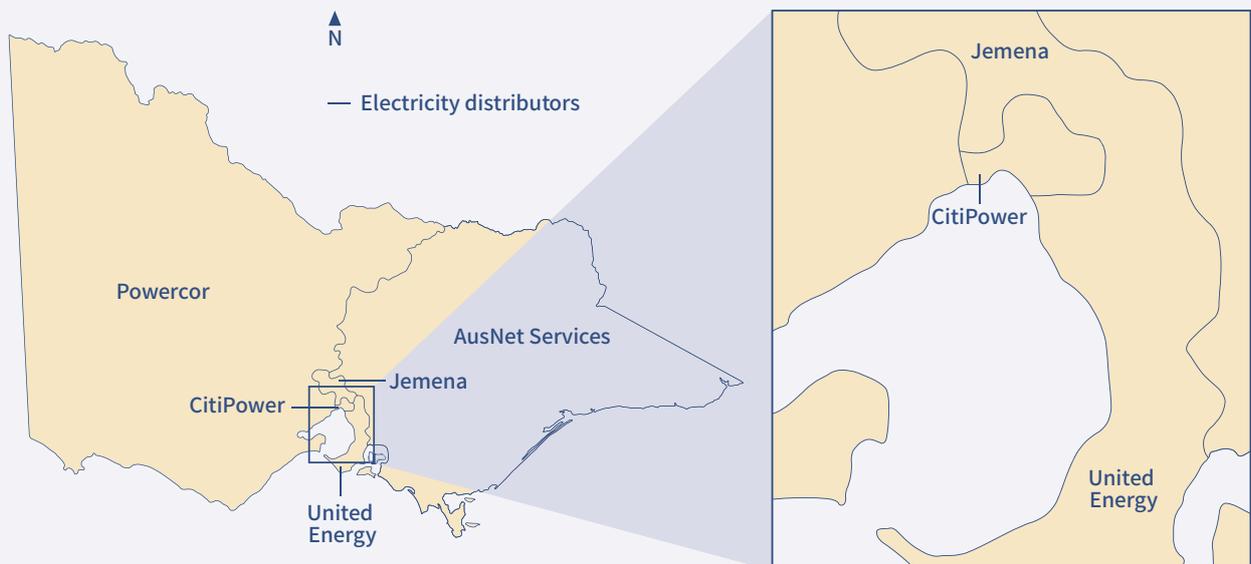
Figure 2: Change in Victorian Default Offer annual bills for small business customers



Victoria has five electricity distribution zones

Each zone has unique characteristics which determine their respective tariffs, which are approved by the Australian Energy Regulator. We determine different Victorian Default Offer prices in each zone because of the different costs facing electricity retailers in accessing network services in each area.

Figure 3: Victorian electricity distribution zones



See the Essential Services Commission website for further information about the [Victorian Default Offer](#).

Better engagement around land access for transmission projects

Upgrades to Victoria’s transmission network are necessary to transition the energy system to net zero emissions by 2050 and deliver safe, reliable and affordable electricity to Victorians.

Victorian electricity transmission licence holders may exercise their powers under section 93 of the *Electricity Industry Act 2000* to access private land for electricity transmission projects.

The Essential Services Commission released the *Electricity Transmission Company Land Access Statement of Expectations* in May 2022 aiming to:

- Balance the rights of landowners with the statutory right of licenced transmission companies to access private lands by establishing clear expectations about how the right to access land is applied.
- Promote effective engagement between landowners and the electricity transmission companies, who are critical partners in the delivery of major energy projects and the provision of essential transmission services.
- Provide an interim measure to address concerns quickly and efficiently during the intervening period until an enforceable Code of Practice is established.

Land Access Statement of Expectations

The commission began developing the *Electricity Transmission Company Land Access Statement of Expectations* in January 2022 following concerns raised about the use of section 93 powers by AusNet Services for the Western Victorian Transmission Network Project, now known as the Western Renewables Link. It was also anticipated that there could be an increased use of the powers by other electricity transmission companies with a growing number of transmission investments to support renewables.

The Land Access Statement of Expectations considers broad stakeholder feedback and is informed by best practice land access frameworks in other states and industries. The commission consulted with community members and industry representatives through public webinars and an industry forum, receiving 32 submissions.

General principles

The Land Access Statement of Expectations features 22 general principles covering:

- approaches to effective communication and engagement
- considerations about the impacts on land
- complaints handling and dispute resolution.

The principles apply to all greenfield sites (a site without existing transmission assets) relating to major transmission projects.

Code of practice in development

The Land Access Statement of Expectations provides clarity and confidence for all parties to progress discussions on land access arrangements for major transmission projects pending an enforceable code of practice in relation to land access (currently in development).

While the Land Access Statement of Expectations is not enforceable, the commission expects electricity transmission companies to comply with the Land Access Statement of Expectations and to report on their performance against these expectations. The AusNet Transmission Group Pty Ltd, for example, is expected to regularly report on their performance against the Land Access Statement of Expectations for the Western Renewables Link project.

See the Essential Services Commission website for further information about the [Electricity Transmission Company Land Access Statement of Expectations](#).

Helping Victorians who are struggling to pay their energy bills

The Essential Services Commission promotes protections for consumers experiencing vulnerability and supports access to regulated essential services for all Victorians. One of our roles is to facilitate the effective implementation of regulations for the energy industry, which includes support for customers who are having trouble paying their energy bills.

Payment Difficulty Framework

The Payment Difficulty Framework is a set of energy rules to better protect and support residential customers who are anticipating or facing payment difficulty. The framework was developed by the commission in 2017 in response to high numbers of residential customers being disconnected for non-payment.

The Payment Difficulty Framework requires retailers to assist Victorians facing bill stress by:

- helping customers stay on top of bills by adjusting payment amounts and frequency
- offering payment plans to manage missed bills or ongoing energy usage
- providing advice on how to manage energy usage and assistance applying for utility relief grants and concessions
- ensuring that residential customers are only disconnected for non-payment of a bill as a measure of last resort.

The framework came into effect on 1 January 2019 through amendments to the Energy Retail Code (now the Energy Retail Code of Practice).

Payment Difficulty Framework implementation review

The commission commenced an implementation of the framework review in September 2021, two years after the new rules came into effect. The aim was to consider how effective energy retailers have been in implementing the framework and to identify areas for improvement.

We engaged with a variety of stakeholders from September 2021 to April 2022: industry, community service organisations and government through forums, workshops and individual meetings. We received and analysed a range of feedback including:

- written submissions
- call recordings between retailers and customers receiving payment assistance
- consumer insights research
- retailer data.



Key findings

The review showed that retailers have been implementing the framework to meet its objectives, but that customer outcomes vary significantly between and within retailers, often influenced by the level, frequency and quality of retailer-customer engagement.



- More customers are receiving appropriate assistance
- 98% of call recordings we collected and reviewed found that retailer staff were respectful to customers
- 34% decrease in disconnections for not paying energy bills



- 16% increase in customer arrears when receiving assistance
- 56% of customers who were disconnected had not received assistance beforehand

Improving the framework

The Payment Difficulty Framework review found that there are areas for improvement around the way energy retailers engage with customers who are facing bill stress.

As a result of the review, the commission will focus on the following priorities to help retailers improve their:

- effectiveness in establishing and reviewing payment arrangements and plans for customers
- processes to ensure that eligible customers are receiving concessions and utility relief grants
- appropriateness and timing of the assistance provided to customers about how they can lower their energy usage and cost.

The commission will continue to facilitate and improve the framework's support of customers experiencing vulnerability by:

- using our performance and compliance powers to protect customers
- monitoring retailers' implementation of the framework
- working with retailers to identify practical approaches to supporting customers.

See the Essential Services Commission website for further information about the [Payment Difficulty Framework implementation review](#).

Responding to change and uncertainty

‘This current energy crisis has shaken consumer confidence in the reliability and affordability of one of our most essential services.’

– Kate Symons, Chairperson and Commissioner

Wholesale electricity and gas prices are currently driving increases in energy prices for consumers. The Essential Services Commission calls on industry to put consumers at the centre of the energy system and closely monitors the behaviour of energy businesses to ensure that strong protections are in place for Victorian households and small businesses.

The commission promotes consumer interests by:

- Reassuring Victorians that there are protections for residential and small business customers when it comes to price changes and obligations around how energy retailers communicate these changes to customers, including about what offers best suit them.
- Continuing to monitor and regulate the Victorian energy market.
- Closely examining energy retailers’ compliance with obligations that are designed to protect customers when prices change.

There are also protections in place if an energy company exits the market.

Retailer of Last Resort

The Retailer of Last Resort (RoLR) scheme is an existing feature of the national electricity market that is designed to protect consumers when their energy retailer goes out of business. It transfers customers of failed retailers to new providers to make sure that their energy service continues.

Each Victorian property has a designated ‘Retailer of Last Resort’ based on which energy distribution area it is located in. A Retailer of Last Resort is required to provide customers with electricity or gas if their existing retailer cannot do so.

Weston Energy

The commission initiated the Retailer of Last Resort process in May 2022 to automatically transfer customers from failed gas retailer Weston Energy Pty Ltd (Weston Energy) to other retailers in Victoria to provide for the continued supply of essential gas services.

The commission has a role in the Retailer of Last Resort process in Victoria to support the transfer of Weston Energy customers to new retailers including AGL, Origin Energy and EnergyAustralia.

Monitoring consumers’ energy debt levels

The commission released data in September 2021 which showed that at the end of June 2021, 60,000 electricity and 43,000 gas residential customers were receiving tailored assistance from their retailer to help pay their bills.

The average debt of household electricity customers receiving help from energy companies peaked in April 2021 at its highest level since the payment difficulty safety net was introduced in January 2019, but has since fallen slightly.

‘The number of customers receiving assistance is relatively stable or dropping, but the average amount owed is now higher than prior to the pandemic. The ongoing economic impact of the pandemic is being felt across of community and we will continue to monitor debt levels.’

– Sarah Sheppard, Executive Director, Energy

The commission will continue to monitor the behaviour of energy companies who are obliged to provide assistance to customers who are struggling to pay their bills.

New guideline to help ensure energy consumers can make informed decisions

The commission published an Explicit Informed Consent Guideline in May 2022 to provide clarity for energy retailers and consumers about the commission’s expectations. The guideline clearly sets out our expectations of Victoria’s energy retailers in relation to obtaining explicit informed consent, and the rights of consumers to be properly informed in relation to their energy contracts.

To ensure consumer confidence and trust in the market, Victorian energy consumers must be able to understand the transactions that they are entering into and clearly provide their consent to these transactions.

‘These obligations are designed to ensure that consumers understand information about transactions being offered and clearly provide their consent if they wish to enter the transaction.’

Explicit informed consent is critical for transparency in the energy market. It is important that consumers understand their energy plans and the ability of their retailers to change pricing.’

– Commissioner Sitesh Bhojani



Know your consumer rights

- Every electricity retailer in **Victoria must offer its existing residential and small business customers the current *Victorian Default Offer***.
- **Victorian retailers *can only increase prices at specific times*** to provide customers with certainty about prices (unless the customer is on an exempt market contract and has explicitly agreed to different arrangements).
- **When a fixed term retail contract is due to end**, retailers must notify residential and small business customers approximately one month beforehand and advise customers of their options.
- **All Victorian energy retailers are required to carry out ‘best offer checks’** and at least once every three months advise residential and small business customers if they have another offer that may save the customer money.
- **If a customer is facing bill stress, they should ask their energy retailer for help.**
- **If a customer has missed a bill payment and owes money** to an energy retailer, a retailer must provide information about the customer’s entitlements to assistance to help them repay their arrears and continue to keep their electricity and gas connected.
- **If a customer is eligible for a utility relief grant**, a retailer must offer to complete an application for a utility relief grant on their behalf.
- **When a contract comes to an end**, residential and small business customers may be automatically moved on to a retailer’s Victorian Default Offer or standing offer.
- **If a customer has a complaint about their retailer**, they can contact the ***Energy and Water Ombudsman Victoria*** on 1800 500 509.

See the Essential Services Commission’s website for further information about electricity and gas consumer rights.

Monitoring the Port of Melbourne pricing

The Port of Melbourne services international and domestic shipping lines carrying containers and general cargo to and from Melbourne through Port Phillip Bay. ‘Port users’ request or receive prescribed (regulated) services from the Port. Shipping companies, stevedores, transport providers, cargo owners and freight forwarders use the Port daily.

Port user tariffs

The Port of Melbourne Pty Ltd (the Port) charges port users tariffs for the prescribed services it provides. These tariffs must comply with the Victorian Government Pricing Order which contains rules that the Port must follow when setting tariffs. For example:

- the approach and principles to be applied when calculating and setting prices
- the extent prices can change between regulatory years
- when the Port needs to apply to the Essential Services Commission for new, or variations to existing, tariffs or to discontinue existing tariffs.

Port of Melbourne five-year review

The commission conducted an examination of the Port’s compliance with the Victorian Government Pricing Order for the period 1 July 2016 to 30 June 2021 with the requirements set out in section 56 of the *Port Management Act 1995*. The report was presented to the Assistant Treasurer in December 2021.

We ran a public engagement process to seek the views of interested stakeholders. This included a virtual forum, written submissions and one-on-one stakeholder engagement sessions. We reviewed over 2,300 documents provided by the Port of Melbourne under a compulsory information production notice, and analysed stakeholders’ responses to our draft report.

Review findings

We found that the Port of Melbourne was not compliant with the State Government’s legislative requirements for how it should set prices for services during the five-year period. *The Port of Melbourne five-year review* (published by the commission) reported ‘significant and sustained’ non-compliance during the review period.

Non-compliance is:

Significant – when it does not meet the objectives of the *Port Management Act 1995*.

Sustained – when the impact from not meeting the objectives in the Act is not fleeting or transitory.

The commission considers that the Port’s non-compliance undermines confidence in the regulatory framework and could lead to increased import and export costs being passed on to Victorian consumers.



Photo courtesy of Port of Melbourne Operations Pty Ltd.

We found that the Port of Melbourne:

- overestimated its revenue requirement as a result of an overstated rate of return
- adopted an approach to managing its operating expenses not consistent with a prudent or efficient service provider
- did not effectively consult with Port users about issues such as the Port Development Strategy.

The Port's tariffs, cost allocation and content of its tariff compliance statements were also not compliant with the Victorian Government Pricing Order.

We did find that the Port of Melbourne was compliant with the Victorian Government Pricing Order in some areas, including:

- its estimation of the cost of debt as part of the weighted average cost of capital
- the value of its regulatory asset base
- its approach to calculating depreciation.

The Port's capital expenditure forecasts were deemed prudent and efficient, and its demand forecast generally reflected a sound methodology.

The Assistant Treasurer and the Port of Melbourne entered into an enforceable undertaking that deals with these matters and seeks to provide certainty to Port users and stakeholders that the Port will meet its ongoing regulatory obligations.

Our next inquiry will assess the Port's compliance with the Victorian Government Pricing Order over the review period 1 July 2021 to 30 June 2026.

See the Essential Services Commission website for further information about the [Port of Melbourne review](#).

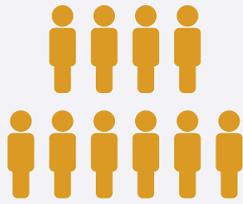
Our performance

Our strategic goals help ensure we continuously measure and improve how we operate. Here is a summary of our main achievements for 2021–22.



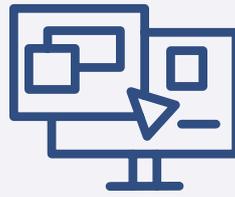
VEU: Victorian Energy Upgrades program

Creating culture, systems and processes



162

Employees



18

Engage Victoria consultations



Published our Gender Equality Action Plan



10%

Increase in people accessing information via our website



63

Employees completed our leadership program



1,900+

Participants at engagement events



32

Engagement events with stakeholders

■ External engagement
■ Internal activity



We regulate Victoria’s energy sector in the long-term interests of Victorian energy consumers. We license new energy retailers, distributors, transmission companies and generators, and register embedded networks.

We make rules to protect customers and monitor compliance and take enforcement action when energy companies or embedded networks don’t follow the energy rules. We set the Victorian Default Offer for electricity prices and the minimum feed-in tariff for solar customers.

We conduct reviews and inquiries to promote the interests of Victorian households and small business electricity and gas users. We also publish regular reports on the energy market’s performance to keep the community informed and up to date.

Our year in review

A strong approach to compliance and enforcement in the energy sector

We exercise our legislative functions to ensure compliance with the energy sector’s regulatory framework and take enforcement action where deterrence of serious contraventions is needed. We do this in line with the commission’s Compliance and Enforcement Policy, published in April 2022. This policy outlines our risk-based approach to compliance and enforcement. We choose the enforcement action or other mechanisms which we consider to be most conducive to securing compliance.

We receive information from licensees, our own investigations, the Energy and Water Ombudsman Victoria, consumer groups and others. All reports of potential breaches are treated seriously.

We publish our compliance and enforcement priorities each year. Our priorities for 2021–22 were:

- explicit informed consent
- the wrongful disconnection of customers
- the Payment Difficulty Framework
- retailers’ billing practices
- embedded networks
- ongoing priorities for those experiencing vulnerability.

Our approach is to focus our resources on assisting compliance by reference to these priorities. This includes how we assist compliance by issuing guidelines about how the commission interprets regulatory obligations.

White-labelling arrangements guideline

We published our guideline concerning the application of the Energy Retail Code of Practice to white-label arrangements on 15 March 2022. White-labelling is where an energy licensee enters into an arrangement with a third party to sell energy under that third party’s branding. The third party is not licensed to sell electricity and gas, and may sometimes be a participant in another industry looking to expand its product offering. Where a licensee arranges its plans under different brands, all plans must comply with the Energy Retail Code of Practice’s customer protections.

Life-support customer guideline

We published our guideline concerning the meaning and application of the term ‘life-support customer details’ within the Energy Retail Code of Practice on 9 March 2022. Retailers, distributors and exempt persons (whether they be sellers or distributors) are required to keep a register of life-support customer and life-support resident details for a premises where a life-support customer or resident resides or is intending to reside. This guideline explains what information or details must be obtained with respect to the life-support customer or resident. It also provides guidance concerning the process where a life-support customer may be removed from a register.

Clear information guideline

We published an update to our guideline about ‘clear and unambiguous information or advice for residential customers anticipating or facing payment difficulties’ on 13 April 2022. We updated this guideline to further set out

the information to be provided to customers who may have multiple accounts subject to the process that may lead to disconnection.

Explicit informed consent guideline

On 26 May 2022, the commission published a guideline regarding explicit informed consent. The guideline is a comprehensive guide as to the disclosures relevant to a customer's consent to a transaction, to be made to customers to ensure compliance with the Energy Retail Code of Practice.

Another way we assist compliance is via **proactive monitoring programs**. We take enforcement action where we detect serious breaches that require a response focused on deterrence of similar conduct in the future.

The commission took strong enforcement action when we identified contraventions by a number of energy retailers and distributors in 2021–22.

Enforcement action 2021–22

August 2021

Origin Energy paid \$450,000 in **penalty notices** for the alleged wrongful disconnection of 349 customer accounts between February 2019 and February 2020. Origin Energy allegedly failed to use its best endeavours to contact the customers before their disconnection and provide them with clear and unambiguous information about the assistance available under the commission's Payment Difficulty Framework.

September 2021

Simply Energy paid a \$5000 **penalty notice** for the alleged wrongful disconnection of a visually impaired, elderly woman's electricity in April 2021. Simply Energy mistakenly disconnected the woman's power 18 days earlier than agreed, leaving her without electricity for more than 10 hours.

In October 2021, Origin Energy paid \$5,000,000 in penalty notices for allegedly entering into more than 77,000 gas and electricity small business contracts that wrongly included prohibited exit fees.

January 2022

AusNet paid \$280,000 in **penalty notices** for allegedly conducting planned electricity outages without having notified 36 customers in Heathmont and Ferntree Gully. Two of those customers premises was registered as requiring life-support equipment that relied on electricity supply.

January 2022

Powercor paid \$250,000 in **penalty notices** for allegedly conducting a planned electricity outage without notifying 162 customers in Indented Head. One of those customers premises was registered as requiring life-support equipment that relied on electricity supply.

February 2022

Sumo Energy paid \$500,000 in **penalty notices** for allegedly arranging the wrongful disconnection of 142 energy customers before the required six business day disconnection warning period had expired, and also a customer who was disconnected without warning despite actively participating in a payment plan.

Facilitating energy market entry and exit in the interests of Victorian energy consumers

Between 1 July 2020 and 30 June 2021, we issued 14 new energy licences. These included:

- five electricity generation licences
- five electricity retail licences
- four retail gas licences.

In addition, we transferred one electricity generation licence, varied four licences and revoked six licences.

In assessing whether to grant new licences, the commission carefully considers whether issuing the new licence will promote the long-term interests of Victoria's energy consumers. One application, Telstra Energy, was the subject of thorough community consultation – including with Aboriginal Victorians, older Victorians and culturally and linguistically diverse Victorians – in order to determine whether its entry into Victoria's energy sector would be appropriate, noting Telstra Group's extensive history of non-compliance with legal and regulatory obligations in the telecommunication sphere.

Telstra Group's compliance history, combined with its potential to rapidly acquire energy customers, led the commission to impose additional requirements on Telstra Energy to protect consumers. In addition to the specialist energy team, Telstra Energy was required to limit customer numbers for the first six months of operation and ensure senior executive accountability for any disconnections for non-payment and for its compliance breach reporting to the commission.

Another safeguard the commission was requiring is an independent review of Telstra Energy's compliance with Victorian energy laws and findings will reported to the commission by June 2024.



Review of implementation of Victoria’s energy sector’s Payment Difficulty Framework

As the Victorian regulator for essential services, the commission continued its implementation of its *Getting to fair* strategy – a roadmap to address energy consumers’ experience of vulnerability and to break down the barriers they can face.

A key aspect of that strategy was our review of the implementation of the Payment Difficulty Framework – a set of energy rules introduced in 2019 to better support residential customers experiencing payment difficulty. After extensive consultation with community sector and industry representatives, we completed our review in May 2022. We also listened to hundreds of call recordings between consumers and their energy retailers, to understand the direct experience of Victorians when engaging with their retailer about payment support.

Our findings showed that when implemented effectively, the energy rules in the Payment Difficulty Framework delivered positive outcomes for customers. However, we identified areas where implementation could be improved for the mutual benefit of customers and retailers. We will use these findings to help target our better practice program, as we work with industry and the community sector to improve outcomes for customers. Our findings and continued work in monitoring retailers’ performance, will also help shape our focus in promoting compliance and enforcing the energy rules.

We also continued to enforce the rules that specifically protect consumers experiencing vulnerability, with a priority focus on obligations relating to protecting customers experiencing family violence and payment difficulty, and for those relying on life-support equipment.

Issuing statement of expectations regarding land access for transmission projects

An important milestone during the financial year was the *Electricity Transmission Company Land Access Statement of Expectations* – a clear statement of expectations around engagement and conduct to facilitate land access for major electricity transmission projects.

The Land Access Statement of Expectations details 22 principles and provides examples to support respectful and effective interactions between transmission companies and landowners navigating land access arrangements.

The Land Access Statement of Expectations promotes effective engagement between landowners and transmission companies as critical partners in the delivery of essential electricity transmission. It seeks to balance the rights of landowners with the statutory right of transmission companies to access lands by establishing clear expectations about how the right to access land is applied.

The Land Access Statement of Expectations considers broad stakeholder feedback and is informed by best practice land access frameworks in other states and industries.

The principles cover effective communication and engagement, impacts on land and landowners, and complaints handling and dispute resolution.

The commission developed the Land Access Statement of Expectations following concerns raised by stakeholders relating to land access for the Western Victoria Transmission Network Project being delivered by AusNet Transmission Group Pty Ltd (AusNet). The commission requires AusNet to report on its performance against the principles each month. Failure by AusNet to report as required by the commission may result in enforcement action.

Status key:  Complete  On track  Ongoing  Delayed

Progress report 2021–22

Objective	Status	Outputs	Outcomes achieved
Review of the implementation of the Payment Difficulty Framework		<ul style="list-style-type: none"> Extensive engagement with stakeholders, collation of evidence-base, analysis and assessment. Findings report published May 2022. 	<ul style="list-style-type: none"> Greater understanding for the commission and stakeholders of how the framework is being implemented. Identified focus areas to inform the better practice program to help improve implementation of the framework. High levels of engagement with consumer groups and positive feedback from stakeholders.
Develop Energy Retail Code of Practice		<ul style="list-style-type: none"> Energy Retail Code of Practice commenced 1 March 2022. 	<ul style="list-style-type: none"> New Energy Retail Code of Practice that aligns with new enforcement framework introduced by the <i>Essential Services Commission (Compliance and Enforcement Powers) Act 2021</i>.
Implementation of regulatory project trials for innovative energy products and services (sandbox trials)		<ul style="list-style-type: none"> Trial waiver guideline and application form published June 2022. We continue to work closely with the Australian Energy Regulator on the development of the innovation enquiry service, information sharing and confidentiality arrangements. 	<ul style="list-style-type: none"> Established guidance to coincide with the introduction of regulatory sandboxing framework commencing in Victoria.
Statement of expectations for land access by transmission companies		<ul style="list-style-type: none"> Land Access Statement of Expectations released May 2022. 	<ul style="list-style-type: none"> Clear and published expectations for transmission companies when accessing private land for the delivery of new transmission lines. High levels of engagement from community and industry stakeholders to inform the statement.

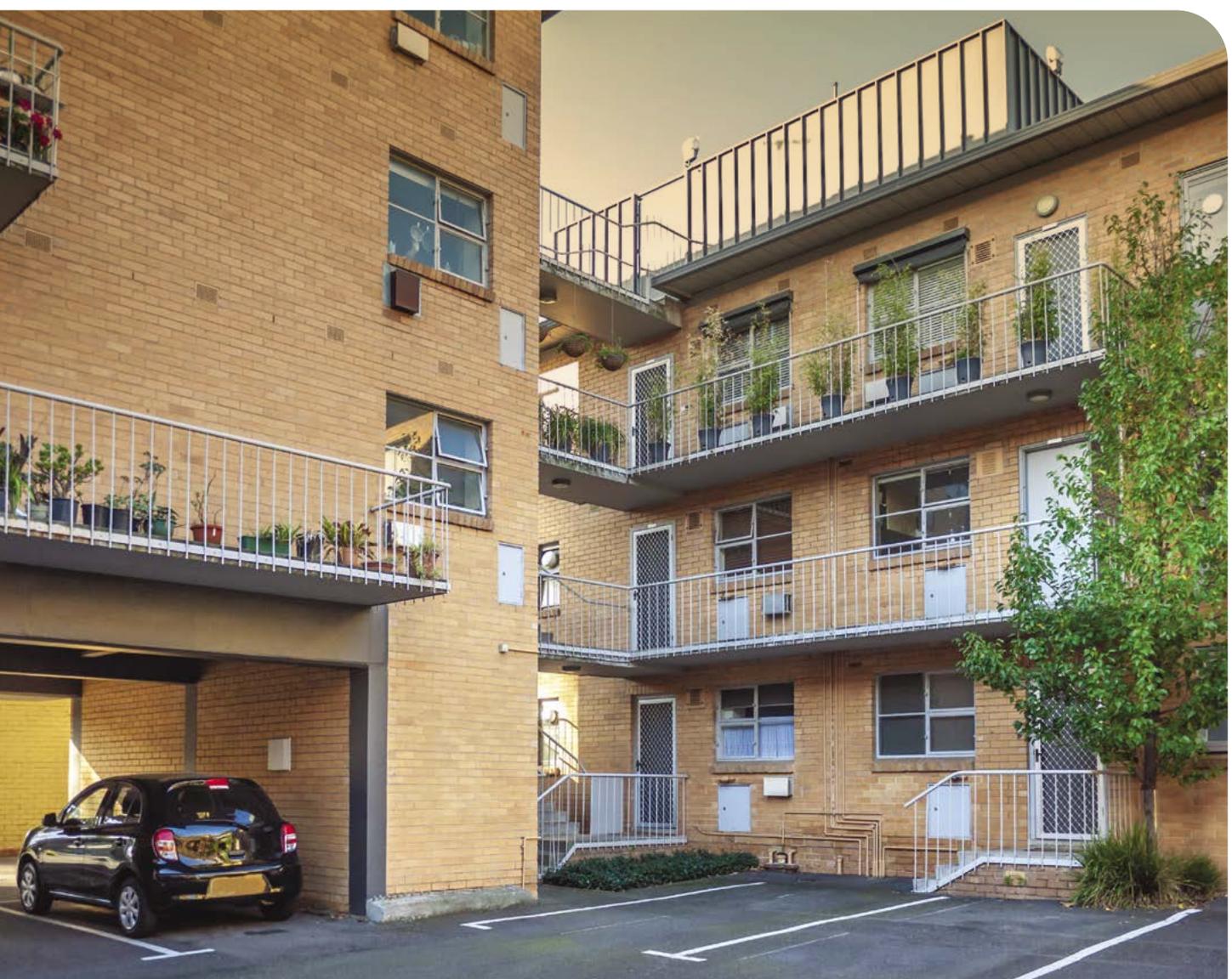
Environmental factors

Environmental factors affecting our work included:

- Wholesale energy market events that led to increased energy bills, adding to cost of living pressures.
- Increased risk of climate change events, such as bushfire and storms, which affected the performance and reliability of energy networks.

Cost of our energy industry activities

In 2021–22, the total cost of the commission’s energy program was \$14.34 million. The cost includes an allocation of the costs of staff who support the energy team’s work across the commission.





Water

We conduct price reviews, monitor and report on the performance of the water sector, and specify standards and conditions of service that Victorian water businesses must meet.

Our year in review

We progressed work to enhance protection for customers experiencing vulnerability

To ensure our urban and rural water customer service codes continue to meet the contemporary needs of Victorian water consumers, we consulted on changes to the codes leading to a series of proposed updates.

In June 2022, we published a draft decision that set out proposed amendments to apply from 2023. These proposals focused on early, proactive communication and tailored support for customers experiencing payment difficulty. They also expanded payment support for small businesses.

Our review was informed by the practice and learnings of water businesses in responding to the impacts of the pandemic on their customers. We also convened a customer panel to provide customers with a strong voice in our review. The draft decision and customer panel report are available on our website. The code review is expected to be finalised in September 2022.

We updated our PREMO framework and started preparations for the 2023 price review

Following consultation with stakeholders, in October 2021 we issued our guidance for the 2023 water price review covering 14 water businesses.

In the guidance, we updated the Performance, Risk, Engagement, Management and Outcomes (PREMO) framework (first used in 2018) to introduce the Performance element of PREMO. This element helps to hold businesses accountable for their proposals from the previous price review by addressing two key questions:

- Did the business deliver on its promises?
- Did customers get what they paid for?

The guidance also introduced new requirements in relation to inclusive customer engagement, focusing on First Nations peoples and customers experiencing vulnerability.

To support the guidance, we held workshops on inclusive customer engagement and met with water businesses and other stakeholders to help ensure our guidance expectations are clear.

As part of our ongoing consideration of the PREMO framework, we engaged an independent third party to review our approach to the 2021 Melbourne Water price review.

We confirmed the maximum water prices to apply in 2022–23

In June 2022, we confirmed the maximum prices to apply for the year from 1 July 2022 for the state's 18 water businesses. For a typical owner occupier household, average bills for the year rise by an estimated \$10 (one per cent) in Melbourne and \$45 (four per cent) in regional Victoria.

The main reason for the increase was inflation, partly offset by lower borrowing costs for retailers. Increases in Melbourne were lower compared to the regions, mainly due to lower bulk water charges and a smaller desalination water order.

The 2021–22 increase follows a period of relatively flat or falling prices.

We confirmed 2022–23 prices after checking for compliance with the determinations applying for each business.

We held water businesses accountable for their service performance

In October 2021, we published our third annual water outcomes report, which considers the performance of Victoria's water businesses against their own commitments to customers. The report covered the period from 1 July 2020 to 30 June 2021.

Despite the continuing impacts of the pandemic, of the 17 water businesses covered, 11 said they delivered on 2020–21 commitments, six said they mostly delivered, and none said they failed to meet overall commitments.

In February 2022, we published our water performance report for 2020–21. Key changes from 2019–20 to 2020–21 included:

- Overall bills went down by 0.5 per cent across the state, reflecting decreases in both metropolitan and regional owner occupier bills.
- 3,767 fewer Melbourne customers but 1,318 more regional customers received hardship grants from their water business to help pay their water bill.

We also continued to report monthly on the responses of water businesses to provide support to customers impacted by the coronavirus pandemic. This reporting, along with our ongoing engagement with the sector, revealed that water businesses continued their efforts to support customers through a range of ways, including for small business customers.

We continued to release quarterly snapshots of results from our survey of water customers on the performance of their water business. Across measures of satisfaction, value for money, trust, and reputation, generally ratings remained relatively high in 2021–22, compared with earlier results.

Status key:  Complete  On track  Ongoing  Delayed

Progress report 2021–22

Objective	Status	Outputs	Outcomes achieved
Revise our pricing framework PREMO (performance, risk, engagement, management and outcomes) for next water price review		<ul style="list-style-type: none"> • Guidance released in October 2021. 	<ul style="list-style-type: none"> • Set out our expectations for water price submissions due for lodgment by 14 water businesses in September 2022. • Updated PREMO framework will help to establish water and sewerage prices that reflect good value for money for customers, with water business proposals informed by robust customer engagement – including with First Nations peoples and customers experiencing vulnerability.
Publish water performance report, monitoring reports, outcomes report and customer perceptions report	 	<ul style="list-style-type: none"> • Published regular pandemic support monitoring, including 24-month review; published annual outcomes and major projects reports and comparative performance report of audited KPI data; published quarterly customer perception reports. 	<ul style="list-style-type: none"> • Informed advice on water sector response to the pandemic and the nature of customer assistance. • Customers and stakeholders are informed of the performance of their water business, including their approach to customer support, service quality and reliability, and other metrics such as average annual bills.

Status key:  Complete  On track  Ongoing  Delayed

Progress report 2021–22 (continued)

Objective	Status	Outputs	Outcomes achieved
Review and revise water customer codes		<ul style="list-style-type: none"> Draft code published June 2022 (urban and rural codes). Draft decision paper explaining proposed draft code changes published June 2022. Report on the engagement of Victorian consumers to inform the code review. 	<ul style="list-style-type: none"> To help ensure the codes provide consistent and appropriate minimum protections for customers, taking into account industry best practice and the support provided by water businesses to their customers during the coronavirus pandemic. The codes reflect latest developments in technology and circumstances facing businesses and their customers.
Annual water tariff approvals		<ul style="list-style-type: none"> Tariffs approved for 18 businesses in June 2021. 	<ul style="list-style-type: none"> Confirmed the prices to be charged are consistent with the price determinations applying to each water business. Price changes generally less than inflation.
North East Water mid-period review		<ul style="list-style-type: none"> Decision letter released on 9 September 2021. 	<ul style="list-style-type: none"> Commission decided North East Water is to continue under its current price determination to 30 June 2026. Decision provides for pricing certainty and enables North East Water to deliver valued services to customers.
Review water business regulatory accounts for 2020–21		<ul style="list-style-type: none"> Not applicable. 	<ul style="list-style-type: none"> Ensured businesses are transparent and accountable for their spending relative to benchmarks used in price determinations.
Complete audit of annual performance reporting data for 2020–21		<ul style="list-style-type: none"> Not applicable. 	<ul style="list-style-type: none"> Confirmed the accuracy of the data reported by water business for the annual performance reports.

Environmental factors

The main external environmental factors influencing our work are:

- Cost of living pressures are increasing, with inflation and interest rates rising. We will need to consider these pressures when establishing prices and service standards.
- Climate change is influencing the frequency and severity of events affecting network infrastructure (bushfires, storms, floods). We need to ensure our framework provides for resilient infrastructure and service delivery and helps customers who are impacted.

Cost of our water industry activities

In 2021–22, the total cost of the commission’s water regulation was \$3.42 million. The cost includes an allocation of the costs of staff who support the water team’s work across the commission.





Local government

We oversee applications for higher council rate caps, produce compliance reports and conduct inquiries and reviews to promote sustainable outcomes for councils and the community.

Our year in review

We published our annual council compliance report

We monitor councils' compliance with rate caps based on data which they provide each year. We reported in 2021–22 that all 79 councils complied with the cap set for them.

For the first time since the introduction of rate capping, no councils applied for a higher cap and no higher caps approved in previous years remained in force. As a consequence, all councils were subject to an average rate cap of 1.50 per cent.

We updated our guidance to councils

We provide councils with guidance on applying for a higher rate cap and to help demonstrate compliance with the rate cap. We updated this guidance and hosted a sector webinar to explain our approach and processes to council staff.

We contributed to the review of the rate capping framework

The rate capping framework was reviewed in 2021, five years after its introduction. The Victorian Government engaged consultants to undertake the review and we participated in the review, sharing our experience and views on the framework's operation.



Status key: Complete On track Ongoing Delayed

Progress report 2021–22

Objective	Status	Outputs	Outcomes achieved
Report on compliance with the 2021–22 local government rate cap		<ul style="list-style-type: none"> Report released in November 2021. Published updated compliance guidance for councils. 	<ul style="list-style-type: none"> Community has confidence that the rate cap is being met. Councils understood requirements for complying for a higher cap.
Provide advice on the 2022–23 rate cap		<ul style="list-style-type: none"> Advice provided to the Minister for Local Government December 2021. 	<ul style="list-style-type: none"> Advice adopted by the Minister for Local Government.
Assess council rate cap applications		<ul style="list-style-type: none"> No applications were received. Published updated higher cap application guidance for councils. Conducted council webinar. 	<ul style="list-style-type: none"> Councils understood requirements for applying for a higher cap.

Environmental factors

The main external environmental factors influencing our work are:

- Under the *Local Government Act 1989*, the rate capping framework was reviewed in 2021, five years after its introduction. The review considered whether the mechanism for setting the rate cap is appropriate, and whether the framework is effective or requires amendment. The government is considering the review findings and this could result in changes to the framework or our approach and processes.

Cost of our local government activities

In 2021–22, the total cost of the commission’s local government activities was \$1.29 million. The cost includes an allocation of the costs of staff who support the local government team’s work across the commission.



The transport work undertaken by the commission includes administering the commission's economic regulatory responsibilities in ports, commercial passenger vehicles and accident towing.

We monitor Port of Melbourne wharfage services charges by conducting inquiries into its compliance with the regulatory framework and periodically investigating rents charged on tenant leases.

We make recommendations to the Minister for Roads about accident towing charges in Melbourne and make determinations on unbooked taxi trip fares in metropolitan Melbourne and regional areas.

Our year in review

Inquiry into the Port of Melbourne's compliance with the Pricing Order

In January 2022, we provided our inquiry report under the *Port Management Act 1995* into the Port of Melbourne's compliance with the Victorian Government Pricing Order, a regulatory instrument that sets out how the Port sets its wharfage tariffs, to the Assistant Treasurer.

We found there were some areas of non-compliance in a significant and sustained manner – notably in the Port's calculation of return on investment and stakeholder engagement – that required attention.

The Assistant Treasurer and the Port of Melbourne entered into an enforceable undertaking that deals with these matters and seeks to provide certainty to Port users and stakeholders that the Port will meet its ongoing regulatory obligations.

Investigation into complaints against the Port of Melbourne

The commission investigated two complaints made against the Port of Melbourne. Both related to a proposed investment at Webb Dock East which involved extending the quay line by 71 metres, including removal of the 'knuckle' obstacle. The commission investigated the complaints under section 49Q of the *Port Management Act 1995*.

The investigation commenced in September 2021 and was completed in June 2022, after obtaining information from the Port of Melbourne, the complainants, and stevedores operating at the port.

Our investigation found that the Port of Melbourne did not adequately consult with Port users about the project, its impacts on users and long-term implications for Port capacity and Port-wide competition in its 2021–22 Tariff Compliance Statement. This means it had failed to comply with the effective engagement provisions in the Victorian Government Pricing Order, which regulates the Port's tariffs. The commission did not conclude that the Port of Melbourne breached the Pricing Order provisions regarding the prudence and efficiency of the proposed investment.

Unbooked taxi fares review

We conducted a review of unbooked taxi fares (hailed from the street or ranks) to determine whether fares still reflected the efficient costs of service provision.

We published a consultation paper for consumer and industry feedback and sought information from taxi booking service providers on trip and driver shift information via our compulsory information-gathering powers.

We published a draft decision for consultation in July 2022 which recommended that fares should increase.

The final decision to increase the maximum fare for unbooked taxis by 11.2 per cent was published in September 2022.

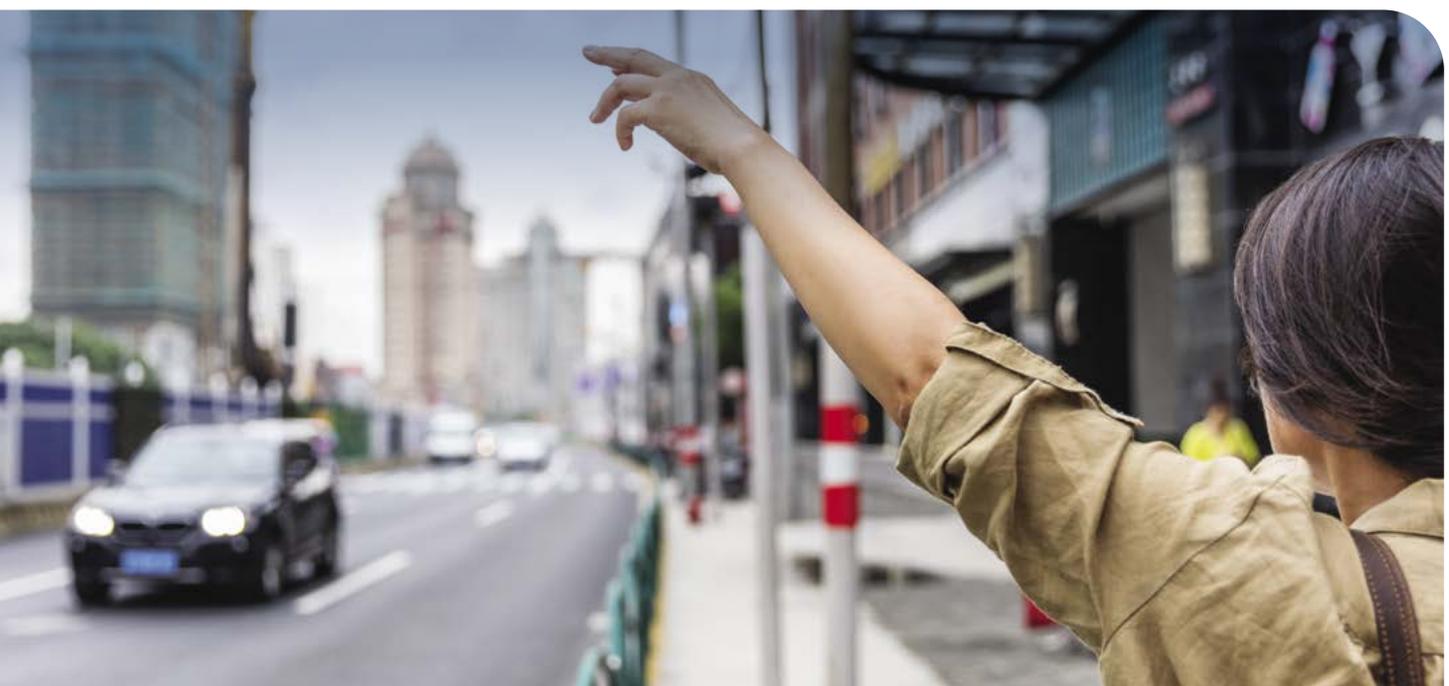
We set taxi non-cash payment surcharges

We released a consultation paper in June 2022 to kick off the review of the non-cash payment surcharge, which is the additional charge a customer bears when paying for a taxi trip by means other than cash. Payment processors are the entities which provide this service.

We met with representatives from the taxi industry and sought comments from them, as well as consumer representatives and the public, about the suitability of taxi payment processors' data we collected for our review during the reporting period July 2019 to June 2021 because of the coronavirus pandemic.

We were also interested to identify if the industry had undergone substantial changes over the last three years.

We performed benchmarking analysis and assessed the information we collected. The final decision to keep the maximum surcharge for non-cash payments in taxis steady at four per cent (including GST) for most card payments and six per cent (excluding GST) for commercial passenger vehicle specific instruments (like Cabcharge) was published in September 2022.



Status key: Complete On track Ongoing Delayed

Progress report 2021–22

Objective	Status	Outputs	Outcomes achieved
Review Port of Melbourne’s compliance with the Pricing Order		<ul style="list-style-type: none"> Report published January 2022. 	<ul style="list-style-type: none"> Government has established undertaking with Port of Melbourne to address and remediate non-compliance matters.
Port of Melbourne complaints investigation – Webb Dock East expansion		<ul style="list-style-type: none"> Investigation report finalised June 2022, published 8 July 2022. 	<ul style="list-style-type: none"> Port of Melbourne did not comply with Pricing Order clauses relating to effective stakeholder engagement.
Conduct a review of accident towing and storage fees		<ul style="list-style-type: none"> Advice provided to Minister for Roads. Published report 1 April 2022 in line with the Act’s reporting requirements. 	<ul style="list-style-type: none"> New charges gazetted by Department of Transport.
Commence review of unbooked taxi fares		<ul style="list-style-type: none"> Draft decision published for consultation July 2022. 	<ul style="list-style-type: none"> Propose first fare rise in eight years.
Commence review of taxi non-cash payment surcharge		<ul style="list-style-type: none"> Consultation paper published June 2022. Final decision published in September 2022. 	<ul style="list-style-type: none"> Feedback that coronavirus pandemic had impacted operators’ ability to earn revenues from service.

Environmental factors

The main external environmental factors influencing our work are:

- The pandemic has had a major impact on regulated sectors and the broader economy. We will consider the impact of the pandemic on the prices we set for consumers. We will monitor how regulated industries are responding to the pandemic and changed economy.
- Cost of living pressures are increasing, with inflation and interest rates rising. We will need to consider these pressures when establishing prices and service standards.

- Climate change is influencing the frequency and severity of events affecting network infrastructure (bushfires, storms, floods). We need to ensure our framework provides for resilient infrastructure and service delivery and helps customers who are impacted.

Cost of our transport activities

In 2021–22, the total cost of the commission’s transport program was \$3.55 million. The cost includes an allocation of the costs of staff who support the transport team’s work across the commission.



Victorian Energy Upgrades

The Victorian Energy Upgrades program helps Victorians reduce their energy bills and greenhouse gas emissions by providing access to discounted energy efficient products and services. The program also encourages investment, employment and innovation in industries that supply these products and services.

Victorian energy efficiency certificates are electronic certificates created when energy efficient products and services are made available to homes and businesses under the Victorian Energy Upgrades program. Each certificate represents one tonne of greenhouse gas emissions reduction (CO₂-e). Certificates are sold to energy retailers who have a liability based on the level of greenhouse gas emissions generated by their sale of electricity or gas.

We regulate the creation of certificates as part of the program which aims to reduce greenhouse gas emissions and cut energy bills.

Delivering emissions, energy and cost savings for Victorian consumers

Despite the continuing challenges presented by the pandemic, the program delivered over 692,000 upgrades across more than 423,000 households and 37,000 businesses in 2021–22. More than 7.57 million certificates were registered from these upgrades. Households that undertook an upgrade in the year are anticipated to save an average of \$117 on their annual energy bill, with \$2,208 average annual savings expected for businesses.

Over two million households and 146,000 business have participated in the program since it began. This has helped reduce greenhouse gas emissions by over 74 million tonnes over the life of the program.

The upgrades undertaken during the year are also expected to generate over 8.29 terawatt-hours of electricity savings and over 2.64 terajoules of gas savings over the assumed lifetime of the upgrades. The main source of certificates created during the year continues to be from lighting upgrades (64 per cent).

Building public confidence and promoting consumer rights

We undertook significant work over the year to implement changes to shape the future direction of the program, including changes to better inform and protect customers when engaging with providers under the program. We also prepared for the program's new code of conduct, including the development of guidelines to support businesses to meet their obligations under the code and consumer information resources. The code came into effect on 1 July 2022.

In 2021–22, the rate of complaints increased from previous year's levels of approximately 13 complaints for every 10,000 premises to 21 complaints for every 10,000 premises. We have increased our capacity and improved our processes to manage the increase in complaints to facilitate a satisfactory solution for consumers. We also continued to work with the accredited providers and other regulators, Consumer Affairs Victoria and the Australian Communications and Media Authority, to address consumer complaints and protect consumer rights.

Safeguarding the integrity of the program

We maintained our focus on upholding the integrity of the expanding Victorian Energy Upgrades program and confidence in the energy efficiency benefits delivered to consumers. We continued working with stakeholders to promote and monitor compliance with the *Victorian Energy Efficiency Target Act 2007*, and associated regulations, specifications and guidelines.

As part of our risk-based approach to identify potential compliance issues, we assessed over 58 thousand upgrades in 2020–21. Of these, 4,157 were flagged for further investigation. We completed 621 different types of audits, including field audits, desktop audits, phone audits, project-based activity audits and accreditation audits. We also carried out 23 investigations during the year. Due to our compliance efforts, 18,359 certificates were surrendered, and 253,199 certificates were withdrawn by accredited providers in the year.

We also took enforcement action against an accredited provider in June 2022, which resulted in the suspension of the business for three months and an order to surrender 47,909 certificates, valued at approximately three million dollars.

Two energy retailers paid penalties of over \$1.82 million for their failure to surrender sufficient certificates to meet their certificate liability for the 2020 year.

We also worked with the Department of Environment, Land, Water and Planning to manage potential compliance issues relating to the installation of plug-in refrigerated cabinets under the program.

Actions we took included:

- Releasing updated guidance for accredited providers, implementing the zero-discount factor decision by the Victorian Minister for Energy.
- Initiated investigations into multiple installations of plug-in refrigerated display cabinets.
- Enacting risk-based registry assessments of certificate creations for the activity.

Status key:  Complete  On track  Ongoing  Delayed

Progress report 2021–22

Objective	Status	Outputs	Outcomes achieved
Upgrade our IT system		<ul style="list-style-type: none"> • An in-development version of the IT system was assessed as not being compatible with the program’s evolving current and future requirements. 	<ul style="list-style-type: none"> • A decision to explore alternative pathways for development of a Victorian Energy Upgrades registry system that is able to meet the program’s current and future requirements.
Effectively plan for implementation of the Victorian Energy Efficiency Target Act review outcomes and expansion of activities		<ul style="list-style-type: none"> • A resourcing and capability analysis of the staff numbers and skills required to support the implementation of the Act reform outcomes. • A communications and regulatory framework to support legislative changes, including introduction of commercial and heat pump water heater activity into the program. • IT system changes to support the creation and registration of certificates reflecting legislative changes. 	<ul style="list-style-type: none"> • Improved understanding (for the commission and the Department of Environment, Land, Water and Planning) of the funding and resourcing needed to deliver on the program’s expanded functions in regulating program participants and protecting consumers from 2023 onwards. • Legislative changes introduced in an efficient and timely manner to support the uptake of new or revised activities, including IT system changes.

Progress report 2021–22 (continued)

Objective	Status	Outputs	Outcomes achieved
Strengthen our risk-based compliance and enforcement approach	⏸	<ul style="list-style-type: none"> Dynamic risk-rating capabilities to better inform audits and certificate validations. Data analytic products to better inform audit focus. 	<ul style="list-style-type: none"> Increased effectiveness of our pre-registration certificate checks. Increased effectiveness of our audit and compliance efforts. Effective use of resources to deliver enhanced compliance outcomes.
Engage with stakeholders in our decision-making and planning for program reform and expansion	➔	<ul style="list-style-type: none"> Forums where we informed stakeholders of proposed approach to implementation of program reform and expansion. 	<ul style="list-style-type: none"> Businesses, government partners and consumer communities engaged in informing the program's future framework settings.

Environmental factors

The main environmental factors influencing our work are:

- The Victorian Government has amended the Victorian Energy Efficiency Target Act. These legislative reform changes will have significant implications for our division's regulatory approach, operational model, and resourcing and capability needs, and implications for how scheme participants operate in the program.
- The planned phasing out of residential lighting upgrades from the program in January 2023 and reduction in incentives to reflect changes in the electricity emission factor over time for most program activities. This will require a broader range of activities to be delivered by the program and will raise new risks and issues for the commission in monitoring compliance with the program.

Cost of our Victorian Energy Upgrades activities

In 2021–22, the total cost of the commission's Victorian Energy Upgrades program was \$10.22 million. The cost includes an allocation of the costs of staff who support the Victorian Energy Upgrades team's work across the commission.



Communications and engagement

We promote clear, efficient, and effective communication to help deliver our vision of better essential services for all Victorians.

The strategic communication team manages key communication channels including the website, media and social media channels. We support teams to engage effectively with key stakeholders and provide communications training and support to ensure our work is accessible to a wide audience.

Our year in review

We helped to deliver collaborative, transparent and dynamic engagement environments and experiences for our stakeholders

Maintaining an open and transparent dialogue with our stakeholders was a key focus in 2021–22. We hosted over 32 virtual events attended by over 1,900 participants, including industry forums with the water, energy and energy efficiency sectors and roundtables with the community sector. To inform our projects and decisions we ran 18 consultations through our Engage Victoria page which generated more than 120 stakeholder submissions. These engagement opportunities helped us to:

- understand current economic and environmental challenges
- hear the experiences and expectations of Victorian consumers
- discuss issues and opportunities with regulated businesses and sectors.

We supported the design and delivery of responsive, effective and meaningful communications to inform and empower our stakeholders

We continued to focus on producing timely and compelling communications to help regulated businesses understand their obligations and our expectations, and to educate and support consumers to exercise their rights and protections. We used the guiding principles of our stakeholder engagement framework to help us to communicate transparently and with accountability. We shared insights and information to consumers, regulated

businesses, governments and community services via reports, publications, guidelines, presentations, factsheets, infographics, videos, media releases and articles. This year we also expanded our suite of subscriber email newsletters with the launch of email newsletters for the water and local government sectors.

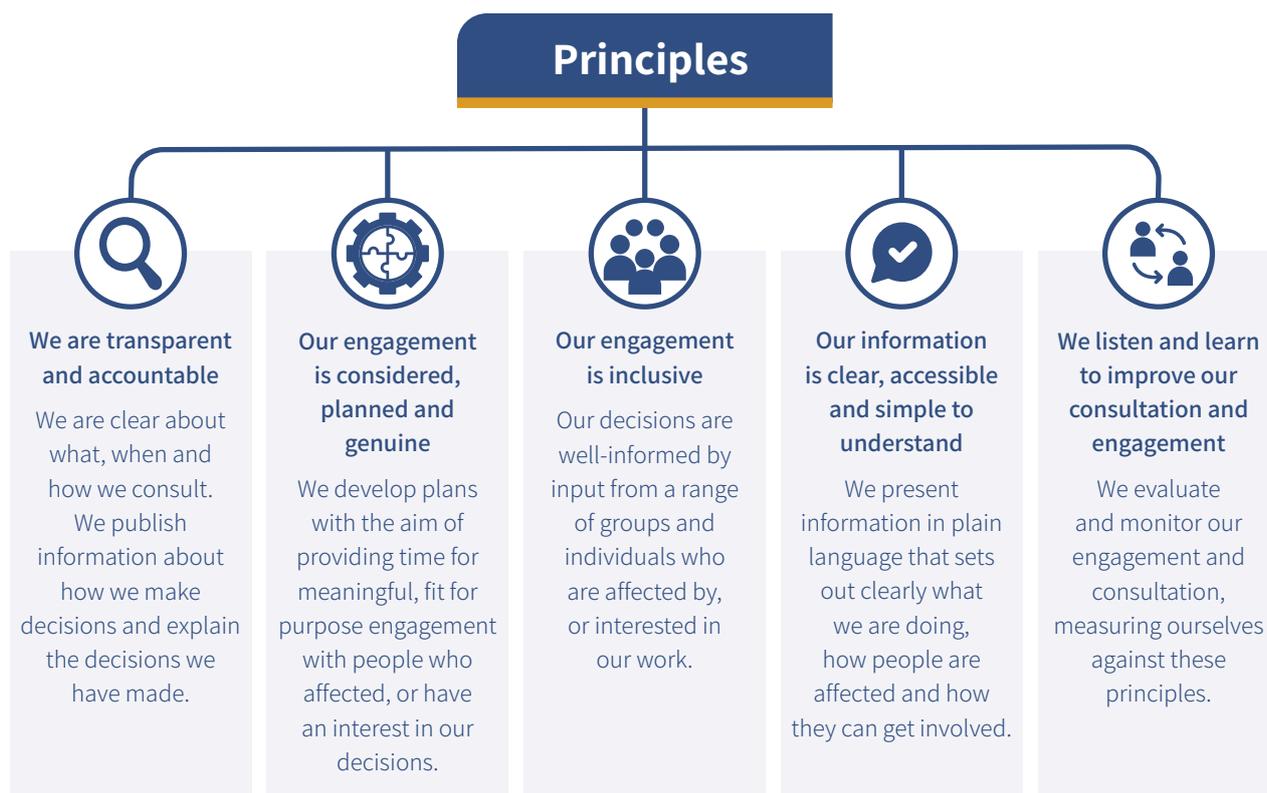
We embraced digital tools and technologies to embed our commitment to genuine dialogue with our stakeholders

We welcomed the opportunity brought by the pandemic to focus on expanding our digital capabilities and footprint. We boosted our social media activity with the aim to find and inform our stakeholders, increasing both engagement and follower numbers across our Facebook, Twitter and LinkedIn profiles. Our website views increased by 10 per cent this year with consumers turning to our website for information on the Victorian Energy Upgrades program, the Victorian Default Offer, average household water bills in Victoria and our enforcement outcomes. We remained committed to providing inclusive and accessible engagement and communications, offering virtual engagement opportunities, virtual media conferences and virtual staff training.

Our engagement principles at work

The commission engaged with Victorian communities and stakeholders in 2021–2022 according to our charter of consultation and regulatory practice. The five principles of the charter form the basis of our stakeholder engagement framework, which was developed in 2017–2018.

The principles apply generally to our work as we undertake our legislative functions, make decisions and conduct inquiries required under the Essential Services Commission Act and other sector-specific legislation.



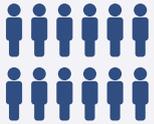
Application of our principles in 2021–2022 include:

- **Transparency and accountability**
We ran 18 consultations through our Engage Victoria page, generating more than 120 stakeholder submissions. We published engagement summaries demonstrating how engagement contributed to major decisions and provided feedback to engagement participants.
- **Considered, planned and genuine engagement**
We planned our engagement outreaches according to our principles and involved affected stakeholders in engagement planning for all major projects using a range of methods and approaches.
- **Inclusive engagement**
We aimed to create opportunities for a diverse range of stakeholders to provide input into our decisions. We focused on ways to incorporate our *Getting to fair* strategy into our engagement practices to better support consumers experiencing vulnerability to understand and exercise their rights and influence our work.
- **Clear, accessible and simple information**
We aimed to present information in plain English and clearly indicate how stakeholders can contribute to our decisions, using a range of communications and engagement channels and platforms.
- **Listen and learn to improve our consultation and engagement**
We sought stakeholder feedback and conducted engagement and event debriefs to promote continuous improvement and support our people to uphold the principles of our stakeholder engagement framework.

We use **engagement** as a broad term to describe a planned process which has a specific purpose of working across organisations, stakeholders and communities to inform our decisions or actions. We use **consultation** to refer to a process of obtaining feedback on analysis, alternatives or decisions.

Our people

As of 30 June 2022



162 people

We had 162 people working at the commission.



51:49 gender split

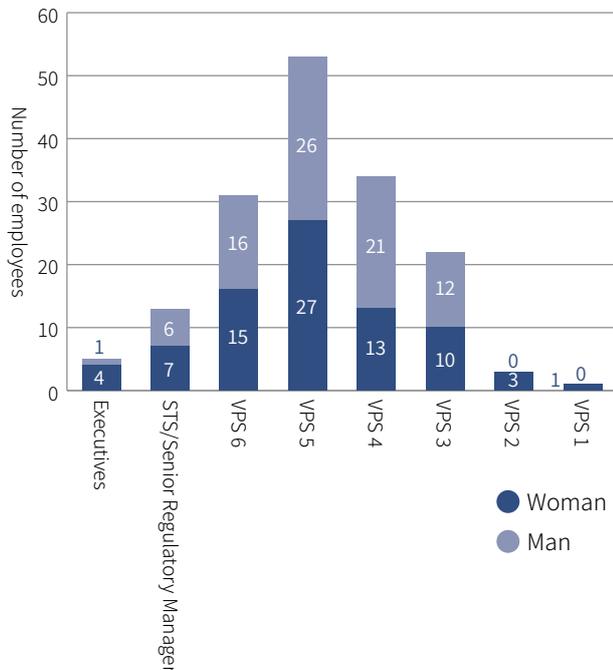
We had 83 women and 79 men working at the commission.



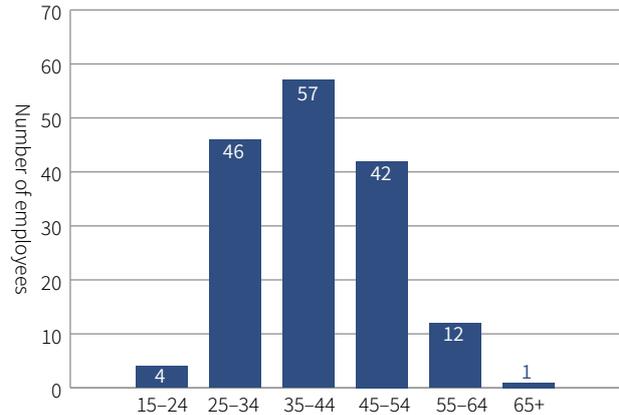
9% increase

Our organisation grew 9 percent in 2021–2022.

Our workforce breakdown



Our age demographic



Note: Includes ongoing and fixed-term and casual employees as at 30 June 2022, excluding commissioners (two women and two men). Includes personnel on paid leave arrangements but excludes those on unpaid leave.

People strategy

Our people strategy was created using a human-centred design. This year we worked on progressing against each of the seven streams and a support stream. Our strategy streams are:

Values

Principles

- Our values underpin our culture
- Our values are clear, simple and meaningful
- Our values explain how we go about doing our work

Empowerment through decision making

Principles

- Our decision making is efficient, transparent and consistent
- Our decisions are made by the most appropriate person
- We provide a feedback loop for decisions to facilitate engagement and learning

Flexibility

Principles

- All roles are flexible, and the type of flexibility is agreed by the team member and their manager
- Flexibility arrangements are responsive to changing circumstances
- Flexibility is an ongoing conversation
- We consider impacts on others when considering flexible approaches

Diversity and inclusion

Principles

- We are diverse and inclusive, and everyone is empowered to contribute their perspective
- We believe empathy and understanding are core to engaging and collaborating with others

Leadership

Principles

Our leaders

- Empower others to realise their potential
- Understand the expectations of their role and deliver on them
- are accountable for the work of their team
- Foster empowerment, trust and respect

Everyone is given the opportunity to display and develop leadership

People essentials

Principles

- Our people are valued
- Our people are provided with the essentials to reach their potential

Collaboration and engagement

Principles

- We are one commission
- We work collaboratively, looking to form connections across and beyond the commission
- We support and encourage continuous improvement and stepping outside the status quo
- Everyone is given the opportunity to contribute in a meaningful way

Enablers (support theme)

Principles

- Our new office promotes collaboration and connection
- We use meetings effectively
- Our technology enables flexibility and connection
- Our risk management practices are aligned to best practice

Learning and development

Mentoring program

For the past five years, we participated in a combined mentoring program with the Department of Premier and Cabinet and the Department of Treasury and Finance. This combined program allowed for a greater breadth of mentors and mentees and encouraged collaboration and knowledge-sharing between the three organisations.

Participation in the program in 2021 included five mentors and five mentees. This program came to a close on 31 December 2021.

Training and leadership development

We continued our strong commitment to learning and development this year.

Our VPS 2, 3 and 4 cohorts (63 employees), completed our Leadership Essentials Activate Program (le:ap), and we supported the VPS 5 cohorts through their final sessions on commission challenges. This program was rolled out to the whole commission over the past three years and sought to define and accelerate or activate leadership at the commission, building skills in self-awareness, leading teams, and taking accountability for organisational culture and demonstrating that everyone can be a leader in their respective roles.

We continued our focus on resilience and mental health with training on mental and health wellbeing and partnered with Smiling Mind to roll out an employee wellbeing program for the whole commission to support staff stress management, focus and resilience through mindfulness.

We also held a number of manager skills sessions including on making the Performance and Development Plan (PDP) cycle meaningful and fair treatment in the workplace.

We now provide options for in-house and virtual delivery of all training to be able to cater for flexible work arrangements.

Capability and performance

Performance and development system

We continued to support the performance development plan process through clear communication and updated guidance on system use on the intranet in 2022.

We also heavily encouraged employees and managers to have regular discussions about goals and learning and development aspirations.

Workforce planning

Recruitment

Our people and culture team supported 92 advertised recruitments in 2021–22. Many of these recruitments resulted in internal promotions with 26 staff being promoted to other roles within the commission.

We have committed to reviewing our recruitment strategy to support gender equality. The aims of this will be to have balanced gender representation at the application and interview stages of recruitment and gender composition at the commission continues to be balanced across all levels, divisions and occupation types.

The team continually reviews our recruitment practices and have simplified our recruitment forms and processes as well as consulting with hiring managers to develop their knowledge and skills.

Graduate program and internships

We recruited one graduate for 2022. We support internships through work integrated learning in universities and in partnership with the Department of Treasury and Finance for summer interns. This year for the first time we participated in Barring Djiring Aboriginal internship through the Victorian Public Sector Commission hosting one intern through the program. In 2021–2022, we employed five interns through our various programs.

Health and safety

Health and Wellbeing Committee

Our Health and Wellbeing Committee is led by an executive sponsor and consists of divisional representatives and people and culture. The committee has rolled out several initiatives with the aim to keep our employees connected, healthy and well. This included the Steptember activity challenge and employee-led mindfulness sessions.

Occupational Health and Safety Committee

Our Occupational Health and Safety Committee met four times during 2021–2022. Attendees include health and safety and organisational representatives, members of our people and culture team, and a representative from Action OHS Consulting, our outsourced occupational health and safety provider.

Our health and safety representative and deputy health and safety representative undertake a pivotal role in ensuring our workplace is safe and hazard free. They also help to ensure our committee considers new ideas and perspectives.

Diversity and inclusion

Diversity and Inclusion Working Group

With diversity and inclusion being identified as a people strategy stream, we created a Diversity and Inclusion Working Group to assist with the goals and objectives identified. The group meets once a month to discuss and put into place ways to celebrate diversity and inclusion and assist in creating clear pathways for diversity and inclusion at the commission.

Diversity and Inclusion Action Plan

We have partnered with Diversity Partners to co-create a Diversity and Inclusion Action Plan for the commission. This plan will be completed by the end of 2022 and aims to assist the commission in becoming a place where all feel comfortable to bring their whole selves to work.

Gender equality

This year we continued to work on our obligations coming out of the *Gender Equality Act 2020*. With our workplace gender audit complete, we commenced meaningful consultation with the business and the union to assist in the creation of our *Gender Equality Action Plan*. The plan includes the results from our gender audit and outlines the strategies and measures we will put in place for promoting gender equality at the commission.

Flexible work

We support and promote flexible work practices to help employees balance work and life. There are various flexible working arrangements available to employees to ensure their working arrangements are tailored to their individual needs.

Many employees are continuing to work more flexibly since the pandemic.

Empowered Women's Network

The Empowered Women's Network is a staff-led initiative that aims to promote, empower and recognise the women who are part of the commission workplace.

This year the network hosted an International Women's Day event with a panel comprising three staff members who are community leaders and commissioner Rebecca Billings. The panel spoke of their professional and personal experiences in seeking to realise gender equality. Group members have also attended events featuring Grace Tame, Senator Penny Wong and the Women in Regulation Conference with keynote speaker Leigh Sales, and our Chairperson Kate Symons as a panellist. The group continues to share articles of interest and plans more events as part of the organisation's social recovery from the pandemic.

Pride Network

Our Pride Network aims to promote workplace inclusion of LGBTIQ (lesbian, gay, bisexual, transgender, intersex, queer) employees, to provide a space for the commission's LGBTIQ people to come together and raise issues of importance to them in the workplace and to provide a formal avenue to connect with the broader Victorian Public Service pride network.

This year the network promoted IDAHOBIT, the International Day Against Homophobia, Biphobia and Transphobia, by raising awareness of the support needed for the LGBTIQ+ community. We also celebrated 'Wear It Purple Day' where members shared queer film, TV and book recommendations with staff to enjoy in lockdown. The network maintained its link to the Victorian Public Service Pride Network by sharing its news on the intranet.

Aboriginal reconciliation

We have continued our work with the Victorian Public Sector Commission's Aboriginal workplace cultural capability program to create a building Aboriginal cultural capability action plan. The plan outlines several actions that we can put in place as a commission to ensure that we are an organisation who is aware, respectful and inclusive of Aboriginal people and their history and provide a culturally safe environment for all. We also aim to ensure that we are respectful and inclusive with the communities we engage with externally.

Disability support

We are committed to supporting employees and prospective employees who have a disability by raising awareness, making reasonable workplace adjustments, ensuring our office space and its facilities are accessible to all, and having representation on the enablers network facilitated by the Department of Treasury and Finance.

Workforce data

The following table shows the head count and full-time staff equivalent (FTE) of all active employees of the commission employed in the last full pay period in June 2022, and in the last full pay of the previous reporting period (2021).

	June 2022						
	All employees		Ongoing			Fixed term and casual	
	Number (Headcount)	FTE*	Full-time (Headcount)	Part-time (Headcount)	FTE	Number (Headcount)	FTE
Gender							
Women	83	75.11	48	25	65.91	10	9.20
Men	79	78.20	64	1	64.8	14	13.40
Self-described	n	n	n	n	n	n	n
Age							
15–24	4	3.20	2	0	2.00	2	1.20
25–34	46	42.90	27	8	32.30	11	10.60
35–44	57	53.63	41	11	48.83	5	4.80
45–54	42	40.88	31	5	34.88	6	6.00
55–64	12	11.70	10	2	11.70	0	0
65+	1	1.00	1	0	1.00	0	0.00
VPS** 1–6 Grade	144	135.51	96	26	114.71	22	20.80
VPS 1	1	0.80	0	0	0.00	1	0.80
VPS 2	3	2.40	1	0	1.00	2	1.40
VPS 3	22	20.83	12	3	14.03	7	6.80
VPS 4	34	32.85	26	5	29.85	3	3.00
VPS 5	53	49.40	37	11	44.60	5	4.80
VPS 6	31	29.23	20	7	25.23	4	4.00
Senior employees	18	17.8	16	0	16.00	2	1.80
STS***	7	6.80	5	0	5.00	2	1.80
SRA****	6	6.00	6	0	6.00	0	0
Executives	5	5.00	5	0	5.00	0	0
Other			0	0	0.00	0	0.00
Total employees	162	153.31	112	26	130.71	24	22.60

* FTE = full-time equivalent

** VPS = Victorian Public Service

*** STS = Senior technical specialist

**** SRA = Senior regulatory analyst

June 2021						
All employees		Ongoing			Fixed term and casual	
Number (Headcount)	FTE	Full-time (Headcount)	Part-time (Headcount)	FTE	Number (Headcount)	FTE
78	71.94	51	14	60.62	13	11.32
76	74.39	61	3	63	12	11.39
n	n	n	n	n	n	n
7	4.42	2	1	2.4	4	2.02
36	35.31	28	2	29.31	6	6
64	60.55	44	9	49.86	11	10.69
32	31.35	26	3	28.35	3	3
13	12.7	11	2	12.7	0	0
2	2	1	0	1	1	1
139	131.33	98	17	109.62	24	21.71
2	2	0	0	0	2	2
6	3.42	2	1	2.4	3	1.02
19	17.84	14	3	15.95	2	1.89
33	31.76	25	4	27.76	4	4
54	52.9	40	3	42.1	11	10.8
25	23.41	17	6	21.41	2	2
15	15	14	0	14	1	1
4	4	3	0	3	1	1
6	6	6	0	6	0	0
5	5	5	0	5	0	0
154	146.33	112	17	123.62	25	22.71

This data excludes our commissioners and chair.

Executive numbers

Annualised total salary for senior employees of the commission, by \$20,000 bands*

Income band (salary)	Executives	STS	PS	SMA	SRA	Other
\$<160,000	-	-	-	-	-	-
160,000 – 179,000	-	2	-	-	1	-
180,000 – 199,000	-	5	-	-	4	-
200,000 – 219,000	1	1	-	-	1	-
220,000 – 239,000	2	-	-	-	-	-
240,000 – 259,000	1	-	-	-	-	-
260,000 – 279,000	-	-	-	-	-	-
280,000 – 299,000	-	-	-	-	-	-
300,000 – 319,000	-	-	-	-	-	-
320,000 – 339,000	1	-	-	-	-	-
340,000 – 359,000	-	-	-	-	-	-
360,000 – 379,000	-	-	-	-	-	-
380,000 – 399,000	-	-	-	-	-	-
400,000 – 419,000	-	-	-	-	-	-
420,000 – 439,000	-	-	-	-	-	-
440,000 – 459,000	-	-	-	-	-	-
460,000 – 479,000	-	-	-	-	-	-
480,000 – 499,000	-	-	-	-	-	-
TOTAL						

*The salaries reported above are for the full financial year at a one-full-time-equivalent rate, and exclude superannuation.

Office-based environmental impact

We have monitored some key indicators of our environmental impact for the 2021–2022 financial year, including electricity usage, water usage, air travel, paper usage and single use plastics. Our environmental impact has also been considered in procurement decision-making.

Snapshot

Category	Quantity used	Quantity per employee
Energy consumption (MJ)	462,034	3,019
Water usage (KL)	532	3
Air travel (km)	31,674	207
Paper usage (reams)	77	0.50

Overview of performance 2021–2022

Electricity

We use 100 per cent green power. Electricity consumption is taken from our energy retailer billing information, which indicates we used 462,034 megajoules for the 2021–2022 financial year. Based on a floor size of 2,700 square meters, this equates to 171 megajoules of electricity used per unit of office area. Based on our full-time equivalent of 153 employees as at 30 June 2022, this equates to 3,019 megajoules of electricity used per full-time employee.

Water

Total units of water consumed by our floor was approximately 532 KL. This amount comes from 10,633 KL consumed for the entire building. There is no specific data for each tenancy, however, considering there are 20 floors in the building, it is assumed our tenancy would consume 1/20 of the total amount of water consumed for the entire building. Based on a floor size of 2700 square meters, this equates to 0.19 KL used per unit of office area. Based on our full-time equivalent of 153 employees as at 30 June 2022, this equates to 3 KL of water used per full-time employee.

Our building has a 5.5 star NABERS rating for water usage.

Travel

The total distance travelled by air for the 2021–2022 financial year was 31,674 kilometres. The total greenhouse gas emissions associated with air travel was 3,092kg.

Paper

The raw material of our Muru copy paper consists of 100 per cent post-consumer recycled fibres. The total reams (at 500 sheets per ream) used for the 2021–2022 financial year was 77 reams. Based on our full-time equivalent of 153 employees as at 30 June 2022, this equates to 0.50 reams of paper used per full-time employee.

Single-use plastics

The commission contributed to the Department of Environment, Land, Water and Planning-led removal of single-use plastics initiative, and ensured compliance with the expected standards of public sector departments and entities. With the introduction of bio-cups, all single-use plastics were eliminated from our supplies with effect from February 2022.

Procurement

Our sustainable procurement practices include seeking suppliers for:

- maximising recyclable/recovered content
- minimising waste and greenhouse gas emissions
- conserving energy and water
- minimising habitat destruction and environmental degradation
- providing non-toxic solutions.

Corporate governance

The commission was established by the *Essential Services Commission Act 2001*, which came into effect on 1 January 2002.

5

Number of times
our board
met in 2021–22

40

Number of times
the commission
met in 2021–22

5

Number of times our
audit and risk committee
met in 2021–22

We have been operating since 2001

The commission was established to perform its regulatory and advisory functions in ways that promote the long-term interests of consumers.

The Assistant Treasurer is responsible for the commission. We are required to perform functions under various industry legislation.

The Essential Services Commission Act requires us to:

- perform functions as required by legislation
- provide advice and recommendations to the Assistant Treasurer on matters relating to economic regulation and regulated industries
- conduct inquiries (at the request of the Assistant Treasurer) into any systemic reliability of supply issues related to a regulated industry or other essential service
- conduct inquiries and report on matters relating to regulated industries
- conduct public education programs for the purposes of promoting its objectives and in relation to significant changes in the regulation of a regulated industry.

As part of our role, we consider:

- efficiency in regulated industries, and incentives for long-term investment
- the financial viability of the industry
- competition within the industry
- relevant health, safety, environmental and social legislation applying to the industry
- benefits and costs of regulation
- consistency in regulation between states and on a national basis.

We use a formal process to exercise our statutory functions and powers

This involves developing reports on how markets operate, delivering price determinations, compliance assessments and audits, and taking enforcement action when required. We also run the Victorian Energy Upgrades program and consider higher cap applications from local councils.

We consult with our stakeholders on our work through formal submission processes, and by conducting workshops and public forums.

Legislation

The legislation which establishes the commission is the *Essential Services Commission Act 2001*.

Other legislation related to our work includes:

- *Accident Towing Services Act 2007*
- *Commercial Passenger Vehicle Industry Act 2017*
- *Electricity Industry Act 2000*
- *Gas Industry Act 2001*
- *Local Government Act 1989*
- *National Electricity (Victoria) Act 2005*
- *National Gas (Victoria) Act 2008*
- *Port Management Act 1995*
- *Victorian Energy Efficiency Target Act 2007*
- *Water Act 1989*
- *Water Industry Act 1994*.

Our board oversees organisational governance

Our commissioners meet as a board to formally deal with organisational governance. Their focus is to:

- set and monitor the organisation's overall strategic direction
- oversee delivery of services, achievement of objectives and overall performance
- monitor financial performance and financial governance arrangements
- ensure compliance with statutory frameworks and integrity requirements.



Commissioners Billings, Symons, Corden and Bhojani.

Managing risk and maintaining integrity

The Audit and Risk Committee assists the board to fulfil its responsibilities in line with the requirements of the Standing Directions under the *Financial Management Act 1994*. Its main responsibilities are:

- financial management and reporting
- systems of risk oversight and management, including workplace safety and wellbeing, and technology
- integrity management
- internal and external audit activities
- compliance with relevant laws and policies
- business continuity.

The committee consisted of the following members at 30 June 2022:

- Peter Lewinsky, external member and committee chair – appointed 1 January 2021
- Michelle Beveridge, external member – appointed 1 January 2021
- Rebecca Billings, commissioner
- Simon Corden, commissioner.

Our internal audit services were provided by Pitcher Partners.

Our memorandums of understanding help improve outcomes

We enter into memorandums of understanding with Victorian Government agencies who share an important working relationship with us. We use these memorandums to make our outcomes more efficient. They help improve communication and regulatory processes and reduce the duplication of work across agencies.

We are undertaking a review of all our memorandums following amendments to the Essential Services Commission Regulations 2021 that no longer specify which agencies we must have a memorandum with.

In 2021, we held active memorandums of understanding with the following organisations:

- Australian Energy Regulator
- Consumer Affairs Victoria
- Department of Health
- Department of Families, Fairness and Housing
- Energy Safe Victoria
- Energy and Water Ombudsman (Victoria) Limited
- Sustainability Victoria
- Solar Victoria, Department of Environment, Land, Water and Planning.

View our [memorandums of understanding](#).

Essential Services Commission Financial Management Compliance Attestation Statement

I, Kate Symons, on behalf of the Responsible Body, certify that the Essential Services Commission has no Material Compliance Deficiency with respect to the applicable Standing Directions under the *Financial Management Act 1994* and Instructions.



Kate Symons
Chairperson and Commissioner

Our finances

Current year financial review

The reporting period 2021–22 was a financial transition year for the commission as it moved from being funded predominantly by parliamentary appropriations to a hybrid funding model.

The hybrid model was effective from 1 July 2022 with funding derived from a variety of sources:

- fees (including energy and water licence fees and Victorian Energy Upgrades fees)
- parliamentary appropriations paid as a grant
- penalties.

The transition is the result of amendments to the Essential Services Commission Act (effective 1 December 2021) which required the commission to establish two Trust Funds and provided for the payment in, and payment out, of amounts from these funds. The two Trust Funds are:

- the Operating Fund to fund the commission’s ongoing operating costs of performing its functions. This fund is used for the ongoing operational costs of regulating a sector.
- the Enforcement Fund which provides funding for major compliance and enforcement activity, including civil litigation and criminal prosecution.

As the commission must manage cash flow risks for the two Trust Funds, the amendments to the Essential Services Commission Act required all fee and penalty funds received after 1 December 2021 to be recognised as Trust Income and transferred to the two Trust Funds. As the commission was still fully appropriation funded in 2021–22, the recognition of this Trust Income resulted in the commission reporting a one-off positive result of \$37.0 million. This is an intended feature of the hybrid funding model where fees have been averaged out over a multi-year period. There was an over recovery in 2021–22, which will be followed by under recoveries in subsequent years. As a result, the commission will record deficits from 2022–23 onwards.

Had this not been a transition year, the commission would have reported a deficit of \$2.3 million compared to a \$0.278 million surplus in 2020–21 (see details in the following ‘Financial management’ section).

The commission also collected fees and penalties prior to 1 December 2021, these were recognised as administered revenue, which was paid into the State of Victoria’s consolidated fund.

The following summary of our financial performance shows the movements in actual income, expenses, balance sheet items and net cash flow.

Financial summary 2021–22 and previous four years

Comprehensive operating statement	2021–22	2020–21	2019–20	2018–19	2017–18
\$ millions					
Total income from transactions*	72.8	31.7	28.7	25.3	24.3
Total expenses from transactions	33.7	31.6	28.5	23.6	24.0
Net result from transactions*	39.1	0.1	0.2	1.8	0.3
Comprehensive result*	37.0	0.3	0.1	1.7	0.3
Total assets	58.9	21.4	23.3	19.2	17.6
Total liabilities	7.5	6.9	9.2	5.4	5.4
Net assets	51.4	14.4	14.2	13.8	12.2
Net cash flow from operating activities	(0.0)	1.3	1.5	0.2	0.03

* If 2021–22 had not been a funding model transition year, these figures would have been reported as follows:

	\$ millions
Total income from transactions	33.5
Net result from transactions	(0.2)
Comprehensive result	(2.3)

Financial management

The commission was fully funded through parliamentary appropriations – passed on as a grant through the Department of Treasury and Finance – up to and including 2021–22.

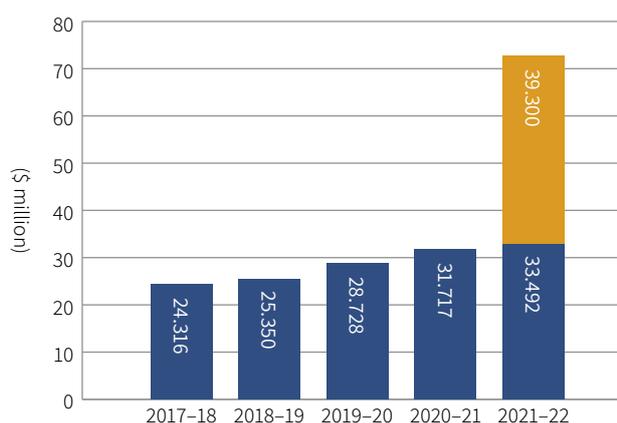
Our grant revenue has increased by 35 per cent over the past five years because of an increase in regulatory functions. For example, the expanded compliance and enforcement activity arising from the government's Energy Fairness Plan and the expansion of the Victorian Energy Upgrades program.

The commission would have recorded a net financial deficit of \$2.3 million in 2021–22, had it not been a transition year. The main reason for the transition-adjusted deficit was the one-off impairment of an IT system upgrade. The impairment decision was taken following an independent review of the upgrade project. As a result, the commission has de-recognised \$2.4 million of work in progress, previously disclosed on the balance sheet, as it had no future economic value.

The commission also recorded increased expenditure on the five-yearly price review for the Port of Melbourne. The Treasurer approved the use of prior year surpluses for this purpose.

Income

Our income, 2017–18 to 2021–22



The commission was fully grant funded in 2021–22. In addition to grant income, the commission recognised the following licence fees and penalties (disclosed as Licence and other fee income) which, if paid prior to 1 December 2021, would have been recognised in the consolidated fund:

Income	\$ millions
2020–21 Licence Fees	12.5
2021–22 Licence Fees	20.3
2021–22 Penalties	2.2
2021–22 Victorian Energy Upgrades Fees	4.3
Total	39.3

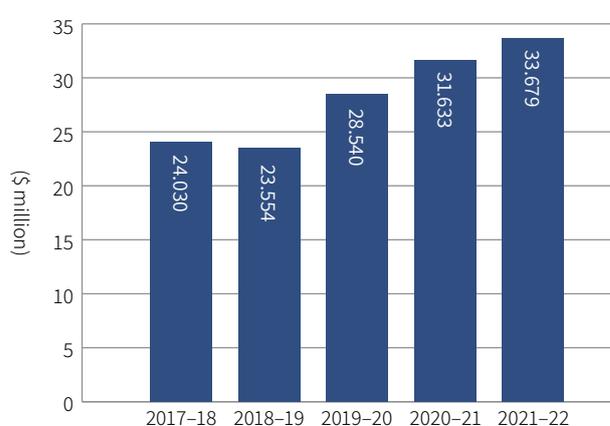
In previous financial years (including 2020–21) licence fee revenue was invoiced in arrears following approval from the Assistant Treasurer in the following financial year. The 2020–21 licence fees were therefore invoiced in 2021–22. \$12.5 million of the 2020–21 fees were paid after 1 December 2021 and recognised as Trust Income in line with the amended Act.

A new approach was adopted this year by the commission to invoice licence fees in the relevant financial year. As a result, 2021–22 licence fees were invoiced in 2021–22.

Penalty income is now paid into the Enforcement Fund and fees (licence and Victorian Energy Upgrades fees) are now paid into the Operating Fund. Penalties and fees received prior to 1 December 2021 were recognised as administered revenue and paid into the consolidated fund.

Expenses

Our expenses, 2017–18 to 2021–22



We incurred \$33.4 million in expenses from transactions for the reported financial year.

Our expenditure has increased over the last five years in line with our income as a direct result of additional initiatives and increased regulatory requirements.

The commission impaired an IT system upgrade which was recognised on the balance sheet as an intangible asset under development. The impairment decision was underpinned by an independent review by technical experts. The initial decision to upgrade the system on a single platform is no longer going to achieve the most efficient and effective solution. The IT upgrade project will be reset and redeveloped with the revised business requirements of an expanded Victorian Energy Upgrades program.

Assets and liabilities

Our financial position remains strong with total assets of \$58.9 million, total liabilities of \$7.5 million and net assets of \$51.4 million. Total assets increased by \$37.6 million compared to last year because of the recognition of fee and penalty income received after 1 December 2021 into the two Trust Funds.

Significantly, our working capital is sufficient to fund our operations over the forward estimates period including the hybrid funding model effective 1 July 2022, which is premised on the legislative requirement that the two Trust Funds cannot go into overdraft.

As at 30 June 2022, the balance in the Enforcement Fund was \$2.2 million and the balance in the Operating Fund was \$37.1 million.

Net assets as a percentage of total assets table

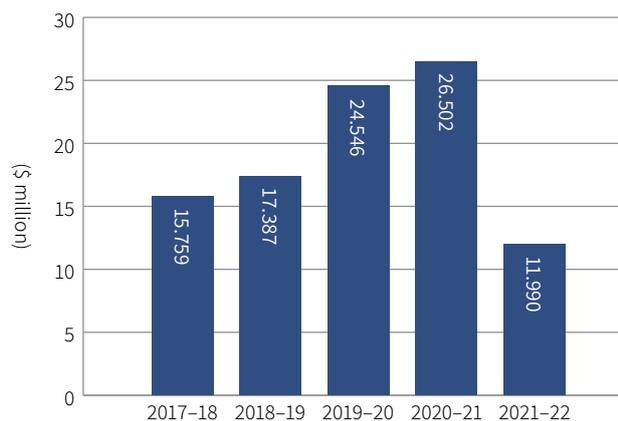
	2021-22	2020-21	2019-20	2018-19	2017-18
Net assets	87.2%	67.6%	60.7%	72.0%	69.3%

Our major asset is the receivable from the Victorian Government, which includes previously applied parliamentary appropriations that we have not yet drawn on and fees and penalties received after 1 December 2021 pending the opening of the two trust bank accounts. The balance includes the accumulated surplus, accrued employee entitlements, payables and accumulated depreciation. The balance, net of the accumulated surplus, represents funding for commitments incurred through the appropriations, which are drawn from the consolidated fund as the commitments fall due. Total liabilities increased to \$7.5 million, with our major liabilities being accounts payable and employee provisions.

Administered revenue

We also collect administered revenue on behalf of the State of Victoria, which is paid into the Department of Treasury and Finance’s consolidated fund for all fees and penalties paid before 1 December 2021. The revenue includes licence fees and penalties for the regulation of the energy and water industries, fees for the Victorian Energy Upgrades program, as well as any penalties. We collected \$11.99 million administered revenue in 2021–22 compared to \$26.50 million in 2020–21. The large decrease is due to the introduction of the hybrid funding model resulting in all licence and other fees and penalties paid after 1 December 2021 no longer being recognised as administered but as Trust Income.

Administered revenue, 2017-18 to 2021-22



The year ahead

We were allocated \$3.39 million for one year in the 2022–23 State Budget to support further expansion of the Victorian Energy Upgrades program and to support our economic regulatory oversight of the Port of Melbourne, including ensuring compliance with the Port of Melbourne’s newly-created Tenancy Customer Charter.

Appropriation funding for 2022–23 will decrease as a result of the new hybrid funding model.

2018–19	2019–20	2020–21	2021–22
\$24.972 million	\$27.878 million	\$30.56 million	\$32.76 million

Performance against output measures

Our output measures and targets align with our objective to promote the long-term interests of Victorian consumers with regard to the price, quality and reliability of essential services. Each year, we report on our performance against several measures that relate to Budget Paper Number 3 Service Delivery (BP3).

The table below summarises our performance for all output measures in 2021–22.

Performance measures	Unit of measure	2021–22 actual	2021–22 target	Performance variation (%)	Result
Quantity					
New or revised regulatory instruments issued	number	9	9	0	✓
Performance reports for regulated businesses or industries	number	16	12	33	✓
The higher 2021–22 actual is due to additional reports relating to the effects of the coronavirus pandemic throughout 2021.					
Performance reviews and compliance audits of regulated businesses	number	95	142	33	●
The lower 2021–22 actual is due to an extension to the timeframe for energy retailers to submit information on their certificate obligations and fewer field audits of accredited persons due to COVID restrictions.					
Price approvals of regulated businesses	number	18	20	10	●
The lower 2021–22 actual is due to the commission not receiving any applications for council rate variations.					
Registration and accreditation decisions/approvals in relation to the Victorian Energy Efficiency Target program	number	9,083	5,250	82	✓
The higher 2021–22 actual is due to updated processes resulting in more approval decisions and the program receiving a higher number of certificate submissions across a wider range of VEU program areas.					
Reviews, investigations or advisory projects	number	3	2	50	✓
The higher 2021–22 actual is due to inclusion of the five-yearly Port of Melbourne pricing review.					
Compliance and enforcement activities – energy	number	855	150	470	✓
The higher 2021–22 actual is due to increased capability of the commission to deliver compliance and enforcement actions, an increase in compliance activities and the conclusion of several large enforcement matters.					
Setting of regulated price and tariffs	number	31	15	107	✓
The higher 2020–21 actual is due to additional Victorian Default Offer prices being set in the financial year.					
Quality					
Decisions upheld where subject to review, appeal or disallowance	per cent	100	100	-	✓
Timeliness					
Delivery of major milestones within agreed timelines	per cent	100	100	-	✓
Cost					
Total output cost	\$ million	36.4	31.7	-	✓

✓ Performance target achieved.

○ Performance target not achieved – within five per cent variance.

● Performance target not achieved – exceeds five per cent variance.

Licence fee revenue

The following table shows licence fees by type. The licence fees are determined by relevant ministers in accordance with processes set out in relevant legislation. From 1 December 2021, Licence fees were paid into the Essential Services Commission Operating Fund.

Type of licence	Total revenue 2021-22	Total revenue 2020-21
	(\$)	(\$)
Energy		
Electricity		
Electricity generation	373,747	317,890
Electricity transmission	270,849	69,107
Electricity distribution	3,026,348	2,100,866
Electricity wholesale	24,794	24,187
Retail electricity	6,866,898	6,389,880
Gas industry		
Gas distribution	761,280	700,289
Retail gas	4,743,722	4,403,556
All energy sectors	16,067,638	14,005,776
Water		
Melbourne Water and Metro	3,269,064	2,894,875
Regional	849,507	657,397
Rural	102,911	87,601
All water sectors	4,221,482	3,639,873

Financial statements

For the year ended 30 June 2022

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Declaration in the financial statements

The attached financial statements for the Essential Services Commission have been prepared in accordance with Direction 5.2 of the Standing Directions of the Assistant Treasurer under the *Financial Management Act 1994*, applicable Financial Reporting Directions, Australian Accounting Standards including interpretations, and other mandatory professional reporting requirements.

We further state that, in our opinion, the information set out in the comprehensive operating statement, balance sheet, statement of changes in equity, cash flow statement and accompanying notes, presents fairly the financial transactions during the year ended 30 June 2022 and the financial position of the commission at 30 June 2022.

At the time of signing, we are not aware of any circumstance which would render any particulars included in the financial statements to be misleading or inaccurate.

We authorise the attached financial statements for issue on 21 October 2022.



Kate Symons
Chairperson and Commissioner

Melbourne
21 October 2022



Dr John Hamill
Chief Executive Officer

Melbourne
21 October 2022



Jan Koops
Chief Financial Officer

Melbourne
21 October 2022

Independent Auditor's Report

To the Commissioners of the Essential Services Commission

Opinion	<p>I have audited the financial report of the Essential Services Commission (the commission) which comprises the:</p> <ul style="list-style-type: none"> • balance sheet as at 30 June 2022 • comprehensive operating statement for the year then ended • statement of changes in equity for the year then ended • cash flow statement for the year then ended • notes to the financial statements, including significant accounting policies • declaration in the financial statements. <p>In my opinion the financial report presents fairly, in all material respects, the financial position of the commission as at 30 June 2022 and its financial performance and cash flows for the year then ended in accordance with the financial reporting requirements of Part 7 of the <i>Financial Management Act 1994</i> and applicable Australian Accounting Standards.</p>
Basis for opinion	<p>I have conducted my audit in accordance with the <i>Audit Act 1994</i> which incorporates the Australian Auditing Standards. I further describe my responsibilities under that Act and those standards in the <i>Auditor's Responsibilities for the Audit of the Financial Report</i> section of my report.</p> <p>My independence is established by the <i>Constitution Act 1975</i>. My staff and I are independent of the commission in accordance with the ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110 <i>Code of Ethics for Professional Accountants</i> (the Code) that are relevant to my audit of the financial report in Victoria. My staff and I have also fulfilled our other ethical responsibilities in accordance with the Code.</p> <p>I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.</p>
Commissioners' responsibilities for the financial report	<p>The Commissioners are responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards and the <i>Financial Management Act 1994</i>, and for such internal control as the Commissioners determine is necessary to enable the preparation and fair presentation of a financial report that is free from material misstatement, whether due to fraud or error.</p> <p>In preparing the financial report, the Commissioners are responsible for assessing the commission's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless it is inappropriate to do so.</p>

Auditor's responsibilities for the audit of the financial report

As required by the *Audit Act 1994*, my responsibility is to express an opinion on the financial report based on the audit. My objectives for the audit are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with the Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of this financial report.

As part of an audit in accordance with the Australian Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial report, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the commission's internal control
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Commissioners
- conclude on the appropriateness of the Commissioners' use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the commission's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial report or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the commission to cease to continue as a going concern.
- evaluate the overall presentation, structure and content of the financial report, including the disclosures, and whether the financial report represents the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the Commissioners regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

MELBOURNE
26 October 2022



Timothy Maxfield
as delegate for the Auditor-General of Victoria

Comprehensive operating statement

For the financial year ended 30 June 2022

	Notes	2022 \$	2021 \$
Income from transactions			
Grants	2	33,176,845	31,399,510
Licence and other fee income	2	39,339,241	-
Resources received free of charge	2	276,236	317,905
Total income from transactions		72,792,322	31,717,415
Expenses from transactions			
Employee expenses	3.1.1	23,480,305	21,947,949
Depreciation and amortisation	5.1.1	107,634	70,585
Lease interest	3	106	2,153
Capital asset charge	3	-	83,703
Supplies and services	3.2	10,090,695	9,528,667
Total expenses from transactions		33,678,740	31,633,057
Net result from transactions		39,113,582	84,358
Other economic flows included in net result			
Net gain/(loss) on non-financial assets	9.1	(2,379,046)	(155,831)
Net gain/(loss) from revaluation of leave liabilities	9.1	236,476	349,741
Total other economic flows included in net result		(2,142,570)	193,910
Net result		36,971,012	278,268
Comprehensive result		36,971,012	278,268

The above comprehensive operating statement should be read in conjunction with the accompanying notes.

Balance sheet

As at 30 June 2022

	Notes	2022 \$	2021 \$
Assets			
Financial assets			
Receivables	6.1	57,975,883	17,923,446
Total financial assets		57,975,883	17,923,446
Non-financial assets			
Prepayments		631,994	620,215
Property, plant and equipment	5.1	327,285	373,981
Intangible assets	5.2	-	2,435,030
Total non-financial assets		959,279	3,429,226
Total assets		58,935,162	21,352,672
Liabilities			
Payables	6.2	1,543,804	1,560,420
Employee related provisions	3.1.2	5,712,190	5,092,324
Make good provision	6.3	220,592	220,592
Lease liabilities		58,377	50,149
Total liabilities		7,534,963	6,923,485
Net assets		51,400,199	14,429,187
Equity			
Contributed capital		1,044,748	1,044,748
Accumulated surplus		50,355,451	13,384,439
Total equity		51,400,199	14,429,187

The above balance sheet should be read in conjunction with the accompanying notes.

Cash flow statement

For the financial year ended 30 June 2022

	Notes	2022 \$	2021 \$
Cash flows from operating activities			
Receipts from government		6,395,383	34,227,244
Receipts from other entities		26,765,370	3,601
Payments to suppliers and employees		(32,984,592)	(32,880,662)
Capital asset charge paid		-	(83,703)
Interest paid		(106)	(2,153)
Grants and Transfer payments		(179,329)	-
Net cash flows from / (used in) operating activities	7.1	(3,274)	1,264,327
Cash flows from investing activities			
Payments for property, plant and equipment		-	(195,944)
Proceeds from sale of property, plant and equipment		36,364	-
Payments for intangible assets		-	(1,052,285)
Net cash flows from / (used in) investing activities		36,364	(1,248,229)
Cash flows from financing activities			
Repayment of leases (a)		(33,090)	(16,098)
Net cash flows (used in) financing activities		(33,090)	(16,098)
Net decrease in cash and cash equivalents		-	-
Cash and cash equivalents at the start of the year		-	-
Cash and cash equivalents at the end of the year		-	-

(a) The commission has recognised cash payments for the principal portion of lease payments as financing activities; cash payments for the interest portion as operating activities consistent with the presentation of interest payments and short-term lease payments for leases and low-value assets as operating activities.

The above cash flow statement should be read in conjunction with the accompanying notes.

Statement of changes in equity
 For the financial year ended 30 June 2022

	Contributed capital \$	Accumulated surplus \$	Total \$
Balance at 1 July 2020	1,044,748	13,106,171	14,150,919
Net result for the year	-	278,268	278,268
Balance at 30 June 2021	1,044,748	13,384,439	14,429,187
Net result for the year	-	36,971,012	36,971,012
Balance at 30 June 2022	1,044,748	50,355,451	51,400,199

The above statement of changes in equity should be read in conjunction with the accompanying notes.

Note 1. About this report

The Essential Services Commission (the commission) is a commission established under the *Essential Services Commission Act 2001*.

Its principal address is: Essential Services Commission
 Level 8
 570 Bourke Street
 Melbourne VIC 3000

A description of the nature of its operations and its principal activities is included in the '**Report of operations**', which does not form part of these financial statements.

Basis of preparation

The financial statements are presented in Australian dollars, and prepared in accordance with the historical cost convention, except where noted. Historical cost is based on the fair values of the consideration given in exchange for assets.

The accrual basis of accounting has been applied in the preparation of these financial statements whereby assets, liabilities, equity, income, and expenses are recognised in the reporting period to which they relate, regardless of when cash is received or paid.

Judgements, estimates and assumptions are required to be made about carrying values of assets and liabilities that are not readily apparent from other sources. The estimates and associated assumptions are based on professional judgments derived from historical experience and various other factors that are believed to be reasonable under the circumstances. Actual results may differ from these estimates.

Revisions to accounting estimates are recognised in the period in which the estimate is revised and in future periods that are affected by the revision.

These financial statements cover the Essential Services Commission as an individual reporting entity and include all the controlled activities of the commission.

All amounts in the financial statements have been rounded to the nearest dollar.

Compliance

These general purpose financial statements have been prepared in accordance with the *Financial Management Act 1994* and applicable Australian Accounting Standards including interpretations, issued by the Australian Accounting Standards Board (AASB). In particular, they are presented in a manner consistent with the requirements of AASB 1049 *Whole of Government and General Government Sector Financial Reporting*.

Where relevant, those paragraphs of the Australian Accounting Standards applicable to not-for-profit entities have been applied. Accounting policies are selected and applied in a manner which ensures that the resulting financial information satisfies the concepts of relevance and reliability, thereby ensuring that the substance of the underlying transactions or other events is reported.

Note 2. Funding delivery of our services

Introduction

The objective of the commission is to promote the long-term interests of Victorian consumers having regard to the price, quality and reliability of essential services. The commission is an independent economic regulator that is established under the *Essential Services Commission Act 2001* (the Act). The commission has functions as conferred by the Act and other relevant legislation in relation to regulated industries providing an essential service.

At 30 June 2022, the regulated industries included electricity, gas, water and sewerage, ports, commercial passenger vehicles and accident towing. Other functions conferred under other legislation include operating the Victorian Energy Upgrades program and local government rate capping.

In 2022 and 2021 the commission was predominantly funded by accrual-based Parliamentary appropriations for the provision of outputs. These appropriations are received by the Department of Treasury and Finance (DTF) and on forwarded to the commission in the form of grants. From 1 July 2022 these grants will reduce, and the commission will be funded through a variety of sources including grants, licence and other fees and penalties (see 'Licence and other fee income' section overleaf and Note 6.1). This is the result of amendments to the Act effective 1 December 2021. The amendments required the commission to establish two Trust Funds. The two Trust Funds are:

- the Operating Fund
- the Enforcement Fund.

The types of payments to be paid into the Operating Fund are identified in the *Essential Services Commission Act 2001*. Payments into the Operating Fund include fees paid under relevant legislation, to the extent that the fees relate to the functions of the commission, any fees paid under the *Victorian Energy Efficiency Target Act 2007* and *Victorian Renewable Energy Act 2006*, other amounts required under the Act, and interest received on money invested in the Operating Fund.

The types of payments to be paid into the Enforcement Fund are identified in the *Essential Services Commission Act 2001*. Payments include fines ordered by a court in respect of an offence against the Act or other relevant legislation, including the *Electricity Industry Act 2000*, *Gas Industry Act 2001*, *Water Industry Act 1994* and *Victorian Energy Efficiency Target Act 2007* (VEET Act). Payments also include any amount paid to the commission under a civil penalty order or monetary benefits order, any notice penalty paid under the Act, any energy efficiency shortfall penalty paid to the commission under the VEET Act, any renewable energy shortfall penalty paid to the commission under the *Victorian Renewable Energy Act 2006* and any costs awarded to the commission in any court proceeding.

Total income and revenue from transactions was recognised as follows:

	2022	2021
	\$	\$
Income and revenue from transactions		
Grants from the Department of Treasury and Finance	32,776,845	30,556,634
Grants from other government departments	400,000	842,876
Licence and other fee income	39,339,241	-
Resources received free of charge	276,236	317,905
Total income and revenue from transactions	72,792,322	31,717,415

The commission must manage future cash flow risks for the two Trust Funds and fees can only be used on activities related to the sector that paid the fees. To be able to manage this, the amendments to the Act required all licence and other fee income paid after 1 December 2021 to be recognised as Trust Income and transferred to the two Trust Funds. As the commission was still fully grant funded in 2021–22, the recognition of \$39.3 million Other Income resulted in the commission reporting a one-off large positive variance. Grants from the Department of Treasury and Finance will reduce in 2022–23 with licence and other fees partially funding the commission on a cost recovery basis.

Prior to 1 December 2021, all amounts of income over which the commission does not have control (licence and other fee income) were disclosed as administered income (see Note 4 – \$26.5 million in 2021). From 1 December 2021 onwards they are disclosed as controlled income. \$12.5 million of the administered income was reported and accrued in the year ended 30 June 2021 but was received after 1 December 2021. As a consequence of amendments to the Act, the commission has recognised these amounts as controlled income in 2022 with a corresponding reduction in administered licence fee revenue (see Note 4).

Revenue and income that fund delivery of the commission's services are accounted for consistently with the requirements of the relevant accounting standards disclosed in the following notes.

Licence and other fee income

The commission collects licence fees related to the operations of the commission under the *Electricity Industry Act 2000*, the *Gas Industry Act 2001*, and the *Water Industry Act 1994*. From 2022 onwards, licence fees are invoiced on the basis of a determination made by the relevant minister. The commission also collects fees under the VEET Act, and penalties issued under the Act and VEET Act.

Prior to 1 December 2021, the commission did not have control over licence and other fee income which were disclosed as administered income and paid into the Consolidated Fund (see Note 4). Pursuant to amendments to the Act, all licence fee and other fee income – including penalties received after 1 December 2021 – are no longer transferred into the Consolidated Fund but recognised as commission revenue and disclosed as controlled income into the trusts.

\$12.5 million of the 2020–21 administered income accrued in the year ended 30 June 2021 was received after 1 December 2021. In accordance with the amendments to the Act, the commission has recognised these amounts as controlled Trust Income in 2022 with a corresponding de-recognition (a reversal of the accrual) in administered licence fee revenue (see Note 4). This is a one-off occurrence.

Licence and other fee income in 2021–22 was recognised as follows:

Income	\$ millions
2020–21 Licence Fees paid after 1 December 2021	12.5
2021–22 Licence Fees	20.3
2021–22 Penalties	2.2
2021–22 Victorian Energy Upgrades Fees	4.3
Total	39.3

Licence and other fee income are recognised when an invoice is issued, which establishes the entitlement to payment. Energy efficiency shortfall penalties issued under the *Victorian Energy Efficiency Target Act 2007* are recognised when a shortfall penalty is issued.

Penalty notices issued under the Act are recognised when payment is received. The different recognition criteria are attributable to the different statutory frameworks pursuant to which the penalties are issued.

Grants

Income from grants that are enforceable and with sufficiently specific performance obligations are accounted for as revenue from contracts with customers. Revenue is recognised when the commission satisfies the performance obligation. This is recognised based on the consideration specified in the funding agreement and to the extent that it is highly probable a significant reversal of the revenue will not occur. The funding payments are normally received in advance or shortly after the relevant obligation is satisfied.

Income from grants without any sufficiently specific performance obligations, or that are not enforceable, is recognised under AASB 1058 when the commission receives the cash. The commission's grant income from the Department of Treasury and Finance is recognised as income in accordance with AASB 1058.

The commission has determined grant revenue from other government departments to be enforceable and with sufficiently specific performance obligations to be accounted for as revenue from contracts with customers in accordance with AASB 15. During the financial year, the commission received grants from the Department of Environment, Land, Water and Planning with associated performance obligations.

Resources received free of charge

The Department of Treasury and Finance provides certain administrative services to support the operations of the commission which is recognised as services provided as resources received free of charge. The corresponding expense is included as other expenses in Note 3.2.

Note 3. The cost of delivering services

This section provides an account of the expenses incurred by the commission in delivering services.

Expenses incurred in delivery of services

	Notes	2022 \$	2021 \$
Employee expenses	3.1.1	23,480,305	21,947,949
Depreciation and amortisation	5.1.1	107,634	70,585
Lease interest		106	2,153
Capital asset charge*		-	83,703
Supplies and services	3.2	10,090,695	9,528,667
Total expenses incurred in delivery of services		33,678,740	31,633,057

*The capital asset charge was discontinued effective 1 July 2021, with a corresponding reduction in grant income.

3.1. Employee expenses

3.1.1. Employee expenses in the comprehensive operating statement

	2022 \$	2021 \$
Salaries and wages	17,934,178	16,902,037
Superannuation		
- Defined contribution plans	1,880,836	1,686,878
- Defined benefits expense	13,638	14,415
Annual and long service leave expense	2,587,660	2,299,547
On-costs	1,063,993	1,045,072
Total employee expenses	23,480,305	21,947,949

Employee expenses comprise all costs related to employment including wages and salaries, superannuation, leave entitlements, redundancy payments, fringe benefits tax, and WorkCover premiums.

Employment on-costs such as payroll tax, workers compensation and superannuation are not employee benefits. They are disclosed separately as a component of the provision for employee benefits when the employment to which they relate has occurred.

Superannuation expenses represent the employer contributions for members of both defined benefit and defined contribution superannuation plans that are paid or payable during the reporting period.

The Department of Treasury and Finance centrally recognises, on behalf of the State as the sponsoring employer, the net defined benefit cost and the defined benefit liability or surplus related to the members of these plans as administered items. Refer to Department of Treasury and Finance's annual financial statements for more detailed disclosures in relation to these plans.

Employees of the commission are entitled to receive superannuation benefits and the commission contributes to both defined benefit and defined contribution plans. The defined benefit plans provide benefits based on years of service and final average salary. The basis for contributions is determined by the various schemes.

Superannuation contributions paid or payable for the reporting period are included as part of employee benefits in the comprehensive operating statement of the commission.

3.1.2. Employee related provisions in the balance sheet

Provision is made for benefits accruing to employees in respect of wages and salaries, annual leave and long service leave for services rendered to the reporting date and recorded as an expense during the period the services are delivered.

	2022 \$	2021 \$
Provisions		
Current:		
Annual leave		
Unconditional and expected to settle within 12 months	1,482,084	1,369,665
Unconditional and expected to settle after 12 months	809,007	557,666
Long service leave		
Unconditional and expected to settle within 12 months	319,352	294,089
Unconditional and expected to settle after 12 months	2,298,829	2,215,831
Total current employee related provisions	4,909,272	4,437,251
Non-current:		
Long service leave	711,573	589,389
On-costs	91,345	65,684
Total non-current employee related provisions	802,918	655,073
Total provisions for employee benefits	5,712,190	5,092,324

Provisions made in respect of employee benefits expected to be wholly settled within 12 months are measured at their nominal values, using the remuneration rate expected to apply at the time of settlement. Provisions made in respect of employee benefits which are not expected to be wholly settled within 12 months are measured as the present value of the estimated future cash outflows to be made by the commission in respect of services provided by employees up to the reporting date. The liability is classified as a current liability where the commission does not have an unconditional right to defer settlement for at least 12 months after the reporting date. The long service leave liability is classified as non-current where the commission has an unconditional right to defer the settlement of the entitlement until the employee has completed the requisite years of service.

Employment on-costs such as payroll tax, workers compensation and superannuation are not employee benefits. They are disclosed separately as a component of the provision for employee benefits when the employment to which they relate has occurred.

Termination entitlements are payable when employment is terminated before normal retirement date, or when an employee accepts an offer of benefits in exchange for the termination of employment. Termination entitlements are recognised when the commission is demonstrably committed to terminating the employment of current employees according to a detailed formal plan without possibility of withdrawal or providing termination entitlements as a result of an offer made to encourage voluntary redundancy.

3.2. Supplies and services

	2022 \$	2021 \$
Supplies and services		
Property management and outgoings	1,800,942	1,357,081
Purchases of services	5,013,312	5,248,848
Other	3,276,441	2,922,738
Total supplies and services	10,090,695	9,528,667

Supplies and services are recognised as an expense in the reporting period in which they are incurred.

Other includes mainly sundry expenses such as software maintenance and licences, advertising and promotions and other office related expenses.

Note 4. Administered items

In addition to the specific controlled operations which are included in the balance sheet, comprehensive operating statement, statement of changes in equity and cash flow statement, the commission administers or manages activities on behalf of the State. The transactions relating to these State activities are reported as administered in this note. Administered transactions give rise to income, expenses, assets and liabilities and are determined on an accrual basis. Administered income consists principally of licence fees. Administered assets include licence fee income earned but yet to be collected. Prior to 1 December 2021, licence fees were accrued on the basis of a fee determination made by the Assistant Treasurer (see Note 2).

Prior to amendments to the Act effective 1 December 2021, the commission acted on behalf of the Victorian Government in collecting licence and other fees administered by the commission under the *Electricity Industry Act 2000*, the *Gas Industry Act 2001*, the *Water Industry Act 1994*, and the VEET Act and penalties issued under the Act and the VEET Act. Prior to 1 December 2021, these licence and other fees were collected by the commission but not controlled by it, they were not recognised as revenues/receivables within the controlled financial statements and as such were reported as administered revenues/receivables. From July to November 2021, the commission collected \$11.99 million in licence and other fees related to the 2021–22 financial year which were subsequently recognised as administered income and transferred into the Consolidated Fund.

As disclosed in Note 2, amendments to the Act require fees and other income paid to the commission after 1 December 2021 to be recognised into the Trust Funds controlled by the commission. \$12.5m of administered income recognised and accrued in 2021 was paid after 1 December 2021. In accordance with the amendments to the Act, the commission has recognised these amounts as controlled revenues (see Note 2) in 2022, with a corresponding de-recognition of administered licence revenue. This is a one-off occurrence. As a result of the de-recognition total administered income from transactions is reported as a negative \$0.5 million.

	2022 \$	2021 \$
Administered income from transactions		
Licence and other fee income	11,998,935	26,502,011
De-recognition of 2020–21 licence fees	(12,517,103)	-
Total administered income from transactions	(518,168)	26,502,011
Administered expenses from transactions		
Payments into the Consolidated Fund	(17,163,516)	(24,255,194)
Total administered expenses from transactions	(17,163,516)	(24,255,194)
Administered net result	(17,681,684)	2,246,817
Administered assets		
Debtors	45,885	80,773
Accrued income	86	17,646,882
Total administered assets	45,971	17,727,655
Administered net assets	45,971	17,727,655

Note 5. Key assets available to support delivery of services

The commission controls property plant and equipment that are utilised in fulfilling its objectives and conducting its activities. They represent the key resources that have been entrusted to the commission to be utilised for delivery of services.

5.1. Property, plant and equipment

	Gross carrying amount		Accumulated depreciation		Net carrying amount	
	2022	2021	2022	2021	2022	2021
	\$	\$	\$	\$	\$	\$
Leasehold improvements	220,592	220,592	(110,567)	(85,176)	110,025	135,416
Office and computer equipment at fair value	247,582	120,000	(88,562)	(20,503)	159,020	99,497
Motor vehicles under lease	79,194	83,863	(20,954)	(33,907)	58,240	49,956
Construction in progress – building	-	-	-	-	-	-
Construction in progress – plant and equipment	-	89,112	-	-	-	89,112
Net carrying amount	547,368	513,567	(220,083)	(139,586)	327,285	373,981

Initial recognition

Items of property, plant and equipment, are measured initially at cost and subsequently revalued at fair value less accumulated depreciation and impairment. Where an asset is acquired for no or nominal cost, the cost is its fair value at the date of acquisition.

The cost of leasehold improvements is capitalised as an asset and depreciated over the remaining term of the lease or the estimated useful life of the improvements, whichever is the shorter.

The commission recognises a right-of-use asset and a lease liability for motor vehicles under lease at the lease commencement date. The right-of-use asset is initially measured at cost which comprises the initial amount of the lease liability adjusted for:

- any lease payments made at or before the commencement date less any lease incentive received
- any initial direct costs incurred.

The lease liability is initially measured at the present value of the lease payments unpaid at the commencement date, discounted using the interest rate implicit in the lease if that rate is readily determinable or the commission's incremental borrowing rate.

Subsequent measurement

Property, plant and equipment are subsequently measured by management at fair value less accumulated depreciation and impairment. Fair value is determined with regard to the asset's highest and best use (considering legal or physical restrictions imposed on the asset, public announcements or commitments made in relation to the intended use of the asset).

5.1.1.1. Depreciation and amortisation

	2022	2021
	\$	\$
Charge for the period		
Leasehold improvements	25,390	32,825
Office and computer equipment	68,060	21,906
Motor vehicles under lease	14,184	15,854
Total depreciation and amortisation	107,634	70,585

All plant and equipment and intangible produced assets that have finite useful lives are depreciated or amortised.

Depreciation is calculated on a straight-line basis at rates that allocate the asset's value, less any estimated residual value, over its expected useful life.

Leasehold improvements are depreciated over the period of the lease or estimated useful life, whichever is the shorter, using the straight-line method.

Intangible produced assets with finite useful lives are amortised as an expense from transactions on a straight line basis over the asset's useful life. Amortisation begins when the asset is available for use, that is, when it is in the location and condition necessary for it to be capable of operating in the manner intended by management.

Typical estimated useful lives applicable for the years ended 30 June 2022 and 30 June 2021 are as follows:

Leasehold improvements	4–10 years
Office and computer equipment	3–10 years
Motor vehicles under lease	2–3 years
Capitalised software development	3–7 years

The estimated useful lives, residual values and depreciation method are reviewed at least annually.

Impairment of non-financial assets

All non-financial physical assets and intangible assets, except non-financial physical assets held for sale, are assessed annually for indications of impairment. If there is an indication of impairment, the assets concerned are tested as to whether their carrying value exceeds their recoverable amount. Where an asset's carrying value exceeds its recoverable amount, the difference is written off to other economic flows except to the extent that the write-down can be debited to an asset revaluation surplus amount applicable to that class of asset.

If there is an indication that there has been a reversal in the estimate of an asset's recoverable amount since the last impairment loss was recognised, the carrying amount shall be increased to its recoverable amount. The impairment loss is reversed only to the extent that the asset's carrying amount does not exceed the carrying amount that would have been determined, net of amortisation, if no impairment loss had been recognised in prior years.

5.1.2. Reconciliation of movements in carrying values of property, plant and equipment

	Leasehold improvements \$	Office and computer equipment \$	Motor vehicles under lease \$	Construction in progress – building \$	Construction in progress – plant and equipment \$	Total \$
2022						
Carrying amount at start of year	135,416	99,497	49,956	-	89,112	373,981
Additions	-	38,470	41,317	-	-	79,787
Disposals	-	-	(18,849)	-	-	(18,849)
Depreciation expense	(25,391)	(68,059)	(14,184)	-	-	(107,634)
Transfers	-	89,112	-	-	(89,112)	-
Carrying amount at end of year	110,025	159,020	58,240	-	-	327,285
2021						
Carrying amount at start of year	60,081	11,412	84,453	139,716	37,902	333,564
Additions	89,531	106,832	-	-	89,112	285,475
Disposals	(121,087)	(34,743)	(18,643)	-	-	(174,473)
Depreciation expense	(32,825)	(21,906)	(15,854)	-	-	(70,585)
Transfers	139,716	37,902	-	(139,716)	(37,902)	-
Carrying amount at end of year	135,416	99,497	49,956	-	89,112	373,981

5.2. Intangible assets

	2022 \$	2021 \$
Intangible assets under development	-	2,435,030
Reconciliation of carrying amounts		
Carrying amount at start of year	2,435,030	1,382,745
Additions	-	1,052,285
Depreciation expense	-	-
Impairment losses charged to net result	(2,435,030)	-
Carrying amount at end of year	-	2,435,030

Initial recognition

Intangible assets represent identifiable non-monetary assets without physical substance. Purchased intangible assets are initially recognised at cost. Subsequently, purchased intangible assets with finite useful lives are carried at cost less accumulated amortisation and impairment. Amortisation begins when the asset is available for use, that is, when it is in the location and condition necessary for it to be capable of operating in the manner intended by management. The commission's internally generated produced assets comprise capitalised software development for the upgrade of the information technology system and application portal that administers the Victorian Energy Upgrades program.

Impairment of intangible assets

Intangible assets with indefinite useful lives (and intangible assets not yet available for use) are tested annually for impairment and whenever there is an indication that the asset may be impaired. Intangible assets with finite useful lives are tested for impairment whenever an indication of impairment is identified. The policy in connection with testing the impairment is outlined in Note 5.1.1.

As at 30 June 2021, the commission had recognised as work in progress, intangible assets of \$2.4 million related to a Victorian Energy Upgrades information system development project. During the year ended 30 June 2022, a review of this project was undertaken and it was determined to discontinue the development of this project in its current format. As a result of this decision, the commission has de-recognised \$2.4 million of work in progress as it has no identifiable economic value.

Note 6. Other assets and liabilities

This section sets out those assets and liabilities that arose from the commission's controlled operations.

6.1 Receivables

	2022 \$	2021 \$
Current:		
Contractual		
Debtors	12,503,360	-
	12,503,360	-
Statutory		
Amounts receivable from government departments	44,405,525	17,078,122
GST recoverable	264,080	190,251
	44,669,605	17,268,373
Total current receivables	57,172,965	17,268,373
Non-current:		
Statutory		
Amounts receivable from government departments	802,918	655,073
Total non-current receivables	802,918	655,073
Total receivables	57,975,883	17,923,446

Amounts receivable from government departments for 2021–22 include the following trust balances:

Controlled trusts	Opening balance as at 1 July 2021	Total receipts	Total payments	Closing balance as at 30 June 2022
Operating Fund				
<i>Essential Services Commission Act 2001 section 54ZT</i>	-	24,605,880	-	24,605,880
Enforcement Fund				
<i>Essential Services Commission Act 2001 section 54ZP</i>	-	2,230,000	-	2,230,000
Total controlled trusts	-	26,835,880	-	26,835,880

The two Trust Funds were established on 1 December 2021 (see Note 2).

Two trust bank accounts were opened in June 2022. However, as at 30 June 2022, the Trust Funds were still held in the Public Account managed by the Department of Treasury and Finance. They are therefore disclosed as amounts receivable from government departments. These amounts receivable are available for functions of the commission.

Receivables consist of:

- contractual receivables, which include mainly debtors in relation to goods and services; and
- statutory receivables, which include predominantly amounts owing from the Victorian Government and GST input tax credits recoverable.

Receivables that are contractual are classified as financial instruments and categorised as financial assets at amortised cost. Receivables are recognised initially at fair value and subsequently measured at amortised cost, using the effective interest method, less any allowance for impairment. Statutory receivables are recognised and measured on the same basis as contractual receivables (except for impairment) but are not classified as financial instruments as they do not arise from a contract.

Collectability of debtors is reviewed on an ongoing basis. Bad debts are written off when identified. The commission applies the AASB 9 simplified approach for all contractual receivables to measure expected credit losses using a lifetime expected loss allowance based on the assumptions about risk of default and expected loss rates.

The debtor balance increased from \$0 in 2021 to \$12.5 million as at 30 June 2022. This is the result of the amendment to the Act. Prior to 2022, licence fees were accrued as at 30 June and invoiced following a determination made by the Assistant Treasurer, usually in the following year. The amendment to the Act resulted in the commission invoicing licence fees in the relevant financial year. As at 30 June \$12.5 million was still outstanding mainly for licence fees from energy and water companies. In addition to this change, prior to 2022, these licence fees were recognised as administered accrued income (see Note 4, \$17.6 million in 2021).

6.2 Payables

	2022 \$	2021 \$
Current:		
Contractual		
Creditors and accruals	1,543,804	1,560,420
Total payables	1,543,804	1,560,420

Payables consist of:

- contractual payables represent liabilities for goods and services provided to the commission that are unpaid at the end of the financial year, and arise when the commission becomes obliged to make future payments in respect of the purchase of those goods and services; and
- statutory payables, such as goods and services tax and fringe benefit tax payables.

Contractual payables are classified as financial instruments and categorised as financial liabilities at amortised cost. The amounts are unsecured and are usually paid within 30 days of recognition. Statutory payables are recognised and measured similarly to contractual payables but are not classified as financial instruments and not included in the category of financial liabilities at amortised cost as they do not arise from a contract.

6.3 Make good provision

	2022 \$	2021 \$
Current:		
Make good provision	220,592	220,592
Total make good provision	220,592	220,592

The make good provision is recognised in accordance with the agreement over the leased premise. The commission is required to remove any leasehold improvements from the lease premise and restore the premise to its original condition at the end of the lease term.

Note 7. Financing our operations

This section provides information on the sources of finance recognised by the commission during its operations, along with interest expenses (the cost of borrowings) and other information related to financing activities of the commission.

This section includes disclosures of balances that are financial instruments (such as borrowings and cash balances).

7.1. Reconciliation of net result to cash flow from operating activities

	2022 \$	2021 \$
Net result	36,971,012	278,268
Non-cash movements		
Depreciation and amortisation	107,634	70,585
(Gain)/Loss on disposal of property, plant and equipment	2,379,046	155,831
Movements in assets and liabilities		
(Increase)/decrease in receivables	(40,052,437)	3,051,533
(Increase)/decrease in prepayments	(11,779)	(10,103)
Increase/(decrease) in payables	(16,616)	(2,041,264)
Increase/(decrease) in provisions	619,866	602,353
Increase/(decrease) in unearned income	-	(842,876)
Net cash flows from operating activities	(3,274)	1,264,327

7.2. Commitments for expenditure

	2022 \$	2021 \$
Capital commitments		
Intangible assets, payable:		
Within one year	-	8,934
Later than one year but not later than five years	-	-
Total commitments (inclusive of GST)	-	8,934
Less GST recoverable	-	812
Total capital commitments (exclusive of GST)	-	8,122
Outsourcing commitments		
Information technology services, payable:		
Within one year	323,268	454,245
Later than one year but not later than five years	511,841	-
Total commitments (inclusive of GST)	835,109	454,245
Less GST recoverable	75,919	41,295
Total outsourcing commitments (exclusive of GST)	759,190	412,950
Property management services, payable:		
Within one year	1,550,975	1,494,916
Later than one year but not later than five years	5,595,105	6,561,678
Later than five years	-	584,403
Total commitments (inclusive of GST)	7,146,080	8,640,997
Less GST recoverable	649,644	785,545
Total outsourcing commitments (exclusive of GST)	6,496,436	7,855,452

Commitments for future expenditure include capital and outsourcing commitments arising from contracts. These commitments are disclosed at their nominal value and inclusive of GST payable. In addition, where it is considered appropriate and provides additional relevant information to users, the net present values of significant individual projects are stated. These future expenditures cease to be disclosed as commitments once the related liabilities are recognised in the balance sheet.

Note 8. Risks, contingencies and valuation judgements

The commission is exposed to risk from its activities and outside factors. In addition, it is often necessary to make judgements and estimates associated with recognition and measurement of items in the financial statements. This section sets out financial instrument specific information, (including exposures to financial risks) as well as those items that are contingent in nature.

8.1. Financial instruments specific disclosures

Financial instruments arise out of contractual agreements that give rise to a financial asset of one entity and a financial liability or equity instrument of another entity. Due to the nature of the commission's activities, certain financial assets and financial liabilities arise under statute rather than a contract. Such financial assets and financial liabilities do not meet the definition of financial instruments in AASB 132 *Financial Instruments: Presentation*. For example, statutory receivables arising do not meet the definition of financial instruments as they do not arise under contract.

Categories of financial assets

Financial assets at amortised cost

Financial assets are measured at amortised costs if both of the following criteria are met and the assets are not designated as fair value through net result:

- the assets are held by the commission to collect the contractual cash flows, and
- the assets' contractual terms give rise to cash flows that are solely payments of principal and interests.

These assets are initially recognised at fair value plus any directly attributable transaction costs and subsequently measured at amortised cost using the effective interest method less any impairment.

The commission recognises the following assets in this category:

- debtors.

Categories of financial liabilities

Financial liabilities at amortised cost

Financial instrument liabilities are initially recognised on the date they are originated. They are initially measured at fair value plus any directly attributable transaction costs. Subsequent to initial recognition, these financial instruments are measured at amortised cost with any difference between the initial recognised amount and the redemption value being recognised in profit and loss over the period of the interest-bearing liability, using the effective interest rate method.

The commission recognises the following liabilities in this category:

- creditors and accruals; and
- lease liabilities.

Offsetting financial instruments

Financial instrument assets and liabilities are offset and the net amount presented in the balance sheet when, and only when, the commission concerned has a legal right to offset the amounts and intend either to settle on a net basis or to realise the asset and settle the liability simultaneously.

8.1.1. Categorisation of financial instruments

	Note	Category	Carrying amount	
			2022 \$	2021 \$
Financial assets				
Receivables*	6.1	Financial assets at amortised cost	12,503,361	-
			12,503,361	-
Financial liabilities				
Payables	6.2	Financial liabilities at amortised cost	1,543,804	1,560,420
Lease liabilities		Financial liabilities at amortised cost	58,377	50,149
			1,602,181	1,610,569

* Receivables disclosed here exclude statutory receivables (i.e. amounts receivable from government departments and GST recoverable).

8.1.2. Net holding gain/(loss) on financial instruments by category

Financial liabilities				
Lease liabilities		Financial liabilities at amortised cost	(106)	(2,153)

The net holding gains or losses disclosed relate to interest expense and are measured at amortised cost.

8.1.3. Financial risk management objectives and policies

Financial instruments: Credit risk

Credit risk arises from the financial assets of the commission, which comprise trade and other receivables. The commission's exposure to credit risk arises from the potential default of counterparties on their contractual obligations resulting in financial loss to the commission. Credit risk is measured at fair value and is monitored on a regular basis.

Credit risk associated with the commission's financial assets is insignificant because the main debtor is the Victorian Government. For debtors other than government, it is the commission's policy to only deal with entities with high credit ratings and to obtain sufficient collateral or credit enhancements where appropriate. The commission does not have any significant credit risk exposure to any single counterparty or any group of counterparties having similar characteristics. The carrying amount of financial assets recorded in the financial statements, net of any allowances for losses, represents the commission's maximum exposure to credit risk without taking account of the value of any collateral obtained.

Financial instruments: Liquidity risk

Liquidity risk arises when the commission is unable to meet its financial obligations as they fall due. The commission operates under the Victorian Government's fair payments policy of settling financial obligations within 30 days and in the event of a dispute, making payments within 30 days from the date of resolution.

The commission's exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment of risk. Maximum exposure to liquidity risk is the carrying amounts of financial liabilities. The commission manages its liquidity risk by maintaining an adequate level of uncommitted funds that can be drawn at short notice to meet its short-term obligations.

Financial Instruments: Market risk

The commission has no exposure to interest rate, foreign currency or other price risks. Interest rates on the commission's lease liabilities are fixed.

8.2. Contingent assets and contingent liabilities

The commission had no contingent assets or contingent liabilities at 30 June 2022 (30 June 2021: Nil).

Note 9. Other disclosures

This section includes additional material disclosures required by accounting standards or otherwise, for the understanding of this financial report.

9.1. Other economic flows included in net result

Other economic flows measure the change in volume or value of an asset or liability that do not result from transactions. Other gains/(losses) from other economic flows include the gains or losses from:

Net gain/(loss) on non-financial assets

This includes gains and losses from disposals and impairment of non-current intangible assets. Any gain or loss on the disposal of non-financial assets is recognised at the date of disposal and is determined after deducting from the proceeds the carrying value of the asset at that time.

Other gains and losses from other economic flows

Other gains and losses from other economic flows include the transfer of amounts from reserves and/or accumulated surplus to net result due to disposal, de-recognition, or reclassification and the revaluation of the present value of leave liabilities due to changes in bond interest rates.

9.2. Responsible persons

The persons who held the positions of Minister and Accountable Officer in the commission (from 1 July 2021 to 30 June 2022 unless otherwise stated) were:

Responsible Minister	The Hon. Danny Pearson MP, Assistant Treasurer
Accountable Officer	Dr John Hamill, Chief Executive Officer

Tim Pallas MP acted for the Assistant Treasurer in the absences of The Hon. Danny Pearson MP.

Total remuneration received or receivable by the Accountable Officer in connection with the management of the commission during the reporting period was in the range: \$380,000–\$389,999 (\$350,000–\$359,999 in 2020–21).

Amounts relating to ministers are reported in the State's Annual Financial Report.

9.3. Remuneration of executives

The number of executive officers, other than ministers and accountable officers, and their total remuneration during the reporting period are shown in the table below. Total annualised employee equivalents provide a measure of full time equivalent executive officers over the reporting period.

Remuneration comprises employee benefits in all forms of consideration paid, payable or provided by the entity, or on behalf of the entity, in exchange for services rendered, and is disclosed in the following categories:

Short-term employee benefits include amounts such as wages, salaries, annual leave or sick leave that are usually paid or payable on a regular basis, as well as non-monetary benefits such as allowances and free or subsidised goods or services.

Post-employment benefits include pensions and other retirement benefits paid or payable on a discrete basis when employment has ceased.

Other long-term benefits include long-service leave, other long-service benefit or deferred compensation.

Termination benefits include termination of employment payments, such as severance packages.

	Total remuneration	
	2022 \$	2021 \$
Remuneration of executive officers		
Short-term employee benefits	960,262	872,511
Post-employment benefits	90,956	76,343
Other long-term benefits	13,009	5,097
Termination benefits	-	43,624
Total remuneration	1,064,227	997,575
Total number of executives	4	5
Total annualised employee equivalents^(a)	4	3.81

(a) Annualised employee equivalent is based on the time fraction worked over the reporting period.

9.4. Related parties

The commission is a wholly owned and controlled entity of the State of Victoria. Related parties of the commission include:

- All key management personnel and their close family members
- All cabinet ministers and their close family members; and
- All departments and public sector entities that are controlled and consolidated into the whole of state consolidated financial statements.

All related party transactions have been entered into on an arm's length basis.

Significant transactions with government-related entities

Significant transactions entered into by the commission during 2021–22 are disclosed in relevant notes as detailed below:

- The commission received grant funding from the Department of Treasury and Finance which is disclosed in Note 2; and
- The commission collected licence fees from Victorian water businesses \$4,220,942 (Note 2) (2020–21 - \$3,639,873 Note 4).

Key management personnel

Key management personnel (KMP) of the commission include the Portfolio Minister, The Hon. Danny Pearson MP, and the Commissioners and Chief Executive Officer, which includes:

- Chairperson and Commissioner Kate Symons
- Commissioner Simon Corden
- Commissioner Sitesh Bhojani
- Commissioner Rebecca Billings and
- Chief Executive Officer, Dr John Hamill.

The compensation detailed below excludes the salary and benefit the Portfolio Minister receives. The Minister's remuneration and allowance, set by the *Parliamentary Salaries and Superannuation Act 1968*, are reported within the Department of Parliamentary Services' Financial Report.

	2022 \$	2021 \$
Compensation of KMPs		
Short-term employee benefits	1,633,510	1,562,158
Post-employment benefits	96,990	103,099
Other long-term benefits	-	40,208
Termination benefits	-	-
Total	1,730,500	1,705,465

9.5. Australian Accounting Standards issued that are not yet effective

Certain new and revised accounting standards have been issued but are not effective for the 2021–22 reporting period. These accounting standards have not been applied to these Financial Statements. The commission is reviewing its existing policies and assessing the potential implications of these accounting standards which includes:

- AASB 2020-1 *Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-Current*

This Standard amends AASB 101 to clarify requirements for the presentation of liabilities in the statement of financial position as current or non-current. It initially applied to annual reporting periods beginning on or after 1 January 2022 with earlier application permitted however the AASB has recently issued AASB 2020-6 *Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current – Deferral of Effective Date* to defer the application by one year to periods beginning on or after 1 January 2023. The commission will not early adopt the Standard as it is in the process of analysing the impacts of this Standard. However, it is not anticipated to have a material impact.

Several other amending standards and AASB interpretations have been issued that apply to future reporting periods but are considered to have limited impact on the commission’s reporting.

- AASB 2020-3 *Amendments to Australian Accounting Standards – Annual Improvements 2018–2020 and Other Amendments*;
- AASB 2021-2 *Amendments to Australian Accounting Standards – Disclosure of Accounting Policies and Definitions of Accounting Estimates*; and
- AASB 2021-6 *Amendments to Australian Accounting Standards – Disclosure of Accounting Policies: Tier 2 and Other Australian Accounting Standards*.

9.6. Events after reporting date

There were no subsequent events that had the potential to significantly affect the ongoing operations and financial activities of the commission.

9.7. Remuneration of auditors

The fee for the audit of the 2021–22 annual financial statements by the Victorian Auditor-General’s Office was \$22,500 (2020–21 – \$20,240). No other services are being provided by the Victorian Auditor-General’s Office.

9.8. Glossary of terms

Administered item

Administered item generally refers to a commission lacking the capacity to benefit from that item in the pursuit of the commission's objectives and to deny or regulate the access of others to that benefit.

Annualised employee equivalent

Annualised employee equivalent is based on paid working hours of 38 ordinary hours per week over 52 weeks for a reporting period.

Capital asset charge

A charge levied on the written-down value of controlled non-current physical assets in the commission's balance sheet which aims to: attribute to the opportunity cost of capital used in service delivery; and provide incentives to the commission to identify and dispose of underutilised or surplus assets in a timely manner. The capital asset charge was discontinued from 1 July 2021.

Commitments

Commitments include those operating, capital and other outsourcing commitments arising from non-cancellable contractual or statutory sources.

Comprehensive result

The net result of all items of income and expense recognised for the period. It is the aggregate of operating result and other comprehensive income.

Controlled item

Controlled item generally refers to the capacity of a commission to benefit from that item in the pursuit of the commission's objectives and to deny or regulate the access of others to that benefit.

Depreciation

Depreciation is an expense that arises from the consumption through wear or time of a produced physical or intangible asset. This expense is classified as a transaction and so reduces the net result from transactions.

Employee benefits expenses

Employee benefits expenses include all costs related to employment including wages and salaries, fringe benefits tax, leave entitlements, redundancy payments and superannuation contributions.

Financial asset

A financial asset is any asset that is:

- (a) cash
- (b) an equity instrument of another entity
- (c) a contractual right:
 - to receive cash or another financial asset from another entity; or
 - to exchange financial assets or financial liabilities with another entity under conditions that are potentially favourable to the entity; or
- (d) a contract that will or may be settled in the entity's own equity instruments and is:
 - a non-derivative for which the entity is or may be obliged to receive a variable number of the entity's own equity instruments; or
 - a derivative that will or may be settled other than by the exchange of a fixed amount of cash or another financial asset for a fixed number of the entity's own equity instruments.

Financial instrument

A financial instrument is any contract that gives rise to a financial asset of one entity and a financial liability or equity instrument of another entity. Financial assets or liabilities that are not contractual (such as statutory receivables or payables that arise as a result of statutory requirements imposed by governments) are not financial instruments.

Financial liability

A financial liability is any liability that is:

- (a) a contractual obligation:
 - to deliver cash or another financial asset to another entity; or
 - to exchange financial assets or financial liabilities with another entity under conditions that are potentially unfavourable to the entity; or
- (b) a contract that will or may be settled in the entity's own equity instruments and is:
 - a non-derivative for which the entity is or may be obliged to deliver a variable number of the entity's own equity instruments; or
 - a derivative that will or may be settled other than by the exchange of a fixed amount of cash or another financial asset for a fixed number of the entity's own equity instruments. For this purpose, the entity's own equity instruments do not include instruments that are themselves contracts for the future receipt or delivery of the entity's own equity instruments

Financial statements

A complete set of financial statements comprises:

- a) a comprehensive operating statement for the period;
- b) a balance sheet as at the end of the period;
- c) a statement of changes in equity for the period;
- d) a cash flow statement for the period;
- e) notes, comprising a summary of significant accounting policies and other explanatory information;
- f) comparative information in respect of the preceding period as specified in paragraph 38 of AASB 101 *Presentation of Financial Statements*; and
- g) a balance sheet as at the beginning of the preceding period when an entity applies an accounting policy retrospectively or makes a retrospective restatement of items in its financial statements, or when it reclassifies items in its financial statements in accordance with paragraph 41 of AASB 101.

Grants

Transactions in which one unit provides goods, services, assets (or extinguishes a liability) or labour to another unit without receiving approximately equal value in return. Grants can either be operating or capital in nature.

While grants to governments may result in the provision of some goods or services to the transferor, they do not give the transferor a claim to receive directly benefits of approximately equal value. Receipt and sacrifice of approximately equal value may occur, but only by coincidence. For example, governments are not obliged to provide commensurate benefits, in the form of goods or services, to particular taxpayers in return for their taxes. For this reason, grants are referred to by the AASB as involuntary transfers and are termed non-reciprocal transfers.

Grants can be paid as general purpose grants which refer to grants that are not subject to conditions regarding their use. Alternatively, they may be paid as specific purpose grants which are paid for a particular purpose and/or have conditions attached regarding their use.

Interest expense

Costs incurred in connection with the borrowing of funds. Interest expense includes interest on bank overdrafts and short-term and long-term borrowings, amortisation of discounts or premiums relating to borrowings, interest component of lease repayments, and the increase in financial liabilities and non-employee provisions due to the unwinding of discounts to reflect the passage of time.

Leases

Leases are rights conveyed in a contract, or part of a contract, the right to use an asset (the underlying asset) for a period of time in exchange for consideration.

Net result

Net result is a measure of financial performance of the operations for the period. It is the net result of items of income, gains and expenses (including losses) recognised for the period, excluding those that are classified as 'other economic flows – other comprehensive income'.

Net result from transactions

Net result from transactions or net operating balance is a key fiscal aggregate and is revenue from transactions minus expenses from transactions. It is a summary measure of the ongoing sustainability of operations. It excludes gains and losses resulting from changes in price levels and other changes in the volume of assets. It is the component of the change in net worth that is due to transactions and can be attributed directly to government policies.

Non-financial assets

Non-financial assets are all assets that are not 'financial assets'.

Other economic flows included in net result

Other economic flows included in net result are changes in the volume or value of an asset or liability that do not result from transactions. They include gains and losses from disposal, revaluation and impairment of non-current physical and intangible assets; actuarial gains and losses arising from defined benefit superannuation plans and fair value changes of financial instruments. In simple terms, they are changes arising from market re-measurements.

Other economic flows – other comprehensive income

Other economic flows – other comprehensive income comprises items (including reclassification adjustments) that are not recognised in net result. The components of 'other economic flows – other comprehensive income' include changes in physical asset revaluation surplus.

Payables

Includes short- and long-term trade debt and accounts payable, grants and interest payable.

Receivables

Includes short- and long-term trade credit and accounts receivable, grants, taxes and interest receivable.

Supplies and services

Supplies and services generally represent cost of goods sold and the day to day running costs, including maintenance costs, incurred in the normal operations of the entity.

Transactions

Transactions are those economic flows that are considered to arise as a result of policy decisions, usually an interaction between two entities by mutual agreement. They also include flows within an entity, such as depreciation, where the owner is simultaneously acting as the owner of the depreciating asset and as the consumer of the service provided by the asset. Taxation is regarded as mutually agreed interactions between the government and taxpayers. Transactions can be in kind (e.g., assets provided/given free of charge or for nominal consideration) or where the final consideration is cash. In simple terms, transactions arise from the policy decisions of the government.

Appendix A: Disclosure index

Our annual report is prepared in accordance with all relevant Victorian legislation and requirements. This index page facilitates the identification of the commission's compliance with statutory disclosure requirements, including Financial Reporting Directions (FRD) and Standing Directions (SD).

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Appendix B: Disclosures

Diversity and inclusion

We strive to create an environment that supports a diverse, inclusive and flexible workforce. We reviewed our recruitment materials and communication to ensure reasonable adjustments were considered early in the process and candidates feel comfortable negotiating flexible working arrangements.

We also celebrated the diversity of our employees with recognition or events held for National Reconciliation Week, International Day Against Homophobia, Biphobia and Transphobia (IDAHoBIT day), and Wear It Purple Day.

Our Empowered Women's Network and our Pride Network continue to grow and work with the organisation to ensure our practices are inclusive.

Employee relations

We are committed to ensuring that employee relations matters are treated fairly and promptly, and that employees are aware of our grievance processes. No employee time was lost in 2021–22 due to industrial disputes.

Informal disputes are handled promptly and with discretion, and external mediators engaged where appropriate.

Employment and conduct principles

We are committed to applying merit and equity principles when we appoint employees. Our selection processes ensure that applicants are assessed and evaluated fairly and equitably based on the key selection criteria and other accountabilities.

We have correctly classified our employees in workforce data collections.

Occupational health and safety

We continued to promote occupational health and safety through a range of measures in 2021–2022, including our Occupational Health and Safety Policy, health and safety representative and an Occupational Health and Safety Committee, which meets quarterly. Below shows the Workcover claims in the 2021–22 financial year.

Workcover statistics	2020–21	2021–22
Claims	0	1

Private interest declarations

Declarations of private interests were completed by relevant officers in 2021–22. All new employees were required to complete declarations prior to commencement.

Advertising expenditure

In 2021–22 there was no government advertising campaign with a total media spend of \$100,000 or greater (exclusive of GST).

Building works

We did not have any buildings under our direct control and are therefore exempt from notifying our compliance with the building and maintenance provisions of the *Building Act 1993*.

Consultancies over \$10,000

We engaged 15 consultancies at a total expenditure of \$1,182,366 (excluding GST). View details of individual consultancies at <https://www.esc.vic.gov.au/about-us/our-performance/annual-reports>.

Consultancies under \$10,000

We engaged 2 consultancies at a total expenditure of \$13,860 (excluding GST).

Ex-gratia payments

There were no ex-gratia payments made in 2021–22.

Major contracts

We awarded no major contracts greater than \$10 million during 2021–22.

National Competition Policy

We complied with the National Competition Policy and the Competitive Neutrality Policy Victoria policy statement, as well as any subsequent reforms.

Local Jobs First Act 2003

The *Local Jobs First Act 2003* brings together the Victorian Industry Participation Policy and Major Project Skills Guarantee policy which were previously administered separately.

Departments and public sector bodies are required to apply the Local Jobs First policy in all Metropolitan Melbourne or statewide projects valued at \$3 million or more, or \$1 million or more for projects in regional Victoria.

We did not commence or complete any such procurements in 2021–22.

Information and communications technology expenditure

Information and communications technology expenditure for 2021–22 totalled \$5,117,613 details below.

All operational ICT expenditure	ICT expenditure related to projects to create or enhance ICT capabilities		
Business as usual ICT expenditure	Non-business as usual ICT expenditure	Operational expenditure	Capital expenditure
(Total)	(Total = operational expenditure and capital expenditure)		
1,839,016	3,278,598	3,278,598	0

Information and communications technology expenditure refers to our costs in providing business-enabling information and communications technology services.

Non-business as usual ICT expenditure relates to extending or enhancing our current technology capabilities. Business as usual ICT expenditure is all remaining ICT expenditure relating to ongoing activities to operate and maintain the current information and communications technology capability.

Appendix C: Ministerial statement of expectations

We receive a statement of expectations from the Assistant Treasurer which sets out expectations of our contribution to the Victorian Government's regulatory reform program. Our latest statement covers two years 2020–22. This table shows our progress against these expectations in 2021–22.

Key area	Expectation	Target by 30 June 2023	Progress as of 30 June 2022
Promoting the development of a low-cost, competitive energy sector	Monitor the market and behaviour of regulated entities.	Publish annual and quarterly reports on the Victorian energy market. Public monthly data and observations about Victorian energy customers during the coronavirus pandemic. Report on the competitiveness and efficiency of the Victorian energy retail market.	 Quarterly reports on the Victorian energy market published. 11 monthly COVID-19 reports were published.
	Provide compliance assistance and advice.	Develop and implement new education programs and guidance to better inform the energy industry about their compliance obligations.	 Greenhouse gas co-efficient published March 2021.
	Collaborate with other regulators including Consumer Affairs Victoria, the Australian Competition and Consumer Commission (ACCC) and the Australian Energy Regulator (AER).	Establish regular meetings with the Australian Energy Regulator, Consumer Affairs Victoria, the Australian Competition and Consumer Commission and privacy commissioners by March 2021.	 Established more formal relationships with AER and CAV. Ongoing with ACCC and Privacy Commissioners on as needed basis.
	Take a range of enforcement actions.	Publish strategic compliance and enforcement priorities.	 Compliance and enforcement priorities approved for publication on 30 June 2021.
	Develop key performance indicators to track its progress.	Targets will be developed and regularly reported to the Assistant Treasurer	 Targets have been developed and reported.
Improving electricity connections for new developments	Work with the Department of Environment, Land, Water and Planning to prioritise reforms to ensure faster and more transparent electricity connections at new Victorian housing developments.	Develop measures to promote timely connections for greenfield sites. Hold regular coordination meetings with the Department of Environment, Land, Water and Planning to ensure our regulatory and legislative reforms are aligned.	 Measures were developed to promote timely connections. Regular meetings are occurring with Department of Environment, Land, Water and Planning to ensure reforms are aligned.

Status key:  Complete  In Progress

Key area	Expectation	Target by 30 June 2023	Progress as of 30 June 2022
Regulation of the waste and recycling sector	Work with the Department of Environment, Land, Water and Planning to design and implement the new Waste Act during 2021.	Provided advice to the Minister for Energy, Environment and Climate Change on a regulatory framework for waste and resource recovery sector in October 2020	 Provided advice to the Minister for Energy, Environment and Climate Change on a regulatory framework for waste and resource recovery sector in October 2020.
Timeliness of regulatory processes	Review and improve the energy licensing application processes, framework and public guidance to facilitate appropriate entry into the energy market in Victoria (particularly for energy generation).	Improve information provided to licence applicants through a new guidance note and application form. Develop and implement new education programs and guidance to better inform the energy industry about their compliance obligations.	 Guidance and new application forms published on website in December 2020.
	Reduce application processing times to increase the capacity of the Victorian Energy Upgrades scheme to handle business forms by 10 per cent.	Continuing to develop an upgraded Victorian Energy Upgrades IT system Target: 90 per cent of accreditation and additional activity applications assessed within processing timeframes.	 Existing processes and systems have been streamlined resulting in at least 10 per cent reduction in processing times. Continuing to develop an upgraded Victorian Energy Upgrades IT system.
Risk-based strategies focusing on low income and vulnerable consumers	Improve how the commission considers the benefits of regulation for low income and vulnerable consumers across all regulatory functions.	Develop and publish a vulnerability strategy after extensive consultation with key stakeholders and consumers.	 <i>Getting to fair strategy</i> published in August 2021.
Stakeholder consultation and engagement	Promote community engagement through multiple channels to complete the digital strategy by November 2020.	Publish the digital strategy and commence implementation of recommended priorities. Review online engagement in 2020 to capture the benefit, with a view to embedding this learning in future practice.	 Digital strategy completed and implementation of recommended priorities commenced. Review of engagement activities completed and lessons learnt incorporated into new starter training package.
Role clarity	Review all existing Memoranda of Understanding and update as necessary.	A review of all existing Memoranda of Understanding will be undertaken in consultation with the other parties by June 2021.	 A review of all Memoranda of Understanding has been completed. Updates are occurring in consultation with relevant other parties.

Status key:  Complete  In Progress

Appendix D: Further information required under the Essential Services Commission Regulations 2021

Price determinations issued under the Essential Services Commission Act

The following price determinations were made under section 33 of the Essential Services Commission Act in the 2021–22 financial year:

- Victorian Default Offer Amendment to Price Determination 2021: 1 September 2021 to 31 December 2021
- Victorian Default Offer Price Determination 2022: 1 January 2022 to 30 June 2022.

Third party access regime determinations under the Essential Services Commission Act

The Commission did not make any third party access regime determinations under Part 3A of the Essential Services Commission Act during 2021–22.

Inquiries conducted under the Essential Services Commission Act

There was one public inquiry conducted under Part 5 of the Essential Services Commission Act.

The commission was required to conduct an inquiry under section 49I of the *Port Management Act 1995* (Vic) into whether the Port of Melbourne Pty Ltd complied with the Pricing Order that regulates prices for prescribed services provided by it at the Port of Melbourne during the five-year review period 1 July 2016 to 30 June 2021, and if there was non-compliance, whether that non-compliance was, in the commission's view, non-compliance in a significant and sustained manner. The inquiry commenced in June 2021.

The commission's confidential final report was delivered to the Assistant Treasurer on 31 December 2021. A public version of this report was published on 28 January 2022. Key findings on non-compliance with the Pricing Order were that the Port of Melbourne's weighted average cost of capital applied in the review period does not reflect that of a benchmark efficient entity with a similar degree of risk as the Port; the Port's revenue requirement was overstated by around \$300 million and \$650 million; the Port's approach to managing its operating expenses is not consistent with that of prudent or efficient service provider; tariffs, cost allocation and content of tariff compliance statements were not compliant; and that the Port did not effectively consult or have adequate regard to port user comments when preparing its annual tariff compliance statements. The commission considered that the cumulative nature of the Port's non-compliance is significant and sustained and is not in the long-term interests of Victorian consumers.

Proceeding for a contravention order under the Essential Services Commission Act that were finalised

There were no proceedings for a contravention order under the Essential Services Commission Act that were finalised during 2021–22.

Disclosures of information or the contents of documents under section 60C(3) of the Essential Services Commission Act

There were no disclosures of information or the contents of documents under section 60C of the Essential Services Commission Act during 2021–22.

Notices issued under section 36 of the Essential Services Commission Act

Section 36 of the Essential Services Commission Act empowers us to obtain information or documents that may assist in the performance of our functions. 73 notices were issued under section 36 during 2021–22. Of the 73 notices:

- 60 notices were issued to energy licensees for the purposes of the commission performing its functions under, variously:
 - o section 10(da) of the Essential Services Commission Act to, relevantly, amend Codes of Practice
 - o section 10AAA of the Essential Services Commission Act, to publicly report on, relevantly, the performance of a regulated industry
 - o section 10AA(a) of the Essential Services Commission Act, to monitor and report on compliance by persons with, relevantly, relevant legislation
 - o section 10AAB of the Essential Services Commission Act, to monitor and report on the competitiveness and efficiency of the Victorian retail markets for electricity
 - o to inform the commission's Victorian Default Offer price determinations made under an Order in Council issued under s13(1) of the *Electricity Industry Act 2000*
- 13 notices were issued in relation to one of the following functions:
 - o investigating complaints pursuant to section 49Q of the Port Management Act
 - o the unbooked taxi fares price review 2022 pursuant to Part 6, Division 1A of the *Commercial Passenger Vehicles Industry Act 2017*
 - o the non-cash payment surcharges review 2022 undertaken under Part 6, Division 3 of the Commercial Passenger Vehicles Industry Act 2017.

Notices issued under section 37 of the Essential Services Commission Act

Section 37 of the Essential Services Commission Act, as it was in force prior to 1 December 2021, empowered us to obtain information or documents that may assist in the performance of our functions. 17 notices were issued under section 37 during the period 1 July 2021 to 30 November 2021. These notices were issued to energy retailers for the purpose of performing the commission's functions under, variously:

- section 10AA(b) of the Essential Services Commission Act to investigate contraventions or possible contraventions by energy licensees of conditions of energy licences;
- section 10AAB of the Essential Services Commission Act to monitor report on the competitiveness of the Victorian retail electricity market.

Following the *Essential Services Commission (Compliance and Enforcement Powers) Act 2021*, the Essential Services Commission Act was amended and section 37 empowered the commission to obtain information or documents related to the contravention of an essential services requirement. Eight notices were issued under section 37 during the period 1 December 2021 to 30 June 2022 to energy retailers. These notices were issued for the purpose of performing the commission's functions to investigate contraventions or possible contraventions of the Essential Services Commission Act and relevant legislation.

Proceedings commenced to challenge the validity of information gathering notices

There were no proceedings commenced to challenge the validity of information gathering notices during 2021–22.

Number of entries onto premises by an inspector under section 39P of the Essential Services Commission Act

There were no entries onto premises under section 39P of the Essential Services Commission Act during 2021–22.

Number of search warrants issued under section 39S of the Essential Services Commission Act

There were no search warrants issued under section 39S of the Essential Services Commission Act during 2021–22.

Summary of complaints received in relation to regulated entities and the Victorian Energy Upgrades program

Two confidential complaints were made to the commission in September 2021 under section 49Q of the *Port Management Act 1995*. These alleged that the Port of Melbourne had breached the provisions of the Pricing Order regulating prices for prescribed services provided at the Port of Melbourne. The alleged breach was that the Port's forecast capital expenditure it indicated it would incur in respect of the Webb Dock East expansion project, is not prudent and efficient, and further that the Port failed to genuinely consult with relevant stakeholders about the need for and timing of the project.

The commission conducted an investigation into the complaints commencing September 2021. It completed the investigation in June 2022 and released a public report of the outcomes of the investigation on 8 July 2022. The commission found that the Port had not genuinely consulted on the Webb Dock East expansion to inform its Tariff Compliance Statement for the 2021–22 financial year and was therefore in breach of these requirements of the Pricing Order. The commission otherwise found the Port to be compliant, at the time of assessment, with all other requirements of the Pricing Order relevant for the complaints.

The commission further received 860 enquiries and complaints from energy consumers. These included complaints about retailers' billing, offers and tariffs, distributors' guaranteed service levels and registration of embedded networks. We dealt with these complaints within 10 business days of receipt by responding to customers directly or by referring them to other areas within the commission or to an appropriate external agency, for example, the Energy and Water Ombudsman Victoria which is set up to resolve individual complaints. We also use the intelligence gathered from energy enquiries within our broader compliance and enforcement work.

The commission received 892 complaints from Victorian Energy Upgrades consumers in 2021–22. These included complaints related to installations of in-home displays and upgrades of residential and commercial lighting, shower roses, water heating, weather sealing and plug-in refrigerated cabinets. The main causes of concern for consumers were product issues, telemarketing and installer conduct. We dealt with these complaints by registering them in our complaints database and facilitating resolutions between accredited providers and consumers. We referred 22 cases to Consumer Affairs Victoria and 13 cases to the Australian Communications and Media Authority. We also conducted investigations and audits based on intelligence received from consumers regarding non-compliant program activity by installers and accredited providers.

The number of times the commission commenced proceedings for a contravention order under the Essential Services Commission Act

The commission did not commence any proceeding for a contravention order under the Essential Services Commission Act during 2021–22.

Applications for review made to VCAT under section 55 of the Essential Services Commission Act

No appeal or application for a review of a requirement, decision or determination of the commission was lodged under section 55 of the Essential Services Commission Act during 2021–22.

Appendix E: Integrity and accountability

Public Interest Disclosures Act 2012

The *Public Interest Disclosures Act 2012* encourages and assists people in making disclosures of improper conduct by public officers and public bodies. The Public Interest Disclosures Act provides protection to people who make disclosures in accordance with the Act and establishes a system for the matters disclosed to be investigated and rectifying action to be taken.

We do not tolerate improper conduct or reprisals against those who come forward to disclose such conduct. We are committed to ensuring transparency and accountability in administrative and management practices and support the making of disclosures that reveal corrupt conduct, conduct involving a substantial mismanagement of public resources, or conduct involving a substantial risk to public health and safety or the environment.

We will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for making the disclosure. It will also afford natural justice to the person who is the subject of the disclosure to the extent that is legally possible.

Reporting procedures

Disclosures of improper conduct or detrimental action by us or any of our employees may be made to the Independent Broad-Based Anti-Corruption Commission:

Level 1, North Tower, 459 Collins Street
Melbourne, VIC 3000
Phone: 1300 735 135
Internet: www.ibac.vic.gov.au

Email: see the Independent Broad-Based Anti-Corruption Commission website for their secure email disclosure process, which also provides for anonymous disclosures.

More information

You can request our protected disclosure procedures for the protection of persons from detrimental action by us or any of our employees and/or officers. This request can be made by emailing reception@esc.vic.gov.au

Freedom of information

The *Freedom of Information Act 1982* allows the public a right of access to some documents held by the commission. The purpose of the Freedom of Information Act is to extend as far as possible the right of the community to access information held by government departments, local councils, ministers and other bodies, such as the commission, who are subject to the Act.

We hold a number of categories of documents:

- internal administrative and operational documents
- internal policy and procedural documents
- documents about developing and implementing policy and legislation
- documents obtained or created in the course of conducting investigations or making enquiries, or conducting reviews
- human resources documents
- financial records.

An applicant has a right to apply for access to documents held by the commission. This comprises documents both created by the commission or supplied to the commission by an external organisation or individual and may include maps, films, microfiche, photographs, computer printouts, computer discs, tape recordings and videotapes.

The Freedom of Information Act allows the commission to refuse access, either fully or partially, to certain documents or information. Examples of documents that may not be accessed include cabinet documents, some internal working documents, law enforcement documents, documents covered by legal professional privilege such as legal advice, personal information about other people and information provided to us in confidence.

If an applicant is not satisfied by a decision made by the commission, under section 49A of the Freedom of Information Act they have the right to seek a review by the Office of the Victorian Information Commissioner (OVIC) within 28 days of receiving a decision letter.

Making a request

An application fee may apply. Access charges may also be payable if the document pool is large and the search for material is time-consuming.

Access to documents can also be obtained through a written request to:

Privacy Officer
Essential Services Commission
Level 8, 570 Bourke Street,
Melbourne, Vic 3000
reception@esc.vic.gov.au

When making a freedom of information request, applicants should ensure requests are in writing, and clearly identify what types of material/documents are being sought.

Freedom of information statistics and timeliness

During 2021–22, the commission received three applications.

The commission made three freedom of information decisions during the 12 months ending 30 June 2022.

Two decisions were made within the statutory 30-day time period, while one freedom of information application was decided within an extended period.

The average time taken to finalise requests in 2021–22 was 63 days.

During 2021–22, one request was reviewed by Office of the Victorian Information Commissioner.

More information

Further information on the operation and scope of freedom of information can be obtained from the Freedom of Information Act and through the Office of the Victorian Information Commissioner website: ovic.vic.gov.au.

Reports, publications and informal requests

Details about our reports and publications can be found on our website at www.esc.vic.gov.au

Requests may also be directed to:

Essential Services Commission,
Level 8, 570 Bourke Street,
Melbourne, Vic 3000
Telephone: (03) 9032 1300 or 1300 664 969
or email communication@esc.vic.gov.au

Glossary

Term	Definition
Australian Competition and Consumer Commission	An independent Commonwealth statutory authority whose role is to enforce the <i>Competition and Consumer Act 2010</i> (Cwlth) and a range of additional legislation, promoting competition, fair trading and regulating national infrastructure for the benefit of all Australians.
Australian Energy Regulator	An independent entity established by section 44AE of the Competition and Consumer Act (Cwlth). The Australian Energy Regulator enforces: the laws for the National Electricity Market and spot gas markets in southern and eastern Victoria; the electricity networks and covered gas pipelines in all jurisdictions except Western Australia; and the National Energy Retail Law.
Best (energy) offer	The 'best offer' is based on how much energy a customer has used over the past year and may be less than the independently set Victorian Default Offer (see below). Energy companies must provide information to consumers about best offers in accordance with the Energy Retail Code of Practice.
Consumer Affairs Victoria	A unit of the Victorian Government's Department of Justice and Community Safety, which supports Victorians in being responsible and informed businesses and consumers.
Electricity transmission company	A person who is the holder of a licence to transmit electricity. These are the businesses that own and manage the power poles and wires that deliver power to homes or businesses.
Electricity Transmission Company Land Access Statement of Expectations	The statement comprises of a set of principles outlining how electricity transmission companies should exercise their powers according to section 93 of the Electricity Industry Act to access land.
Embedded network	A distribution system connected at a parent connection point to either a distribution system or transmission system that forms part of the national grid and which is owned, controlled or operated by a person who is not a network service provider. Many Victorians get their electricity through an embedded network, such as those in apartment buildings and caravan parks.
Energy and Water Ombudsman Victoria	Is a body corporate that operates a customer dispute resolution scheme that is a free (for consumers) and independent service that resolves disputes between Victorians and their energy (gas and electricity) and water companies. (See < www.ewov.com.au >.)
Energy Retail Code of Practice	A code that sets out the rules electricity and gas retailers must follow when selling energy to Victorian customers.
Engage Victoria	A Victorian Government online consultation platform provided through the Department of Premier and Cabinet that enables the community to participate in the development of public policies and programs.
Essential Services Commission	We are an independent regulator established under the Essential Services Commission Act that promotes the long-term interests of Victorian consumers with respect to the price, quality and reliability of essential services. We regulate Victoria's energy, water and transport sectors, administer the rate-capping system for the local government sector, and regulate the Victorian Energy Upgrades program.
Explicit informed consent	Explicit informed consent is when a business has clearly, fully and adequately told a customer, in plain English, all matters relevant to the consent of the customer, including each specific purpose or use of the consent and the customer gives the consent, is competent to do so. In particular instances, there may be additional requirements to establish explicit informed consent.
Fair Go Rates system	The Victorian Government's Fair Go Rates system establishes rate caps to limit the amount by which Victorian local councils can increase rates in a year without seeking additional approval. Each year, the Minister for Local Government sets the average rate cap — that is, the maximum percentage increase in councils' average rates for the forthcoming financial year. If any council considers the average rate cap increase to be insufficient for its needs, the council can apply to the Essential Services Commission for a higher percentage.
Getting to fair	<i>Getting to fair: Breaking down barriers to essential services</i> is a three-year roadmap (released in August 2021) to help the commission improve the experience of consumers who are experiencing vulnerability by supporting our regulated and administered sectors to provide more responsive, inclusive and accessible services.
Greenfield sites	The principles of the commission's <i>Electricity Transmission Company Land Access Statement of Expectations</i> apply to all greenfield sites relating to major transmission projects. A greenfield site is a site without existing transmission assets, for example, undeveloped sites in urban or rural areas.

Glossary

Term	Definition
Higher cap application	An application where a local council asks for a rate increase above the cap set by the Minister for Local Government. Councils submit their applications to the commission; we then assess and accept or reject the applications (see Fair Go Rates system).
Higher council rate cap	The maximum amount a council can increase general rates and municipal charges. The cap is set by the Minister for Local Government and can apply to all councils, a group of councils or a single council (see Fair Go Rates system).
Minimum feed-in tariff	The minimum feed-in tariff is a payment that energy companies pay customers who feed energy back into the grid through sources such as solar panels.
Non-cash payment surcharge	The additional charge a customer bears when paying for a taxi trip by means other than cash. The surcharge is applied when a taxi passenger pays for a fare using non-cash payment transaction options, including credit, debit and charge card. Payment processors are the entities which provide this service.
Payment Difficulty Framework	A set of energy rules introduced by the commission in 2019 to better support residential customers experiencing payment difficulty.
PREMO	A water pricing framework which aims to put customers at the centre of a water business's decision-making through incentives focused on five elements: performance, risk, engagement, management and outcomes.
Retailer of Last Resort	The Retailer of Last Resort scheme is a legislative framework designed to protect consumers when their energy retailer goes out of business. It transfers customers of failed retailers to new providers to make sure that their energy service continues.
Standing offer	A type of offer that energy retailers are legally obliged to make available to particular customers, the Victorian Default Offer (see below) is a type of standing offer.
Tariff	A list or table showing the costs (prices) of a service or item. The tariffs the commission regulates include water tariffs; the minimum feed-in tariff for solar customers; and Port of Melbourne 'port user' tariffs.
Utility Relief Grant Scheme	A Victorian Government grant which provides help to eligible customers to pay a mains electricity, gas or water bill that is overdue due to a temporary financial crisis.
Victorian Default Offer	A simple and trusted electricity price that is set by the Essential Services Commission, not energy companies. The Victorian Default Offer provides all Victorian households and small businesses access to a fair electricity deal, including those who are unable or unwilling to engage in the retail market.
Victorian energy efficiency certificates	Electronic certificates which are created when energy efficient products and services are made available to homes and businesses under the Victorian Energy Upgrades program. Each certificate represents one tonne of greenhouse gas emissions reduction (CO ₂ -e). Large energy retailers are required to acquire and surrender a certain number of certificates each year.
Victorian Energy Market Report	A quarterly report published by the commission which outlines how the electricity and gas markets are performing. The report informs customers on how the energy retail market works, and what they need to do to get the best out of it.
Victorian Energy Upgrades program	A Victorian Government energy efficiency initiative that helps Victorians reduce their energy bills and greenhouse gas emissions by providing access to discounted energy efficient products and services. The program also encourages investment, employment and innovation in industries that supply these products and services. The program operates under the Victorian Energy Efficiency Target Act.
White-label arrangements (in the energy sector)	Where an energy licensee enters into an arrangement with a third party to sell energy under that third party's branding. The third party is not licensed to sell electricity and gas, and may sometimes be a participant in another industry looking to expand its product offering.



Essential Services Commission
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