Social and labour consequences of the decentralization and privatization of municipal services: The cases of Australia and New Zealand

Michael Paddon

Working papers are preliminary documents circulated to stimulate discussion and obtain comments

International Labour Office
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Foreword

In the context of public service reforms, decentralization is regarded as an important means to achieve improved efficiency and quality of services. One of the challenges in this context is the financing of such services, since tax and fee systems are often not changed simultaneously or sufficiently. Consequently, municipalities and local government institutions opt for a variety of approaches to privatizing services provided in the public interest. Decentralization affects the terms of employment and working conditions of municipal workers, as well as labour-management relations, in a number of ways. Moreover, public employees from government agencies at district, regional and national levels are often transferred to local authorities. Such developments are common to different services that are provided in the public interest, such as education and health services as well as utilities and transport. Despite the differences between these sectors, there is a case for discussing jointly the implications of decentralization on the municipal services. Responses to the challenges arising from decentralization might be found jointly or through alliances between some of the sectors.

The ILO report on “Human resource development in the public service in the context of structural adjustment and transition” of 1998 and the subsequent Joint Meeting have already set out some direction in relation to the public service in general. A further report of the ILO will study the developments more specifically in view of the municipal services and provide the background for the discussions at a Joint Meeting in 2001 on the “Impact of decentralization and privatization on municipal services”. In preparing this report the ILO Sectoral Activities Department is undertaking a wide range of research in various municipal sectors, which include health services, education, transport and utilities.

The present working paper by Michael Paddon on the social and labour consequences of decentralization and privatization of municipal services in Australia and New Zealand is one of several studies which will be taken into consideration for the ILO report. Since the two countries underwent major changes in this area over the past years and piloted several instruments of decentralization and privatization, they were chosen for case studies with a specific sectoral focus on utilities. The case method allows the study of the social and labour consequences against the detailed background of the nature of local government in these two countries and the changes taking place over the past years.

As a sectoral working paper, the study is meant as a preliminary document and circulated to stimulate discussion and to obtain comments. Earlier drafts of the paper were intensively discussed at the ILO, the opinions expressed are nevertheless those of the author and not necessarily those of the ILO.

Cleopatra Doumbia-Henry,
Deputy Director,
Sectoral Activities Department.
## Contents

<table>
<thead>
<tr>
<th>Foreword</th>
<th>iii</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social and labour consequences of the decentralization and privatization of municipal services: The cases of Australia and New Zealand (with particular reference to utility services)</td>
<td>1</td>
</tr>
<tr>
<td>1. Introduction</td>
<td>1</td>
</tr>
<tr>
<td>2. Decentralization and privatization in government structures</td>
<td>2</td>
</tr>
<tr>
<td>Local government and service provision in Australia and New Zealand</td>
<td>2</td>
</tr>
<tr>
<td>Australia</td>
<td>2</td>
</tr>
<tr>
<td>New Zealand</td>
<td>3</td>
</tr>
<tr>
<td>Decentralization</td>
<td>4</td>
</tr>
<tr>
<td>Privatization</td>
<td>5</td>
</tr>
<tr>
<td>3. Decentralization and privatization of municipal services and utility services in Australia</td>
<td>6</td>
</tr>
<tr>
<td>A national policy framework with implications for utility reform and local government</td>
<td>6</td>
</tr>
<tr>
<td>Municipal and local government services</td>
<td>7</td>
</tr>
<tr>
<td>Water services</td>
<td>9</td>
</tr>
<tr>
<td>Electricity</td>
<td>10</td>
</tr>
<tr>
<td>4. Decentralization and privatization of municipal services and utility services in New Zealand</td>
<td>12</td>
</tr>
<tr>
<td>Municipal and local government services</td>
<td>12</td>
</tr>
<tr>
<td>Corporatization and privatization</td>
<td>12</td>
</tr>
<tr>
<td>Employment in local government</td>
<td>14</td>
</tr>
<tr>
<td>Water services</td>
<td>14</td>
</tr>
<tr>
<td>Electricity</td>
<td>16</td>
</tr>
<tr>
<td>The current structure of the industry and future reforms</td>
<td>19</td>
</tr>
<tr>
<td>Prices and quality of service in the restructured electricity industry</td>
<td>20</td>
</tr>
<tr>
<td>The effects of privatization on labour in a deregulated labour market</td>
<td>21</td>
</tr>
<tr>
<td>5. Case studies</td>
<td>22</td>
</tr>
<tr>
<td>A. Competitive tendering and contracting out by Victorian local government</td>
<td>22</td>
</tr>
<tr>
<td>Impacts of corporatization on working condition, terms of employment and the gender outcomes of these developments</td>
<td>23</td>
</tr>
<tr>
<td>The role of social dialogue and labour management relations for the results of decentralization and privatization</td>
<td>25</td>
</tr>
<tr>
<td>B. Contracting out of metropolitan water and sewerage services by the state of South Australia</td>
<td>27</td>
</tr>
<tr>
<td>Impacts of corporatization and privatization on working condition, terms of employment and the gender outcomes of these developments</td>
<td>27</td>
</tr>
</tbody>
</table>
The role of social dialogue and labour-management relations for the results of
decentralization and privatization

Impacts of decentralization and privatization on the quality of services

C. Management privatization of the New South Wales electricity industry through corporatization

Impacts of corporatization on working condition, terms of employment and the gender outcomes of these developments

The role of social dialogue and labour-management relations for the results of corporatization

D. Capital privatization of the Victorian electricity generating industry through sale of assets

Impacts of corporatization on working condition, and terms of employment and the gender outcomes of these developments

E. New governance structures in New Zealand electricity distribution and the collapse of the electricity supply to the central business district in Auckland

The major power failure in Auckland in 1998

Government inquiry into the failure

The establishment of Mercury Energy as part of the 1990-1992 reforms and corporatization

The contribution of the new corporate structure to inadequate governance

Deficiencies arising from contracting out of activities

The inquiry recommends reconsideration of the governance structure and improved customer contracts

6. References
Social and labour consequences of the decentralization and privatization of municipal services: The cases of Australia and New Zealand (with particular reference to utility services)

1. Introduction

This report deals with decentralization and privatization of municipal services in Australia and New Zealand. In approaching these issues it is necessary to have some understanding of the nature of local government and the predominant ways in which services such as utilities have been provided. Accordingly, the second section of the report deals with local government and service delivery in the two countries. It also outlines, conceptually, how issues of decentralization and privatization may be discussed and gives an indication of the major relevant changes taking place in each country.

The third and fourth sections then provide an account of the privatization which has taken place in local government, in water services and in electricity services. Section 3 describes and analyses changes which have occurred in Australia and section 4 deals with New Zealand.

The final section comprises five detailed case studies of the effects of various forms of privatization, four taken from Australia and one from New Zealand. The case studies are:

- The implications for labour and industrial relations of competitive tendering for and the contracting out of local government services in the Australian state of Victoria.

- The consequences of the contracting out of metropolitan water and sewerage services by the state of South Australia, both for labour and for the quality of services.

- Management privatization of the electricity industry in the Australian state of New South Wales through corporatization and its effect employment and labour relations.

- The consequences for labour and industrial relations of the capital privatization of the Victorian electricity generating industry through the sale of assets.

- The failure of the electricity supply to Auckland, New Zealand, in 1998, and the significance of the new governance structures introduced through corporatization and the contracting out of services.
2. Decentralization and privatization in government structures

Local government and service provision in Australia and New Zealand

Australia

Australia is a federation comprising six states (New South Wales, Victoria, Queensland, South Australia, West Australia and Tasmania) and two territories (Northern Territory and the Australian Capital Territory or ACT). Individual states have jurisdiction over water and electricity utilities, transport, roads, ports and the police, and also over the main services of education, health and public housing. The states and territories also have constitutional responsibility for local government providing the legal framework in which councils operate and oversee their operations (National Office of Local Government, 1999). The major changes in local governments which have impacted on their structures and modes of service delivery, such as amalgamations of councils or the introduction and then removal of compulsory competitive tendering (CCT) in the state of Victoria, have been initiated by state governments. Other significant public policy reforms with major implications for local government, such as national competition policy (NCP) have also been the product of agreements between state and federal governments.

As a result of this federal structure and the subordinate role of local government, each state determines whether specific services are delivered either by state or local government organizations or by both. There is diversity between the states in these arrangements. However, as a general rule, most of the “major” services delivered by local government in other parts of the world, such as education, police services, infrastructure, public transport, electricity and water are the responsibility of states and territories. The principal activities of municipalities and local governments are to provide community infrastructure (roads, drainage, etc.), land use planning and development, public and environmental health (including refuse collection and waste management) and local human services (such as libraries, aged and community services). In the state of Queensland and non-metropolitan New South Wales (NSW), councils take responsibility for water supply and sewerage, whilst many councils across the country operate aerodromes.

In the context of the governmental structures of Australia it is therefore necessary to distinguish between:

- services provided for and to municipal areas, many of which have been delivered by state government organizations, in utilities such as water and electricity;
- services provided by municipalities and local government institutions which in some states or areas of states may have included utilities but which for the most part are in community infrastructure; land use planning and development; public and environmental health and human services (broadly defined).

Table 1 documents the characteristics of councils in Australia. It indicates that while the majority of the population in Australia may live in municipal areas the vast majority of councils (over 80 per cent) are in regional and rural areas. The state of Victoria, discussed in more detail later in the report, has the largest proportion of urban councils (41 per cent) as a result of the council amalgamations enforced by the state government in the 1990s.
Table 1. Urban, rural and regional councils in Australia, June 1999

<table>
<thead>
<tr>
<th>State/territory</th>
<th>No. and % of urban councils</th>
<th>No. and % of regional and rural councils</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSW</td>
<td>45 (25.0)</td>
<td>135 (75.0)</td>
<td>180</td>
</tr>
<tr>
<td>Victoria</td>
<td>32 (41.0)</td>
<td>46 (59.0)</td>
<td>78</td>
</tr>
<tr>
<td>Queensland</td>
<td>13 (8.3)</td>
<td>143 (91.7)</td>
<td>156</td>
</tr>
<tr>
<td>South Australia</td>
<td>19 (25.3)</td>
<td>56 (74.7)</td>
<td>75</td>
</tr>
<tr>
<td>Western Australia</td>
<td>29 (20.4)</td>
<td>113 (79.6)</td>
<td>142</td>
</tr>
<tr>
<td>Tasmania</td>
<td>2 (6.9)</td>
<td>27 (93.1)</td>
<td>29</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>2 (2.9)</td>
<td>67 (97.1)</td>
<td>70 (a)</td>
</tr>
<tr>
<td>Total</td>
<td>142 (19.5)</td>
<td>588 (80.5)</td>
<td>730</td>
</tr>
</tbody>
</table>

(a) Total includes NT roads trust.

**New Zealand**

New Zealand government has a two-tier structure (central and local government) modelled on the United Kingdom system with the British distinction between urban municipalities (cities and boroughs) and rural districts and counties.

Local authorities fund most of their own activities. Their financial independence increased significantly between 1986 and 1995; central Government grants were reduced from 20 per cent of their total funds to 2.4 per cent. Rates (taxes on property) are the primary source of funding for local government (Anderson and Norgrove 1996, 158).

Local government is not involved in education, social welfare, police or urban fire services, which are the responsibility of the central Government.

Following the reforms in the late 1980s, discussed in greater length below, local government comprises regional and territorial councils. The 12 regional councils are responsible for:

- coastal, harbours and rivers control;
- overall policies for urban and rural planning;
- water and soil conservation;
- regional transport planning and public transport funding;
- regional parks;
- pollution control and licensing; and
- pest control.

The 70 territorial authorities have responsibilities for:

- water supply;
- sewage and refuse collection and disposal;
- land drainage (stormwater);
– local roads and car parks;
– airports and seaports (corporatized);
– public passenger transport (corporatized);
– pre-schools (discretionary operation and funding aid);
– housing;
– forestry (frequently corporatized); and
– electricity supply (corporatized).

Territorial authorities also provide community facilities, and undertake local planning and regulatory activities (Anderson and Norgrove 1996, 142). Local government has little involvement in welfare services.

**Decentralization**

There has been some recent debate in New Zealand about the respective roles of national and local government in the two-tier structure. Peter McKinlay has distinguished four main ways of conferring functions away from the centre (McKinlay, 1998, pp. 8-9):

– *Devolution*: The transfer of power, authority and responsibility from a national to a sub-national level, often by legislation;

– *Decentralization*: The transfer of power and authority to more distributed forms of delivery by central Government;

– *Delegation*: The transfer of a function to some other agency but with the ultimate responsibility remaining with the central Government;

– *Contracting for services*: The purchase of specified services for an agreed price.

McKinlay concludes that “outside traditional areas such as the regulatory role of local government, the practice of devolution from central Government to local government is still relatively limited and occurs, most often, as a consequence either of central Government withdrawal of functions or funding or of central Government seeking to impose additional responsibilities” (McKinlay, 1998, p. 28). In practice, the major reforms in local government and in utilities in New Zealand have taken the form of decisions by central Government to radically alter the legal or commercial structures of organizations.

With the subordination of local to state governments in Australia, there has been little widespread or systematic decentralization or devolution of service delivery, however this is defined. Indeed, the recent history of utilities has seen state governments remove any remaining role of local governments as part of a wider restructuring as for example with the roles of local councils in electricity distribution in New South Wales and Victoria. In the state in which marketization and privatization in local government has been most evident, Victoria, the major impetus for change has been requirements for competitive tendering established by the state government alongside a number of other reforms which have institutionalized greater control by the state government of the operations of local municipalities.
Privatization

In services provided for municipal areas including the utilities, and in provision of services by local government, privatization has been extensive in both countries when defined in the broad terms I have suggested elsewhere (Paddon, 1998, 59-60):

- **Management privatization** which takes place through corporatization and commercialization of public services. Corporatization refers to changes to the legal form of utilities by incorporation under a different legal and accounting code to that which pertains to the public service. It may be linked to or precede the sale of assets. Commercialization is a broader term usually employed to convey importation of accounting and management practices devised in private companies into public organizations, including, for example, moves to transfer a greater responsibility for payment for services from general government revenue to service users.

- **Capital privatization** which occurs through the sale of whole operating units, plants or industries, or the partial sale usually by selling a proportion of the shares in a specific utility or activity.

- **Contracting out** which includes concession or leasing contracts and is also referred to as outsourcing. Essentially under these forms, the state normally retains the ownership of assets and continues to fund the service but the operation of the service or utility is transferred to a private operator or contractor with the result that labour, or employment, is the main factor which is privatized.

- **Finance or investment privatization** which refers to private funding of public infrastructure through such a schemes as build-own-operate and transfer (BOOT) and build-own-operate (BOO). Essentially under BOOT schemes the private developer/consortium funds, builds, owns, operates and maintains a facility. They operate the facility over a fixed term during which they can charge users through fees or other appropriate means. At the end of the fixed term the facility is transferred to the Government or agency. Build own and operate (BOO) are similar in that the private developer/consortium funds, builds, own, operate and maintain a facility and can charge users through fees or other appropriate means. The developer which owns the asset may assign operation and maintenance to a facility operator.

- **Deregulation** whereby state regulations which govern or limit the terms of entry to or operations within an industry are removed or reduced.

While these are logically and operationally distinct processes, in practice, they may be used sequentially (thus corporatization often precedes asset sales as with the case studies of Adelaide Water and Victorian Electricity in Australia discussed in detail below as case studies) or may be used in combination (such as the linking of BOOT/BOO schemes to leases or contracts for operating facilities as is the case of the water filtration plant at prospect in NSW, discussed in Sheil, 2000).
3. Decentralization and privatization of municipal services and utility services in Australia

A national policy framework with implications for utility reform and local government

Deregulation and management privatization (corporatization) have been common across the Australian states and in some applications in local government. This is partly a product of a series of agreements between the Australian states and the federal Government in the Council of Australian Governments (COAG), codified and extended in national competition policy (NCP) in 1995. NCP is a series of intergovernmental agreements intended to open up sections of the Australian economy, and particularly those in which governments operate, to greater competition. The agreements contained a medium-term programme of reforms to run from the 1990s into the middle of the following decade. These were incorporated into federal and state legislation; they are the basis of financial payments from federal to state governments; and are monitored by a newly created national body, the National Competition Council. The components of NCP which are significant in the areas of municipal services and utilities are:

- *Infrastructure reforms in electricity, gas, and water:* In the electricity industry, NCP reaffirmed and extended COAG agreements from 1991 to restructure the industry through separation of generation, distribution and transmission and to form a national electricity market in the eastern and southern states. NSW and Victoria are the states furthest advanced in implementing NCP electricity reforms. For NSW, the reforms have seen the establishment of three competing generating corporations, a consolidation of distribution into six utilities and the establishment of an independent transmission business. The National Electricity Market (NEM) has been in operation since December 1998 and NSW is operating the National Electricity Code and National Electricity Law. A third party access reform has been implemented, the state has an independent pricing and regulatory body (the Independent Pricing and Regulatory Tribunal, IPART) and retail competition is being introduced for consumers of more than 160 megawatt/hours.

In water, NCP reforms have included changes to pricing including consumption-based, full-cost pricing, and reduction or elimination of cross-subsidies; institutional reform to include separation of water management, standard-setting and regulation; limitation of new investment to schemes which are economically viable and ecologically sustainable; implementing comprehensive water allocation systems, with rights separated from entitlements and with trading in rights or entitlements. As part of the reform process, every state has introduced management privatization in water through corporatization.

- *Reform of public monopolies including rail, ports:* There are no specific policies under NCP for government-owned monopolies other than those in the utilities in water, gas and electricity nor do the agreements require governments to introduce competition or privatize their monopolies. However, if a government elects to privatize the monopoly or introduce competition, under NCP, it will separate regulatory from commercial activities. Under NCP, governments also agreed to review the commercial objectives of government businesses and their financial relationship with the government owner, including the merits of any community service obligations (CSOs) provided by the government business. Finally, there was a
commitment under NCP to review the regulatory regimes covering access to infrastructure used by government business enterprises.

In rail transport, for example, where government business enterprises operate 85 per cent of Australia’s rail track, there has been a requirement to provide access procedures to the rail infrastructure for carriers other than the state railways companies. The states and the Commonwealth have effectively gone further and sought to apply NCP de facto in rail, by an agreement reached in late 1997. This agreement is to implement a package of reforms to track connecting state capitals and ports and establish a corporation to act as a “one-stop shop” for national rail operators seeking access to track and other infrastructure.

- **Competitive neutrality arrangements**: These apply to business activities of all levels of government; Competitive neutrality (CN) requires that “significant government business activities” should not benefit from a net competitive advantage purely as a result of being publicly owned. Under NCP, governments are required to corporatize significant government-owned enterprises and designated government-owned businesses are required to ensure that their prices take account of all costs incurred, a commercial rate of return and include all taxes (either in practice or notionally).

- **Reforms in local government**: Under NCP, each state has introduced a policy framework for application of NCP to local government (Ranald and Thorowgood, 1997). This has generally focused on application of competitive neutrality to significant businesses operated by local councils. The Victorian state government which had previously introduced a legal obligation on councils to competitively tender proportions of their total spending with non-council service providers, linked this process (CCT) to NCP through an individual agreement with each council which made application of CCT one criterion for payment of a proportion of the federal NCP funds received by the state.

**Municipal and local government services**

Australian local government has been undergoing extensive and virtually continuous reform for over 25 years. The “first wave” reforms (Gerritsen and Osborn, 1997) were in the structure of local government; powers and responsibilities; forms of participation; funding; and the occupational structure and workforce management. These reforms are summarized in table 2.

Gerritsen and Osborn locate the impetus for these changes in international dynamics which affected governments across the globe.

This reform was partly externally generated and so common to all governments. It was largely a result of the international economic instability following upon the oil crises of the 1970s, the consequent collapse of the Keynesian macroeconomic paradigm and the universal governmental reaction to impose stringent fiscal discipline. The ongoing globalization of the world economy and the consequent pressures to maintain international competitiveness also required improved productivity of all government activities including local government. Much of the reform of Australian local government – in particular the changes to its management structure and practices – reflect common international modes, usually labelled “managerialism”, of revitalizing the public sector (Gerritsen and Osborn, 1997, p. 55).

Even were this to provide an adequate analysis of the pressures for reforms, the continuation of the reform agenda from the mid-1990s has comprised elements which are specific to Australia. One of the major pressures for continuing change in local
government services for which there are “markets” has been the adoption of NCP in 1995. One area of local government activity in which NCP has conferred major obligations has been for water and waste water services in those states where these are delivered by local councils. This is discussed at greater length below. In addition, while local government in all states has probably increased the contracting out of service to non-council providers, the state of Victoria made it compulsory for councils to competitively tender services with external providers. The result was the introduction of market competition for most services; the actual or virtual corporatization by councils of services; and substantial privatization through the contracting out of service provision. A detailed consideration of CCT in Victorian local government and its implications for labour is given in case study A later in this report.

Table 2. Major reforms in local government since the early 1970s

<table>
<thead>
<tr>
<th>Areas of reform</th>
<th>Major changes in past 25 years</th>
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<tbody>
<tr>
<td>Number of authorities</td>
<td>Peak of 1,102 (including Aboriginal community councils) reducing to just over 700 due to council amalgamations in most states, compulsory in Victoria.</td>
</tr>
<tr>
<td>Functions</td>
<td>Broadening of activities and move into human and social service areas with councils given broader powers to act under most state legislation.</td>
</tr>
<tr>
<td>Funding</td>
<td>Major change is that previously state governments provided 75 per cent of financial assistance to councils, now Commonwealth Government is the major funder. With growth of human and social services, use of borrowing for capital projects has declined.</td>
</tr>
<tr>
<td>Accountability</td>
<td>Major, formal accountability is to the state or territory but shift to less prescriptive more process oriented forms of accountability with greater emphasis on community and electors.</td>
</tr>
<tr>
<td>Competition policy, commercialization, competitive tendering</td>
<td>National competition policy (NCP) agreements from 1995 apply to all councils. Councils review all major services in terms of corporatization, commercialization and costing. Increasing use of competitive tendering which is compulsory in Victoria between 1994 and 1999.</td>
</tr>
<tr>
<td>Industrial relations and human resources</td>
<td>Major restructuring of industry wide awards/agreements and move to enterprise and local bargaining. Adoption of equal opportunity policies. Removal of some statutory qualification requirements; reforms in training including establishment of national competency standards.</td>
</tr>
</tbody>
</table>

Source: Adapted from Gerritsen and Osborn, 1997.

The contracting out of services and local government reorganization have both contributed to the significant reductions in employment in the states which were the largest employers in 1991, NSW and Victoria. As table 3 indicates, the number of local government employees fell by 26 per cent in NSW between 1991 and 1999 and by 32 per cent in Victoria. These reductions were responsible for the decline in overall employment in Australian local government of 13 per cent over the same period.
Table 3.  Local government employees, 1991-99

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<tr>
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<tbody>
<tr>
<td>NSW</td>
<td>60.6</td>
<td>45.0</td>
<td>-26</td>
</tr>
<tr>
<td>Victoria</td>
<td>46.1</td>
<td>31.5</td>
<td>-32</td>
</tr>
<tr>
<td>Queensland</td>
<td>28.8</td>
<td>36.0</td>
<td>+25</td>
</tr>
<tr>
<td>South Australia</td>
<td>8.6</td>
<td>8.0</td>
<td>-7</td>
</tr>
<tr>
<td>Western Australia</td>
<td>11.3</td>
<td>13.5</td>
<td>+16</td>
</tr>
<tr>
<td>Tasmania</td>
<td>4.0</td>
<td>3.7</td>
<td>-8</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>1.1</td>
<td>2.5</td>
<td>+127</td>
</tr>
<tr>
<td>Total</td>
<td>160.6</td>
<td>140.1</td>
<td>-13</td>
</tr>
</tbody>
</table>


Water services

There have been three different forms of institutional arrangements involving state and local government authorities in the provision of water, sewerage and drainage services (Johnson and Rix, 1993):

- **Unitary authorities**: In the states of South and West Australia and the two territories (NT and ACT), there has been a single state agency administering and running water services.

- **Local government agencies (LGAs)**: In Queensland, water services are primarily the responsibility of local governments.

- **Combination of statutory authorities and LGAs**: In the remaining three states, Victoria, NSW and Tasmania, administration is divided between central, statutory authorities and LGAs. In NSW there are two principal statutory authorities, Sydney Water and the Hunter Valley Water Corporation, and two smaller water boards at Broken Hill and Cobar. The remainder of the services state receives water services from 110 councils which provide water to nearly 600,000 premises with a total revenue of around A$209.6 million. Six of the state’s remaining county councils provide sewerage services as do 119 councils. Between them they service over 582,000 premises to the total value of A$222.5 million (NSW department of local government, 1999).

A series of reforms have taken place in the water industry promoted by COAG and subsequently refashioned as part of NCP. This has seen corporatization of the state-owned water enterprises in all states and reviews by councils of their water services as part of their separate obligations as local government bodies under NCP. Local councils have reached a range of different conclusions from these reviews about reforms they should make to water services. But in all cases, this has resulted in some reforms: either corporatization, greater commercialization, or fundamental changes in pricing structures so that prices charged are more reflective of the full costs of provision.

In NSW the state’s policy for the application of NCP to local government has been to distinguish between local government businesses with annual sales turnover greater than $2 million, which are expected to be corporatized, and those with annual turnover of less than this, which must apply measures to commercialize their activities, but are not obliged to be corporatized. For most councils in the state, particularly those outside the main urban...
areas, the principal businesses that they operate are in water or sewerage. There are no competitors for these services and most councils deem them to be fulfilling community service obligations. In all, councils in the state identified 160 council businesses under the terms of NCP in water and sewerage operations: three of these had turnovers of more than $1 million; 152 had turnovers of between $500,000 and $1 million; 100 had turnovers of between $100,000 and $500,000 and the remaining 15 operated with a turnover below $100,000 each year (National Office of Local Government, 1999).

In Queensland, the interpretation of NCP for local government has required that the state’s 18 councils with significant business activities conduct a public benefit assessment (PBA) to assess the net public benefit of applying one of three identified competitive neutrality reforms: corporatization, commercialization or full-cost pricing. These councils identified 25 significant business activities, 17 of them in water and/or waste services. Of these 17, councils have resolved to apply full commercialization to 11, including Brisbane, the largest water service organization in the state. Fifteen of the councils already meet the charging requirements of legislation and all are implementing strategies to disclose any cross subsidies (National Office of Local Government, 1999, 204). In addition to these large facilities, another 75 local councils have elected to consider application of competitive neutrality policies and the main components of NCP water reforms to their water and sewerage activities even though they are not mandated to do so under the legislation.

Similarly most councils in the state of Tasmania are applying full-cost pricing in their water and sewerage activities. As part of the process of restructuring, the state is venturing in the direction of decentralization by transferring responsibility for water authorities to the constituent local councils in one of the few illustrations of transfer of responsibilities from state to local government in Australia. The Hobart Regional and Esk Water Authorities had been transferred by 1998 and the North West Regional Water Authority was scheduled for transfer in 1999 (National Office of Local Government, 1999, pp. 210-211).

South Australia is the only state to have privatized water services through a contracting out arrangement. The impacts of this on labour and on service quality are discussed in detail in case study B. In most other states there has been outsourcing of specific activities, or, as has been the case in NSW, “investment privatization” through the involvement of private, multinational companies in water treatment plants or other capital investment projects (Sheil, 2000).

**Electricity**

Historically, state governments in Australia, with the partial exception of Queensland and New South Wales, have vested responsibility for the generation, transmission and distribution of energy in a single, integrated state authority (Johnson and Rix, 1991).

In NSW itself, the changing role of local government in electricity supply in the twentieth century could most accurately be described as concentration rather than decentralization. Local councils were originally given the right to supply electricity in the early 1900s (Hogg Report, 1997). In 1919 county councils, comprising nominees from directly elected local councils, were established to bulk purchase electricity from

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1 The NCP agreements allow for the application of a “public interest test” in reviewing NCP-related reforms, and competitive neutrality in particular, to ensure that the net benefits of a reform outweigh the costs. The agreements and legislation are not prescriptive about the form these should take but a number of potential issues to be considered are listed.
generators and to supply electricity services across member’s local council areas. By the 1940s there were a total of 187 electricity supply authorities in the state the majority of them local government bodies. In 1980, the number of county councils distributing electricity was consolidated to 25 with four urban councils accounting for 80 per cent of total sales. In the major restructuring of the industry in NSW in anticipation of the NCP reforms the 25 county council distribution businesses were aggregated into six businesses with their network functions separated from retail services. The transmission activities of the states power company, Pacific Power, were established in a separate organization, Transgrid. The generating capacity of Pacific Power was divided into three competing businesses: Pacific Power, Macquarie Generation and Delta Electricity. In 1996 all the newly established generation and distribution businesses were corporatized as state-owned corporations, with the exception of Pacific Power which was established as a corporation under different legislation with implications for the continuing role of the state government.

The electricity reforms associated with NCP, have seen common processes across the states in terms of disaggregation of state electricity organizations with generation, distribution and transmission being separated out and with corporatization of remaining state-owned enterprises. Competition with deregulation and the introduction of contestable markets is becoming increasingly evident particularly in the eastern states. Two states have privatized electricity, South Australia and Victoria. The impact of restructuring and privatization of electricity in Victoria on labour is discussed in detail in case study C. In New South Wales, where the electricity industry was disaggregated and corporatized in 1995/96, government proposals to privatize the industry were shelved in 1998/99 because of a widespread campaign of opposition orchestrated by the unions and a subsequent state election in which the party most clearly advocating privatization was defeated overwhelmingly (Macdonald and Bray, 2001). The repercussions for labour of the corporatization of electricity in NSW are outlined in case study D.
4. Decentralization and privatization of municipal services and utility services in New Zealand

Municipal and local government services

In 1987, the Labour Government in New Zealand announced a review of the structure, functions, funding, organization and accountability of local government. However, the review was underpinned by a political position which sought to minimize the role of government. Thus the Government stated that “[a]s a fundamental principle it is agreed that local or regional government should be selected only where the net benefits of such an option exceed all other institutional arrangements” (Anderson and Norgrove, 1996, 134).

The central Government became convinced of the need to separate the commercial and non-commercial objectives of local government, and the activities which supported them. The professed aims of the reforms were to get more responsible management of publicly owned resources, and to achieve a higher standard of accountability and transparency in local government (Anderson and Norgrove, 1996, 135). In practice these views led to concern with:

- the dual responsibility for policy formulation and implementation held by senior council management;
- the lack of contestability in service provision;
- the absence of commercial structures for council “trading” activities;
- the lack of suitable incentives and accountability arrangements; and

There was also concern that the small size of local authorities meant that economies of scale were unattainable and there were inadequate resources to attract skilled managers.

The Local Government Commission (LGC) was given the task of developing a plan to reorganize local government. The LGC was given the capacity to make binding decisions about the restructure and it acted swiftly to bring about change within 12 months. It was required to consult with local authorities but they could not make formal objections to the LGC’s proposals. Amalgamations were a major component of the restructuring programme. In 1989 there were a total of 741 territorial authorities, regional councils and special purpose authorities. By 1990 there were 92 local government bodies. The greatest reduction was in the area of special purpose authorities (reduced from 500 to six). Territorial authorities were reduced in number from 219 to 73 in 1990 and 70 in 1996, while regional council numbers declined from 22 to 12. A small number of “unitary councils” were established during the reform process.

Corporatization and privatization

A proposal for compulsory corporatization of the trading activities of local governments was discussed as part of the reform agenda initiated in the late 1980s. However, the decision was that rather than impose compulsory corporatization councils should be required to consider all possible forms of service delivery in each case. These
options included companies, partnerships, trusts, incorporated societies and, most importantly, local authority trading enterprises (LATEs) and contracting out (Anderson and Norgrove, 1996, 145). However, in some areas, such as transport services where the central Government has significant financial input, there was mandatory corporatization (Kelsey, 1995, 130).

Local authority trading enterprises (LATEs) have been a key feature of the reform of service delivery by local government. The Local Government Act provides an extensive definition of LATEs: these may be companies in which the council controls equity shares conferring more than 50 per cent of voting rights; companies established for trading purposes with the intention of making a profit, in which councils hold 30 per cent or more of voting shares; or companies in which councils have the right to appoint trustees or directors. The legislation prescribes that the principal objective of every LATE must be “to operate as a successful business”.

The legislation also contains detailed provisions on the contractual position, rights, liabilities, and accountability mechanisms applying to LATEs. The types of functions which have become LATEs include water supply, drainage, sewerage, refuse collection and disposal, property, forestry, and street maintenance and cleaning (Anderson and Norgrove, 1996, 147). In the early 1990s the national Government attempted to force the privatization of particular LATEs. Some proposals, such as the sale of Auckland ports, met with community opposition which resulted in the national Government adopting a more cautious approach (Kelsey, 1995, 130).

Local authorities have also developed “stand-alone business units” (SABU). “Business unit” is the name given to a corporatized trading activity which has separate accounts and contracts with other council departments for services. Employees undertaking the functions are employees of the council (Anderson and Norgrove, 1996, 147). Business units tend to be the preferred structure, as opposed to LATEs, when there is no intention to operate the service as a profit-making venture.

In the 1990s, the options available to local authorities with respect to the delivery of service have, therefore, been:

– exiting from the activity entirely – either by sale or closure – and leaving it over to the market to decide whether and on what terms to provide the service;

– exiting from the activity but regulating to set standards (where the appropriate by-law or other regulatory powers exist);

– contracting out part or all of the activity to the private sector;

– corporatizing the activity (and retaining ownership control);

– continuing to act as a service deliverer; through a conventional operating division of a council or a “stand-alone” business unit (Anderson and Norgrove, 1996, 148).

As a result of reforms and the establishment of LATEs and SABUs, the role of councils in direct service provision has declined significantly. Prior to the 1989 reforms, council departments directly delivered 70 per cent of the council services. This had fallen to 26 per cent by 1994, with a shift to services being provided by business units (34 per cent), a mixture of private sector and council departments or business units (31 per cent) and LATE’s (8 per cent). As at June 1996 there were 36 LATE’s operating in New Zealand (DIA, 1994, in Anderson and Norgrove, 1996, 147).
In 1992, regional councils were further affected by a drive to reduce the role of the public sector. An amendment to the Local Government Act required that:

... a regional council shall not carry out its works or perform its functions by using its own staff unless it is satisfied that the advantages of this option for the ratepayers of the region clearly outweigh those of any other option (Anderson and Norgrove, 1996, 142).

Thus the expectation was that functions would be contracted out unless a council could clearly demonstrate a justification for not doing so. The in-house option was only available in exceptional circumstances. In an organizational sense, this approach to service delivery meant that it was unlikely that a regional council would have the capacity or competence to deliver many services in-house. This provision did not apply to territorial authorities but they have nevertheless contracted out many functions.

The national Government newly elected in 1999 has adopted a different approach to relations with local government overall based more mutual agreement and cooperation than direction from above.

**Employment in local government**

Local councils have been significant employers in local communities. In 1993, ten authorities employed more than 500 people with the largest employing almost 2,000. By 1997, there were around 34,000 people working in local government, around 3.5 per cent of total employment in the country.

During the reform and amalgamation process there were some interim protections for the wages and conditions of employees. The new authorities were also required to retain employees with more than five years’ continuous service for another two years. However, the emphasis on reducing the roles of councils and authorities in service provision has meant significant reductions in employee numbers within local government. In many cases this significant shift created industrial unrest (Anderson and Norgrove, 1996, 153).

The Employment Contracts Act, 1991, replaced a collective regime of wage bargaining with an individualized system. Some general pay increases continued to be awarded but the focus of bargaining became performance. Anderson and Norgrove (1996, 154) argue that “the last few years have seen some tensions between the emphasis on performance ... and the ‘good employer’ provision”. Authorities are required to undertake equal employment opportunity programs and report on their success in annual report.

**Water services**

The local government reforms initiated in the late 1980s, particularly the establishment of LATEs, have had a direct impact on how councils have considered the continuing provision of water services. The first council to establish its water and waste water supply as a LATE was Auckland. Operating the city’s water services through the LATE has generated a significant community reaction because it has entailed a move from payment for waste water services through the rates bill to households (as part of the annual “tax” raised by local councils) to direct payments for usage.

The first proposal that Auckland’s NZ$100 million a year water supply and waste water disposal operations should be run by a council-owned company as a LATE was made in early 1997. The attraction for some council members was that profits from the LATE, after allowing for reinvestment, would be returned to the council for use in
charitable purposes. Property owners would pay for sewage disposal through user charges, as they do now for water. Historically waste water charges have been part of rates, which comprised about 20 per cent of rate bills.

After initially rejecting the proposal, the council voted in April 1997 to approve the corporatization and for a move to user charging for sewage and waste water. The council promised that rates would be cut by 20 per cent consistent with this move to user charging.

The proposal was opposed by a widely based community coalition, the fair deal coalition, a lobby of 42 groups ranging from trade unions to grey power. Sixty-nine per cent of the submissions made to the council concerning the setting up of the LATE (the corporatized entity) were opposed to the proposal. Major issues of concern were the scale of the transfer of assets to the corporatized entity and the funding of much needed upgrades to the sewage and waste water systems.

The new council-owned company, Metro Water, started operations on 1 July 1997 with a book value of NZ$180 million, plus a working capital of NZ$15 million. This was raised by the issue of NZ$120 million in shares to the council, which is the only shareholder, plus a NZ$75 million loan either from council or another source (the Water Pressure Group, 2001).

The LATE has continued to be controversial with the organization of campaigns of disobedience including boycotts by consumers who have refused to pay user charges for waste water.

According to the campaign organization which is seeking the abolition of Metro Water, the Water Pressure Group, the adverse publicity around the LATE has led other councils, including Dunedin and Waipa, to reject proposals for establishment of water LATEs or for further commercialization of water services (the Water Pressure Group, 2001).

The New Zealand central Government initiated a “water review” in 1998/99 under the auspices of the Ministry of Commerce. The intention was to promote a reform agenda implementing further corporatization or franchising of and competitive tendering for water and waste water services on the argument that this would generate efficiencies in the industry (LGNZ, 2000).

The following year, the Government passed the review of water over to local government to manage. However, the change in national Government at the end of 1999 signalled the end of the “water review” as such. The new Government has set the foundations for a new project: “one of targeted and incremental improvement to local government’s performance on these issues as well as the review of the legal and regulatory framework carried out in close partnership with the Government and all ‘water stakeholder’ organizations” (LGNZ, 2000, p. 13).

As part of its preparations of material for the planned water review, Local Government New Zealand (LGNZ) commissioned a survey of current water service delivery mechanisms which provides a snapshot of the changes which had been taking place in local government water services up to 1999 (LGNZ, 1999).

The survey of 20 councils indicated that most councils continue to see themselves having an important role in water and waste water services as coordinators and managers of services in a local area. For some councils at least some services could be tendered out. This was reflected in the contracting out of key maintenance and operations by 12 of the councils. Two councils put all aspects of their operations through competitive tendering processes. However, a number of councils saw themselves retaining a role of “hands-on
provision” with all services provided through in-house operations (with the exception of capital development which is, in practice, now contracted out throughout local government). Thus, eight of the councils surveyed did not competitively tender any services other than capital development on the grounds that (LGNZ, 1999, pp. 6-7):

- in-house delivery of water services is considered the most viable option;
- it is in the communities’ interest to retain local authority control of these services.

None of the councils interviewed had established a LATE for water or waste water services. One had considered doing so but had rejected the idea on the grounds that LATEs, unlike in-house operations, would be obliged to pay tax on any surpluses generated and LATEs are not covered by central Government contingency insurance. Ten local authorities had established LATEs for services other than water and waste and three of these had subsequently sold their LATEs. Ten local councils had decided not to establish LATEs at all (LGNZ, 1999, p. 10).

In general, the report of the survey concluded that the LATE’s model is not favoured for water and waste services. Contracting out of specific activities is seen as more effective than corporatization through LATEs. Paid officials in local councils are more favourable disposed toward commercialization of water services than councillors or the communities they represent (LGNZ, 1999, p. 10).

This is not to say that local councils are not looking for areas for reform in water services. Ten councils indicated they were reviewing their operations and/or seeking ongoing changes in anticipation of wider restructuring in the industry. A number of councils see cooperation with neighbouring local authorities as a means of achieving the potential economies delivered by larger scale in operations (LGNZ, 1999, p. 11).

Electricity

Prior to the mid-1980s, the electricity industry in New Zealand was controlled by the State. The central Government was responsible for generation and transmission and it franchised distribution to supply authorities (Wylie, 1996, 2).

The Government commenced its programme of reform to the industry by creating the Electricity Corporation of New Zealand (ECNZ) in 1986 as a corporatized state-owned enterprise (SOE). Throughout the 1990s, the industry was disaggregated, and deregulated with further corporatization and with privatization of a significant section of the generation industry.

- **Disaggregation**: Transmission was separated from electricity generation in 1994 with the establishment of a new transmission SOE, Transgrid. The state-owned generator was split into two a year later with Contact Energy being established as a separate SOE, producing 22 per cent of the country’s electricity. ECNZ remained as the largest generator in New Zealand producing around 40 per cent of total energy. This changed in 1999 when ECNZ was separated into three SOEs: Mighty River Power, Genesis Power and Meridian Energy.

- **Corporatization and changing legal structures**: Until the early 1990s the key participants in the distribution and retail sector of the industry were:
  - power boards operating under the Electric Power Boards Act, 1925, and subsequent amendments;
local authority-owned operations (MEDs) operating under the Local Government Act, 1974;

the government-owned Southland Electric Power Supply (SEPS); and

ECNZ direct supply to six large consumers.

The dominant organizational characteristic of the distribution sector was that the power boards were almost totally controlled by locally elected representatives. Power boards were special purpose local authorities in the First Schedule to the Local Government Act.

In 1989 the Labour Government passed legislation ending the election of members to the power boards. In 1990, the Government decided that MEDs would remain in local authority ownership and that electric power boards would be owned by community trusts but would have commercial directors appointed by the Government. Following the 1990 election, the incoming national Government confirmed that corporatization of power boards should proceed. However, the ownership issue was reconsidered. The Energy Companies Act, 1992, came into force on 1 July of that year following “several years of often acrimonious debate between advocates of privatization, supporters of continuing but stand-alone public ownership and a minority who believed that ownership should vest in local authorities as the best available representatives of the communities served by the former power boards” (Electricity Industry Reforms, 2000, 1).

The Act provided for the formation of “energy companies” and the vesting of the undertakings of the existing electric power boards in these companies. In each individual case this process would occur by means of an establishment plan which would detail how the undertakings of the power board would be vested in the energy company. Under the Act the establishment plan was to be prepared by the directors of the existing power board who were required to consult with the previously elected members of the power board who were appointed as “interim trustees” of the power board.

The Minister of Energy issued guidelines for establishment plans that encompassed three broad principles for proposals:

- they were to be consistent with the aims of the reforms, to introduce competition and contestable ownership by establishing ordinary companies under the Companies Act preferably with fully tradable shares;
- they were to safeguard the future financial stability of the company particularly in ensuring access to capital and equity;
- subject to the other principles, they were to reflect any clear logical preferences expressed through the local consultative.

The majority of power boards have ended up as private bodies established under the 1956 Trustee Act and as such are legally no different from a discretionary private trust (even though their trustees may include local authority members) This means that they have none of the types of reporting and accountability requirements normally associated with public bodies. Nor are they bodies which, in their legal form, are “intended to be vehicles for the pursuit of social objectives. Instead they are intended to be custodians of wealth in the interests of beneficiaries” (Electricity Industry Reforms, 2000, p. 9).
There were a number of mergers and takeovers around the establishment of the new legal structures. These have had two effects. Firstly the number competitors in the industry was reduced. In 1985 there were 61 electricity distributors in the country; by early 1996 there were 38, 25 on the North Island and 13 on the South Island; and by mid-2000 there were only 31 (Auckland Inquiry, 1998, p. 25). Secondly, it has given access to the industry to a number of private companies including transnational corporations. The main TNC players were Alberta-based TransAlta and Utilicorp from Kansas (Kelsey, 2000). Capital Power and Energy Direct merged into TransAlta NZ controlled by the Canadian-based TransAlta Corporation. Utilicorp (NZ) is owned by Utilicorp (USA) and New Zealand’s Todd Corporation (Paddon, 1998). Utilicorp has shares in WEL Energy Group Limited. Concerns about the potential for further concentration in the industry prompted the passage of the Electricity Industry Reform Act in 1998, prohibiting any company from owning both electricity line businesses and retail or generation businesses. TransAlta, the largest electricity retailer in the country threatened to pull out of the country if the Government proceeded with the plan, because of its interest in acquiring a share in Contact Energy when it was privatized in the same year. In practice, the legislation created new opportunities for mergers and takeovers albeit between generators/retailers and transmission/distribution “consolidating control of electricity into fewer, and increasingly transnational, hands” (Kelsey, 2000). A majority of energy companies retained their distribution businesses but sold their retail arms. At the same time, generating companies expanded into retail. The net result was a decline in the number of retail companies from 40 to 11 (Ministerial Inquiry, 2000, p. 17).

– **Privatization:** The more conventional capital privatization has been the sale of the generating company, Contact Energy, in 1999. The sale was through a 40 per cent “cornerstone” shareholding to be awarded to a single company after tender, with the remaining 60 per cent sold by public float. Two companies were in the final bidding for the cornerstone shareholding: TransAlta and US-based Edison Mission Energy. TransAlta was already the country’s largest energy retailer, with 530,000 customers. The strategic stake went instead to Edison, for NZ$1.21 billion. Contact Energy ended up nearly 62 per cent overseas owned. In addition to Edison’s 40 per cent, another 18 per cent of shares were reserved for offshore institutions, 14.4 per cent for New Zealand/Australian institutions and 27.6 per cent for the New Zealand public. It is estimated that around half the shares issued to offshore institutions were sold for instant profit in the first three days (Kelsey, 2000).

– **Deregulation/re-regulation:** The industry has been progressively deregulated over the period of the other reforms. In 1993 for example, the geographical franchises in distribution and retail were removed introducing a potential (if not a reality) for greater competition. Deregulation has the result that the main laws governing the industry are the general competition laws, the Commerce Act, which relate to generic requirements for competition in all industries rather than being specifically directed toward electricity. However, there has been some re-regulation to control the constellations of ownership within the industry. The 1998 Electricity Reform Act aimed to prevent reintegration within the industry by requiring that companies owning transmission lines or operating in distribution should be separate from those in generation and retail. Any overlapping ownership in breach of these requirements was to be disengaged by 2004. The issue of industry regulation was one of the major themes of the Ministerial Inquiry into electricity in 2000. The report of the Inquiry, now incorporated into legislation, recommended that the industry remain essentially self-regulated but that the Government should establish a mechanism for external intervention if this is needed through an electricity governance board. Similarly a potential for price controls has been put in place through establishment of a commerce commission which will set thresholds for the industry as whole and has
power to place price controls on individual companies if these thresholds are
breached.

**The current structure of the industry and future reforms**

**Generation**

The largest single generator in New Zealand is Meridian Energy, one of the three SOEs formed with the break-up of ECNZ. The three SOEs produce a total of 60 per cent of the country’s electricity (Genesis producing 19 per cent and Mighty River 13 per cent). The privatized Contact Energy generates one-quarter of the country’s electricity (Ministerial Inquiry, 2000, p. 20).

**Distribution**

There are now 31 distribution companies serving between 5,000 and 500,000 connections. The largest is United Networks which operated in Auckland, the Bay of Plenty and Wellington. Table 4 indicates the nature of the structures and trusts which own the distribution companies. The majority of companies are trusts or cooperatively owned (Ministerial Inquiry, 2000, pp. 13-18).

**Retail**

The largest single retailer in the country is NEC which supplies 34 per cent of the market followed by Contact Energy which supplies 21 per cent. The next three largest retailers are the SOEs, Mighty River, Meridian and Genesis Power. These five largest retailers together make up 84 per cent of the market (Ministerial Inquiry, 2000, 17).

**Future reforms**

In February 2000, the newly elected New Zealand Government initiated a Ministerial Inquiry into the electricity industry with a particular focus on regulation. The Inquiry reported in June and in December 2000; the Government announced its reform measures aimed at implementing recommendations from the Inquiry. The Government’s proposals superseded the reform agenda of the previous Government. In its announcement, the Government stated as its overall objective “to ensure that electricity is delivered in an efficient, fair reliable and environmentally sustainable manner to all classes of society” (Government policy statement, 2000). The policy contains continuing commitments to competition and contestability in the industry. It states a government preference for industry solutions but sets guidelines for the industry, notably in an expectation that the industry will itself establish consumer complaints systems for retail and distribution companies. The major initiative by the Government itself is the establishment of a governance board to establish industry wide rules on issues such as wholesaling, transmission (including establishment of a pricing methodology) and for distribution connections. Essentially the reforms contain no substantial proposals in the industry’s supply side but are attempting to improve the position of customers through a “light-handed” combination of industry self-regulation and government-sponsored rule setting.
Table 4. Ownership of electricity distribution companies in New Zealand, 2000

<table>
<thead>
<tr>
<th>Ownership</th>
<th>Number of companies</th>
<th>Number of connections</th>
</tr>
</thead>
<tbody>
<tr>
<td>100 per cent trust or cooperatively owned</td>
<td>22</td>
<td>697 000</td>
</tr>
<tr>
<td>100 per cent owned by local body</td>
<td>5</td>
<td>272 000</td>
</tr>
<tr>
<td>Mixed ownership: Majority owned by local body or trust</td>
<td>3</td>
<td>245 000</td>
</tr>
<tr>
<td>Mixed body: Majority owned privately</td>
<td>1</td>
<td>470 000</td>
</tr>
</tbody>
</table>


Prices and quality of service in the restructured electricity industry

One of the major claims made for deregulation, increased competition and, indeed, privatization in the industry has been that they would benefit consumers and lead to an overall reduction in pricing. Throughout the period of deregulation and reform there have been major concerns amongst consumer groups about their impacts.

Consumer groups have claimed that prices have risen for domestic consumers and there has not been a corresponding fall in the charges paid by commercial consumers. The profit margins of electricity companies have increased at the expense of both groups of consumers. The pricing structures used by many companies disadvantage small consumers, and many contracts do not give consumers adequate protection or recourse mechanisms in the event of a dispute (Consumer, 1997).

Companies argue that prices have risen for domestic consumers because cross-subsidies have been removed. Domestic consumers now pay the full price of their service, rather than being subsidized by the higher prices paid by commercial users (Consumer, 1997, 4-6). Lowest prices in the industry are for industrial users and have been for many years. They have remained close to seven cents per kWh for 20 years between 1979 and 1999 (Ministerial Inquiry, 2000, p. 19). It has been argued that resource-intensive companies have been able to use their influence to secure special, often secret deals on electricity. For example, Comalco NZ had been supplied with cheap electricity for its aluminium smelter at Bluff. When Comalco renegotiated its contract in late 1993, the company secured exclusive access to around one-sixth of the country’s current total electricity output. This guaranteed it supply for twenty years. Although the price would almost double by 2010, it would increase only 10 per cent in the first decade. In 1994/95 the price Comalco paid for power was 2.5 cents a kWh (Kelsey, 2000).

It is arguable that commercial users have also benefited from price changes over the past 20 years. Prices have declined fairly steadily from a high of 20 cents per kWh in 1980 to around 12 cents in 1999. However, residential users’ prices have risen from a low of nine cents in 1985 to a high of 14 cents in 1998 and 1999. And it appears that these prices rises are not purely attributable to price rebalancing between categories of consumers. “The difference in domestic versus commercial user price trends over the last decade has been attributed in part to the gradual removal of pricing structures whereby commercial users subsidized residential customers. It is clear, however, that this is by no means a complete explanation as some companies had completed this rebalancing by 1996” (Ministerial Inquiry, 2000, p. 19).

The structure of electricity pricing has also been a cause of concern, particularly for domestic consumers. Prices are made up of a fixed charge relating to access to the network and a variable charge associated with actual consumption. In cases where the fixed charge makes up a high proportion of the overall bill, small consumers are disadvantaged and
energy conservation is not promoted. This has also contributed to a significant disparity in the prices charged by companies which has been another concern for consumer groups (Consumer, 1997, 8).

Further sources of concern in the past have been the content of contracts between electricity companies and consumers and an absence of standardized dispute resolution procedures (Consumer, 1997, 8-9). The Ministerial Inquiry and the Government’s response indicate that these issues have yet to be adequately dealt with. The experience of the decade or more of deregulation and competition suggests that these are issues for which the industry itself has not made provision. This may question the feasibility of the approach now being promoted of allowing the industry to take responsibility for regulating itself with only limited and light handed intervention on specific issues by the Government.

**The effects of privatization on labour in a deregulated labour market**

The wider moves to a deregulated economy in New Zealand, of which the reforms in local government, energy and water were a part, have impacted on direct employment and working conditions through two processes. The first have been the changes in employment and working conditions associated with corporatization and privatization per se. The second, and arguably more substantial in terms of its impact on labour overall, has been the deregulation of the labour market, public and private, by the Employment Contracts Act.

Electricity was corporatized in New Zealand in 1986 through the State-Owned Enterprises Act. Despite a “good employer” clause in the legislation, corporatization resulted in major job losses in the electricity industry, along with all other sectors. Between 1987 and 1990, employment at ECNZ reduced from 5,999 to 3,690. The State Services Conditions of Employment Act, 1988, gave state-owned enterprises powers equivalent to those used in the private sector in relation to the workforce. The legislation has been described as the forerunner of the Employment Contracts Act (Kelsey, 1995, 123). The Employment Contracts Act came into effect in 1991 and replaced a system of national award coverage and compulsory unionism with individual employment contracts and a focus on one-to-one bargaining between employers and employees (Kelsey, 1995, 180-181).

The changes to the industrial relations system have applied to both public and private sector employees. However, the removal of the elements of national bargaining and compulsory unionism is likely to have had a particular effect on employment and working conditions of employees affected by the restructuring and privatization in the public sector. The use of individual contracts made it difficult to track changes in employment conditions, as such contracts are confidential.

The Employment Contracts Act rejected national award coverage and compulsory unionism. Under this system, employees negotiated with employers on a one-to-one basis, although there was provision for representation and contracts could cover a number of people. Unions had no greater rights than any other prospective representatives, and had no right of access to workplaces where they were seeking the authority to represent the workers. Contracts were not publicly available documents, even when they covered a group of workers (Kelsey, 1995, 180-181).

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1 This section is summarized from Paddon, 1998.
5. Case studies

A. Competitive tendering and contracting out by Victorian local government ¹

The cornerstone of local government reform in the Australian state of Victoria between 1993 and 1999 was compulsory competitive tendering (CCT), the mandatory market testing of council services introduced by state government legislation. Contracting is not new to local government (Evatt Research Foundation, 1990). However, in the 1990s councils increased their use of contracting out and this was closely associated with attempts to control or restrict levels of public expenditure as local government came under greater financial constraint from other levels of government (Paddon and Thanki, 1995).

Victorian CCT, like the United Kingdom experiment on which it was fashioned, placed a legal requirement on local government to invite competitive tenders from non-local government organizations to deliver its services. Its unique features were that local government was required to subject increasing proportions of council expenditure to market testing: 20 per cent in 1994/5, 30 per cent in 1995/6 and 50 per cent in 1996/7. The legislation did not prescribe the services to be contracted out, so that the selection of specific services was notionally part of the CCT implementation strategy. (Ernst, Herbert and Glanville, 1994). The legislation established a self-reporting regime rather than using third parties to monitor compliance with competitive tendering requirements, though the government later increased monitoring and control of council decisions and activities through bodies such as the CCT Review Panel in 1996 and the Victorian Auditor General.

National competition policy (NCP) was adopted in 1995 when CCT was into its second year of application. As part of NCP all state governments were obliged to develop policies for its application in local government (Ranald and Thorowgood, 1997). While NCP did not require states to implement competitive tendering or contracting out of public services, Victoria made CCT central to the application of NCP in local government. As part of the NCP the federal Government is making a number of tranche payments to states for implementation of the agreements. In an arrangement unique amongst the states, the Victorian Government signed an agreement with each council under which payments were directed to councils from the NCP tranche in return for progress with key elements of NCP. Meeting CCT targets was one of the four elements contained in these agreements.

CCT was a component of a broader agenda of the state government in Victoria to reshape the operations of local government. The nature of these changes and the processes adopted amounted to a significant assertion of the control of local government by the higher tier. As such, it exemplifies a concentration and centralization of authority rather than decentralization. The immediate architect of the reform package was the Local Government Board (LGB) established by the state government in 1993. The LGB made sweeping recommendations to government which resulted in the dismissal of all councils; the selection and appointment of local government commissioners by Cabinet; the appointment of interim chief executive officers; and the timeframe for implementation of CCT.

As a solution to the perceived problem that recurrent expenditure and charges by Victorian councils was higher than other states it was proposed to amalgamate councils to lower council per capita expenditure on administration (Kiss, 1997). Thus, the first major

¹ This case is summarized from Teicher and Van Gramberg, 2001.
reform was the statutory restructuring of local government with the number of councils reduced from 210 to 78 between August 1993 and January 1995. Accompanying the amalgamations, all councillors were dismissed and the state government appointed commissioners and new interim chief executive officers. The commissioners were to establish new organizational structures, develop council corporate plans, oversee the introduction of CCT and ensure compliance with state government initiated financial constraints. The state government increased its overall control by creating an office of local government.

This structure remained in place until election of councillors was reintroduced from March 1996. However, by that time the implementation of CCT was firmly underway with elected councillors able to play only a limited role. More generally the role of newly elected councillors was circumscribed as one of the equivalent to a board of directors with limited access to day-to-day decision making (Ernst, Glanville and Murfitt, 1997; Kiss, 1999).

CCT has two other features relevant to the consideration of forms of privatization. While not a legislative requirement of CCT, a key structural feature of its implementation has been separation of purchaser and provider roles within organizations. The purchaser part of the organization was responsible for the setting and monitoring of quality standards, assessing consumer demand and satisfaction, and managing tendering processes. Providers were responsible for direct delivery including monitoring costs and quality (Aulich, 1997).

Secondly, competitive tendering procedures may result in services which were previously undertaken by the council’s own staff being provided by external providers under contract. These services are then privatized by being contracted out. While many councils allowed their employees to submit tenders in competition with private contractors and many were successful a feature of CCT has been the gradual shift from awarding tenders to in-house teams to contracting out to external providers.

Estimates of the exact extent of this privatization differ, but there is general agreement on the direction of the trend to contracting out. The Auditor General’s Office (1998) reported that in 1996/97 councils subjected A$1.4 billion to market testing of which only A$416 million was awarded to in-house teams. An examination of the position in 25 of the 26 Melbourne metropolitan councils in 1997/8, found that 17 councils awarded more than 50 per cent of expenditure subjected to CCT to external providers with one council externalizing 86.5 per cent. Conversely only eight councils awarded more than 50 per cent of total expenditure to in-house teams (Teicher and Van Gramberg, 2001). External providers were therefore receiving the greatest share of the value of work competitively tendered contracting-out arrangements in Victorian local government.

**Impacts of corporatization on working condition, terms of employment and the gender outcomes of these developments**

Proponents of CCT claim that competitive pressure results in improved efficiency by adopting new techniques; introducing more efficient work organization and eliminating waste, over-servicing and shirking. However, it has been argued that cost reductions were often achieved by reducing wage levels and conditions of employment, intensifying work, reducing quality and shifting costs (Australian Council of Trade Unions 1995; Quiggin, 1996). Of particular concern was the differential effect of the changes on particular groups within the workforce.

The most obvious way in which costs were reduced was through changes in the structure and level of employment. Though not solely as a result of CCT, total employment
in local government in Victoria fell 30 per cent, from 46,200 to 32,400, between 1993 and 1998 (Walsh and O’Flynn, 2000). Employment among the 26 metropolitan councils fell by 20 per cent to 16,914 over just three years, 1994/95-1997/98 (Teicher and Van Gramberg, 2001). We can measure the magnitude of this decline from a comparison with the reduction in employment for all levels of Australian government over the same period which was only 5 per cent (Australian Bureau of Statistics, 1998), despite quite widespread contracting out (Industry Commission, 1996).

Among the metropolitan councils, job losses were related to the extent of externalization. 13 of the 26 councils reduced employment by more than 20 per cent between 1994/95 and 1997/98 and 11 of these were contracting out more than 50 per cent of the delivery of their services (Teicher and Van Gramberg, 2001).

Within this decline in employment there has been a marked change in the nature of employment with a shift toward part-time and casual work. This pattern was identified by two studies of ten councils (Ernst et. al., 1995; Ernst et. al., 1997). It is confirmed by the investigation of the 26 metropolitan councils in Melbourne where employment reductions were largely concentrated on full-time jobs which fell by 3,300 to 8,641 (from 56.3 to 51.1 per cent of total employment) between 1994/5 and 1997/98 (Teicher and Van Gramberg, 2001). This change is accounted for by a reduction in the number of full-time men, from 8,101 to 4,795, suggesting that councils shed the higher cost elements of their labour force. The decline in part-time employment was much smaller, from 9,289 to 8,273 with the male/female share of employment almost unchanged. Job losses were concentrated disproportionately in male employment, which declined by 40.8 per cent in the full-time male workforce and by 9.6 per cent in the part-time male workforce. In contrast, the share of women’s full-time employment increased slightly from 33 per cent to 35.8 per cent. This suggests that the jobs retained primarily were lower level, part-time jobs typically occupied by part-time female employees.

Within the aggregate figures for metropolitan councils there were significant gender differences. The proportionate employment loss in the male workforce, 35.9 per cent was far greater than that for the female workforce, at 7.5 per cent. There are also variations between councils. Of the 25 metropolitan councils for which data was available, all but one reported cuts in the numbers of men employed and 19 in the number of women.

There is widespread agreement that CCT has led to the erosion of wages and conditions of employment. Several Australian studies have argued that local area work agreements (LAWAs) have been the main vehicle for achieving savings through lowering wage rates, increasing the spread of ordinary weekly working hours, reducing or removing penalty rates and allowances, and cutting training opportunities (Aulich, 1997; Ernst et. al., 1997; Kenna, 1998; Paddon, 1999; Walsh and O’Flynn, 2000).

Municipal employment in Victoria is regulated by awards, agreements and LAWAs. A federal award covers Victorian local government employees. Actual terms and conditions of employment are set in enterprise bargaining agreements negotiated between unions and the employer. In Victorian local government, the first substantial round of enterprise bargaining occurred in 1994. Councils introduced LAWAs for individual business units in 1996 as services were prepared for CCT and they became widespread with the expansion of CCT. LAWAs may depart from the relevant enterprise agreement to enable wages and conditions of employment to be tailored to the needs of the specific units. For LAWAs to be legally enforceable, the Australian Industrial Relations Commission (AIRC) must accept the assurances of employers and unions that on balance there has been “no disadvantage”, that is, the workers as a group have not sustained an erosion of wages and conditions compared to the relevant award provisions.
Despite the no disadvantage test, an early consequence of CCT was that LAWAs reduced or limited access to various forms of penalty (bonus) payments (Aulich, 1997; Ernst et al., 1997), for example, by redefining ordinary hours or providing time off in lieu of overtime payments and reducing the level of penalties. LAWAs also eliminated a variety of allowances such as travel; travel time, early start and meals. Walsh and O’Flynn (2000) found that of 249 LAWAs, 23 per cent reduced payments for overtime below the award rate; 39 per cent replaced overtime with time in lieu and 32 per cent removed allowances.

While the female workforce may have declined less dramatically than that of males, women workers have been disproportionately affected by reduction in wages and working conditions. These reductions have been particularly marked in female-dominated areas of employment such as homecare and childcare (Kenna, 1998; Paddon, 1999; Walsh and O’Flynn, 2000). In Walsh and O’Flynn’s study, 80 per cent of the 39 LAWAs relating to women’s part-time employment reduced penalty provisions for work outside ordinary hours. Paid overtime was reduced below the level of the award in 56 per cent of cases and public holidays in 54 per cent. This is consistent with Kenna’s study of homecare workers which found that all three councils studied substantially reduced penalties for overtime, weekend and public holiday work (Kenna, 1998). In female-dominated workplaces, 44 per cent of agreements eliminated supplementary allowances. Similarly, Paddon’s research on the 13 LAWAs introduced for local government childcare workers in Victoria found that employment conditions had been reduced through increases in the spread of hours worked, changes to hours of work and reduced over award and overtime payments (Paddon, 1999).

In contrast, to the female-dominated part-time group, the male manual and white-collar groups were more successful in preserving overtime and additional payments. The male manual and white-collar groups have also been more successful than female groups at achieving offsetting of any increases in daily working hours or loss of additional payments against other benefits (Walsh and O’Flynn, 2000).

Typically, more flexible working hours were introduced through increasing the spread of ordinary working hours and maximum daily hours resulting in reduced access to penalty payments. (Aulich, 1997; Ernst et al., 1995; Ernst et al., 1997; Kenna, 1998; Walsh and O’Flynn, 2000).

The role of social dialogue and labour management relations for the results of decentralization and privatization

Initially, the national union whose members were affected by CCT, the Australian Services Union (ASU) and its and two state branches campaigned against CCT by taking industrial action. However, in the face of widespread redundancies resulting from amalgamations this response proved untenable.

The second response by the union was to attempt to influence the process of CCT and its outcomes through negotiating agreements. In 1994 the ASU formulated a preferred model, its “best practice approach to competitive tendering in local government” which sought to protect wages and conditions by requiring all tenderers to be bound by the same national award as local government; to establish joint union management CCT committees; and develop contracts, timeframes and formulate evaluation criteria for tenders. The ASU attempted to implement this model by negotiating for its inclusion in enterprise bargaining agreements with each council. Many councils signed framework agreements containing elements of the ASU model, but no council accepted to complete model and key clauses, including the protection of wages and conditions, were not accepted by any council.
The third response to CCT was an attempt to use legal means to prevent contractors gaining a competitive advantage through changing employment conditions. In an attempt to produce protection of employment analogous to that enjoyed in Europe under the EU Acquired Rights Directive, the ASU applied to the AIRC in 1995 to insert a new clause into the local government award, which would provide protection of existing terms and conditions of employment in the event of contracting out. However, with uncertainty in the outcome generated by new federal industrial relations legislation and an equivocal initial view by one of the AIRC commissioners reviewing the case the ASU obtained an indefinite adjournment of the case in 1996.

In the meantime, other public sector unions pursued employment protection and challenged reductions in wages and conditions through outsourcing by taking cases under provisions of the new federal industrial relations legislation which provided for the continuing application of an award when a new employer takes over an existing business. Three federal court decisions in 1999 in health, finance and public service sectors, determined that these provisions applied in situations of contracting out/outsourcing. Since the Federal Workplace Relations Act applies to Victorian local government, the ASU then sought employment protection under these provisions of the federal legislation.

The fourth response can be described as pragmatic compliance, aimed at retaining members in councils and external service providers by focusing on the workplace, that is, by playing an active role in reviewing awards and negotiating certified agreements and LAWAs. As CCT progressed, LAWAs were signed by the union in an attempt to secure members’ jobs through in-house tendering.

While it developed strategies to through negotiation and legal means to try to mitigate some of the employment effects of CCT, the ASU continued to be opposed to it in principle. It remained an unpopular practice for many in local government and the wider community.

When a new Labour Government was elected in October 1999 one of its first acts was to abolish CCT and to replace it with a legal obligation for councils to achieve best value in the delivery of services. The best value legislation, which also abolished CCT, requires councils to:

- prepare quality and cost standards for all services;
- ensure that services are responsive to the needs of the community;
- ensure that services are accessible to the community;
- achieve continuous improvement in services;
- develop a programme of regular community consultation on services;
- report regularly to the community on their achievements in relation to the principles.

There is no reference in the new legislation to competition or competitive tendering, although in preparing the quality and cost standards there is an obligation to do so with reference to the “best on offer in the public and private sector”. However, there is now also an obligation on councils to give consideration to the impacts of their decisions on best value on local employment. The best value legislation has to be applied to all services, including those for which there are existing contracts, between 2001 and 2005.

The Government engaged in an extensive social dialogue with local government, communities and unions on the new framework. A task force was set up in early 2000 to
advise the Government on how the legislation should be implemented. The task force included a senior national official of the ASU and consulted widely for much of the year on a framework intended to provide councils with options on how they could satisfy the legal requirements of best value. The union’s strategy, in addition to making use of its representation on the task force, was to ensure that it was well represented in community consultation meetings around the state by officials and delegates who ensured that the union’s view on the negative impacts of CCT on employment were well recorded.

The ASU also responded to the new legal framework by logging a new best values principles agreement with all councils in late 2000 aimed at ensuring consultation with the union on key areas of implementation and that all other options are explored before a council move to market testing.

B. Contracting out of metropolitan water and sewerage services by the state of South Australia

Until 1995, public water and sewerage services in the state of South Australia were provided by the state government’s Engineering and Water Supply Department (EWSD) In July 1995 the department was corporatized with the name South Australian Water Corporation (SA Water). The intention with corporatization was to increase private sector involvement in water service provision and in public infrastructure generally. At the same time the Government announced the decision to outsource management of metropolitan water and waste water management in the capital, Adelaide. Four transnational water companies were invited to make proposals. Two of these, the major French TNC, Compagnie Générale des Eaux (now renamed Vivendi) and the United Kingdom-based company Thames Water were later invited to make a joint submission which they did in the name of United Water Services. The 15-year contract valued at A$2 billion, was awarded to the United Water consortium which formed a new company, Uniter Services International on the signing of the contract in December 1995. The new company was 95 per cent owned by the two TNCs, the remaining 5 per cent being held by Kinhill, a South Australian engineering firm.

Impacts of corporatization and privatization on working condition, terms of employment and the gender outcomes of these developments

In the five years before corporatization and contracting out EWSD had been undergoing considerable restructuring with a redefinition of its role from major capital works and construction to maintenance and management of existing facilities. As a result there was a 44 per cent reduction in total employment in the five years between 1991 and 1995 (from 3,835 to 2,163 employees) and an occupational shift in the organization from a predominance of manual employees (61 per cent in 1991) to a majority of professional, technical and clerical employees (51 per cent in 1995).

The outsourcing of services to United Water produced further reductions in the employment of the state-owned company, by then SA Water. In 1996 employee numbers reduced to 1,390 of whom 400 transferred to United Water, the successful tenderer for the outsourced water contract. However, this implies a total employment in water services of 1,709, a reduction of 18 per cent from the employment levels prior to outsourcing. In

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2 This case study draws substantially on Ranald and Black, 2000.
subsequent years employment numbers in SA Water continued to fall, to 1,240 in 1998. At the same time, the occupational shift from manual to white-collar employment has continued so that by 1998 38 per cent of staff were in manual occupations and the remainder in white-collar jobs. The large proportional growth in managerial positions is consistent with international evidence that contracting out often requires additional staff at senior management levels to manage contracts, while the numbers of lower paid direct employees may decline (Hodge, 1996). However, one effect of the occupational shifts to white-collar employment has been to increase the proportion of women in the workforce as they are found predominantly in the clerical positions.

The reductions in employment since 1994 were achieved through a voluntary retrenchment process applied by the state government in an attempt to reduce staff numbers throughout the state public service. The process allowed for a voluntary retrenchment payment or redeployment to elsewhere in the public service. The voluntary retrenchment process together with government policy developed in the framework or wider negotiations with unions for outsourcing and public sector reforms, gave some employment protection to staff of SA Water. Between them, these policies provided for the retention of rates of pay, and award conditions, normal tenure of employment, union recognition and relative job security, until such time as a new award was negotiated. However, since corporatization and the outsourcing of water services, employees of SA Water have indicated that work intensity in some areas has increased with increases in unpaid overtime for technical and clerical work and longer hours worked overall. Since 1999 there have been some rationalization of terms and conditions, introducing, for example, common hours of work and sick leave conditions for the whole workforce, as part of the negotiation of a new single award and an enterprise-based industrial agreement.

United Water took 400 staff that transferred from the state company when services were outsourced, effectively cutting employment in water services by 43 per cent. Since then, employment has risen slightly (to 407 in 1998/99) as United Water has taken over some additional outsourcing contracts from SA Water. Only 6 per cent of United Water’s workforce was a temporary or casual employee (compared with 12 per cent of SA Water employees in similar categories. Management and unions in the company reported an increase in hours worked and in the intensity of work. There have also been significant changes in conditions of employment negotiated as part of enterprise level bargaining in 1997 and 1999.

The role of social dialogue and labour-management relations for the results of decentralization and privatization

Until the corporatization of SA Water and outsourcing of water services, the workforce was covered by awards which covered the whole state public service in South Australia with an industrial relations climate consistent with that of the wider public service. Unions were formally recognized and negotiated with. A series of consultative committees dealt with non-award matters and workplace change. Policies for equal opportunities in employment and for occupational health and safety were also developed.

There was an intensive public campaign against the proposal to outsource Adelaide’s water services supported by unions, the South Australian Trades and Labour Council and community organizations. However, as the government proceeded with the proposal, the five unions with most members in E and WSD signed a Memorandum of Understanding with United Water in which the parties agreed to develop a transitional agreement to implement negotiations on a single enterprise level agreement. The company committed itself to attempt to maximize the number of employees who accepted employment. United Water was the only bidder to secure such an agreement with the unions and to commit
itself to maintaining direct employment in its core business. Management and unions believe this was a material consideration in the tendering process which secured United Water’s success.

Transition agreements were negotiated within this Memorandum and the government policies on outsourcing and retrenchments. Seven hundred staff employed in the water services to be outsourced were given the options of transfer to United Water, redeployment in the public service or voluntary redundancy. Those transferring were to receive a transition payment from the government. However, in December 1995 there was a weeklong strike about the conditions of staff transferring when negotiations broke down. The result or the strike was an agreement by the company to the transfer of sick pay entitlements and an additional payment to transferees by United Water.

Within the corporatized SA Water the workplace consultation procedures established by the state government have been retained as have policies on occupational health and safety, equal opportunities in employment, sexual harassment and provision of English classes for employees from non-English speaking backgrounds.

Within United Water, the formal disciplinary procedures were inherited from the State Department but are applied more frequently and vigorously. Management in the company has used changes in national industrial relations law under the 1996 Workplace Relations Act to introduce workforce ballots. The first enterprise agreement negotiated within the new company produced an outcome for employees in terms of pay and conditions which was less beneficial than those obtained by employees who stayed in public employment with SA Water. The effect was widespread demoralization amongst the workforce revealed in a survey of the workforce of whom 73 per cent thought company morale was low and 56 per cent believed the bargaining process was not fair or reasonable. In recognition of the unsatisfactory procedures, both management and union in the company were seeking improvements in the process before the next round of bargaining through an agreement which establishes that employees will not be balloted on proposals until an agreement has been reached between management and unions.

**Impacts of decentralization and privatization on the quality of services**

There was a major failure in the sewerage treatment plant in 1997 which caused a foul smell to hang over the city of Adelaide for six weeks. The company argued that this was not a serious problem and would right itself biologically. This did not occur, so the government appointed an academic who is also a previous employee of E and WS as its consultant to investigate the problem. The consultant reported that the cause was long-term deterioration of the infrastructure exacerbated by a particular failure in procedures just before the event. The technical audit undertaken revealed an overloading in the sewerage system which had been building constantly since 1993 when the water system was initially commercialized by the state government, but which had increased dramatically when United Water took over the operations (Sheil, 2000). In subsequent discussion the company placed greater emphasis on the problems arising from infrastructure deterioration due to lack of previous investment. However, the unions in the company claimed that the procedural failures resulted from a loss of skilled staff and corporate memory arising from the outsourcing.
C. Management privatization of the New South Wales electricity industry through corporatization

During the 1990s the state-owned New South Wales (NSW) electricity industry was subject to radical restructuring, but without complete privatization. There were three, major, interrelated changes:

- **Corporatization** began in 1991, when the integrated and highly centralized electricity authority, was given greater autonomy and forced to confront commercial discipline for the first time.

- **Disaggregation** occurred in 1995 and 1996 as the transmission, distribution and generation sectors of the industry were separated and transformed into separate legal entities and corporatization was completed.

- **Marketization** came as each of the new distribution and generation corporations were forced to compete for customers, first with each other, and then on the national grid with interstate challengers.

This is a case study of the impacts of disaggregation, corporatization and marketization in two of the three electricity-generating companies set up as part of the 1995/96 restructuring of the industry. These two generators, Delta Electricity and Macquarie Generation, are constituted as corporations under different legislation than the third, Pacific Power. This places Pacific Power under more direct control from the Government, its financial obligations are guaranteed by the state and it is subject to public sector employment law which restricts its autonomy on employment issues.

The new institutional arrangements have still been in place for only a relatively short period and there has been only limited change in the structure of the organizations.

There are strong elements of continuity with the pre-corporatization period, with few changes to structures or even to personnel. As was the case in the original Pacific Power, management is dominated by males with engineering backgrounds. On the other hand, there is evidence of important changes in managerial style. Far more emphasis is placed on economic performance than was previously the case with important implications for managerial priorities and decision making. Distancing from the public sector proper has resulted in the introduction of specifically tailored contracts for the employment of senior staff instead of the senior executive service contracts that were utilized by ECNSW. Differences in managerial style between the corporations are more pronounced than previously.

**Impacts of corporatization on working condition, terms of employment and the gender outcomes of these developments**

Employment in power generation, as elsewhere in the energy sector, has been declining for many years. At just one power station in the Delta Energy group, the number of employees fell from 1,100 in 1987 to 415 in 1993 to just 180 in 1998. The trend of decline has continued since corporatization, as illustrated in table 5 for two of the generating companies, but at a slower rate.

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3 This case study is summarized from Macdonald and Bray, 2001.
Table 5. Employment at Delta Electricity and Macquarie Generation, 1996-99

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<tr>
<td>Delta Electricity</td>
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<td>1032</td>
<td>822</td>
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<td>MacQuarie Generation</td>
<td>826</td>
<td>799</td>
<td>688</td>
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Source: McDonald and Bray, 2001, table 5.1.

Job losses have resulted from the introduction of new technology and, particularly commercialization of the operation of public utilities. The latter has seen greater emphasis placed on utilities delivering substantial surpluses than on the more traditional concerns about reliability of service and the maintenance of a well-trained and loyal workforce. The implementation of the resulting policies saw the expansion of outsourcing and large-scale downsizing. Downsizing was facilitated by a series of relatively generous, voluntary redundancy schemes because governments have maintained an insistence that there be no forced redundancies. Cleaning, gardening and some maintenance functions have been contracted out at both corporations and, in addition, there is evidence of a considerable intensification of work routines and practices at all the power stations.

Despite the extent of downsizing, there has not yet been a major regional economic impact of job losses in the Hunter Valley where much of the industry is based commercially and economically. Because of the diversification of economic activity in the Hunter Valley and the burgeoning export market for black coal in the mid-1990s, employment decline in electricity generation was not, of itself, critically significant. However, since 1997 there has been a major decline in steel-making in Newcastle, with the closure of the BHP steel plant, and a significant downturn in mining employment so that further job losses in electricity generation would attract considerable attention and concern.

Work organization at both corporations had been based on forms of teamworking since 1993.

The outcome of downsizing and new working arrangements for all employees, however, appears to be greater work intensity and stress, particularly at times of plant failures.

In both Delta and Macquarie, performance-related pay schemes have been introduced. The scheme at Delta for trades people and power workers allows for incremental advance on the salary scale where performance is deemed by supervisors to be of a consistently high level. At Macquarie, an incentive scheme links increased pay with profit, safety, plant reliability and sick leave improvement.

Both corporations have various programmes and initiatives in place for equal equality in employment and to prevent discrimination. However, these are in some tension with other practices of the corporations and seem to be under some pressure through the downsizing programmes. Thus, Macquarie reported that in the voluntary redundancy programme of 1997, significant numbers of women and Aborigine and Torres Strait Islander employees chose to leave and in a climate of virtually no recruitment, their proportions of the workforce fell, and their networks became virtually inoperative. The demographic distribution of staff at Macquarie in 1999 was 0.4 per cent Aboriginal and Torres Strait Islanders, 5 per cent from racial, etc., minorities, 6.2 per cent with a disability and 3.8 per cent with a disability requiring adjustment at work. Twelve per cent of the workforce is female. Delta reported in 1998 that 1.8 per cent of its workforce were from Aboriginal or Torres Strait Islander backgrounds, 5.7 per cent had a disability that required adjustment to work and 8 per cent were from racial/ethnic minority groups. Only 7 per cent of the workforce was female. Of these women, only two were reported as earning more than $70,000 compared to 76 males, while women constituted the only part-time and
temporary full-time staff in the organization. Both organizations have been criticized by the Industrial Relations Commission for behaviour that was at least potentially discriminatory against women (Industrial Relations Commission, 1998 and 1999).

Union density varied between the generation corporations and had declined from a highpoint in both of 100 per cent in the 1970s. At Delta Electricity it was estimated, by union sources, to be 80 per cent, while at Macquarie Generation it was 70 per cent.

**The role of social dialogue and labour-management relations for the results of corporatization**

The increasing tendency, discussed above, of managers in the two-generation corporations to develop separate and distinct approaches towards employment relations is also evident in relation to consultation, negotiation with unions and dispute resolution. According to union officials, since corporatization Delta has been keen to resolve matters “in-house”, and keep them out of the Industrial Relations Commission (although it was not always successful in doing so). Macquarie, on the other hand, has preferred a more formalized and legalistic approach.

There is also evidence of differences between the two corporations in other aspects of their industrial relations. At Delta, management felt that the industrial relations climate was significantly improved on the situation prior to corporatization. Overall, trust had grown between management and the unions, as a result, at least in part, of the chief executive meeting with every team at least twice a year, and encouraging business unit managers to adopt the same approach. At Macquarie, in keeping with a stronger engineering and production orientation, employment relations generally seem to have been accorded a lower priority and union officials claimed that trust between themselves and management was not very high.

**D. Capital privatization of the Victorian electricity generating industry through sale of assets**

Over the last decade, the Victorian electricity industry has been fundamentally. The four major electricity-generating plants were first corporatized, then disaggregated and fragmented into a series of competing companies which were subsequently privatized (with one minor exception). They were acquired by consortia led by transnational companies, two of them based in the United Kingdom and two in the United States of America. Privatization resulted in the end of industry-wide industrial relations and coincided with the promotion of enterprise bargaining by successive federal and state governments.

The Victorian electricity industry was founded as a state-owned statutory authority in the early part of the century. Until the 1990s, the State Electricity Commission of Victoria (SECV) was the major electricity generator and supplier in the state. The SECV organized and operated a vertically integrated corporation, with the generating plants located in the La Trobe Valley, in eastern Victoria, at its core. Centred on the SECV, the La Trobe Valley developed into an important although narrowly based industrial centre, built around a series of “company” towns. The result was a relatively closed community, recruited and organized for the benefit of the SECV.

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4 This case study is summarized from Fairbrother and Testi, 2001.
The first steps towards the eventual privatization of the industry were internal to the SECV and were taken in conjunction with state governments concerned with the increasing costs of the industry and with the increasing problems for state finances. At the time, the industry was marked by demand-side planning, resulting in expansionary plans throughout the 1980s, pricing disputes between the SECV, as the major electricity retailer, and municipal bodies responsible for electricity distribution in the Melbourne metropolitan area, and rising development and construction costs of new generators in the La Trobe Valley (Johnson and Rix, 1991, 17). These pressures combined to promote a series of internal reviews within the SECV, aimed at reducing costs and scaling down development programmes. The outcome was that the industry went through an initial process of commercialization, introduction of commercial criteria into its organization and operation. When the state government was in financial difficulty in 1990 it authorized the part sale of the Loy Yang B power station, then under construction and initially planned as part of the whole Loy Yang complex. This privatization was justified in terms of the escalating construction costs and the debt burden placed on the SECV (Johnson and Rix, 1991, 183).

Fifty-one per cent of the plant was bought in 1992 by Edison Mission Energy (USA), an independent power producer, part of Edison International. SECV retained the remaining 49 per cent. The company contracted Edison Mission Operation and Maintenance Pty Ltd as an employment company, on a 30-year contract to operate the plant, employ staff and produce electricity, which was unaffected by the sale of the state government share to Edison Mission Energy in 1997. A complex line management and reporting structure was put in place between the operating company and the parent company, although in practice this arrangement did not impact on the day-to-day running of the plant. In effect, while only 51 per cent of the assets were privatized in 1992, the management of the plant was therefore fully privatized (a variant of the form of privatization described in Paddon, 1998).

Following the election of a Liberal party-led coalition Government in 1992, privatization and restructuring involving electricity generation and distribution proceeded. Disaggregation commenced with the break up of SECV into three separate corporations for generation, transmission and distribution in 1993. The following year the 18 business units in the new state electricity distribution company were reorganized with 11 municipal electricity undertakings to form five regional distribution businesses three urban and two rural. In 1995, the state government started selling the distribution companies. The government also reorganized its generation corporation into five independent businesses and these were then offered for sale in 1996.

As part of the process of privatization, the Government announced cross-ownership rules in July 1995, whereby parties to the purchase of the new companies could own or control 100 per cent of one licensed company, 20 per cent of another and 5 per cent of the others.

The generating plants were then sold off in 1996 and 1997 as indicated in table 6.
Table 6. The sale of Victoria’s electricity generation industry

<table>
<thead>
<tr>
<th>Date</th>
<th>Plant</th>
<th>Purchaser</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992</td>
<td>51 per cent Loy Yang B (1 000 MW)</td>
<td>Edison Mission Energy (US)</td>
</tr>
<tr>
<td>March 1996</td>
<td>Yallourn Energy (1 450 MW)</td>
<td>Consortium led by PowerGen Int. (United Kingdom) with 40 per cent Australian ownership</td>
</tr>
<tr>
<td>August 1996</td>
<td>Hazelwood Power (1 600 MW)</td>
<td>Consortium led by National Power plc (United Kingdom) with 7 per cent Australian ownership</td>
</tr>
<tr>
<td>May 1997</td>
<td>Loy Yang Power (2 000 MW)</td>
<td>Horizon Energy (consortium led by CMS Energy and NRG Energy (both US) with 25 per cent Australian ownership</td>
</tr>
<tr>
<td>May 1997</td>
<td>49 per cent Loy Yang B (1 000 MW)</td>
<td>Edison Mission Energy (US)</td>
</tr>
<tr>
<td>November 1997</td>
<td>Southern Hydro (469 MW)</td>
<td>Consortium of Infratil Australia (50 per cent), Unisuper (22 per cent) and Contact Energy (NZ, 28 per cent)</td>
</tr>
</tbody>
</table>


A comprehensive regulatory regime was set up for the industry. The objectives were to promote competition, maintain an efficient and economic system, protect consumer interests, and maintain financial viability. This framework was underwritten by national legislation and more importantly state legislation and regulatory instruments. Enforcement was the responsibility of the Office of the Regulator General, established in July 1994.

The bulk of the SECV workforce was in the La Trobe Valley where a little under a half of the total SECV workforce was employed. The commercialization and restructuring of SECV from the mid-1980s brought about a rapid decline in employment of 18.5 per cent from 1986 to 1990 and a further 20 per cent reduction in 1990, to 17,962 staff (8 per cent of whom were women). The sharpest impact was in the La Trobe Valley, where the SECV workforce in 1990 was 8,481, 8,046 men and 435 women (5 per cent). It was a relatively young male workforce with more than 60 per cent of employees under 40 years old (Johnson and Rix, 1991, 163, 165, 173).

In the mid-1980s, union density was more than 95 per cent and 90 per cent of all employees belonged to the six major unions at the time, four manual-based unions and two non-manual-based unions. According to Benson this high level of unionization was achieved via a de facto compulsory union agreement which covered the entire manual workforce and the majority of the non-manual workforce (Benson, 1991).

**Impacts of corporatization on working condition, and terms of employment and the gender outcomes of these developments**

Loy Yang B/Mission Energy

When Mission Energy was established with the privatization of Loy Yang B everybody was placed on the same conditions of employment, although salary levels differed. These arrangements have been implemented under the successive enterprise bargaining agreements (EBAs).

There were 126 employees at the plant in December 1999, of whom 14 were women, mainly in the office complex, a relatively stable figure since the founding of the company. The organization of the workforce was supervisor-based and there has been no attempt to establish teamwork arrangements at the plant. Salaries were annualized and the company has implemented a performance-related pay scheme.
Employee selection for this “green field site” was based on psychometric testing. The result was the targeted selection of the workforce, a relatively easy process given the high levels of unemployment in the La Trobe valley and the high salary levels at this plant, compared with the equivalent pay levels at other generators. The purpose was to seek staff who align with the mission statement of the company, and that the emphasis is on behavioural competencies, complemented by entrepreneurial and lateral thinking attributes.

In addition to direct employees, the plant uses contract staff. However, company policy has been to consider contractors only where there was more than one contract company operating and to work to a situation where all but the most specialized contract work can be covered by the in-house staff if necessary.

The plant was completely unionized, with all staff, including the plant manager, members of the ASU. These arrangements were as a result of an ASU initiative during the initial negotiations by Edison Mission Energy to acquire the plant. The company’s preference for the ASU, it seems was based very much on that union’s attitude to industry and workplace change.

Yallourn Energy, Hazelwood and Loy Yang A

The remaining three generating companies established under the privatization programmes of the 1990s, were sold off to transnational consortia as operational entities. There were major reductions in staff levels of up to 75 per cent at each of these complexes in the early 1990s. Transport was outsourced in the early 1990s, followed by the outsourcing of the mechanical and electrical workshops in the maintenance section, in 1993/94.

Up until 1996 staff leaving the Yallourn plant, took the voluntary departure packages on offer in groups of 50 to 100 at a time which produced an unplanned flood of redundancies. While, the detail varied at the other two plants, the pattern of restructuring was more or less the same.

However, the new transnational owners did not have the same commitment to outsourcing as the former state body. They inherited a set of arrangements from the previous corporatized managements, which in part set the terms of the relations with contractors. With the accomplishment of a more “flexible” outlook towards demarcations and work responsibilities, there were the beginnings of a move away from the over-reliance on contract work that had developed during the early 1990s.

The role of social dialogue and labour-management relations for the results of decentralization and privatisation.

Up until the early 1990s, awards made by the Australian Industrial Relations Commission covered most SECV employees. Industrial relations and hence the organizations of management and unions were focused on the federal tribunals. For much of the history of the industry, three federal awards defined the terms and conditions of employment in the SECV, although in the mid-1980s ten federal awards and six state awards applied. One feature of these arrangements was that there was limited autonomy in dealing with many industrial issues. The managements in the branch plants were under the supervision of Melbourne-based senior management and politicians, which also locked the unions into the same set of arrangements. There was a long tradition of local dispute resolution, involving line management (assisted by specialist industrial relations officers) and shop stewards, particularly in the main manual unions. These arrangements were characterized by frequent disputes involving sections of the SECV workforce, often in particular plants or areas of the mines, and occasional lengthy disputes (Benson, 1991).
The new management was intent on establishing the plant as a distinctive enterprise. So it produced a mission statement, which was developed with the support of the Australian Services Union (ASU), setting out the approach and aspiration of the company; the mission statement indicated an intention to be the leaders of the Australian industry, but with an emphasis on a partnership between the company and the ASU.

In effect, this statement indicated the way in which the ASU locally pursued a policy of social partnership in relation to the privatization of this green field plant. Company representatives and senior union officials spent a long time refining an enterprise agreement along these lines. The joint mission statement has remained relatively unchanged, referring to employee involvement, empowerment, the provision of information, and employee ownership, as well as the prompt settlement of grievances. According to the senior management at the plant, the company has had one formal grievance in the six years of the company’s operation.

There were two sets of arrangements in place to deal with industrial relations: firstly negotiations between union and plant management and, secondly, an increasingly important works council. In the direct union-management negotiations, the focus was on a narrow range of issues, concerned principally with pay levels. While the joint works council is formally an advisory body it has, in effect, become a substitute for the union at the plant. Works council representatives were elected by all the employees. The charter for the works council was incorporated into the first EBA signed at the plant. In addition to these three staff representatives there were two management representatives on the council. There was no formal or even informal relation between the joint works council and the ASU, although the works council had the “key responsibility” of “negotiating” the annual productivity bonus criteria for the workforce at the plant.

There were some within the ASU in the early period who saw the development of the works council as a progressive step in which the union would be very much a part. There was a view that the works council would be a flagship for employee participation, although in practice it has become an alternative to the union. This view assumed that the works council would constitute the link between the union and the company. However, in practice there has been a divorce between the union and the council, which has left the council primarily responsible for any “negotiation” about the productivity bonus.

According to management the “success” of industrial relations at the plant has been the result of the company philosophy and the selection system of employees, which had resulted in a workforce profile of skilled responsible employees. The company had established a “remuneration package” whose rates were near the top of the local labour market. It included a performance payment dimension, unlike those operating in other plants in the area. According to the industrial relations staff the result was a cooperative and consensual atmosphere which was attributed to staff selection.

On acquisition of the three major generating plants, the transnational owners each expressed a commitment to develop the plants in ways that recognized established relationships over work procedures, labour organization and industrial relations. However, the centralized and paternalistic control and direction from the SECV, based in Melbourne and operating the generating plants as branch entities of a centralized statutory authority, was clearly ended. Plant managements in the privatized companies were given discretion and authority to operate the generators and the associated mines, providing the outcome complied with the financial controls and returns required by the parent companies (with the partial exception of Hazelwood).
There were, however, differences in style and practice at each plant, reflecting past practice and industrial relations. At Yallourn Energy, at least in the first two years, there were clear indications of more accommodative and consensual approaches to industrial relations when compared with the other plants. The senior management took the opportunity of negotiating an enterprise agreement to attempt to introduce a new approach to industrial relations. At Loy Yang A, where, there was a long history of grievances and disputes there was a continuation of willingness in the workplace to question managerial decisions though after privatization major confrontations between management and labour were less frequent. In contrast, at Hazelwood a single bargaining unit with representatives of all unions and the plant management was set up as the industrial relations forum before privatization. However, unlike Yallourn, the transnational senior management in London intervened directly in some aspects of local industrial relations.

Apart, from these changes in employment relations, there was little in change in the organization and operation of work for most workers. One reason for this apparent continuity of work practices was that most of the changes had taken place before the change in ownership when the industry was still government-owned and run.

The unions in the plants have had some difficulties in adapting to the new decentralized systems of industrial relations. They face direct negotiations with plant managers who are able to act autonomously. Also, many of the experienced delegates left the industry during the early 1990s. The result has been that full-time officials have become more directly involved on a day-to-day basis, negotiating directly with plant managers and attempting to encourage the development of local delegate committees. Such developments were made easier by increased attention given by plant managers to plant-based bargaining and negotiation. Increasingly, the state government was no longer a direct active participant in the determination of agreements and awards.

E. New governance structures in New Zealand

electricity distribution and the collapse of the electricity supply to the central business district in Auckland

The major power failure in Auckland in 1998

On 20 February 1998 Mercury Energy Limited, which supplies electrical power to the city of Auckland, released the following statement:

The situation has deteriorated to the point that now the company believes it can no longer supply the central business district with electricity. This raises civil defence and public safety issues which may lead to a declaration of a civil defence emergency. Mercury Energy is notifying all essential service providers and asking them to come immediately to an emergency meeting at Mercury Energy headquarters. After the conference civil defence will decide whether a civil emergency is declared.

In fact a civil defence emergency was not declared.

Mercury Energy announced on 27 March that the power supply crisis was over. The major city in New Zealand was therefore without a proper electricity supply for five

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5 This case study is taken from Auckland power supply failure, 1998.
weeks. While full supply was generally available from that date, additional cable failures and brief system outages occurred until May.

The supply failures imposed considerable costs on many individuals and businesses in the region. The public has also suffered a loss of confidence in Mercury Energy’s ability to ensure adequate power supply to the Auckland central business district before the new cable tunnel and associated 110 kV cables come into service.

**Government inquiry into the failure**

As a result of community and Government concern, in March 1998 the Minister of Energy appointed a Ministerial Inquiry into the Auckland power supply failure. The terms of reference were:

- to establish what had caused the power supply to fail giving consideration to:
  - organizational issues, including all aspects of governance structures;
  - accountability arrangements and customer contracts;
  - risk management and contingency planning;
  - technical factors, including network design and quality, operating standards and practices, maintenance standards and asset management policy and practices;
  - any other relevant factors;
- to recommend changes to ensure that security risks relating to Mercury Energy’s distribution lines are managed efficiently;
- to take account of the costs and benefits of any changes in making recommendations.

**The establishment of Mercury Energy as part of the 1990-1992 reforms and corporatization**

Mercury Energy Limited came into existence in August 1993 with the renaming of Auckland Energy Limited which had been incorporated in October 1990. This was the corporate entity established in response to the Government’s 1990 reforms and the 1992 Electricity Act. Previously, the city’s electricity had been distributed by the Auckland Electric Power Board (AEPB) established by legislation in 1921, with board members elected from the local authorities in the constituent districts. The assets and operations of the AEPB were vested in Mercury Energy in August 1993.

In Mercury, as part of the initial establishment plan, shares were to have been distributed to the Auckland Energy Consumer Trust (AECT) which was to hold 51.5 per cent of shares, with the remaining shares to be held by the solicitors of the company and eventually offered for public sale. The intention was that AECT would eventually hold 75 per cent of the paid-up capital of the company while the public shareholders would hold the other 25 per cent. The intention with this corporate structure was to give AECT the major economic interest in the company but to ensure that it would not appoint the majority of the directors.

The AECT was created to hold majority ownership in Mercury on behalf of the electricity consumers supplied by the company. The beneficiaries of the income of the trust were to be the Mercury Energy consumers (through AECT). The deferred beneficiaries
(until the dissolution date of the trust) of the capital are Auckland City Council, Manukau City Council and Papakura District Council.

The mission of AECT is “as a major shareholder in Mercury Energy Limited, [to] seek to provide advocacy for consumers; to protect its investment under the terms of the trust deed; and to maximize the value of its investment for the benefit of present and future beneficiaries”.

By early 1998, Mercury Energy had 254,132 customers of whom 223,385 were residential consuming 1,715,000,000 kWh, 30,658 were commercial consuming 2,289,957,890 kWh and 89 were external commercial establishments consuming 713,853,312 kWh. In addition, Mercury Energy had a one-third holding in neighbouring Power New Zealand. Mercury Energy also had a joint venture Southdown Cogeneration facility.

The contribution of the new corporate structure to inadequate governance

The inquiry presented its findings to the Minister of Energy on 30 June 1998. The immediate cause of the Auckland power supply failure was the failure of four underground 110 kV transmission cables. The inquiry contains a detailed assessment of the technical, managerial and organizational factors which contributed to the failure. Of particular significance are the findings which relate to the deficiencies of the governance structure, and issues which derive from the contracting out of service by Mercury.

The form of governance was a product of the legislation which aimed to move the distribution industry away from direct council control. The inquiry concluded that the corporate governance structure had not caused the power failure but that it made it more difficult to deal with issues which might have prevented the failure. In other words, it was a significant indirect contributor. Specifically the report argued that the corporate governance structure of Mercury Energy did not provide clear lines of objectives, accountability, reporting and discipline and that no serious attempts had been made to resolve these issues.

Deficiencies arising from contracting out of activities

New Zealand, the operation of 100 kV transmission cables is not a routine part of the operations of a network distribution company. Mercury’s need to operate these assets arose from decisions made in respect of Auckland transmission in the Auckland Electric Power Board period, as a result of which there was no point of wholesale energy supply within the Auckland CBD. Mercury had an established record as an effective sub transmission operator, and as a distributor and retailer of electrical energy. The expertise, skills, asset and risk management involved in the more conventional areas of Mercury’s business did not automatically provide the resources from which to manage underground 110 kV transmission cables. The 110 kV transmission assets were a critical element in Mercury’s network but Mercury had not established and maintained a distinct strategy for the management and operation of these assets. It had developed informal arrangements with Energy Australia which were deemed by the Inquiry to be incomplete and unsystematic. It had also contracted out some activities but the implementation of this was “incomplete, poorly defined, and in consequence inadequate”. Mercury Energy’s maintenance contracts for the 110 kV cables were deficient in terms of specification, management monitoring, procedure and quality standards. Poor communication existed between contracted fault repair and maintenance contractors, Mercury engineers, and Mercury planners as a result. Not only were the contracting relationships inadequate but also as a result of the
contracting out internal expertise in 110 kV assets was not maintained at a sufficient level; nor was internal expertise enhanced or replenished.

The report also concluded that the customer contracts did not place an appropriate incentive on Mercury, which could have led to a greater priority being given to security of supply.

*The inquiry recommends reconsideration of the governance structure and improved customer contracts*

Amongst its recommendations the Inquiry proposed that if it were still legally feasible under the transition arrangements governing the move from AEPB to Mercury Energy, the Government, in consultation with Mercury Energy and the AECT, should consider whether steps are necessary to restore the intended lines of accountability to normal standard in Mercury Energy’s corporate structure. The report also recommended that the “The Government encourage and, if necessary, facilitate the electricity distribution industry to develop customer contracts for network service providers that reflect security of supply standards and liability provisions appropriate to each type of consumer and which give network companies incentives to manage security on a commercial basis.”
6. References


