

Essential Services Commission Annual Report 2022-23



About this report

This annual report summarises the performance of the Essential Services Commission for 2022–23.

This report is available on our website: esc.vic.gov.au

Acknowledgement

We acknowledge the Traditional Owners of the lands and waterways on which we work and live.

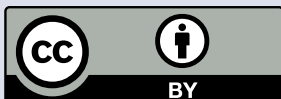
We acknowledge all Aboriginal and Torres Strait Islander communities and pay our respects to Elders past and present.

As the First Peoples of this land, belonging to the world's oldest living cultures, we recognise and value their knowledge, and ongoing role in shaping and enriching the story of Victoria.



Dill-ba-din Balluk Biik – Protect Community and Country.
Artist: Simone Thomson

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Designed by Nuttshell Graphics



26 October 2023

The Hon. Danny Pearson MP
Assistant Treasurer
Level 5, 1 Macarthur Street
East Melbourne VIC 3002

Dear Assistant Treasurer

We are pleased to present the Essential Services Commission's annual report for the year ending 30 June 2023.

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

I would like to record my appreciation of commission staff for their commitment to delivering our regulatory, administrative and advisory program in 2022–23.

Yours sincerely

A handwritten signature in black ink, appearing to read "Kate Symons", written over a light blue curved graphic element.

Kate Symons
Chairperson
Essential Services Commission

Essential Services Commission Level 8, 570 Bourke Street | Melbourne VIC 3000
(+61 3) 9032 1300 | www.esc.vic.gov.au

Who we are

The Essential Services Commission is Victoria's economic regulator. We promote consumer interests by regulating Victoria's energy, water and transport sectors, and overseeing the Fair Go Rates system. We also administer the Victorian Energy Upgrades program, which aims to reduce greenhouse gases by making energy efficiency improvements more affordable for consumers.

Our purpose

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

Our values



Integrity

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



Collaboration

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



Impartiality

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



Excellence

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



Respect

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




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

We had

 **193** employees

 **1** commission chairperson

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

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

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Snapshot 2022–23



Bringing the voice of consumers to the centre of our work

We progressed our *Getting to fair* strategy which has 33 actions to support vulnerable consumers through facilitating more responsive, inclusive and accessible essential services. We have implemented 21 actions.



Water price review

We completed a review of the pricing proposals from 14 Victorian water businesses in 2022–23. Following consultation, we issued a determination which sets the maximum prices that water businesses may charge customers for the next five years.

Typical household water and sewerage bills (for owner-occupier households) will rise on average by around:

- \$22 (or 2 per cent) in metropolitan Melbourne.
- \$74 (or 6.6 per cent) in regional Victoria.



Victorian Default Offer

The 2023–24 Victorian Default Offer increased by about 25 per cent – mainly due to significant increases in wholesale electricity costs in 2022–23 impacting energy retailer futures contracts.



Land Access Code of Practice

We are developing a new Land Access Code of Practice to regulate how electricity transmission companies can access land under section 93 of the *Electricity Industry Act 2000*. We published a consultation paper in January 2023 and a draft code of practice for consultation in June 2023.



Growing consumer participation in the Victorian Energy Upgrades program

We registered more than 6.7 million Victorian energy efficiency certificates in 2022–23 as part of the Victorian Energy Upgrades program, with more than 544,000 households and businesses benefiting from the upgrades. We commenced planning and implementation for major program reforms, including an enforceable code of conduct, new accreditation processes and standards, new program fees and strengthened functions and powers for the commission.



Strong compliance and enforcement action

We undertook three energy sector compliance programs: bill change alert, best offer and disconnection compliance.

We accepted court enforceable undertakings from five energy businesses in relation to alleged non-compliance with the Victorian Payment Difficulty Framework, disconnection and explicit informed consent consumer protections. We also accepted an enforceable undertaking from a water business over allegations it failed to uphold critical protections in place to support customers affected by family violence.

We issued 74 penalty notices to energy businesses totalling \$1.655 million for alleged breaches of the energy rules. This included: failing to register life-support customers appropriately, not giving planned interruption notifications to customers relying on life support, and failing to provide assistance to customers experiencing payment difficulties.

We undertook enforcement action against accredited persons under the Victorian Energy Upgrades program. This included revoking the accreditation of one accredited person and suspending the accreditation of another for failing to comply with program rules. We also used our powers to impose conditions and restrictions on accreditation to respond to non-compliant installations under the VEU program, this included requiring rectification of those installations.



Facilitating Victorian energy market entry and exit

We issued 6 energy licences:

- four electricity generation licences
- one electricity retail licence
- one gas retail licence.



Rate capping report

We released our 2022–23 report (covering 2016–22) which examines the impact of rate capping in Victoria, providing information about councils’ services, infrastructure and financial outcomes since the introduction of rate capping. In 2022–23, all 79 councils complied with the rate cap set for them and there were no applications for a higher cap. All councils were subject to an average rate cap of 1.75 per cent.



34 events

Almost 1,800 representatives from regulated businesses, consumer groups and community sector organisations participated in 34 online, public and stakeholder events.

From the chairperson



Chairperson and Commissioner
Kate Symons

Year in review

When I reflect on the commission's work over the past 12 months to deliver better essential services for Victorian communities, three key aspects come to mind – strong stakeholder relationships, a commitment to continual improvement and effective action. The commission leaned into these areas in 2022–23 as we reviewed unbooked taxi fares, solar feed-in tariffs, five-year water pricing schedules and Victorian Default Offer prices – each representing significant pricing decisions with the potential to affect households and businesses across Victoria.

Against a backdrop of changed economic conditions for both consumers and industry, we focused on seeking diverse stakeholder views, perspectives and experiences to bring these reviews and decisions to life. The commission values the contributions of all stakeholders in our consultation and engagement activities. These build our understanding of the sectors and businesses we regulate, and the community impacts, as we move through our decision-making process.

Growing cost-of-living pressures for many in our community made these complex decisions even more so. It was important that we heard community members and representatives speak to their experiences, expectations and views on path a forward through these challenging decisions. We were privileged to be part of many respectful, productive conversations over the year that covered difficult topics or diverging views and were supported by a shared goal of bringing positive change to Victorians. The ideas we heard and insights we learned informed our decisions and reinforced our commitment to deliver value to Victorians. This includes a renewed focus on working to make sure all Victorians are aware of and can access the critical support they are entitled to through the strong consumer protections we have in this state.

Supporting all Victorians

Supporting Victorians experiencing vulnerability to have equitable access to essential services is an enduring priority for the commission. With the support of the Assistant Treasurer's 2022 ministerial statement of expectations, we continued to implement the 33 actions identified in our three-year *Getting to fair* strategy to facilitate more responsive, inclusive and accessible essential services for consumers experiencing vulnerability. We completed several strategy milestones this year. These included a review of the Water Industry Standards to strengthen support and protections for consumers with new standards effective from March 2023, a review of how energy retailers have implemented Victoria's Payment Difficulty Framework to support consumers facing bill stress, and providing initial advice to the Minister for Local Government on a hardship guideline for the local government sector. I am grateful for the support and contribution of regulated businesses, government, community groups and the wider community in this shared mission to support Victorian consumers experiencing vulnerability. There is much more to be done and I look forward to progressing this important work together.

Upholding critical consumer protections

The commission brought this same focus to our compliance and enforcement work in 2022–23. We accepted an enforceable undertaking from a water business over allegations it failed to uphold critical protections in place to support customers affected by family violence. The commission also issued 74 penalty notices to six energy businesses resulting in \$1.65 million paid in penalties. These followed alleged contraventions of consumer protections relating to the Payment Difficulty Framework, life-support services, planned interruption notifications and Victorian Default Offer rates. We accepted enforceable undertakings from a further five energy businesses in relation to alleged breaches of the Payment Difficulty Framework, wrongful disconnections and explicit informed consent consumer protections.

Improved consumer experiences and outcomes remained front of mind for the commission this year in our responsibilities to regulate and administer the Victorian Energy Upgrades program. Over the past 12 months we have worked to implement critical reforms that reflect the growing value of the program to consumers in an environment of higher energy prices and urgent climate action. These reforms demand better standards, practices and processes from regulated businesses and provide for stronger compliance and enforcement powers for the commission. With over half a million Victorian households and businesses accessing energy efficient upgrades through the program in 2022, these reforms position the program for continued success as it enters its 15th year.

Making a positive difference

I would like to take this opportunity to acknowledge the contributions of past and recent leaders at the commission, including that of our friend and colleague, former commissioner Richard Clarke who passed away in July 2023. Richard was involved in a diverse range of decisions as a commissioner. We remember Richard as an outstanding intellectual leader. We are grateful for his leadership, courage and friendship – he is sorely missed.

I would also like to acknowledge the leadership, dedication and support of Dr John Hamill, who we farewellled in June 2023, after seven years as chief executive officer (CEO) at the commission. A talented and highly respected public sector leader, John made a long-lasting contribution to the great working culture we have at the commission. He was instrumental in helping the commission to achieve positive changes for Victorians through our work program.

Looking ahead, we are delighted to welcome Sarah Sheppard to the role of CEO from October 2023. Her qualifications, experience, and leadership qualities will be invaluable in achieving the commission's strategic priorities and leading its day-to-day operations. My fellow commissioners and I look forward to working with Sarah and her executive team to deliver better essential services for all Victorians.

In 2024, the commission will celebrate 30 years as Victoria's independent economic regulator. That is 30 years of promoting the long-term interests of Victorians with respect to the price, quality and reliability of essential services. When I think about the goals we have set, the challenges we have crossed, the insights we have gained, the deep expertise we have developed and the progress we have made on behalf of Victorian consumers over those 30 years, I am proud of the work we have accomplished and energised by the work we have left to do. As we enter this next chapter of our important 30-year history, I am even more proud of the talent and dedication of the entire team, including my fellow commissioners, executive members and all staff at the commission who work so hard and with such care to make a positive difference to all Victorians. Thank you to all our staff for your work and service this year.



Kate Symons
Chairperson
Essential Services Commission

From the CEO



Sarah Sheppard
Chief Executive Officer

I am proud of the collective efforts of staff over the last year to deliver on our significant regulatory commitments in 2022–23. These include, but are not limited to, the 2023 water price review for 14 water businesses, setting the 2023–24 solar feed-in tariffs and Victorian Default Offer, the development of a draft Land Access Code of Practice, the implementation of major reforms to the Victorian Energy Upgrades program, and actioning our compliance and enforcement priorities across the energy and water sectors.

This work program required the full range of staff technical expertise across diverse subjects and sectors, and multidisciplinary teams. It also required a sustained focus on stakeholder engagement to make sure the assessments and recommendations we presented to commissioners for consideration reflected diverse stakeholder voices and represented the long-term interests of all Victorians.

This report details the outputs and outcomes of operational plans across our core divisions. Our commitment to produce these outputs and achieve these outcomes is supported by our strategy and goals to deliver value to Victorians. Our ability to produce these outputs and achieve these outcomes is the result of our long-established focus on supporting our team to pursue regulatory excellence through creating the right culture, systems and processes to make sure our staff are skilled up, tooled up and set up for success.

As the commission grows and our roles and responsibilities change, our challenge is to continue to embrace the future with inclusiveness, commitment and the benefit of both deep experience and a continuous improvement mindset. These desired qualities and attributes need to be grounded in practical support and training and leadership. This is where our policies, leadership and training programs and strong relationships and networks across the Victorian public service come into play. One of the commission's greatest strengths is our safe, inclusive and collaborative culture. Our team continues to work to improve our employee health and safety, cultural capability, and gender equity measures and contributions.

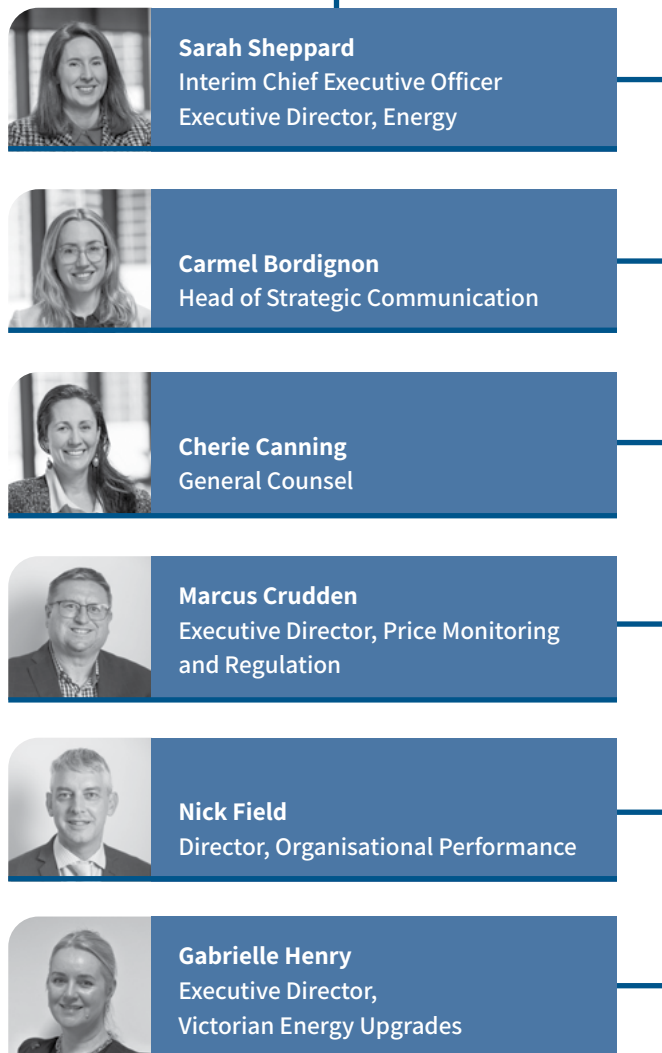
I echo Kate's words of respect and gratitude for the leadership and dedication of past and recent leaders at the commission. It is thanks to the contributions of former commissioner Richard Clarke and former CEO Dr John Hamill and their legacy of regulatory excellence that I feel privileged and excited to have the opportunity to lead this great organisation into our 30th year, and this next chapter on our journey to deliver better essential services for Victorian communities.

A handwritten signature in black ink, appearing to read 'Sarah Sheppard', written in a cursive style.

Sarah Sheppard
Chief Executive Officer
Essential Services Commission

Our leadership team

Organisational chart as of 30 June 2023



Our organisational structure

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

Our commissioners



Kate Symons
Chairperson and Commissioner

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

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

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



Sitesh Bhojani
Commissioner

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

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

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



Rebecca Billings
Commissioner

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

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

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



Simon Corden
Commissioner

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

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

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

The executive team



Sarah Sheppard
Interim Chief Executive Officer
Executive Director, Energy

Sarah was appointed Chief Executive Officer in August 2023. Sarah joined the commission as Executive Director of Energy in April 2021.

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

John Hamill
Chief Executive Officer
John was in the role to 9 June 2023.



Carmel Bordignon
Head of Strategic Communication

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

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



Cherie Canning
General Counsel

Cherie is the commission's General Counsel, a new position created in 2022. Cherie previously worked as a lawyer for the commission's energy division.

Cherie has extensive experience in both private practice and the public service. Prior to joining the commission, she held roles at King and Wood Mallesons and at the Australian Government Solicitor. Cherie has a Bachelor of Commerce/Law from the University of Melbourne.



Marcus Crudden
Executive Director, Price Monitoring
and Regulation

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

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



Nick Field
Director, Organisational Performance

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

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



Gabrielle Henry
Executive Director,
Victorian Energy Upgrades

Appointed in August 2022, Gabrielle oversees the Victorian Energy Upgrades program, including assessing and registering certificates, approving products and accrediting participants. She also oversees project-based activities and monitoring and enforcement of compliance with the program rules.

Gabrielle has extensive experience in operational, financial and data management in the renewable energy and energy efficiency sectors. Gabrielle has undergraduate degrees in mechanical engineering and arts (German), and post-graduate qualifications in finance.

Our strategy

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

Our changing environment

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



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



The economic and fiscal environment has changed, resulting in increased cost-of-living pressures for consumers, stress on supply chains, low unemployment and fiscal constraints on government.



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



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



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



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

Delivering for Victorians

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

1 We will be a strong and fair regulator

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

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

2 We will be an active regulator

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

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

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

To ensure regulated businesses deliver value for customers we will:

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

4 We will deliver value to Victorian consumers

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

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

Creating the right culture, systems and processes

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

- teams that focus on engaging with stakeholders
- systems and data that drive regulatory outcomes
- people with the right mix of skills and knowledge
- engaged people with the right capabilities
- a workplace that is diverse, inclusive and flexible.

Regulating with consumer vulnerability in mind

Supporting Victorians experiencing vulnerability is an enduring priority for the Essential Services Commission. We are bringing this to life through progressing our *Getting to fair* strategy.

Launched in August 2021, the strategy provides a three-year roadmap to help the commission to improve the experience of consumers who are experiencing vulnerability by supporting our regulated and administered sectors to provide more responsive, inclusive and accessible services.

Getting to fair: breaking down barriers to essential services

The strategy is built around three key objectives:

- working with consumers
- working with regulated businesses
- working on ourselves.



Our *Getting to fair* strategy promotes more responsive, inclusive and accessible services.

Progress report

Getting to fair identifies 33 actions to support vulnerable consumers through facilitating more responsive, inclusive and accessible essential services. In the two years since the strategy was launched, the commission has implemented 21 of these actions.

The strategy has helped the commission to keep the experiences, needs and expectations of consumers experiencing vulnerability at the centre of our work program and regulatory decisions.

We released a progress report in August 2023, which provides a summary of our actions to date.

See the Essential Services Commission website for further information about our progress with the **Getting to fair** strategy.

Our performance

Our strategic goals help us to continuously measure and improve how we operate. Here is a summary of our 2022–23 achievements.



*The 30 Victorian Default Offer (VDO) tariffs comprise:

- 10 flat VDOs
- 10 time of use VDOs
- 10 compliant maximum annual bills.

(Includes 5 residential prices and 5 small business prices for each electricity distribution zone.)

Creating the right culture, systems and processes



193

Employees



23

Engage Victoria consultations



6%

Increase in people accessing information via our website



35%

Increase in Engage Victoria website visits



12

Employees completed our leadership program



1,800+

Participants at engagement events



34

Engagement events with stakeholders



We regulate Victoria’s energy sector in the long-term interests of Victorian energy consumers.

We are responsible for licensing businesses that are involved in the supply and sale of electricity and gas in Victoria – this includes energy retailers, distributors, transmission companies and generators, and registering people who are selling electricity in embedded networks.

We conduct reviews and inquiries to promote the interests of Victorian energy consumers, which can also include making or changing existing rules to protect customers. We also promote and enforce energy businesses’ compliance against these rules.

We set the Victorian Default Offer for electricity prices and the minimum feed-in tariffs for solar customers. We also publish regular reports on the energy market’s performance to keep the community informed and up to date.

Our year in review

Promoting compliance to protect vulnerable customers

The commission has legislative functions and powers to take enforcement action on energy businesses. We also work to promote the compliance of energy businesses by providing guidelines for existing energy rules, and take proactive action to deter non-compliance.

We take a risk-based approach to our compliance and enforcement actions, which is outlined in our **Compliance and Enforcement Policy**. We also consider taking actions that are most conducive to securing compliance.

Penalty notices

We issued 74 penalty notices to energy businesses in 2022–23, amounting to \$1.655 million. These enforcement actions largely related to our priorities, focusing on protections for customers experiencing vulnerability.

The penalty notices related to alleged breaches including:

- A retailer allegedly failing to register life-support customers appropriately.
- Energy distributors allegedly failing to give planned interruption notifications to customers relying on life-support equipment.
- A retailer allegedly imposing conditions on customers who were receiving payment difficulty assistance.
- Energy retailers allegedly failing to provide assistance to customers experiencing payment difficulties (which they are entitled to under the rules).

Enforceable undertakings

We accepted court enforceable undertakings from five energy businesses in relation to alleged non-compliance with the Victorian Payment Difficulty Framework, disconnection and explicit informed consent consumer protections. The enforceable undertakings required the businesses to improve training and quality assurance processes, and to be independently audited.

Proactive compliance programs

We undertake proactive compliance programs when we identify a potential risk to energy sector consumers. The programs:

- identify potential issues
- gather information to inform our approach
- implement appropriate strategies to promote energy businesses compliance.

We undertook three compliance programs in 2022–23, which will also continue into the next financial year.

Bill change alert compliance program

Following unusually high energy prices in the electricity wholesale market in 2022, the commission raised concerns about some energy retailers contacting customers and advising them to find new retailers to avoid significant price rises.

We undertook a bill change alert compliance program to remind retailers of their key obligations when providing information to customers. We reviewed examples of bill change alerts from 18 retailers to check if retailers were compliant with the Electricity Retail Code of Practice. Where we found potential non-compliance, we took action in line with our compliance and enforcement policy.

Best offer compliance program

The best offer compliance program 2022–23 reviewed how well retailers were complying with their obligation to tell customers – via their bills – whether they are on their retailer’s best offer. We found that some retailers may benefit from the commission’s guidance to further help Victorian customers engage in the market. We have been developing a guideline that will assist retailers in complying with best offer messaging requirements in the Energy Retail Code of Practice.

Disconnection compliance reviews

We began compliance reviews of three retailers about their processes and procedures when considering the disconnection of customers. The reviews require retailers to appoint an independent auditor to check their practices with regards to specific energy rules.

We selected three retailers to review based on intelligence and analysis of relevant data. We will publish the compliance review findings when complete, so that all retailers can benefit from the learnings.

Guidelines to promote compliance

The commission is committed to assisting energy businesses’ voluntary compliance with the energy rules by providing accessible information to industry and consumers. We issue guidelines about the various rules, explaining the commission’s processes and powers.

We developed three guidelines in 2022–23 to help promote energy companies’ compliance with the energy rules.

Clear advice for customers with payment difficulties

We updated *Guideline 3 (2022): Clear and unambiguous information or advice for residential customers anticipating or facing payment difficulties*, which clarifies that all requirements of ‘disconnection warning notices’ must be contained on a single notice.

This guideline shows the importance of providing key information in its entirety at specified points in the processes that can lead to a disconnection.

Information Gathering Notice Guideline

This guideline helps energy businesses understand how to comply with notices issued by the commission. It is a critical tool that allows us to obtain information, documentation and evidence for our regulatory functions, including taking compliance and enforcement actions.

The publication of the guideline follows the increased powers of the commission to issue compulsory information gathering notices.

Enforceable Undertakings Guideline

This guideline provides guidance on our general expectations for entering into an undertaking, and the consequences of breaching an undertaking.

Energy businesses can enter into enforceable undertakings with the commission to deter and prevent future non-compliance.

Facilitating Victorian energy market entry and exit

Between 1 July 2022 and 30 June 2023, we issued six new energy licences – four electricity generation licences and one electricity retail licence and one gas retail licence. We also registered 586 electricity licence exemptions.

We revoked five retail licences (by agreement with the retailers). As a consequence of two retailers exiting the Victorian market, there were also four Retailer of Last Resort events, with 14,400 electricity customers transferred to other retailers to provide for continuity of supply.

Assessing licence applications

All licence applications are subject to public consultation. We continue to receive and consult on licence applications, including for businesses that may play a key role in Victoria's transition of the energy sector to net zero emissions.

When assessing licence applications, the commission carefully considers whether issuing the new licence will promote the long-term interests of Victoria's energy consumers.

Revised obligations for energy distributors

The commission has a role in making and reforming energy rules that apply to distribution businesses that build, maintain and operate electricity poles and wires and gas pipes.

Code of practice review

We completed a review of the Electricity Distribution Code of Practice, so that it remains fit for purpose and enforceable against our new enforcement powers. The key protections in the code include:

- protections for life-support customers
- notification requirements for power outages
- rules that apply to administering the Guaranteed Service Level scheme.

Our review included making certain obligations civil penalty requirements, which allows the commission to issue penalty notices and consider court action for possible breaches.

Standards for electricity distributors when connecting new housing developments

We revised the Greenfields Negotiated Electricity Connection Customer Service standards for electricity distributors when connecting new housing developments to electricity networks.

The standards:

- increase transparency over the timeliness and processes for new housing development connections
- improve the accountability of distribution businesses' processes
- help build effective business relationships with housing developers.

Unaccounted for gas benchmarks

Unaccounted for gas is the difference between the measured quantity of gas entering the system and the gas delivered to customers.

We updated unaccounted for gas benchmarks for the next regulatory period until 30 June 2028. The benchmarks support the annual financial reconciliation process between retailers and distributors.

Developing a Land Access Code of Practice

New transmission infrastructure is required to support increased renewable energy in the system. As new transmission lines are being planned in Victoria, it is important that affected landowners are supported through effective engagement with transmission companies, especially when accessing private land.

We are developing a **Land Access Code of Practice** to regulate how electricity transmission companies can access land under section 93 of the *Electricity Industry Act 2000*. These enforceable obligations aim to:

- make access to private land more transparent
- facilitate engagement and consultation when accessing land
- hold transmission companies to account.

A consultation paper was released in January 2023 and a draft code of practice was released in June 2023 for consultation.

Compliance and enforcement

“Our compliance and enforcement priorities hold energy companies to account by ensuring they uphold protections on important matters facing consumers such as wrongful disconnections, bill stress and switching energy contracts or retailers with confidence.”

– Commissioner Sitesh Bhojani, Compliance and enforcement priorities 2022–2023 launch

Compliance and enforcement priorities 2022–23

- Wrongful disconnections
- Explicit informed consent
- Payment Difficulty Framework
- Best offer messages
- Embedded networks’ fees and charges
- Protecting those experiencing vulnerability
- Guaranteed Service Level compensation payments

Wrongful disconnection of customers

We accepted court enforceable undertakings from two energy retailers following allegations they disconnected customers wrongfully and failed to comply with rules in place to protect customers facing financial difficulties. The enforceable undertakings committed the retailers to changing their processes.

Following trend analysis of wrongful disconnections, we directed three retailers to undertake compliance reviews under their licence conditions. The reviews focus on specific disconnection processes and the root causes of issues. The findings of these reviews will be shared with industry in late 2023 to ensure participants can learn and improve their own processes.

We will continue to monitor the market and report transparently about disconnections, including through our Victorian Energy Market Report and data dashboard.

Explicit informed consent

Retailers must obtain a customer’s explicit informed consent for transactions in the energy market. This includes when customers are transferred between retailers. The aim is to ensure that consumers understand the information about the transaction and clearly provide their consent to the transaction.

We accepted court enforceable undertakings from three retailers following allegations they failed to obtain explicit informed consent from customers before signing them up to energy contracts. The enforceable undertakings committed the retailers to implementing changes to their compliance programs and practices, including training and quality assurance improvements, which will lead to improved compliance and better outcomes for customers.

Payment Difficulty Framework

The commission’s Payment Difficulty Framework requires energy retailers to provide assistance to customers who may be experiencing difficulty paying their bills. The commission continues to monitor retailers’ behaviour and activities around this critical consumer safeguard and take enforcement action when these protections are breached.

We facilitated a better practice program with energy retailers and community service organisations, including three virtual workshops in July and August 2022, to help support customers under the Payment Difficulty Framework. The workshops discussed and shared practical actions and ideas that retailers could implement to support customers under the framework.

Best offer messages

Retailers must follow strict rules to inform customers about whether they are on the retailer’s best offer when purchasing energy. This is essential to make sure customers receive timely, transparent information that helps them to engage confidently with the energy market.

Throughout the year, we have been undertaking a compliance monitoring program that focused on how retailers comply with these obligations. This program identified various issues with the ways retailers give best offer messages on bills, including issues with their appearance, calculation methods and how they determine the best offer for a customer.

We have engaged with 18 retailers throughout this program to improve their compliance and this work will continue into the next financial year.

Embedded network fees and charges

We have monitored the fees and charges that embedded network operators charge their customers to ensure that they do not exceed the price cap set by the Victorian Default Offer.

To encourage adoption of better practice when calculating tariffs and fees for exempt customers, we launched a targeted education campaign which provided information and guidance to exempt sellers and suppliers, as well as embedded network residents. In launching the project, we worked with stakeholders to ensure that published content reaches a broad audience, including non-English speakers, and those who have difficulty reading English.



Protecting customers experiencing vulnerability

Protecting customers experiencing vulnerability is an enduring priority for the commission, particularly those who are affected by family violence or rely on energy for life support. Customers experiencing vulnerability must be able to trust energy businesses to have strong processes and procedures in place to keep them safe when accessing essential electricity and gas.

As part of our three-year *Getting to fair* strategy, we continue to undertake activities that help to break down barriers consumers can face when accessing and engaging with essential services.

We build and value strong relationships with energy consumers and consumer advocate agencies, we influence change in our regulated entities, so they are more responsive and accessible, and we are ensuring that we are building our organisational capacity and awareness in using inclusive engagement in our stakeholder engagement work.

Guaranteed Service Level compensation

We monitored distributor businesses’ compliance with rules relating to compensating consumers when guaranteed service levels are not met.

Guaranteed Service Levels cover missed or late appointments, new customer connections and supply restoration and supply reliability benchmarks. We conducted analysis of distributors’ processes and published a consumer fact sheet about the Guaranteed Service Level payment scheme. This includes information about what steps a customer can take if they are eligible for a payment but have not received it.



The commission worked with stakeholders to provide educational information about the Victorian Default Offer for embedded network customers.

Enforcement action 2022–23

Month	Description of enforcement action
July 2022	Origin Energy paid over \$70,000 in penalty notices for allegedly breaching rules that protect Victorians relying on electricity for life support, and rules that assist customers who are facing bill stress.
August 2022	We accepted a court enforceable undertaking from AGL Sales over allegations it failed to provide adequate payment assistance to customers , and failed to comply with rules relating to the disconnection of customers' energy supply.
	We accepted a court enforceable undertaking from EnergyAustralia over allegations it failed to obtain explicit informed consent from some electricity and gas customers who entered into contracts with EnergyAustralia between 12 June 2020 and 31 January 2022.
	We accepted a court enforceable undertaking from Red Energy and Lumo Energy over allegations they failed to obtain explicit informed consent from some electricity and gas customers who entered into contracts with Red Energy between 24 August 2018 and 13 December 2019.
January 2023	Alinta Energy paid over \$380,000 in penalty notices for allegedly breaching rules that protect Victorians who are experiencing payment difficulty. For four of these 13 customers, Alinta Energy allegedly imposed a condition on the provision of assistance that required the customers to provide personal or financial information.
	Mojo Power East Pty Ltd paid over \$180,000 in penalty notices for allegedly charging Victorian Default Offer customers incorrect rates, with over 400 customers allegedly being overcharged.
	The commission undertook that investigation alongside an investigation into QEnergy Ltd, who also paid over \$180,000 in penalty notices for allegedly charging Victorian Default Offer customers incorrect rates, with over 60 customers allegedly being overcharged.
February 2023	We accepted a court enforceable undertaking from Momentum Energy over allegations it unlawfully disconnected electricity to the home of a family violence victim-survivor experiencing financial difficulties.
April 2023	AusNet Services paid over \$40,000 in penalty notices for the alleged failure to notify customers (including a life-support customer) of a planned interruption in June 2022.
June 2023	Jemena Electricity Networks (Vic) Ltd paid over \$795,000 in penalty notices for allegedly failing to comply with obligations that protect Victorian energy customers who need life-support equipment, and who are affected by planned power outages.
	We alleged that Jemena engaged in conduct whereby it failed to notify a life-support customer and non-life-support customers of a planned interruption, notify retailers that some customers required life-support equipment within required timeframes and failed to send a customer required information about their life-support registration within required timeframes.

Victorian Default Offer

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

We set the Victorian Default Offer each year based on the latest information on the efficient costs retailers need to recover to provide electricity to customers and after consulting with stakeholders.

An electricity retailer must make the Victorian Default Offer available to its existing customers who request it, but they can also offer customers market offer contracts that differ from the Victorian Default Offer. The Victorian Default Offer is also a maximum price that applies to roughly 150,000 customers in embedded networks, such as apartment buildings and caravan parks, where it is the maximum that can be charged.

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

Wholesale costs drove higher 2023–24 Victorian Default Offer prices

Changing market conditions were behind our decision to increase the Victorian Default Offer by on average 25 per cent from 1 July 2023. During financial year 2022–23, we reviewed the Victorian Default Offer prices for financial year 2023–24. Our review showed that electricity retailers’ costs had increased. Wholesale electricity costs accounted for almost all of the increase in costs. Smaller increases in network and other regulatory costs also contributed.

As at March 2023, around 15 per cent of households and 19 per cent of small businesses were on the Victorian Default Offer. The forecast financial year 2023–24 annual bill for the average household on the default electricity offer is estimated to increase by \$352 (or around 25 per cent), with a rise of around \$752 for small business customers (also around 25 per cent).

Movements in the Victorian Default Offer largely reflect changes in the market. Different retailers offer different prices and associated benefits, and this can reflect their cost and market strategies.

Finding the right energy plan

We encourage consumers to:

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

Figure 1: Change in Victorian Default Offer (VDO) annual bills for domestic customers on flat tariffs (assuming annual usage of 4,000 kWh)

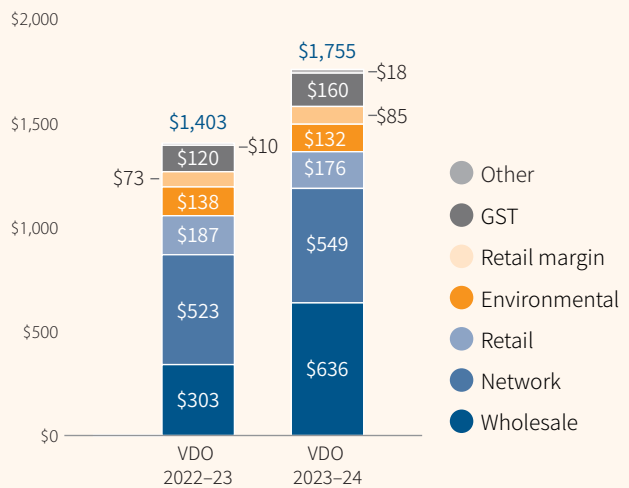
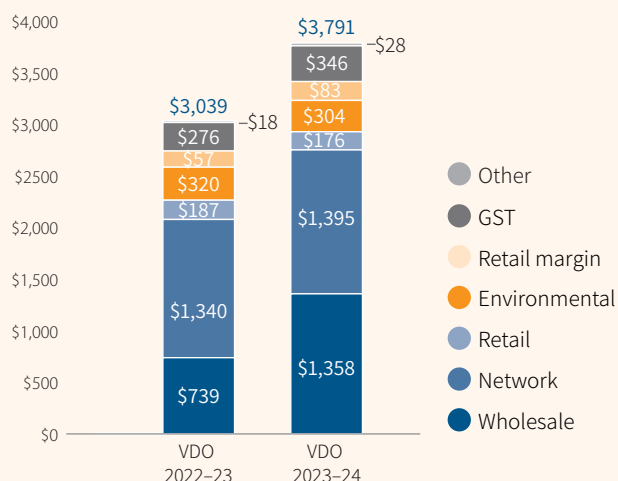


Figure 2: Change in Victorian Default Offer (VDO) annual bills for small business customers on flat tariffs (assuming annual usage of 10,000 kWh)



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

Solar feed-in tariffs

Energy businesses pay their customers feed-in tariffs for the power they export to the grid (in most cases from solar panels). The energy retailers are responsible for setting their feed-in tariffs.

However, each year the commission sets the minimum feed-in tariffs that retailers must pay. This means that retailers have to offer Victorian customers at least these minimum feed-in tariffs, but they can offer feed-in tariffs which are above the minimum amounts.

We set the minimum feed-in tariffs based on the wholesale value of electricity at the times solar exports occur and the social, environmental and health benefits of renewable energy.

Wholesale prices during daylight hours continue to decrease

In the financial year 2022-23, we reviewed the feed-in tariffs for 2023-24. Our final decision was that solar feed-in tariffs should be slightly lower for 2023-24. Although on average electricity prices have increased (due to higher nighttime wholesale electricity prices), daytime wholesale electricity prices have decreased. This continues a trend that we have observed over the past several years.



With increased roof-top solar uptake, people are using less electricity from the grid during the day. During daylight hours, solar customers use the electricity they generate themselves. At the same time, they increase electricity supply by exporting any excess solar power to the grid. This increasing supply and decreasing demand is leading to lower daytime wholesale electricity prices.

Solar continues to help customers save on their electricity bills





As more people install roof-top solar, daytime wholesale electricity prices are likely to continue to decrease. However, solar customers can still make good savings by using the electricity they produce instead of paying retail prices for energy they would have to import from the grid. By running power-hungry appliances during the day, when solar systems are hard at work, customers can save by avoiding peak retail prices in the evening.

See the Essential Services Commission website for further information about the [minimum solar feed-in tariffs](#).



Status key:  Complete  On track  Ongoing  Delayed

Progress report 2022–23

Objective	Status	Outputs	Outcomes achieved
Land Access Code of Practice Draft Decision		<ul style="list-style-type: none"> Draft enforceable obligations on transmission companies when accessing land using powers under section 93 of the Electricity Industry Act. 	<ul style="list-style-type: none"> Engagement with community and industry stakeholders to inform the draft obligations.
Victorian Energy Market Reports		<ul style="list-style-type: none"> Published economic articles on the functioning of the retail energy market. Published analysis and data on energy retailer and distributor performance. 	<ul style="list-style-type: none"> Transparency of energy retailer and distributor performance. Transparency of our compliance and enforcement actions.
Greenfields Connections Customer Service Standards Final Decision		<ul style="list-style-type: none"> Electricity distributors to follow revised customer service standards when connecting new housing developments. Clear performance metrics for distributors to report when connecting new housing. 	<ul style="list-style-type: none"> Facilitated engagement between developers and distributors to improve connection timeframes. Transparency of distributor performance.
Gas Distribution System Code of Practice Review Issues Paper		<ul style="list-style-type: none"> Issues paper consulting on possible changes to key obligations on gas distributors. 	<ul style="list-style-type: none"> Consultation with community and industry stakeholders to inform key areas of interest.

Sector context

Factors affecting our work included:

- Wholesale energy market events that led to increased energy bills, adding to cost-of-living pressures.
- Climate change and the increased frequency and intensity of extreme weather is driving demand for innovation and putting greater demands on infrastructure.
- The energy market is transitioning as Victoria moves to net zero by 2050. Significant investments in transmission networks and renewable energy are being fast-tracked to meet governments' climate goals.

Cost of our energy industry activities

The total cost of the commission's energy program in 2022–23 was \$15.02 million. The cost includes an allocation of the costs of staff who support the energy team's work across the commission.





Water

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

Our year in review

We completed a review of the pricing proposals from 14 Victorian water businesses in 2022–23. Following consultation, we issued determinations which set the maximum prices that each water businesses may charge customers for the next five years.

The final decisions followed:

- Scrutiny of the detailed proposals supplied by the water businesses.
- Consultation with customers and the community on a draft decision, through public forums and submissions.

We also approved 2023–24 tariffs for four Victorian water businesses that were not part of the 2023 water price review, verifying that they were consistent with their most recent price determinations.

In 2023–24, typical household water and sewerage bills (for owner-occupier households) will rise on average by around:

- \$37 (or 3.8 per cent) in metropolitan Melbourne
- \$74 (or 6.6 per cent) in regional Victoria.

The new prices came into effect 1 July 2023.

See the Essential Services Commission website for more information about the [water price review](#).

Family violence protections for customers

We conducted a review to find out how the family violence provisions in our Water Industry Standards (introduced in 2018) are being implemented by water businesses, and what this means for customers.

The review was guided by an expert group of family violence survivor advocates. We also heard directly from people with lived experience of family violence, financial counsellors, water businesses and the community sector.

Our review found that the water sector has a good understanding of family violence and protections are working well to support most customers. We've also seen businesses recognise opportunities to promote customer safety and build the capacity of their staff.

We also identified that more can be done to protect customers. We are committed to:

- promoting learning and collaboration across the sector
- increasing access to support
- setting clear expectations about compliance with the standards
- developing a better understanding of the impact of family violence support.

See the Essential Services Commission website for more information about the [family violence standards in water review](#).

Enforceable undertaking in relation to family violence protections

In June 2023, the commission accepted a court enforceable undertaking from South East Water over allegations it failed to uphold critical protections in place to support customers affected by family violence. South East Water has committed to improve its policies, training and compliance monitoring, with customers expected to benefit from these improvements. South East Water is also sharing its insights to promote industry learning and protections for all customers.

Holding water businesses to account for their service performance

We published our **Outcomes Report 2021–22** in October 2022. The report considers the performance of Victoria’s water businesses against their own commitments to customers. The report covered the period from 1 July 2021 to 30 June 2022. Based on businesses’ self-assessments, we considered that all businesses are on track to deliver their outcome commitments to customers by the end of their pricing periods.

Water Performance Report 2021–22

We published our **annual water performance report** in February 2022.





Key findings included:

- Water businesses continued to support customers experiencing hardship, including a 34 per cent increase in the number of customers receiving a Victorian Government Utility Relief Grant.
- Households reduced their water use by 2 kilolitres on average compared to the previous year, coinciding with above average rainfall across the state.



Water business customer survey

We continued to release quarterly snapshots of results from our **survey of water customers** on the performance of their water business. Across the measures of satisfaction, value for money, trust, and reputation, average ratings declined slightly over 2022–23.



Status key:  Complete  On track  Ongoing  Delayed

Progress report 2022–23

Objective	Status	Outputs	Outcomes achieved
Publish water performance report, monitoring reports, outcomes report and customer perceptions reports		<ul style="list-style-type: none"> Quarterly perception reports published. Outcomes report released October 2022. Annual water performance report released February 2023. 	<ul style="list-style-type: none"> Customers informed about the level of service they receive from their water business.
Review and revise our Water Industry Standards, including best practice approaches to family violence		<ul style="list-style-type: none"> Updated Water Industry Standards released in September 2022. Family violence review findings report released in July 2023. 	<ul style="list-style-type: none"> New requirements included to strengthen requirements on businesses related to customer communications, and support for customers who are experiencing payment difficulty. Better understanding of how our obligations on businesses impact customers, and areas for improvement to inform future updates to our customer protection framework.
Price reviews for 14 water businesses		<ul style="list-style-type: none"> Final decisions and price determinations released June 2023. In undertaking the water price review, we issued three information gathering notices under section 4G of the <i>Water Industry Act</i>. 	<ul style="list-style-type: none"> Prices reflect the efficient cost of delivering services that are of the most value to customers and the community.
Release guidance for Greater Western Water and Goulburn Murray Water price reviews		<ul style="list-style-type: none"> Guidance papers issued to each business in September 2022. 	<ul style="list-style-type: none"> Guidance provides a framework that provides incentives for businesses to prepare price submissions that are in the long-term interests of their customers.
Annual water tariffs approvals for four water businesses		<ul style="list-style-type: none"> Tariffs approved for four water businesses. 	<ul style="list-style-type: none"> Confirmed the prices to be charged are consistent with the price determinations for each water business.

Sector context

The main external factors influencing our work are:

- The cost-of-living pressure is increasing, with inflation and recent increases in interest rates and energy prices. We will need to consider these pressures when establishing prices and service standards. Potential price rises place increased scrutiny on our decisions.
- Climate change is influencing the frequency and severity of events affecting network infrastructure (bushfires, storms, floods). We need to ensure our framework provides for resilient infrastructure and service delivery and help impacted customers.

Cost of our water industry activities

The total cost of the commission's water regulation in 2022–23 was \$5.52 million. The cost includes an allocation of the costs of staff who support the water team's work.





Local government

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

Our year in review

Monitoring rate cap compliance

Rate capping is a system that limits the amount Victorian councils can increase their average rates each year. We monitor councils' compliance with rate caps yearly, based on data provided by the councils. In 2022–23, all 79 councils complied with the rate cap set for them and there were no applications for a higher cap. All councils were subject to an average rate cap of 1.75 per cent.

Rate capping report

We publish **The Outcomes of Rate Capping** report every two years. The report examines the impact of rate capping in Victoria with a focus on identifying emerging trends across the local government sector. Our 2022–23 report (covering 2016–22) provides information about councils' services, infrastructure and financial outcomes since the introduction of rate capping.

We found that:

- Ratepayers paid lower rates than they would have done in the absence of rate capping.
- The sector as a whole had a positive operating position and the ability to meet both short-term and long-term liabilities.

The report was accompanied by council fact sheets and an **interactive data dashboard**, giving councils and communities an insight into the effect of rate capping on each council.

Hardship





In February 2023, we provided initial views to the Minister for Local Government on the content of a **Ministerial Guideline for engaging with ratepayers experiencing hardship**.

This paper outlines:





- Our views on the definition of hardship.
- Key principles that should underpin an effective approach.
- The content of the hardship guideline.
- The implementation and embedding of good practice.

We drew on our experience in other sectors and targeted consultation with the sector.



Status key:  Complete  On track  Ongoing  Delayed

Progress report 2022–23

Objective	Status	Outputs	Outcomes achieved
Report on compliance with the 2022–23 local government rate cap		<ul style="list-style-type: none"> Report released in November 2022. Published updated compliance guidance for councils. 	<ul style="list-style-type: none"> Community has confidence that the rate cap is being met. Councils understood compliance requirements.
Provide advice on the 2023–24 rate cap		<ul style="list-style-type: none"> Advice provided to the Minister for Local Government, November 2022. 	<ul style="list-style-type: none"> Advice considered by the Minister for Local Government.
Report on <i>The Outcomes of Rate Capping</i>		<ul style="list-style-type: none"> Published third outcomes report, including analysis of trends in financial position, services, and infrastructure asset renewal and maintenance. 	<ul style="list-style-type: none"> Communities, councils, and the Victorian Government are informed about the impacts of the rate capping framework on councils and communities.
Support establishment of guidelines for local government to assist ratepayers in financial hardship		<ul style="list-style-type: none"> Initial advice provided to the Minister for Local Government, February 2023. 	<ul style="list-style-type: none"> Improved processes for customers experiencing vulnerability.

Sector context

The main factors influencing our work are:

- Under the *Local Government Act 1989*, the rate capping framework was reviewed in 2021, five years after its introduction. The review considered whether the mechanism for setting the rate cap is appropriate, and whether the framework is effective or requires amendment. The government is considering the review findings; this could result in changes to the framework or our approach and processes.
- Cost-of-living pressures are increasing, with inflation and interest rates rising. We will need to consider these pressures when establishing prices and service standards. Potential price rises place increased scrutiny on our decisions.

Cost of our local government activities

The total cost of the commission’s local government activities in 2022–23 was \$2.20 million. The cost includes an allocation of the costs of staff who support the local government team’s work across the commission.



Our transport work involves administering the commission's economic regulatory responsibilities in ports, commercial passenger vehicles and accident towing.

We undertake inquiries into the Port of Melbourne's compliance with applicable Acts and Pricing Orders, and its setting of land rents. This is to ensure that Australia's largest container port is delivering full economic value to Victorians. We assess its wharfage charges for compliance with pricing rules annually.

We determine maximum unbooked taxi fares in metropolitan Melbourne and regional areas, plus associated card payment surcharges for all trips. Periodically we examine accident towing charges, making recommendations to the Minister for Roads about whether they should change.



Our year in review

Statement of Regulatory Approach update

Our Statement of Regulatory Approach guides the Port of Melbourne, and users, about how we approach administering legislation that regulates the Port of Melbourne's price setting behaviour.

It describes the pricing framework, along with other key processes and methods for assessing ongoing compliance.

The updated statement clarifies our role with regards to publishing interim commentary on wharfage tariffs, the precise timing of our five-yearly inquiries and views on 'well accepted approaches' to rates of return calculations. Modifications were made to provide the Port of Melbourne with guiding principles to demonstrate effective stakeholder consultation, an issue of considerable focus over the last three years.





Unbooked taxi fares and surcharges

From 15 September 2022, we determined that taxi fares hailed from a rank or the street in Melbourne, Mornington Peninsula, Bendigo, Ballarat and Geelong would increase by 11.2 per cent, and by 12.2 per cent for high occupancy vehicles carrying five or more passengers. This followed an engagement with industry and consumer representatives.





Considering exceptional industry circumstances, shaped by the pandemic and inflation headwinds, we observed that taxi service operating costs had increased, while demand had begun to pick up. This justified the first fares increase since 2014.

Concurrently, we announced that our review of non-cash payments surcharges – paying for your taxi trip by Cabcharge, credit or debit card – indicated they remained appropriate for now.

We examine these surcharges every two years. It allows payment operators to recover their reasonable costs of providing in car processing terminals and back-end facilities that enable customers to conveniently pay for trips.

Status key:  Complete  On track  Ongoing  Delayed

Progress report 2022–23

Objective	Status	Outputs	Outcomes achieved
Statement of regulatory approach for Port of Melbourne		<ul style="list-style-type: none"> Published December 2022. 	<ul style="list-style-type: none"> Port users have confidence in the regulatory framework and oversight of the port.
Develop approach to assessing Port of Melbourne disputes and tenders per Tenancy Customer Charter		<ul style="list-style-type: none"> Methodology established December 2023. 	<ul style="list-style-type: none"> Port users have confidence in the regulatory framework and oversight of the port.
Set the maximum surcharge for non-cash payment in commercial passenger vehicles		<ul style="list-style-type: none"> Maximum surcharge set September 2022. 	<ul style="list-style-type: none"> Passengers pay reasonable surcharges. Providers can recover reasonable costs.
Set maximum taxi fares		<ul style="list-style-type: none"> Maximum fares set September 2022. 	<ul style="list-style-type: none"> Established the maximum rates that customers should pay for unbooked trips.

Sector context

The main factors influencing our work are:

- Cost-of-living pressure is increasing, with inflation and interest rates rising. We will need to consider these forces when establishing prices and service standards. Potential price rises place increased scrutiny on our decisions.

Cost of our transport activities

The total cost of the commission’s transport program in 2022–23 was \$2.31 million. The cost includes an allocation of the costs of staff who support the transport team’s work across the commission.



Victorian Energy Upgrades

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

Victorian energy efficiency certificates

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

The commission regulates the creation of certificates as part of the Victorian Energy Upgrades program which aims to reduce greenhouse gas emissions and cut energy bills.

Our year in review

Reducing emissions and energy costs in Victoria

The program delivered over 852,000 upgrades across more than 506,000 households and 38,000 businesses in 2022–23. This is a 23 per cent increase compared to the number of upgrades in 2021–2022. Around 6.7 million Victorian energy efficiency certificates were registered from these upgrades, with lighting upgrades and the installation of refrigerated cabinets generating the most certificates.

Strengthening the Victorian Energy Upgrades program for consumers

A code of conduct was introduced on 1 July 2022. We published guidance materials and held workshops with businesses to educate them about the new code. We also released publications to help consumers understand their rights and how to report breaches of the code.

The Victorian Parliament passed significant amendments to the *Victorian Energy Efficiency Target Act 2007* in August 2022 (most of which came into effect on 1 July 2023, with some changes to follow on 1 November 2023).

The changes include:

- new accreditation processes and standards
- new program fees
- strengthened functions and powers for the commission.

We have updated our systems to deliver new or changed services. We released updated guidance documents, application forms, fact sheets and FAQs to support industry to understand and comply with these changes.

Managing complaints

We received 2,043 program-related complaints in 2022–23, which was more than double the number of complaints received last year (865). We worked with the Department of Energy, Environment and Climate Action and other regulators to manage this increase and related issues. The Minister for Energy and Resources announced a ban on telemarketing in relation to the VEU program in June 2023. The department is working to finalise the design and implementation of this ban.

Safeguarding the integrity of program

We maintained our focus on promoting industry compliance with the program rules to uphold the integrity of the program.

The commission took enforcement action in 2022–23 when we identified contraventions by accredited persons against program rules.

To assist in monitoring and enforcing compliance, the commission issued nine notices under section 60 of the *Victorian Energy Efficiency Target Act 2007*, which requires persons to provide information and documents relevant to the operation of the program.

Enforcement action 2022–23

Month	Description of enforcement action taken against accredited persons under the Victorian Energy Upgrades program
November 2022	The commission gave Pan West Group Australia Pty Ltd, trading as Green Target Australia, a three-month suspension in the program over allegations the business breached program rules. Green Target Australia was ordered to surrender 14,987 certificates worth approximately \$1 million. We also imposed a condition on the business's accreditation requiring it to conduct an independent audit of its processes and controls to show they were robust enough to uphold the program's rules and identify any issues.
	The commission revoked the accreditation of Sara Corporation Pty Ltd, trading as Australian State Energy Upgrades (ASEU), for failing to comply with a mandatory order to surrender 47,909 certificates issued in June 2022 after ASEU allegedly breached program rules.
February 2023	The commission revoked the accreditation of Pan West Group Australia Pty Ltd, trading as Green Target Australia, after it failed to comply with a condition placed on its accreditation to submit an independent audit report by January 2023.
June 2023	The commission took enforcement action against nine accredited persons over non-compliant refrigerated cabinet activities. Actions included: refusing the registration of certificates; suspending the accreditation of one business; banning responsible businesses from carrying out refrigerated cabinet activities in the program; and issuing formal warnings.
	The commission took enforcement action against nine accredited persons over non-compliant water heating installations that risked consumer safety. Actions included: refusing the registration and ordering the surrender of certificates; restricting responsible businesses from installing heat pump water heaters until they demonstrated compliance; imposed conditions on accredited businesses; and issuing formal warnings. As a result of this action, consumers impacted by non-compliant installations had those issues rectified at no additional cost.

During 2022–23, seven energy retailers paid penalties of over \$1.5 million for their failure to surrender sufficient certificates to meet their certificate liability in 2021.

Court proceedings

The commission commenced court proceedings in the Supreme Court of Victoria in April 2023 in respect of two energy retailers, Mojo Power East Pty Ltd and QEnergy Limited, who failed to make payments for a shortfall in certificates surrendered to meet their liabilities. Both paid the outstanding shortfall penalties in June 2023. Moreover, the court ordered that each pay the commission’s legal costs and interest for the period the shortfall penalties were not paid. The court recorded its disapproval of companies who contravene their statutory obligations under the Victorian Energy Efficiency Target Act.

Assessing upgrades

We assessed over 89,000 upgrades in 2022–23 as part of our risk-based approach to monitoring compliance. We completed 1,840 upgrade audits, including:

- field audits
- desktop audits
- phone audits.

We also conducted 46 investigations during the year.

As a consequence of our compliance and investigation efforts, 378,438 certificates were withdrawn and 12,854 certificates were surrendered by accredited persons in the 2022–23 financial year.

Status key: Complete On track Ongoing Delayed

Progress report 2022–23

Objective	Status	Outputs	Outcomes achieved
Implementation of the code of conduct changes		<ul style="list-style-type: none"> • Publication of resources to support industry and consumers including: a code of conduct guideline; industry guidelines and checklists; statement of rights document for consumers; and a consumer information resource in October 2022. • Workshops with stakeholders about the implementation of the code to ensure they were aware of the requirements. 	<ul style="list-style-type: none"> • Greater understanding by industry on how to comply with the requirements of the code, and by consumers on their rights under the code.
Implement the new accreditation framework		<ul style="list-style-type: none"> • New application forms and guidance documents released on 30 June 2023 for commencement of reforms on 1 July 2023. • New accreditation framework processes, including renewal timing for accreditation providers, are in place and new applications are being processed. 	<ul style="list-style-type: none"> • Program participants have access to guidance documents and forms to apply for accreditation under the new accreditation framework. • New accreditation applications are being received and processed in accordance with the new framework.

Status key: Complete On track Ongoing Delayed

Progress report 2022–23 (continued)

Objective	Status	Outputs	Outcomes achieved
Support work on new Victorian Energy Upgrades fees framework		<ul style="list-style-type: none"> New fee structure announced on 30 June 2023, to apply from 1 July 2023, with further fee updates to apply from 1 November 2023. New fee processes to support fee structure implementation progress and automatic invoicing processes in development. 	<ul style="list-style-type: none"> Clarity for program participants on fees for ongoing participation in the Victorian Energy Upgrades program. Invoicing changes to the program’s framework in place to support 1 July 2023 fee changes.
Enhance our compliance and enforcement capability		<ul style="list-style-type: none"> Expanded our compliance and enforcement capability through establishment of a dedicated engagement, compliance and enforcement team, including recruitment of experienced staff to support these functions. The commission’s proactive targeting of areas of concern and enforcement activity increased. 	<ul style="list-style-type: none"> Increased effectiveness of our compliance and enforcement efforts, evidenced by the enforcement actions taken during the year.

Sector context

The main factors influencing our work are:

- The program’s increased role in supporting the Victorian Government’s emission reduction targets, driving the electrification of homes and businesses.
- As electricity generation becomes less emission-intensive, more efficiency upgrades are needed to achieve the same emission reduction benefits.
- An increase in the complexity, scope and volume of activities to be delivered by the program to meet increasing emissions targets.
- Significant legislative changes to the powers and functions of the commission.
- Increased standards to protect consumers, which were introduced as part of the code of conduct and *Victorian Energy Efficiency Target Amendment Act 2022*.

Cost of our Victorian Energy Upgrades activities

The total cost of the Victorian Energy Upgrades division in 2022–23 was \$12.10 million. The cost includes the direct costs in administering and regulating the program, plus an allocation for overhead costs of the commission.



Our people

As of 30 June 2023



193 people

We had 193 people working at the commission.



52:48 gender split

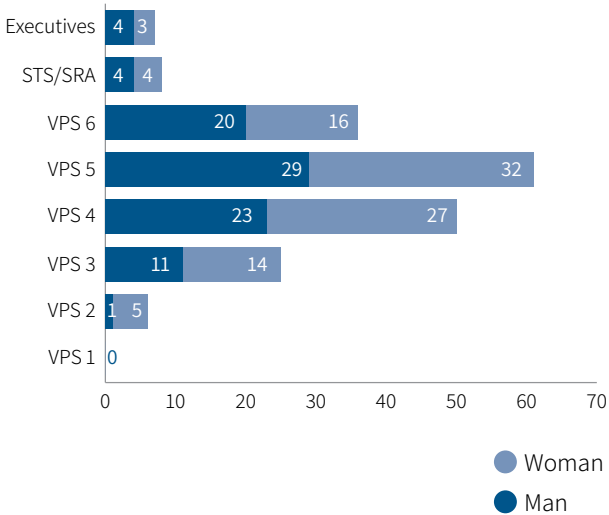
We had 101 women and 92 men working at the commission.



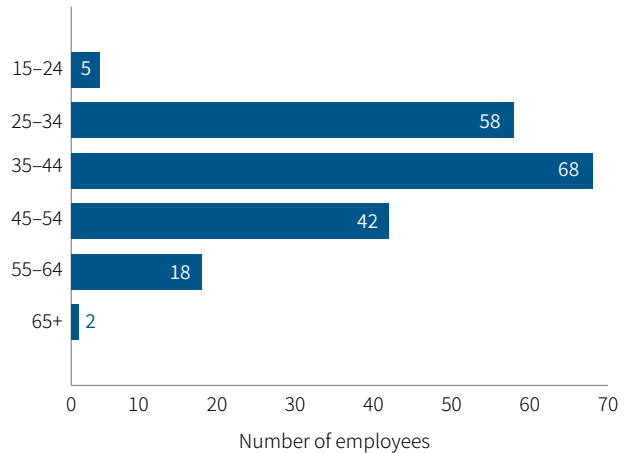
19% increase

Our organisation grew by 19 per cent in 2022–2023.

Our workforce breakdown



Our age demographic



Note: Includes ongoing and fixed-term and casual employees as at 30 June 2023, excluding commissioners (two women and two men). Includes personnel on paid leave arrangements but excludes those on unpaid leave.

Learning and development

Mentoring program

We created a new interdepartmental mentoring program in 2022–2023 with colleagues from Sustainability Victoria and Infrastructure Victoria.

Training and leadership development

We established Leadership in Practice, a new leadership program, as part of the leadership stream of our people strategy. This program was run in house by members of our senior leadership team and included guest speakers from across the commission.

Twelve developing and established leaders attended the pilot and will provide coordination and mentor roles to future Leadership in Practice program participants.

We continued upskilling our staff through in house and externally run training. We focused effort on building the capability of our enforcement staff through accredited investigations training, as well as best practice regulatory skills through the Australian and New Zealand School of Government (ANZSOG).

Workforce planning

Recruitment

With the commission's 19 per cent workforce growth in 2022–2023, our People and Culture Team supported a large volume of recruitment.

We ensured that our hiring managers were equipped with the skills to run unbiased and objective recruitment processes, ensuring the most suitable candidate is appointed.

Graduate program and internships

We recruited five graduates for 2023. We had several interns throughout 2022–23, including a placement under the VPS Refugee and Asylum Seeker internship scheme.

Health and safety

Occupational Health and Safety Committee

Our Occupational Health and Safety Committee met three times during 2022–2023. Attendees include health and safety and organisational representatives, members of our people and culture team, and a representative from Action OHS Consulting, our outsourced occupational health and safety provider.

We have recruited new health and safety representatives, first aiders and wardens to focus on the important role of keeping our workplace safe.

Diversity and inclusion

Diversity and Inclusion Working Group

Our Diversity and Inclusion Working Group worked actively across 2022–23 to prioritise initiatives and events to celebrate the diversity of our workforce.

Our 2022–2025 *Diversity, Equity and Inclusion Action Plan* was endorsed by our board in early 2023 and contains several priority projects which are being delivered collaboratively across the commission.

Gender equality

Our 2021–2025 *Gender Equality Action Plan* was published in 2022–23, containing actions which resulted from our baseline data audit. The commission is performing well against all key metrics, with a 52:48 per cent gender split and remuneration for women higher than men at our most senior levels.

We will continue to focus on gathering intersectional data to enhance our insights and actions, as part of our broader diversity, equity and inclusion work.

Pride Network

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

Building Aboriginal Cultural Capability

Our *Building Aboriginal Cultural Capability* plan supports our vision to be an organisation that is aware, respectful and inclusive of Aboriginal people and their history and to provide a culturally safe environment for all.

All commission staff received First Nations People's cultural competency training in 2022-23, which is a fundamental step on our journey towards self-determination for Aboriginal people.

Our office meeting rooms are named in the Woi-Wurrung language to pay our respects to the Traditional Owners of the lands on which we work.

Disability support

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



The commission has made a commitment to an annual program of corporate volunteering. In October 2022, 20 staff spent the day working together in the CERES community garden in Brunswick.



Workforce data

The following table shows the head count and full-time staff equivalent (FTE) of all active employees of the commission employed in the last full pay period in June 2023.

June 2023							
	All employees		Ongoing			Fixed term and casual	
	Number (Headcount)	FTE*	Full-time (Headcount)	Part-time (Headcount)	FTE	Number (Headcount)	FTE
Gender							
Women	101	94.4	62	21	76.8	18	17.6
Men	92	89.9	73	3	75.3	16	14.6
Self-described	n	n	n	n	n	n	n
Age							
15–24	5	4	1	0	1	4	2
25–34	58	56.4	38	4	40.8	16	15.6
35–44	68	64.6	49	11	56.8	8	7.8
45–54	42	40.5	32	6	36.5	4	4
55–64	18	16.8	13	3	15	2	1.8
65+	2	2	1	0	1	1	1
VPS** 1–6 Grade	179	169.3	120	24	137.1	35	32.2
VPS 1	0	0	0	0	0	0	0
VPS 2	6	6	5	0	5	1	1
VPS 3	25	22.7	12	4	14.7	9	8
VPS 4	50	48.3	35	5	38.7	10	9.6
VPS 5	61	58	43	8	48.4	10	9.6
VPS 6	36	34.3	25	7	30.3	4	4
Senior employees	15	15	14	0	14	1	1
STS***	5	5	4	0	4	1	1
SRA****	3	3	3	0	3	0	0
Executives	7	7	7	0	7	0	0
Other							
Total employees	193	184.3	134	24	151.1	36	33.2

* FTE = full-time equivalent

*** STS = Senior technical specialist

** VPS = Victorian Public Service

**** SRA = Senior regulatory analyst

This data excludes our commissioners and chair.

Workforce data

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

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

* FTE = full-time equivalent

*** STS = Senior technical specialist

** VPS = Victorian Public Service

**** SRA = Senior regulatory analyst

This data excludes our commissioners and chair.

Executive numbers

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

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

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

Office-based environmental impact

We monitored the following indicators of our environmental impact in 2022–2023:

- electricity usage
- gas usage
- water usage
- air travel
- paper usage.

Our environmental impact has also been considered in procurement decision-making.

Snapshot

Category	Quantity used	Quantity per employee
Electricity consumption (MJ)	131,691.11	715.71
Gas consumption (MJ)	1,692.31	9.20
Water use (KL)*	966.21	5.25
Air travel (CO ₂ emissions – tonnes)	37.76	0.21
Paper use (reams)	100	0.54

*Water use approximation



Overview of performance 2022–2023

Electricity

Electricity consumption is taken from our energy retailer billing information: we used 131,691.11 megajoules in 2022–2023. Based on our full-time equivalent staffing of 184 employees, as of 30 June 2023, this equates to 715.71 megajoules of electricity used per full-time employee.

Gas consumption is taken from our energy retailer billing information: we used 1,692.31 megajoules in 2022–2023. Based on our full-time equivalent staffing of 184 employees, as of 30 June 2023, this equates to 9.20 megajoules of gas used per full-time employee.

Water

Total units of water consumed by our floor was approximately 966.21 KL. This amount comes from 27,054 KL consumed for the entire building. There is no specific data for each tenancy. However, there are 28 floors in the building, so it is assumed our tenancy would consume 1/28th of the total amount of water consumed for the entire building. Based on a floor size of 2,700 square meters, this equates to approximately 0.36 KL of water used per unit of office area. Based on our full-time equivalent staffing of 184 employees, as of 30 June 2023, this equates to approximately 5.25 KL of water used per full-time employee.

Our building has a 5.5-star NABERS (National Australian Built Environment Rating System) rating for water usage.

Travel

The total distance travelled by air for the 2022–2023 financial year was 93,968.83 kilometres. The total greenhouse gas emissions associated with this air travel was 37.76 tonnes. Based on our full-time equivalent staffing of 184 employees, as of 30 June 2023, this equates to approximately 0.21 tonnes of CO₂ emissions per full-time employee.

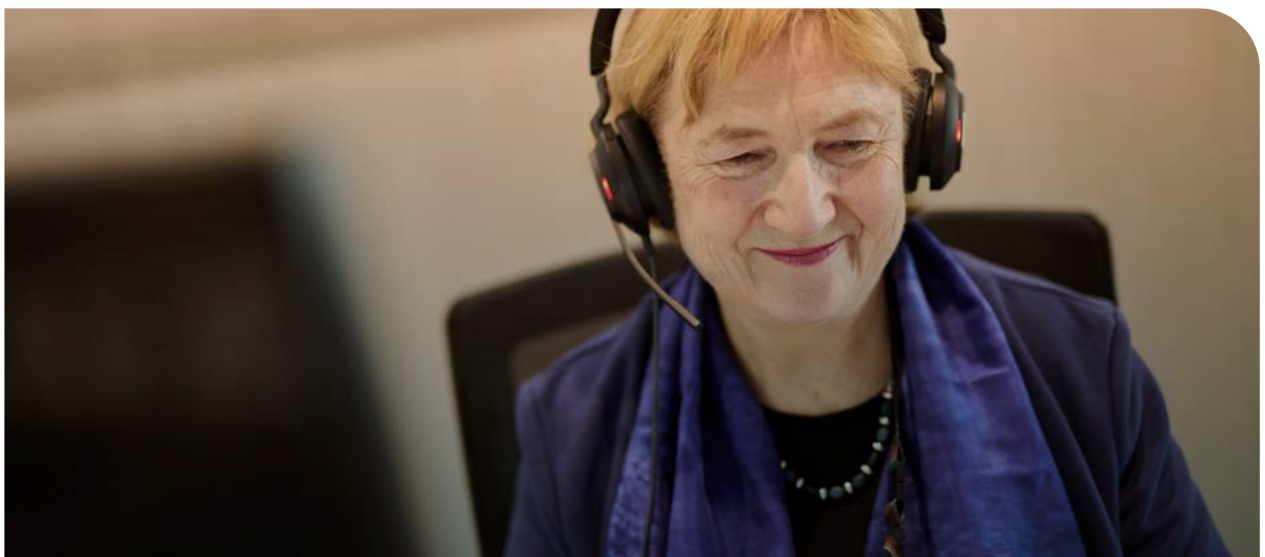
Paper

The raw material of our A4 Muru copy paper consists of 100 per cent post-consumer recycled fibres. The total reams (at 500 sheets per ream) used in 2022–2023 was 100 reams. Based on our full-time equivalent of 184 employees, as of 30 June 2023, this equates to 0.54 reams of paper used per full-time employee.

Procurement

Our sustainable procurement practices include seeking suppliers for:

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



Corporate governance

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

4

Number of times
our board
met in 2022-23

43

Number of times
the commission
met in 2022-23

5

Number of times our
audit and risk committee
met in 2022-23

We have been operating since 2001

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

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

The Essential Services Commission Act requires us to:

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

As part of our role, we consider:

- Efficiency in regulated industries and incentives for long-term investment.
- The financial viability of the industry.
- Competition within the industry.
- Relevant health, safety, environmental and social legislation applying to the industry.
- Benefits and costs of regulation for consumers and users of products or services (including low income and vulnerable consumers) and regulated entities.
- Consistency in regulation between states and on a national basis.
- Any other matters specified in the empowering legislation.

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

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

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

Legislation

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

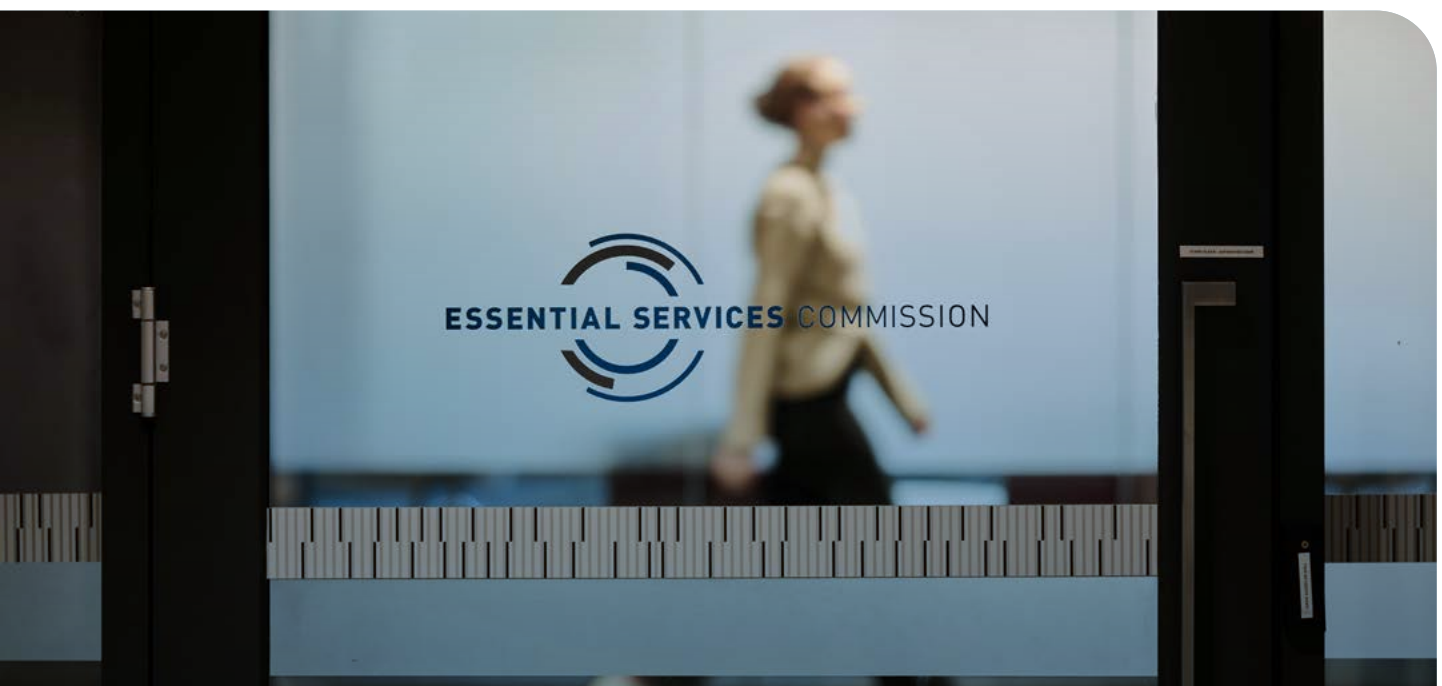
Other legislation related to our work includes:

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

Our board oversees organisational governance

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

- Set and monitor the organisation's overall strategic direction.
- Oversee delivery of services, achievement of objectives and overall performance.
- Monitor financial performance and financial governance arrangements.
- Ensure compliance with statutory frameworks and integrity requirements.



Managing risk and maintaining integrity

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

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

The committee consisted of the following members at 30 June 2023:

- Peter Lewinsky, external member and committee chair
- Michelle Beveridge, external member
- Rebecca Billings, commissioner
- Simon Corden, commissioner.

Our internal audit services were provided by Pitcher Partners.

Our memorandums of understanding help improve outcomes

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

We held active memorandums of understanding with the following organisations in 2022–23:

- Australian Energy Regulator
- Consumer Affairs Victoria
- Energy Safe Victoria
- Energy and Water Ombudsman (Victoria) Limited
- Sustainability Victoria
- Solar Victoria, Department of Energy, Environment and Climate Action.

Essential Services Commission Financial Management Compliance Attestation Statement

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



Kate Symons
Chairperson and Commissioner

Our finances

Current year financial review

The 2022–23 financial year represents the first full year of operation under the commission’s new hybrid funding model following amendments to the Essential Services Commission Act, effective 1 December 2021. Licence and ‘other fee’ income are now the commission’s major sources of income, with grant income less than 30 per cent of our total income.

Funding is derived from a variety of sources:

- energy licence fees
- grants provided through parliamentary appropriations
- Victorian Energy Upgrades program fees
- water licence fees
- penalties
- interest.

We manage two trust funds that were established in the previous financial year following amendments to the Act. The trust funds are:

- The Operating Fund: used to fund the commission’s ongoing operating costs to perform its functions.
- The Enforcement Fund: provides funding for major compliance and enforcement activity, including civil litigation and criminal prosecution.

The two trust funds enable us to manage our budget across several financial years, ensuring financial stability. Licences and other fees are determined by the relevant minister under the relevant legislation. To support this process, we have developed cost recovery models by sector (Energy, Water and Victorian Energy Upgrades) over multi-year periods, using the Pricing for Value Guide from the Department of Treasury and Finance. To provide fee certainty for regulated businesses and the commission, the annual fees have been set so that our income is spread over multiple years. Due to variations in expenditure, annual revenue and expenditure are not expected to align, resulting in annual surpluses or deficits. The trust funds are designed to manage these differences between financial years, using reserves to cover shortfalls and the ability to retain annual surpluses. The trust funds also assist us to manage cash flow risks.

We continue to receive grants (appropriations) for activities not covered by cost recovery.

For the current financial year, we achieved a net financial surplus of \$6.5 million. This surplus is retained within the two trust funds. The Enforcement Fund reported a positive net result of \$3.2 million due to received penalties, offset by minimal expenses. Interest income exceeded expectations due to unforeseen increases in interest rates. On the expenditure side, we are reporting a positive variance, primarily due to lower employment-related expenses and reduced spending on professional services.

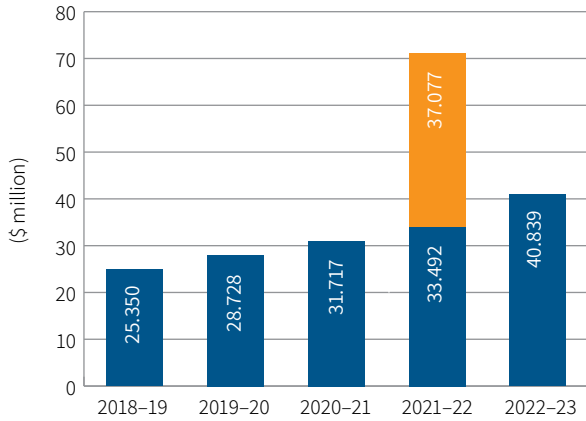
Financial performance summary

The following is a summary of our financial performance for the past five years.

	2018–19	2019–20	2020–21	2021–22	2022–23
	\$ millions				
Total income from transactions	25.3	28.7	31.7	72.8	44.8
Total expenses from transactions	23.6	28.5	31.6	33.7	37.5
Net result from transactions	1.8	0.2	0.1	39.1	7.3
Comprehensive result	1.7	0.1	0.3	37	6.5
Total assets	19.2	23.3	21.4	58.9	65.5
Total liabilities	5.4	9.2	6.9	7.5	7.5
Net assets	13.8	14.2	14.4	51.4	57.9
Net cash flow from operating activities	0.2	1.5	1.3	0	36.8

Income

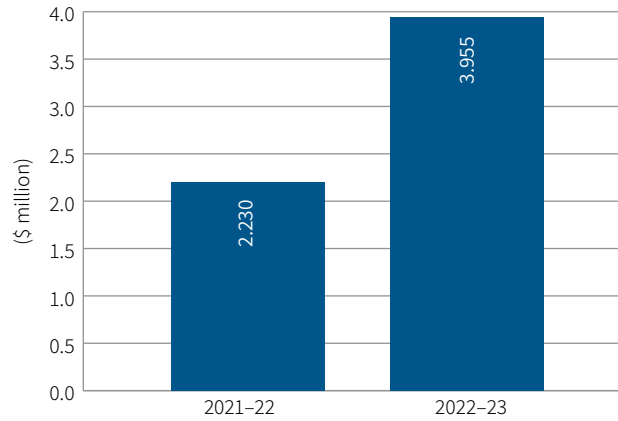
Licence and other income, excluding penalty income, 2018–19 to 2022–23



In 2022–23, our income (excluding penalties) increased by almost one-third compared to the adjusted income of \$33.5 million in 2021–22. This is primarily due to increased fee and interest revenue. Additionally, we received a one-off grant to expand the Victorian Energy Upgrades division in advance of updated fees. Our income in 2021–22 consisted of \$33.5 million in regular income and \$37.1 million in one-off income. The one-off income was a result of the changes to the Act requiring us to recognise all fee and other income received after 1 December 2021 as trust income. We have provided the adjusted income figure in 2021–22 to enable a better historical comparison. Additional detailed information on this can be found in the 2021–22 annual report.

In addition to licence fee and other income the commission also received penalty income which is an income source resulting from enforcement activities. Penalty income is paid into the Enforcement Fund, providing funding for any future major compliance and enforcement activity.

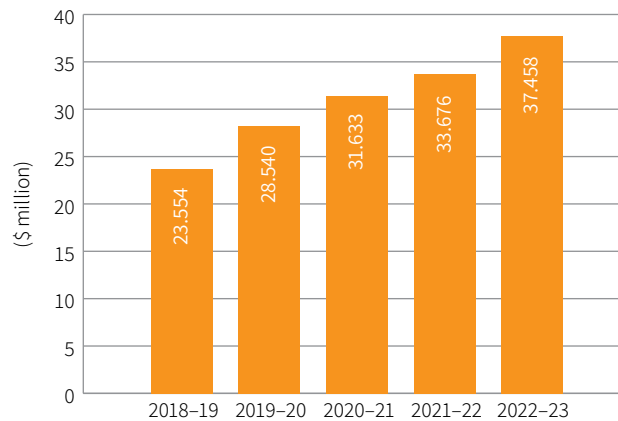
Penalty income, 2021–22 to 2022–23



Penalty income in 2022–23 includes a \$0.757 million penalty for an energy retailer that went into receivership which, being deemed unrecoverable, was subsequently written off.

Expenses

Our expenses, 2018–19 to 2022–23



Over the past five years, our expenses have increased in line with our income as a direct result of additional initiatives and increased regulatory requirements. In 2022–23, we incurred \$37.5 million in expenditure from transactions. The largest portion, around \$27.1 million, was allocated to our workforce, showing a 15.4 per cent increase compared to the previous year. Expenditure on supplies and services remained stable.

Other economic flows

We wrote off \$0.780 million in penalty and licence fee income from energy retailers that went into receivership. This is reported separately from expenses related to transactions.

Assets and liabilities

Our financial position remains robust, with total assets of \$65.5 million, total liabilities of \$7.5 million and net assets of \$57.9 million. This represents an increase of \$6.5 million in total assets compared to the previous year, largely due to the surplus achieved in 2022–23.

It is important to note that our working capital is sufficient to fund our operations over the forward estimates period. It is a legal requirement that the two trust funds do not go into overdraft.

As at 30 June 2023, the Enforcement Trust had a balance of \$5.5 million and the Operating Trust had a balance of \$40.8 million.

Net assets as a percentage of total assets table

	2018–19	2019–20	2020–21	2021–22	2022–23
Net asset percentage	72.0%	60.7%	67.6%	87.2%	88.4%

Our primary asset includes cash investments and a trust cash equivalent not transferred to investment bank accounts, as this is required to pay for commission expenditure through the transactional government bank account held by the Department of Treasury and Finance. Another major asset is a receivable from the Victorian Government, which includes previously applied parliamentary appropriations that have not yet been drawn on. Other components consist of accrued employee entitlements, payables and accumulated depreciation.

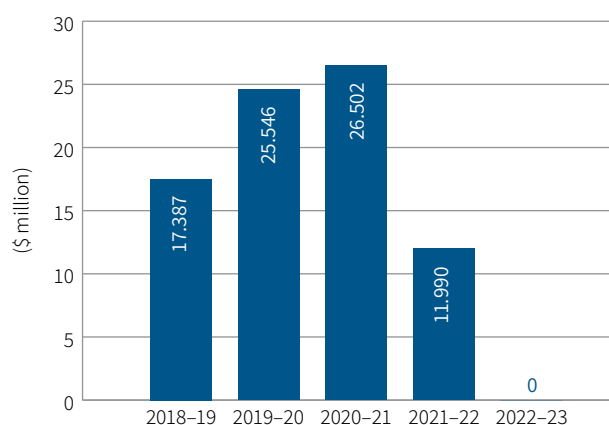
Our liabilities remained steady at \$7.5 million, with major liabilities relating to accounts payable and employee provisions.

Administered revenue

Before 1 December 2021, we collected administered revenue on behalf of the State of Victoria. This revenue came from licence fees, penalties for energy and water industry regulation, fees from the Victorian Energy Upgrades program, and any penalties. These funds were deposited into the consolidated fund. However, due to the introduction of the hybrid funding model, revenue from

licenses, Victorian Energy Upgrades fees, penalties, and other fees collected after 1 December 2021, are no longer classified as administered revenue but as trust revenue. As a result, no administered revenue was collected in 2022–23.

Administered revenue, 2018–19 to 2022–23



Performance against output measures

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

The table below summarises our performance for all output measures in 2022–23.

Performance measures	Unit of measure	2022–23 actual	2022–23 target	Performance variation (%)	Result
Quantity					
Performance reports for regulated industries	number	12	12	0%	✓
Performance reviews and compliance audits of regulated businesses	number	180	150	20%	●
The higher 2022–23 actual reflects a significant number of audits conducted in the Victorian Energy Upgrade division as part of investigations into Accredited Providers, which concluded in June 2023.					
Price determination of regulated businesses	number	19	20	-5%	○
The 2022–23 actual is less than target because the merger of City West Water and Western Water to Greater Western Water in July 2022 resulted in one less price determination than envisaged.					
Registration, project-based activity, product accreditation decisions/ approvals in relation to the Victorian Energy Upgrades program	number	9,692	6,000	62%	●
The higher 2022–23 actual reflects the market submitting claims in advance of reforms to the VEET Act due to come into effect later in the year.					
Reviews, investigations, or advisory projects	number	4	2	100%	●
The higher 2022–23 actual is due to an ad-hoc project relating to Port of Melbourne and the update to the Statement of Regulatory Approach resulting from the outcomes of the Port of Melbourne compliance inquiry.					
Compliance and enforcement activities – energy	number	327	150	118%	●
The higher 2022–23 actual reflects proactive compliance monitoring in addition to business-as-usual assessment of self-reporting by regulated entities.					
Setting of regulated price and tariffs	number	15	15	0%	✓
Quality					
Stakeholder satisfaction survey results	per cent	52	>65	20%	●
The 2022–23 actual is less than target because of the increase in reputation with community/consumer groups (76%) was offset by a decline in results from regulatory industries; noting stronger compliance and enforcement actions have been taken in the last 12 months.					
Timeliness					
Delivery of major milestones within agreed timelines	per cent	100	100	0%	✓
Cost					
Total output cost	\$ million	37.3	35.7	4%	✓

✓ Performance target achieved.

○ Performance target not achieved – within five per cent variance or \$5 million (cost measures only) variance.

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

Licence fee revenue

The following table shows licence fees by type. The licence fees are determined by the relevant minister in consultation with the Assistant Treasurer and paid into the Essential Services Commission Operating Fund.

Type of licence	Total revenue 2022-23	Total revenue 2021-22
	(\$)	(\$)
Energy		
Electricity		
Electricity generation	397,264	373,747
Electricity transmission	522,647	270,849
Electricity distribution	3,045,002	3,026,348
Electricity wholesale	25,410	24,724
Retail electricity	6,770,192	6,866,898
Gas industry		
Gas distribution	750,028	761,280
Retail gas	4,691,282	4,743,722
All energy sectors	16,201,825	16,067,638
Water		
Melbourne Water and Metro	3,269,064	3,269,064
Regional	849,507	849,507
Rural	102,911	102,911
All water sectors	4,221,482	4,221,482

Financial statements

For the year ended 30 June 2023

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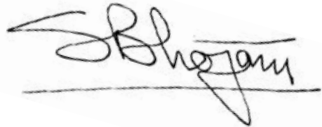
Declaration in the financial statements

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

We further state that, in our opinion, the information set out in the comprehensive operating statement, balance sheet, statement of changes in equity, cash flow statement and accompanying notes, presents fairly the financial transactions during the year ended 30 June 2023 and the financial position of the commission at 30 June 2023.

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

We authorise the attached financial statements for issue on 25 October 2023.



Sitesh Bhojani
Acting Chairperson and Commissioner

Melbourne
25 October 2023



Sarah Sheppard
Chief Executive Officer

Melbourne
25 October 2023



Nathan Mitchell
Acting Chief Financial Officer

Melbourne
25 October 2023



Victorian Auditor-General's Office

Independent Auditor's Report

To the Commissioners of the Essential Services Commission

Opinion	<p>I have audited the financial report of the Essential Services Commission (the Commission) which comprises the:</p> <ul style="list-style-type: none"> • balance sheet as at 30 June 2023 • comprehensive operating statement for the year then ended • statement of changes in equity for the year then ended • cash flow statement for the year then ended • notes to the financial statements, including significant accounting policies • declaration in the financial statements. <p>In my opinion the financial report presents fairly, in all material respects, the financial position of the Commission as at 30 June 2023 and its financial performance and cash flows for the year then ended in accordance with the financial reporting requirements of Part 7 of the <i>Financial Management Act 1994</i> and applicable Australian Accounting Standards.</p>
Basis for opinion	<p>I have conducted my audit in accordance with the <i>Audit Act 1994</i> which incorporates the Australian Auditing Standards. I further describe my responsibilities under that Act and those standards in the <i>Auditor's Responsibilities for the Audit of the Financial Report</i> section of my report.</p> <p>My independence is established by the <i>Constitution Act 1975</i>. My staff and I are independent of the Commission in accordance with the ethical requirements of the Accounting Professional and Ethical Standards Board's <i>APES 110 Code of Ethics for Professional Accountants</i> (the Code) that are relevant to my audit of the financial report in Victoria. My staff and I have also fulfilled our other ethical responsibilities in accordance with the Code.</p> <p>I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.</p>
The Commissioners' responsibilities for the financial report	<p>The Commissioners are responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards and the <i>Financial Management Act 1994</i>, and for such internal control as the Commissioners determine is necessary to enable the preparation and fair presentation of a financial report that is free from material misstatement, whether due to fraud or error.</p> <p>In preparing the financial report, the Commissioners are responsible for assessing the Commission's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless it is inappropriate to do so.</p>

Auditor's responsibilities for the audit of the financial report

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

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

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

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

MELBOURNE
26 October 2023



Janaka Kumara
as delegate for the Auditor-General of Victoria

Comprehensive operating statement

For the financial year ended 30 June 2023

	Notes	2023 \$	2022 \$
Income from transactions			
Grant income	2	12,591,319	33,176,845
Licence and other fees income ⁽ⁱ⁾	2	27,002,836	37,109,241
Penalties income ⁽ⁱ⁾	2	3,954,932	2,230,000
Interest income	2	919,336	-
Resources received free of charge	2	326,014	276,236
Total income from transactions		44,794,437	72,792,322
Expenses from transactions			
Employee expense ⁽ⁱⁱ⁾	3.1.1	(27,100,934)	(23,480,305)
Depreciation and amortisation ⁽ⁱⁱ⁾	5.1.1	(99,319)	(107,634)
Lease interest expense ⁽ⁱⁱ⁾		(938)	(106)
Supplies and services ⁽ⁱⁱ⁾	3.2	(10,256,346)	(10,090,695)
Total expenses from transactions ⁽ⁱⁱ⁾		(37,457,537)	(33,678,740)
Net result from transactions		7,336,900	39,113,582
Other economic flows included in net result			
Net gain/(loss) on non-financial assets	9.1	-	(2,379,046)
Net gain/(loss) on financial instruments	9.1	(780,368)	-
Net gain/(loss) from revaluation of leave liabilities	9.1	(24,486)	236,476
Total other economic flows included in net result		(804,854)	(2,142,570)
Net result		6,532,046	36,971,012
Comprehensive result		6,532,046	36,971,012

⁽ⁱ⁾ The 2021–22 comparative figures have been adjusted to separate out penalties income.

⁽ⁱⁱ⁾ Expenses are presented as negative figures in the comprehensive operating statement.

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

Balance sheet

As at 30 June 2023

	Notes	2023 \$	2022 \$
Assets			
Financial assets			
Cash and deposits	7.2	36,611,099	-
Receivables	6.1	27,434,605	57,975,883
Total financial assets		64,045,704	57,975,883
Non-financial assets			
Prepayments		948,049	631,994
Vehicles held for sale		12,635	-
Property, plant and equipment	5.1	458,737	327,285
Total non-financial assets		1,419,421	959,279
Total assets		65,465,125	58,935,162
Liabilities			
Payables	6.2	1,405,028	1,543,804
Lease liabilities		44,886	58,379
Employee related provisions	3.1.2	5,834,802	5,712,190
Make good provision	6.3	248,166	220,592
Total liabilities		7,532,882	7,534,965
Net assets		57,932,243	51,400,197
Equity			
Accumulated surplus		56,887,496	50,355,450
Contributed capital		1,044,747	1,044,747
Total equity		57,932,243	51,400,197

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

Cash flow statement

For the financial year ended 30 June 2023

	Notes	2023 \$	2022 \$
Cash flows from operating activities			
Receipts			
Receipts from government		30,598,123	6,395,383
Receipts from other entities		42,646,940	26,765,370
Interest received		919,336	-
Total receipts		74,164,399	33,160,753
Payments			
Payments to suppliers and employees		(37,323,036)	(32,984,592)
Interest paid		(938)	(106)
Grants and other transfer payments		-	(179,329)
Total payments		(37,323,974)	(33,164,027)
Net cash flows from / (used in) operating activities	7.1	36,840,425	(3,274)
Cash flows from investing activities			
Payments for property, plant and equipment		(215,832)	-
Proceeds from sale of property, plant and equipment		-	36,364
Net cash flows from / (used in) investing activities		(215,832)	36,364
Cash flows from financing activities			
Repayment of leases ⁽ⁱ⁾		(13,494)	(33,090)
Net cash flows from / (used in) financing activities		(13,494)	(33,090)
Net increase / (decrease) in cash and cash equivalents		36,611,099	-
Cash and cash equivalents at start of year		-	-
Cash and cash equivalents at end of year	7.2	36,611,099	-

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

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

Statement of changes in equity

For the financial year ended 30 June 2023

	Accumulated surplus \$	Contributed capital \$	Total \$
Balance at 1 July 2021	13,384,438	1,044,747	14,429,185
Net result for the year	36,971,012	-	36,971,012
Balance at 30 June 2022	50,355,450	1,044,747	51,400,197
Net result for the year	6,532,046	-	6,532,046
Balance at 30 June 2023	56,887,496	1,044,747	57,932,243

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

Note 1. About this report

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

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

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

Basis of preparation

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

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

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

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

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

All amounts in the financial statements have been rounded to the nearest dollar and some comparative figures have been adjusted to correct rounding issues.

Compliance

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

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

Note 2. Funding delivery of our services

Introduction

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

At 30 June 2023, the regulated industries included electricity, gas, water and sewerage, ports, commercial passenger vehicles and accident towing. Other functions conferred under other legislation include operating the Victorian Energy Upgrades program and local government rate capping.

In the 2021–22 financial year, the commission was predominantly funded by accrual-based Parliamentary appropriations for the provision of outputs. These appropriations were received by the Department of Treasury and Finance and on forwarded to the commission in the form of grants.

From 1 July 2022, the commission was funded through a variety of sources including grants, licence and other fees and penalties (see ‘Licence and other fees income and penalties income’ section on the next page). This was the result of amendments to the Act effective 1 December 2021. The amendments required the commission to establish two trust funds. The two trust funds are the:

- Operating Fund
- Enforcement Fund.

The types of payments to be paid into the Operating Fund are identified in the Act. Payments into the Operating Fund include fees paid under relevant legislation, other amounts required under the Act, and interest received on money invested in the Operating Fund.

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

This income would then partially fund the commission on a cost recovery basis, resulting in a reduction in grants from the Department of Treasury and Finance in the 2022–23 financial year.

Total income and revenue from transactions was recognised as follows:

	2023 \$	2022 \$
Income from transactions		
Grants from the Department of Treasury and Finance	12,591,319	32,776,845
Grants from other government departments	-	400,000
Energy licence fees income	16,231,291	25,456,620
Water licence fees income	4,222,022	7,349,063
Victorian energy efficiency certificate fees income	6,549,523	4,303,558
Penalties income	3,954,932	2,230,000
Interest income	919,336	-
Resources received free of charge	326,014	276,236
Total income from transactions	44,794,437	72,792,322

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

Grant income

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

Income from grants that are enforceable and with sufficiently specific performance obligations is recognised under AASB 15 *Revenue from Contracts with Customers*. Revenue is recognised when the commission satisfies the performance obligation. This is recognised based on the consideration specified in the funding agreement and to the extent that it is highly probable a significant reversal of the revenue will not occur. The funding payments are normally received in advance or shortly after the relevant obligation is satisfied. The commission's grant revenue from other government departments in 2021–22 was recognised in accordance with AASB 15.

Licence and other fees income and penalties income

The commission collects licence fees related to the operations of the commission under the *Electricity Industry Act 2000*, the *Gas Industry Act 2001*, and the *Water Industry Act 1994*. From the 2021–22 financial year onwards, licence fees are invoiced on the basis of a determination made by the relevant minister. The commission also collects fees under the VEET Act, and penalties issued under the Act and VEET Act.

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

Licence and other fee income are recognised when an invoice is issued, which establishes the entitlement to payment. Energy efficiency shortfall penalties issued under the VEET Act are recognised when a shortfall penalty is issued. Penalty notices issued under the Act are recognised when payment is received. The different recognition criteria are attributable to the different statutory frameworks pursuant to which the penalties are issued.

Interest income

Interest income is the interest received on bank deposits. Interest income is recognised using the effective interest method, which allocates interest over the relevant period.

Resources received free of charge

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

Note 3. The cost of delivering services

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

Expenses incurred in delivery of services

	Notes	2023 \$	2022 \$
Employee expense	3.1.1	27,100,934	23,480,305
Depreciation and amortisation	5.1.1	99,319	107,634
Lease interest expense		938	106
Supplies and services	3.2	10,256,346	10,090,695
Total expenses incurred in delivery of services		37,457,537	33,678,740

3.1. Employee expenses

3.1.1. Employee expenses in the comprehensive operating statement

	2023 \$	2022 \$
Salaries and wages	20,878,560	17,934,178
Superannuation		
- Defined contribution plans	2,294,936	1,880,836
- Defined benefits expense	13,660	13,638
Annual and long service leave expense	2,546,918	2,587,660
On-costs	1,366,860	1,063,993
Total employee expenses	27,100,934	23,480,305

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

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

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

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

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

3.1.2. Employee related provisions in the balance sheet

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

	2023 \$	2022 \$
Current provisions		
Annual leave		
Unconditional and expected to settle within 12 months ⁽ⁱ⁾	1,404,870	1,258,844
Unconditional and expected to settle after 12 months ⁽ⁱ⁾	633,852	687,150
Long service leave		
Unconditional and expected to settle within 12 months ⁽ⁱ⁾	296,586	283,021
Unconditional and expected to settle after 12 months ⁽ⁱ⁾	2,055,763	2,037,301
On-costs (i)	729,531	642,956
Total current provisions for employee benefits	5,120,602	4,909,272
Non-current provisions		
Long service leave	625,288	711,573
On-costs	88,912	91,345
Total non-current provisions for employee benefits	714,200	802,918
Total provisions for employee benefits	5,834,802	5,712,190

⁽ⁱ⁾ The 2021–22 comparative figures have been adjusted to separate on-costs.

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

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

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

3.2. Supplies and services

	2023 \$	2022 \$
Supplies and services		
Purchases of services	5,195,217	5,013,311
Property management and outgoings	2,059,915	1,800,942
Information technology costs	1,510,694	1,592,346
Other	1,490,520	1,684,096
Total supplies and services	10,256,346	10,090,695

Supplies and services are recognised as an expense in the reporting period in which they are incurred. 'Other' includes mainly sundry expenses such as advertising and promotions and other office related expenses, and resources received free of charge.

Note 4. Administered items

In addition to the specific controlled operations which are included in the balance sheet, comprehensive operating statement, statement of changes in equity and cash flow statement, the commission administered or managed activities on behalf of the State. The transactions relating to these State activities are reported as administered in this note. Administered transactions give rise to income, expenses, assets and liabilities and are determined on an accrual basis.

Prior to 1 December 2021, the commission acted on behalf of the Victorian Government in collecting licence and other fees administered by the commission under the *Electricity Industry Act 2000*, the *Gas Industry Act 2001*, the *Water Industry Act 1994*, and the VEET Act, and penalties issued under the Act and the VEET Act. Prior to 1 December 2021, these licence and other fees were collected by the commission but not controlled by it. As such, they were not recognised as revenues/receivables within the controlled financial statements but were reported as administered revenues/receivables. From July to November 2021, the commission collected \$11.99 million in licence and other fees related to the 2021–22 financial year which were subsequently recognised as administered income and transferred into the Consolidated Fund. The commission no longer administers or manages activities on behalf of the State.

As disclosed in Note 2, amendments to the Act required licence and other fees income paid to the commission after 1 December 2021 to be recognised in the trust funds controlled by the commission. As a result of this change, an adjustment occurred in the 2021–22 financial year to de-recognise \$12.5 million of administered licence fees income that had been accrued in the 2020–21 financial year but received in cash after 1 December 2021. A further adjustment occurred in the 2022–23 financial year to de-recognise \$45,971 of administered licence fees income that had been accrued in the 2020–21 financial year but received in cash in the 2022–23 financial year. In accordance with the amendments to the Act, these amounts were recognised in the commission's trusts as controlled income (see Note 2) and de-recognised as administered licence and other fees income (through the reversal of the accruals) in the 2021–22 and 2022–23 financial years. As a result of these de-recognitions, total administered income from transactions was reported as a negative \$0.5 million in the 2021–22 financial year and negative \$45,971 in the 2022–23 financial year.

	2023 \$	2022 \$
Administered income from transactions		
Licence and other fees income ⁽ⁱ⁾	-	3,423,814
Penalties income ⁽ⁱ⁾	-	8,575,121
De-recognition of 2020–21 licence and other fees	(45,971)	(12,517,103)
Total administered income from transactions	(45,971)	(518,168)
Administered expenses from transactions		
Payments into the Consolidated Fund	-	(17,163,516)
Total administered expenses from transactions	-	(17,163,516)
Administered net result	(45,971)	(17,681,684)
Administered assets		
Debtors	-	45,885
Accrued income	-	86
Total administered assets	-	45,971
Administered net assets	-	45,971

⁽ⁱ⁾ The 2021–22 comparative figures have been adjusted to separate out penalties income.

Note 5. Key assets available to support delivery of services

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

5.1. Property, plant and equipment

	Gross carrying amount		Accumulated depreciation		Net carrying amount	
	2023	2022	2023	2022	2023	2022
	\$	\$	\$	\$	\$	\$
Leasehold improvements	248,166	220,592	(143,574)	(110,567)	104,592	110,025
Office and computer equipment at fair value	463,414	247,582	(141,676)	(88,562)	321,738	159,020
Motor vehicles under lease	41,317	79,194	(8,910)	(20,954)	32,407	58,240
Total	752,897	547,368	(294,160)	(220,083)	458,737	327,285

Initial recognition

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

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

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

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

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

Subsequent measurement

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

5.1.1.1. Depreciation and amortisation

	2023 \$	2022 \$
Charge for the period		
Leasehold improvements	33,007	25,390
Office and computer equipment	53,114	68,060
Motor vehicles under lease	13,198	14,184
Total depreciation and amortisation	99,319	107,634

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

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

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

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

Typical estimated useful lives applicable for the years ended 30 June 2023 and 30 June 2022 are as follows:

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

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

Impairment of non-financial assets

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

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

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

	Leasehold improvements \$	Office and computer equipment \$	Motor vehicles under lease \$	Assets under construction \$	Total \$
2023					
Carrying amount at start of year	110,025	159,020	58,240	-	327,285
Additions	27,574	215,832	-	-	243,406
Disposals	-	-	-	-	-
Transfers to/from held for sale	-	-	(12,635)	-	(12,635)
Depreciation	(33,007)	(53,114)	(13,198)	-	(99,319)
Carrying amount at end of year	104,592	321,738	32,407	-	458,737
2022					
Carrying amount at start of year	135,415	99,498	49,956	89,112	373,981
Additions	-	38,470	41,317	-	79,787
Disposals	-	-	(18,849)	-	(18,849)
Transfers in/out of assets under construction	-	89,112	-	(89,112)	-
Depreciation	(25,390)	(68,060)	(14,184)	-	(107,634)
Carrying amount at end of year	110,025	159,020	58,240	-	327,285

Note 6. Other assets and liabilities

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

6.1 Receivables

	2023 \$	2022 \$
Contractual		
Debtors	33,821	12,503,361
Statutory		
Amounts owing from government	27,201,638	45,208,442
GST recoverable	199,146	264,080
Total receivables	27,434,605	57,975,883
Represented by:		
Current receivables	26,720,405	57,172,965
Non-current receivables	714,200	802,918

Receivables consist of:

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

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

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

6.2 Payables

	2023 \$	2022 \$
Current contractual payables		
Creditors and accruals	1,405,028	1,543,804
Total payables	1,405,028	1,543,804

Payables consist of:

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

Contractual payables are classified as financial instruments and categorised as financial liabilities at amortised cost. The amounts are unsecured and are usually paid within 10 days of recognition. Statutory payables are recognised and measured similarly to contractual payables but are not classified as financial instruments and not included in the category of financial liabilities at amortised cost as they do not arise from a contract.

6.3 Make good provision

	2023 \$	2022 \$
Non-current:		
Make good provision	248,166	220,592
Total make good provision	248,166	220,592

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

Note 7. Financing our operations

This section provides information on the sources of finance recognised by the commission during its operations and other information related to financing activities of the commission.

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

	2023 \$	2022 \$
Net result	6,532,046	36,971,012
Non-cash movements		
Depreciation and amortisation	99,319	107,634
Net (gain)/loss on non-financial assets	-	2,379,046
Movements in assets and liabilities		
(Increase)/decrease in receivables	30,541,278	(40,052,437)
(Increase)/decrease in prepayments	(316,055)	(11,779)
Increase/(decrease) in payables	(138,775)	(16,616)
Increase/(decrease) in provisions	122,612	619,866
Net cash flows from/ (used in) operating activities	36,840,425	(3,274)

7.2. Trust fund balances

The commission's controlled trust fund cash and deposits balances are as follows:

Controlled trusts' cash and deposits	Opening balance as at 1 July 2022	Total receipts	Total payments	Closing balance as at 30 June 2023
Operating fund				
Established under the <i>Essential Services Commission Act 2001</i> section 54ZT to hold monies in accordance with that Act.	-	65,026,053	33,898,612	31,127,441
Enforcement fund				
Established under the <i>Essential Services Commission Act 2001</i> section 54ZP to hold monies in accordance with that Act.	-	5,483,658	-	5,483,658
Total controlled trusts	-	70,509,711	33,898,612	36,611,099

7.3. Commitments for expenditure

Commitments for future expenditure include outsourcing commitments arising from contracts. These commitments are disclosed at their nominal value and inclusive of GST payable.

	Less than 1 year \$	1–5 years \$	5+ years \$	Total \$
2023				
Outsourcing commitments				
Information technology services	408,194	238,114	-	646,308
Property management services	1,609,137	3,985,968	-	5,595,105
Total outsourcing commitments (inclusive of GST)	2,017,331	4,224,082	-	6,241,413
Less GST recoverable	183,394	384,007	-	567,401
Total outsourcing commitments (exclusive of GST)	1,833,937	3,840,075	-	5,674,012
2022				
Outsourcing commitments				
Information technology services	323,268	511,841	-	835,109
Property management services	1,550,975	5,595,105	-	7,146,080
Total outsourcing commitments (inclusive of GST)	1,874,243	6,106,946	-	7,981,189
Less GST recoverable	170,386	555,177	-	725,563
Total outsourcing commitments (exclusive of GST)	1,703,857	5,551,769	-	7,255,626

Note 8. Risks, contingencies and valuation judgements

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

8.1. Financial instruments specific disclosures

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

Categories of financial assets

Financial assets at amortised cost

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

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

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

The commission recognises the following assets in this category:

- cash and deposits
- debtors.

Categories of financial liabilities

Financial liabilities at amortised cost

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

The commission recognises the following liabilities in this category:

- creditors and accruals
- lease liabilities.

8.1.1. Carrying amount of financial instruments by category

	Note	Category	2023 \$	2022 \$
Financial assets				
Cash and deposits	7.2	Financial assets at amortised cost	36,611,099	-
Receivables ⁽ⁱ⁾	6.1	Financial assets at amortised cost	33,821	12,503,361
			36,644,920	12,503,361
Financial liabilities				
Payables	6.2	Financial liabilities at amortised cost	1,405,028	1,543,804
Lease liabilities		Financial liabilities at amortised cost	44,886	58,379
			1,449,914	1,602,183

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

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

	Note	Category	2023 \$	2022 \$
Financial assets				
Cash and deposits		Financial assets at amortised cost	919,336	-
Financial liabilities				
Lease liabilities		Financial liabilities at amortised cost	(938)	(106)

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

8.1.3. Financial risk management objectives and policies

Financial instruments: Credit risk

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

Credit risk associated with the commission's contractual financial assets is minimal because its cash and deposits are with a financial institution and a government department, and its contractual receivables are with entities with high credit ratings. The carrying amount of contractual financial assets recorded in the financial statements, net of any provision for expected credit losses, represents the commission's maximum exposure to credit risk without taking account of the value of any collateral obtained.

Financial instruments: Liquidity risk

Liquidity risk arises when the commission is unable to meet its financial obligations as they fall due. The commission operates under the Victorian Government's fair payments policy of settling financial obligations within 10 days and in the event of a dispute, making payments within 10 days from the date of resolution.

The commission's maximum exposure to liquidity risk is the carrying amounts of its financial liabilities. The exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment of risk.

Financial Instruments: Market risk

Market risk is the risk that the fair value of future cash flows of a financial instrument will fluctuate because of changes in market prices. The commission's exposure to market risk is insignificant and primarily through interest rate risk. The commission has no exposure to foreign currency or other price risks.

Interest rate risk

Fair value interest rate risk is the risk that the fair value of a financial instrument will fluctuate because of changes in market interest rates. The commission does not hold any interest-bearing financial instruments that are measured at fair value, and therefore has no exposure to fair value interest rate risk.

Cash flow interest rate risk is the risk that future cash flows of a financial instrument will fluctuate because of changes in market interest rates. The commission has minimal exposure to cash flow interest rate risks through its cash and deposits that are at floating rate.

The carrying amounts of financial assets and financial liabilities that are exposed to interest rates are set out in the following table.

Interest rate exposure of financial instruments

	Weighted average interest rate \$	Carrying amount \$	Fixed interest rate \$	Variable interest rate \$	Non-interest bearing \$
2023					
Financial assets					
Cash and deposits	3.45%	36,611,099	-	36,611,099	-
Receivables ⁽ⁱ⁾		33,821	-	-	33,821
Total financial assets		36,644,920	-	36,611,099	33,821
Financial liabilities					
Payables		1,405,028	-	-	1,405,028
Lease liabilities	1.80%	44,886	44,886	-	-
Total financial liabilities		1,449,914	44,886	-	1,405,028
2022					
Financial assets					
Cash and deposits		-	-	-	-
Receivables ⁽ⁱ⁾		12,503,361	-	-	12,503,361
Total financial assets		12,503,361	-	-	12,503,361
Financial liabilities					
Payables		1,543,804	-	-	1,543,804
Lease liabilities	1.91%	58,379	58,379	-	-
Total financial liabilities		1,602,183	58,379	-	1,543,804

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

8.2. Contingent assets and contingent liabilities

The commission had no contingent assets or contingent liabilities at 30 June 2023 (30 June 2022: nil).

Note 9. Other disclosures

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

9.1. Other economic flows included in net result

Other economic flows measure the change in volume or value of an asset or liability that do not result from transactions. Other economic flows included in net result include:

Net gain/(loss) on non-financial assets

This includes gains and losses from the disposal of property, plant and equipment and the impairment of intangible assets. Any gain or loss on the disposal of property, plant and equipment is recognised at the date of disposal and is determined after deducting from the proceeds the carrying value of the asset at that time.

Net gain/(loss) on financial instruments

This includes bad debts from other economic flows.

Net gain/(loss) from revaluation of leave liabilities

This includes gains and losses from the revaluation of the present value of leave liabilities due to changes in bond interest rates.

9.2. Responsible persons

The persons who held the positions of Minister and Accountable Officer in the commission (from 1 July 2022 to 30 June 2023 unless otherwise stated) were:

Responsible Minister	The Hon. Danny Pearson MP, Assistant Treasurer
Accountable Officer	Dr John Hamill, Chief Executive Officer (1 July 2022 to 9 June 2023) Sarah Sheppard, Interim Chief Executive Officer (10 June 2023 to 30 June 2023)

Sarah Sheppard and Marcus Crudden acted as the Accountable Officer in the absence of Dr John Hamill.

Tim Pallas MP, The Hon. Shaun Leane MP, The Hon. Daniel Andrews MP, and The Hon. Jacinta Allan MP acted for the Assistant Treasurer in the absences of The Hon. Danny Pearson MP.

Total remuneration received or receivable by the Accountable Officer in connection with the management of the commission during the reporting period was in the range: \$490,000 – \$499,999 (\$380,000 – \$389,999 in 2021–22).

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

9.3. Remuneration of executives

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

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

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

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

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

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

	2023 \$	2022 \$
Remuneration of executive officers		
Short-term employee benefits	1,409,974	960,262
Post-employment benefits	115,065	90,956
Other long-term benefits	125,233	13,009
Termination benefits	-	-
Total remuneration	1,650,272	1,064,227
Total number of executives	9	4
Total annualised employee equivalents ⁽ⁱ⁾	6.6	4

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

9.4. Related parties

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

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

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

Significant transactions with government-related entities

Significant transactions entered into by the commission during the 2022–23 financial year are disclosed in relevant notes as detailed below:

- The commission received grant funding from the Department of Treasury and Finance which is disclosed in Note 2.
- The commission collected licence fees from Victorian water businesses \$4,222,022 (see Note 2) (2021–22 – \$4,220,942).

Key management personnel

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

- Chairperson and Commissioner Kate Symons
- Commissioner Simon Corden
- Commissioner Sitesh Bhojani
- Commissioner Rebecca Billings
- Chief Executive Officer, Dr John Hamill (1 July 2022 to 9 June 2023)
- Interim Chief Executive Officer, Sarah Sheppard (10 June 2023 to 30 June 2023).

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

	2023 \$	2022 \$
Compensation of KMPs		
Short-term employee benefits	1,566,331	1,633,510
Post-employment benefits	75,297	96,990
Other long-term benefits	36,352	-
Termination benefits	128,755	-
Total	1,806,735	1,730,500

9.5. Australian Accounting Standards issued that are not yet effective

Certain new and revised accounting standards have been issued but are not effective for the 2022–23 reporting period. These accounting standards have not been applied to these financial statements. The commission is reviewing its existing policies and assessing the potential implications of these accounting standards which includes:

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

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

- AASB 2022-10 *Amendments to Australian Accounting Standards – Fair Value Measurement of Non-Financial Assets of Not-for-Profit Public Sector Entities*.

This Standard amends AASB 13 *Fair Value Measurement* by providing guidance on fair value measurement of non-financial assets of not-for-profit public sector entities not held primarily for their ability to generate net cash flows. This Standard is applicable for annual reporting periods beginning on 1 January 2024. Based on the nature of the commission's non-financial assets and the remote probability that the assets will be used for an alternative purpose to their current use, this Standard is not anticipated to have a material impact.

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

9.6. Events after reporting date

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

9.7. Remuneration of auditors

The fee for the audit of the 2022–23 annual financial statements by the Victorian Auditor-General's Office was \$30,000 (2021–22 – \$22,500). No other services are being provided by the Victorian Auditor-General's Office.

9.8. Glossary of terms

Administered item

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

Annualised employee equivalent

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

Commitments

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

Comprehensive result

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

Controlled item

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

Depreciation

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

Employee benefits expenses

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

Financial asset

A financial asset is any asset that is:

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

Financial instrument

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

Financial liability

A financial liability is any liability that is:

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

Financial statements

A complete set of financial statements comprises:

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

Grants

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

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

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

Interest expense

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

Leases

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

Net result

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

Net result from transactions

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

Non-financial assets

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

Other economic flows included in net result

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

Other economic flows – other comprehensive income

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

Payables

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

Receivables

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

Supplies and services

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

Transactions

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

Appendix A: Disclosure index

The Annual Report of the Essential Services Commission is prepared in accordance with all relevant Victorian legislation and requirements. This index facilitates the identification of the commission's compliance with statutory disclosure requirements, including Financial Reporting Directions (FRDs) and Standing Directions (SDs).

Legislation	Requirement	Page number
Charter and purpose		
FRD 22	Manner of establishment and relevant ministers	48
FRD 22	Purpose, functions, powers and duties	48
FRD 8	Objectives, indicators and outputs	14, 54
FRD 22	Key initiatives and projects	16-39
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Management and structure		
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FRD 8	Performance against output performance measures	54
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FRD 22	<i>Application and operation of the Public Interests Disclosure Act 2012</i>	98
FRD 22	<i>Application and operation of the Carers Recognition Act 2012</i>	n/a
FRD 22	Details of consultancies over \$10,000	92
FRD 22	Details of consultancies under \$10,000	92
FRD 22	Disclosure of advertising expenditure	92
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<i>Carers Recognition Act 2012</i>		n/a
<i>Local Jobs First Act 2003</i>		93
<i>Financial Management Act 1994</i>		50
All other legislation		49

Appendix B: Disclosures

Diversity and inclusion

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

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

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

Employee relations

We are committed to ensuring that employee relations matters are treated fairly and promptly, and that employees are aware of our grievance processes. No employee time was lost in 2022–23 due to industrial disputes.

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

Employment and conduct principles

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

We have correctly classified our employees in workforce data collections.

Occupational health and safety

We continued to promote occupational health and safety through a range of measures in 2022–2023, including our Occupational Health and Safety Policy, health and safety representative and an Occupational Health and Safety Committee, which meets quarterly. Below shows the Workcover claims in the 2022–23 financial year.

Workcover statistics	2020–21	2021–22	2022–23
Claims	0	1	0

Private interest declarations

Declarations of private interests were completed by relevant officers in 2022–23. All new employees were required to complete declarations prior to commencement.

Advertising expenditure

In 2022–23 there were no government advertising campaigns with a total media spend of \$100,000 or greater (exclusive of GST).

Building works

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

Consultancies over \$10,000

We engaged 23 consultancies at a total expenditure of \$1,776,414 (excluding GST). View details of individual consultancies at www.esc.vic.gov.au.

Consultancies under \$10,000

We engaged 3 consultancies at a total expenditure of \$16,650 (excluding GST).

Emergency procurement

The emergency procurement plan was not activated in 2022–23.

Ex-gratia payments

There were no ex-gratia payments made in 2022–23.

Major contracts

We awarded no major contracts greater than \$10 million during 2022–23.

National Competition Policy

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

Local Jobs First Act 2003

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

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

We did not commence or complete any such procurements in 2022–23.

Information and communications technology expenditure

For the 2022–23 reporting period, the Essential Services Commission had a total ICT expenditure of \$2,968,181 – see the table below for details.

All operational ICT expenditure	ICT expenditure related to projects to create or enhance ICT capabilities		
Business as usual ICT expenditure	Non-business as usual ICT expenditure	Operational expenditure	Capital expenditure
(Total)	(Total = operational expenditure and capital expenditure)		
1,912,246	1,055,935	840,104	215,832

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

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

Appendix C: Ministerial statement of expectations

The Assistant Treasurer set out expectations for our contribution to the Victorian Government's regulatory reform program. This table shows our progress against these expectations.

Key area	Progress as of 30 June 2023
Implement the reforms to the Victorian Energy Upgrades program, in line with budget funding and proposed legislation.	<p>A code of conduct for the program was introduced on 1 July 2022. Guidance and workshops with businesses assisted to educate them about the new code and prepare for its commencement.</p> <p>The commission published a code of conduct guideline as well as further industry guidance designed to help with industry understanding the codes requirements. We are monitoring compliance with the code.</p> <p>Significant amendments to the Victorian Energy Efficiency Target Act were made in August 2022. New accreditation processes were designed, and documents were published for commencement of the reforms from 1 July 2023. This included publication of a new application form and application guide as well as holding a workshop for all accredited persons.</p> <p>The commission declared an accreditation transition period to manage the first round of renewal of accreditation processes throughout 2023–24.</p> <p>New fees were introduced on 1 July 2023 and processes were designed to facilitate this new fee framework.</p> <p>Processes for other reforms, such as the new audit functions, are the subject of further work in 2023–24.</p>
Work with Local Government Victoria and the local government sector in providing advice to the Minister for Local Government on hardship policies and setting maximum interest rates for late payments.	Initial views to the Minister for Local Government provided in February 2023.
Implement the reforms associated with the <i>Essential Services Commission (Compliance and Enforcement Powers) Amendment Act 2021</i>, particularly the new enforcement tools and the establishment of new trusts.	<p>Reforms associated with the amendment are now implemented.</p> <p>We have implemented the funding model outlined in the amended Act, including establishment of operating and enforcement trust funds.</p>
Continue to progress the <i>Getting to fair</i> strategy to support vulnerable consumers in getting access to essential services, including access to relevant consumer protections and supports, and ongoing delivery of the vulnerability strategy.	<p>We have implemented 21 of the 33 actions we committed to undertake in the strategy.</p> <p>A detailed progress report is available on our website.</p>
Conduct ongoing monitoring of the activities of the Port of Melbourne, including functions as part of the requirements of the <i>Port Management Act 1995</i>, which are consistent with the commission's objective to promote the long-term interests of Victorian consumers.	<p>In December 2022, we published an update to the Statement of Regulatory Approach that provides guidance on how we approach administering the Port of Melbourne pricing order.</p> <p>In December 2022, we published our interim commentary on the Port of Melbourne's annual tariff compliance statement.</p> <p>We completed investigations per section 49Q of the <i>Port Management Act 1995</i> into two complaints received from users about the Port of Melbourne.</p>

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

Price determinations issued under the Essential Services Commission Act

The following price determinations were made under section 33 of the Essential Services Commission Act in the 2022–23 financial year:

- Determination of Maximum Charges for Unbooked Commercial Passenger Vehicle Services (from 15 September 2022): 31 August 2022
- Determination of Maximum Non-Cash Payment Surcharges for Taxis: 31 August 2022
- Victorian Default Offer Price Determination 2023–24 (1 July 2023 to 30 June 2024): 24 May 2023
- Barwon Water Determination (1 July 2023 – 30 June 2028): 23 June 2023
- Central Highlands Water Determination (1 July 2023 – 30 June 2028): 23 June 2023
- Coliban Water Determination (1 July 2023 – 30 June 2028): 23 June 2023
- East Gippsland Water Determination (1 July 2023 – 30 June 2028): 23 June 2023
- Gippsland Water Determination (1 July 2023 – 30 June 2028): 23 June 2023
- Goulburn Valley Water Determination (1 July 2023 – 30 June 2028): 23 June 2023
- GWMWater Determination (1 July 2023 – 30 June 2028): 23 June 2023
- Lower Murray Water Determination (1 July 2023 – 30 June 2028): 23 June 2023
- South East Water Determination: (1 July 2023 – 30 June 2028): 23 June 2023
- South Gippsland Water Determination (1 July 2023 – 30 June 2028): 23 June 2023
- Southern Rural Water Determination (1 July 2023 – 30 June 2028): 23 June 2023
- Wannon Water Determination (1 July 2023 – 30 June 2028): 23 June 2023
- Westernport Water Determination (1 July 2023 – 30 June 2028): 23 June 2023
- Yarra Valley Water Determination (1 July 2023 – 30 June 2028): 23 June 2023

Third party access regime determinations under the Essential Services Commission Act

The commission did not make any third party access regime determinations under Part 3A of the Essential Services Commission Act during 2022–23.

Inquiries conducted under the Essential Services Commission Act

There were no inquiries conducted under the Essential Services Commission Act in 2022–23.

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

There were no proceedings for a contravention order under the Essential Services Commission Act that were finalised during 2022–23.

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

There were no disclosures of information or the contents of documents under section 60C of the Essential Services Commission Act during 2022–23.

Notices issued under section 36 of the Essential Services Commission Act

Section 36 of the Essential Services Commission Act empowers us to obtain information or documents that may assist in the performance of our functions or exercise of our powers. 86 notices were issued under section 36 during 2022–23.

These 86 notices were issued to energy licensees for the purposes of the commission performing its functions under, variously:

- section 10(b) of the Essential Services Commission Act, to advise the Minister on matters relating to the economic regulation of regulated industries, including reliability issues
- section 10(da) of the Essential Services Commission Act to, relevantly, amend Codes of Practice
- section 10AAA of the Essential Services Commission Act, to publicly report on, relevantly, the performance of a regulated industry
- section 10AA(a) of the Essential Services Commission Act, to monitor and report on compliance by persons with, relevantly, relevant legislation
- section 10AAB of the Essential Services Commission Act, to monitor and report on the competitiveness and efficiency of the Victorian retail markets for electricity
- to inform the commission's Victorian Default Offer price determinations made under an Order in Council issued under s13(1) of the *Electricity Industry Act 2000*
- to administer the retailer of last resort framework under Division 8 Part 2 of the *Electricity Industry Act 2001* and Division 6 Part 3 of the *Gas Industry Act 2000*.

Notices issued under section 37 of the Essential Services Commission Act

Section 37 of the Essential Services Commission Act empowers us to obtain information or documents in relation to a matter that constitutes, or may constitute, a contravention of an essential services requirement. 'Essential services requirements' include legislative requirements and (for example in the Electricity Industry Act or Gas Industry Act), licence conditions and provisions of Codes of Practice.

The commission issued 24 notices under section 37 during 2022–2023. These notices were issued to energy retailers for the purpose of performing the commission's functions to investigate contraventions or possible contraventions of essential services requirements.

Proceedings commenced to challenge the validity of information gathering notices

There were no proceedings commenced to challenge the validity of information gathering notices during 2022–23.

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

There were no entries onto premises under section 39P of the Essential Services Commission Act during 2022–23.

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

There were no search warrants issued under section 39S of the Essential Services Commission Act during 2022–23.

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

The commission received 362 enquiries and 303 complaints from energy consumers in relation to regulated entities. These included complaints about retailers' billing, offers and tariffs, distributors' guaranteed service levels and registration of embedded networks. We dealt with these complaints within 10 business days of receipt by responding to customers directly or by referring them to other areas within the commission or to an appropriate external agency, for example, the Energy and Water Ombudsman Victoria which is set up to resolve individual complaints. We also use the intelligence gathered from energy enquiries within our broader compliance and enforcement work.

The commission received 166 complaints about solar feed-in tariffs. The majority of these were customers dissatisfied with the reduction in the feed-in tariffs over the year and the reasons why the commission made this decision. There were also questions about why feed-in tariffs did not match retailers' market offer tariffs. Enquiries were responded to predominantly via email, with a select group of customers requesting a phone discussion.

We also referred customers to our website for information on feed-in tariffs generally, our video explainers, and the formal decision documents outlining the reasons for our decisions.

The commission received 24 enquiries related to the local government sector. Most of these enquires related to increases in rates for ratepayers compared to the rate cap; increases in council charges for waste services; council compliance with the rate cap; and questions about how rate capping works. We aim to respond as quickly as we can and generally within 10 days.

The commission received 52 complaints from water consumers. The complaints were mostly about retailers' prices and service. Team members responded to standard complaints and referred matters requiring expertise in water pricing, water law or expenditure expertise to a technical specialist for response or input into the response. The majority of complaints about water businesses were referred to the Energy and Water Ombudsman.

The commission received 2,043 complaints from Victorian Energy Upgrades consumers in 2022–23. These included complaints about telemarketing (for example, excessive calls, misleading information and calls to numbers on the do not call register); installer conduct (for example, in relation to methods for lead generation, incomplete installation work, or property damage); and product issues (for example, inferior quality products, or products not installed correctly).

We dealt with these complaints by registering them in our complaints database and facilitating resolutions between accredited providers and consumers, and referring matters to other bodies where applicable (for example, Consumer Affairs Victoria or the Australian Communications and Media Authority). We also conducted investigations and audits based on intelligence received from consumers regarding non-compliant program activity by installers and accredited providers.

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

The commission did not commence any proceeding for a contravention order under the Essential Services Commission Act during 2022–23.

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

No appeal or application for a review of a requirement, decision or determination of the commission was lodged under section 55 of the Essential Services Commission Act during 2022–23.

Appendix E: Integrity and accountability

Public Interest Disclosures Act 2012

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

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

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

Reporting procedures

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

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

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

More information

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

Freedom of information

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

We hold several categories of documents:

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

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

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

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

Making a request

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

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

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

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

Freedom of information statistics and timeliness

The commission received zero applications, and made no freedom of information decisions, during the 12 months ending 30 June 2023.

More information

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

Reports, publications and informal requests

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

Requests may also be directed to:

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



Glossary

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

Term	Definition
Higher cap application	An application where a local council asks for a rate increase above the cap set by the Minister for Local Government. Councils submit their applications to the commission; we then assess and accept or reject the applications (see Fair Go Rates system).
Higher council rate cap	The maximum amount a council can increase general rates and municipal charges. The cap is set by the Minister for Local Government and can apply to all councils, a group of councils or a single council (see Fair Go Rates system).
Minimum feed-in tariffs	Minimum feed-in tariffs are payments that energy companies must pay customers who feed energy back into the grid through sources such as solar panels.
Non-cash payment surcharge	The additional charge a customer bears when paying for a taxi trip by means other than cash. The surcharge is applied when a taxi passenger pays for a fare using non-cash payment transaction options, including credit, debit and charge card. Payment processors are the entities which provide this service.
Payment Difficulty Framework	A set of energy rules introduced by the commission in 2019 to better support residential customers experiencing payment difficulty.
PREMO	A water pricing framework which aims to put customers at the centre of a water business's decision-making through incentives focused on five elements: performance, risk, engagement, management and outcomes.
Retailer of Last Resort	The Retailer of Last Resort scheme is a legislative framework designed to protect consumers when their energy retailer goes out of business. It transfers customers of failed retailers to new providers to make sure that their energy service continues.
Standing offer	A type of offer that energy retailers are legally obliged to make available to particular customers, the Victorian Default Offer (see below) is a type of standing offer.
Tariff	A list or table showing the costs (prices) of a service or item. The tariffs the commission regulates include water tariffs; the minimum feed-in tariffs for solar customers; and Port of Melbourne 'port user' tariffs.
Utility Relief Grant Scheme	A Victorian Government grant which provides help to eligible customers to pay a mains electricity, gas or water bill that is overdue due to a temporary financial crisis.
Victorian Default Offer	A simple and trusted electricity price that is set by the Essential Services Commission, not energy companies. The Victorian Default Offer provides all Victorian households and small businesses access to a fair electricity deal, including those who are unable or unwilling to engage in the retail market.
Victorian energy efficiency certificates	Electronic certificates which are created when energy efficient products and services are made available to homes and businesses under the Victorian Energy Upgrades program. Each certificate represents one tonne of greenhouse gas emissions reduction (CO2-e). Large energy retailers are required to acquire and surrender a certain number of certificates each year.
Victorian Energy Market Report	A quarterly report published by the commission which outlines how the electricity and gas markets are performing. The report informs customers on how the energy retail market works, and what they need to do to get the best out of it.
Victorian Energy Upgrades program	A Victorian Government energy efficiency initiative that helps Victorians reduce their energy bills and greenhouse gas emissions by providing access to discounted energy efficient products and services. The program also encourages investment, employment and innovation in industries that supply these products and services. The program operates under the Victorian Energy Efficiency Target Act.



Essential Services Commission
Level 8, 570 Bourke Street
Melbourne Victoria VIC 3000

ABN: 71 165 498 668
Phone: (+61 3) 9032 1300 or 1300 664 969
Fax: (+61 3) 9032 1303
Email: reception@esc.vic.gov.au
Website: www.esc.vic.gov.au

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