

ON APPEAL FROM THE FULL COURT, FEDERAL COURT OF AUSTRALIA

BETWEEN:

QUEANBEYAN CITY COUNCIL
Appellant

ACTEW CORPORATION LTD
First Respondent

**THE AUSTRALIAN CAPITAL TERRITORY (DEPARTMENT
OF TREASURY)**
Second Respondent

APPELLANT'S CHRONOLOGY

(Re Water Abstraction Charge)

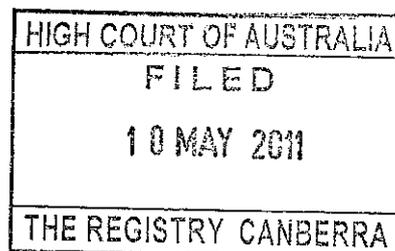
Part I: The chronology is in a form suitable for publication on the Internet.

Part II:

	Date	Event	Appeal Book
10	4 March 1999	Substantive provisions of the <i>Water Resources Act 1998</i> (ACT) commenced. All relevant rights in water vested in the Territory.	
	May 1999	Independent Pricing and Regulatory Commission recommended WAC of 10c/kl.	
	1 January 2000	WAC imposed at 10c/kl of water delivered.	
20	16 March 2000	Date of effect of price direction requiring ACTEW to pass on the WAC to its customers.	
	30 June 2000	Pricing agreement between ACTEW and QCC recording that ACTEW was required to pay the WAC and that it would charge the same amount to QCC.	
	29 June 2001	Licence granted under <i>Utilities Act</i> to ACTEW by ICRC to provide water services.	

30

Filed on behalf of the Appellant by:
WILLIAMS LOVE & NICOL
Lawyers
Level 8, 28 University Avenue
CANBERRA ACT 2601
Date of Document: 10 May 2011



Tel: (02) 6263 9900
Fax: (02) 6263 9999
DX: 5626 CANBERRA
Ref: AAB:JAL:201100430
Contact: John Larkings

Date	Event	Appeal Book
October 2003	Independent Competition and Regulatory Commission reported that WAC of 17.7c/kl was supportable, plus 2c/kl for bushfire remediation.	
10 December 2003	Licence granted to ACTEW by EPA under the <i>Water Resources Act 1998</i> to take water for the purposes of urban water supply for the period 11 December 2003 to 10 December 2018.	
10 1 January 2004	Date of effect of increase in the WAC to 20 cents per kilolitre of water delivered.	
31 May 2005	Pricing agreement between ACTEW and QCC that ACTEW will pass on to QCC the WAC of 25 cents per kilolitre, and any increase, from 1 July 2005.	
1 July 2005	Date of effect of increase in the WAC to 25 cents per kilolitre of water delivered.	
20 May 2006	ACT Budget papers announced increase in WAC to 55c/kl.	
June 2006	Budget fact sheet prepared by ACT government.	
June 2006	ACT Treasurer informed the Legislative Assembly that WAC to be increased to 55c/kl “as a revenue measure and ... a device for moderating demand”.	
30 June 2006	2006-07 Budget Paper No 3 stated that the WAC of 55c/kl would provide “the Government with a return on a valuable resource” and “assist in managing demand for water”.	
30 June 2006	Pricing agreement between ACTEW and QCC that ACTEW will pass on to QCC the WAC and any variation for the period 2006/2007.	
40 1 July 2006	Date of effect of increase in the WAC to 55 cents per kilolitre of water delivered (by commencement of <i>Water Resources (Fees) Determination 2006 (No 1)</i> (DI2006-138)). Effect of that determination later extended to 31 July 2007 (see below).	
1 July 2006	Start date of payments by QCC to ACTEW for the WAC which QCC now claims from ACTEW in these proceedings.	

	Date	Event	Appeal Book
	4 July 2006	Letter QCC to ACTEW – notes that execution of pricing agreement for the period 2006/2007 is conditional upon QCC examining its legal position in the matter.	
	25 August 2006	Letter from QCC to ACT. Confirms that any payments made toward the WAC are made under protest and that QCC reserves the right to seek full recovery of all abstraction charges made since their introduction.	
10	23 November 2006	ACTEW licensed by EPA under <i>Water Resources Act 1998</i> to take water for the purposes of urban water supply for the period 23 November 2006 to 22 November 2007.	
	22 June 2007	Pricing agreement between ACTEW and QCC that ACTEW will pass on to QCC the WAC and any variation for the period 2007/2008.	
	30 June 2007	QCC ceased to pay the WAC	
20	4 July 2007	ACTEW licensed by EPA under <i>Water Resources Act 1998</i> to take water for the purposes of urban water supply for the period 23 November 2006 to 22 November 2007.	
	1 August 2007	<i>Water Resources Act 2007</i> (ACT) commenced.	
	1 August 2007	Commencement of <i>Water Resources (Fees) Determination 2007 (No 1)</i> under the <i>Water Resources Act 2007</i> . Abstraction fee for water taken for the purposes of urban supply 55 cents per kilolitre of water delivered (1 August 2007 to 30 June 2008).	
30	8 August 2007	Letter QCC to ACTEW. QCC reiterates that the WAC is a duty of excise and that QCC is paying the WAC under protest. It is also noted that the pricing agreement for 2007/2008 does not represent “a resiling by [QCC] from that position.”	
	12 November 2007	QCC commenced present proceedings.	
40	21 February 2008	ACTEW granted a licence by the EPA under the <i>Water Resources ACT 2007</i> to take water for the purposes of urban water supply for the period 21 February 2008 to 5 December 2008.	
	15 April 2008	<i>Water Resources (Fees) Determination 2006 (No 1)</i> (DI2006-138) is given effect, and is deemed always to have	

Date	Event	Appeal Book
	had effect, for all purposes as if it had continued in force until the end of 31 July 2007.	
1 July 2008	Date of effect of change in the WAC to 51 cents per kilolitre of water abstracted from 1 July 2008 (by commencement of <i>Water Resources (Fees) Determination 2008 (No 1)</i> (DI2008-153)).	
10 1 July 2008 – 30 June 2013	Pricing agreement providing for cessation of payment of the WAC by QCC to ACTEW if WAC invalid.	
7 April 2009	Judgment reserved by Buchanan J.	
24 August 2009	Judgment delivered by Buchanan J, dismissing QCC's challenge to WAC.	
22 September 2009	Orders made by Buchannan J dismissing QCC's challenge to WAC.	
20 21 May 2009	Further amended notice of cross appeal filed by QCC from orders dismissing QCC's challenge to WAC (original Notice of Cross Appeal filed 2 December 2009).	
25 May 2010	Judgment reserved by Full Court of the Federal Court.	
24 September 2010	Judgment delivered by Full Court of the Federal Court.	
6 April 2011	High Court granted QCC special leave to appeal.	
30 21 April 2011	QCC filed notice of appeal in High Court.	

Dated: 10 May 2011



Peter Hanks QC

T: (03) 9225 8815

F: (03) 9225 7293

peter.hanks@jr6.com.au