

**Submission  
No 63**

## **INQUIRY INTO THE CONTINUED PUBLIC OWNERSHIP OF SNOWY HYDRO LIMITED**

Organisation:

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Theme:

Summary

Mr HM Talbot,

20<sup>th</sup> June 2006

Reverend the Hon. Dr. Gordon Moyes  
Chairman  
Parliament of NSW – Snowy Hydro Inquiry  
Parliament House,  
SYDNEY NSW 2000

Dear Hon. Rev. Dr. Moyes and fellow Hon. Members of the Select Committee,

**Inquiry into Continued Public Ownership of Snowy Hydro Ltd.**

Submission by Mr HM (Max) Talbot, FIEA, B.Com.  
Concerned Citizen & Retired Snowy Scheme Executive Engineer

**Summary**

Snowy Hydro is a profitable company occupying a unique position in the National Electricity Market, with an annual income in excess of \$400 million and profit before tax of around \$200 million. It is reasonable to expect that it will remain profitable for the foreseeable future.

It has adequate cash flow to maintain and modernise the Snowy Scheme and with ongoing retained earnings has an ability to maintain moderate growth without deferring capital expenditure on traditional assets, - it is unlikely to wither and die.

Whilst it must comply with the National Electricity Market rules for its electricity generating and trading business its obligations with respect to management of the Snowy Schemes water resource are contained in a 75 Year Water Licence. The Licence is heavily weighted towards use of the Snowy Schemes water for electricity generation and trading over and above its use for irrigation, the environment and communities.


The Licence must be completely reviewed with the aim to achieve a more equitable balance between use of water for electricity versus its use as water for irrigation, the environment and communities and to achieve greater transparency and oversight of Snowy Hydro's actions.

The appropriateness of the licence being oversighted solely by NSW should be reviewed and alternatives explored.

The mechanism by which the licence can be amended also needs to be reviewed.

As Snowy Hydro occupies a unique and significant presence in the National Electricity Market any plans that it may have to strengthen that presence should be subject to close scrutiny by shareholder governments.

Snowy Hydro should be seen for what it is, a complex integrated water and electricity business, with water likely to be of paramount importance in future. Shareholding Ministeries should be electricity and water portfolios and the existing Board, including the Managing Director, that has a predominance of financial expertise and no water management expertise is thus inappropriate and should be replaced.

  
22/6/06

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## **Background**

The Snowy Mountains Scheme has its genesis in the 1880's when the concept of diverting water that flowed south and east from the Snowy Mountains to the dry inland was first proposed.

After a long gestation period and a variety of proposals of how best to achieve the desired outcome the Scheme was commenced in 1949 with the passing of the Snowy Mountains Hydro-electric Power Act by the Commonwealth Government and formation of the Snowy Mountains Hydro-electric Authority. The Authority was a corporation sole.

The Act was established under the Defence Powers of the Commonwealth because of on going dissent, particularly from NSW, thus the emphasis in the Act is on the provision of electricity for defence purposes and for the Australian Capital Territory. Excess electricity, over and above that reserved by the Commonwealth was to be made available to NSW and Victoria in proportion to their respective populations, i.e. 2/3<sup>rd</sup> NSW, 1/3<sup>rd</sup> Victoria, with the Commonwealth reserving 13% this left 58% for NSW and 29% for Victoria. These electricity percentages were subsequently used when allocating shares when the Scheme was Corporatised in 2002.

The Scheme was financed by the Commonwealth from consolidated revenue with the

loan to be paid over 70 years from the completion of each stage of construction.

Electricity was first generated from Guthega Power Station in 1955, with construction continuing to the completion of Tumut 3 Power Station in 1974.

In the period prior to its Corporatisation the Scheme operated under a net cost of production formulae which covered repayments to the Commonwealth and the cost of operations and maintenance, with the money coming from electricity authorities when they on sold the power forcing the Authority to borrow for capital works.

1957 saw Schedule 1 (known as the Agreement) added to the Act formalising water and electricity sharing arrangements and the establishment of Snowy Mountains Council.

The Council comprised two members from each of the Commonwealth, NSW, Victoria and the Authority with duties, inter alia, to direct and control the operation and maintenance of the permanent works of the Authority for control of water and production of electricity.

Council approved the Schemes Annual Operating Plan and met quarterly to review the Plan, to set the direction for the next quarter and to resolve any conflicts (potential or otherwise) between the release of water for irrigation and its release for electricity production.

The Schemes average annual notified electrical energy production is around 5000 GWH with a minimum guaranteed annual water release of 2088 GL; the latter being based on the scheme being able to provide that amount of water annually through a repeat of the design dry sequence that commenced late in 1936 and extended to 1945.

The Scheme was Corporatised and began operation as Snowy Hydro Ltd (SHL) in 2002 after 9 years of negotiation. At that time, shares were issued gratis to the Commonwealth, NSW and Victorian Governments in the percentages of their electricity entitlements, i.e., 13, 58 and 29% respectively.

The Authority's outstanding debt of about \$740m was transferred to SHL who were required to refinance it and repay the Commonwealth.

SHL is a successful member of the National Electricity Market where it occupies a somewhat unique position selling peak energy (about 4% of the total market but about 70% of the peak market) and services to the market and risk management products (financial derivatives/hedges) to other market participants. It has an annual income in excess of \$400 million and returns up to \$200 million per annum in dividends and taxes to its Government owners.

### **Terms of Reference**

#### ***I(a) Impacts on the short and long term financial position of the Government Including revenue and recurrent costs.***

Snowy Hydro is a profitable company with annual income in excess of \$400 million, Profit before tax of around \$200 million and retained earnings of almost \$200 million. It paid dividends of \$140 million and \$110 million in 03/04 and 04/05 respectively to its Government owners.

It occupies a unique position in the National Electricity Market, a position that cannot be easily emulated by others. It is reasonable to expect that it will remain profitable into the foreseeable future, and continue to pay substantial dividends to Governments; whilst retaining the ability to maintain and modernise the Snowy Scheme's infrastructure which is essential as it is only possible to release water from

the Scheme in large quantities through its hydro-electric generating plant.

By deciding not to sell Governments have foregone a significant one off payment that will mean increased borrowings or curtailed spending, but will receive ongoing dividends.

Recognising that shares in Snowy Hydro were 'gifted' to the three governments at the time of corporatisation by the Australian people, who financed construction of the Scheme, it is reasonable to expect that under government stewardship it would be managed in perpetuity to the benefit of all stakeholders, namely; water users, electricity users, the environment and communities.

In this governments failed dismally;

- Firstly, by establishing it as an electricity/trading business to the detriment of water users.
- Secondly, by extracting high dividends to top up treasury coffers.
- Thirdly, by accepting (or possibly even demanding) an inappropriate growth strategy that had the potential to put the Schemes assets at risk.
- and finally, by proceeding to sell it without first declaring the intent to the electorate.

Governments must refocus management of the Scheme on its dual purpose to ensure that it equitably represents all stakeholders.

**I(b) *Future capital expenditure requirements of Snowy Hydro Ltd in order to remain competitive in the National Electricity Market***

Prior to corporatisation the Snowy Scheme was financed by the sale of electricity to the NSW, Victorian and ACT electricity authorities under a Net Cost of Production formulae that included all operating and maintenance costs, employment and related



costs and construction loan repayments to the Commonwealth, but excluded capital requirements which were borrowed separately and added to the overall debt.

Long term average Net Cost of Production was around \$150 million pa whilst capital expenditure for the 10 years prior to 2001 averaged \$13 million pa.

The last assessment of capital requirements for Scheme life extension and modernisation for the period 2001 to 2021, that I was involved in prior to retirement, estimated an average capital expenditure of \$25 million pa.

This equates to \$125 million over the next 5 years which is a long way from the \$1.5 billion claimed to be necessary by Snowy Hydro. The question that arises is what do they need the additional \$1.375 billion for?

Since commencing business as a corporate entity Snowy Hydro has purchased a gas turbine power station in Victoria, is in the process of building a second gas turbine station in Victoria, has purchased a retail business (Red Energy) and is modifying Jindabyne dam to provide for environmental flows, the total cost being in excess of \$500 million. I also believe they have recently purchased an office building in Sydney. Hardly reflective of a company starved for capital. So what do they want the money for?

Whilst this information was not available prior to the decision of the 2<sup>nd</sup> June not to proceed with the sale, the Managing Director of Snowy Hydro, Terry Charlton, has recently provided some insights (Melbourne Age and Financial Review 15 June), briefly as follows;

- To build further gas peaking plant in NSW, the reasons being to reduce their

trading risk in the event of constraints on or failure of components of the transmission system, a legitimate business reason; or to make it more difficult for other players to enter their segment of the market., which is of concern as it will increase their influence in the market to the likely detriment of consumers.

- The purchase of a retail business in Queensland, the development of a 100 person call centre and a housing development – these are hardly core business, are relatively high risk and have the potential to divert attention and funds from the Scheme itself.

Governments should be concerned at the re-integration of the electricity market that is seeing generators investing in retail/distribution and vice versa. This process is corrupting the market model, which is against vertical integration, and has a real potential to reduce competition within the market.

Snowy Hydro occupy a unique (monopolistic) position in the National Electricity Market selling peak energy and hedge products which I believe will become more sought after as the market continues to grow.

Snowy Hydro will therefore continue to be a prominent player in the market and any moves for it to increase its presence and influence in the market (as Governments maintained during the sale process) should be subject to rigorous scrutiny.

With annual profits of around \$150 million pa after tax and retained earnings in

excess of \$40 million pa it has the ability to upgrade and modernise the Snowy Scheme whilst maintaining a significant presence in the National Electricity Market.

Terry Charlton, also recently stated in the abovementioned press reports that Snowy Hydro will pursue its growth strategy by deferring capital expenditure on traditional assets and diverting capital to growth.

This should be of considerable concern to governments and other stakeholders as it has the potential to put at risk the ability to divert water from the Scheme.

The appropriateness of a single minded strategy to pursue growth and increased shareholder value to the likely detriment of Snowy Hydro's integrated water/electricity business should also be questioned.

Likewise Snowy Hydro's building of gas peakers to dominate the peak/hedging segment of the market and its move into electricity retailing also deserves close scrutiny as dominance by only one player in any segment of the market is not in the best interests of consumers.

In summary, Terry Charlton is on the record as saying that Snowy Hydro will pursue all avenues to gain access to additional capital and others have floated the idea of bond issues in one form or another.

To my mind bonds, depending on their structure, can result in privatisation by stealth and should be avoided.

As demonstrated above, Snowy Hydro can manage the business into the future and achieve steady growth through the reinvestment of retained earnings, however, I also don't accept that ongoing growth is necessary for it to remain competitive and profitable within the National Electricity Market.

If, however, Snowy Hydro can convince shareholding governments that additional

capital is essential for its well being then governments should be prepared to forego some of the annual dividends that they are demanding from the company.

**I(c) Control of Water Regulation.**

**(i) The Snowy Water Licence**

Snowy Hydro's rights and obligations are contained in a 75 year Water Licence (with 71 years to run) administered by the NSW Water Administration Ministerial Corporation.

The licence provides Snowy Hydro with rights over the collection, storage and release of the Scheme's water and my assessment is that it is heavily weighted towards the use of the water for electricity generation and trading over and above its use for irrigation, the environment and communities.

The assessment is supported by the following brief summary of the water licence central conditions:

- Licence term 75 years commencing June 2002
  
- Minimum annual releases, (1 May to 30 April) for irrigation;
  - 1062 gegalitres to the Murray River
  - 1026 gegalitres to the Murrumbidgee River
  
  - a total minimum release of 2088 gegalitres – to be progressively reduced as environmental releases are made to the Snowy River.
  
- Environmental release to the Snowy River as irrigation savings are made:
  - 21% of river flows – 212 gegalitres by 2012
  
  - 28% river flows – 282 gegalitres, timing indeterminate – this additional 7% attracts compensation payment to Snowy Hydro for lost income.

- Water stored in excess of minimum annual releases (known as above target water – some 300 to 400 gigalitres annually) can be stored and released totally at Snowy Hydro’s discretion.
- The licence is administered by the NSW Water Administration Ministerial Corporation.
  - Snowy Hydro has the following water rights – (Clause7)
  - The right to collect, store and divert all the water from rivers and streams within the Snowy Catchment
  - The right to use the water to generate electricity and manage the water
  - The right to release the water at times and in quantities as it sees fit provided it complies with the Annual Water Operating Plan.
- In preparing the Annual Operating Plan (Clause 9) Snowy Hydro must consult with the Water Consultation & Liaison Committee\*\* and consider advice in good faith. The Annual Operating Plan must include the maximum probable release from the Scheme detailed on a quarterly basis.

**What does ‘consider advice in good faith’ mean – that a party does not act so as to deprive others of the benefit of the contract, but is entitled to consider its own legitimate interests ahead of the interests of others – even to the point of depriving those others of benefits (advice received from Macphillamy’s Lawyers).**

- Snowy Hydro must submit the Annual Operating Plan to the Ministerial Corporation who must approve the Plan and can only request an amendment if the plan is inconsistent with the licence provisions.

- The Ministerial Corporation cannot require Snowy Hydro to amend the Maximum probable release – e.g. release of above target water.
- There is no requirement in the Water Licence that compels Snowy Hydro to meet any specific pattern of releases within a water year. Snowy Hydro only has to do all things reasonably necessary to meet releases outlined in the plan.

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\*\*Comprised of a nominee from each of the Commonwealth, NSW & Victorian Governments, Murray Darling Basin Commission (MDBC), NSW Dept. Natural Resources and Snowy Hydro Ltd.

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**The obligation is thus to act reasonably in the circumstances in an effort to achieve the provisions of the plan – there is no obligation to achieve a particular result. (advice received from Macphillamy's Lawyers).**

Apart from requesting amendments to the Plan and providing quarterly historical advice on inflows and releases the Licensee has no obligation to keep either the Ministerial Corporation or MDBC informed of its intentions with respect to future release volumes and the timing of future releases. (Clause 8 & 14).

I understand that a Snowy Hydro Consultative Committee has recently been established, to provide liaison between irrigator groups and the company. The Committee is to be chaired by a NSW Irrigators Council representative.

Whilst this at least provides irrigators with access to the company, it will be interesting to see how free Snowy Hydro will be with information or whether they will claim much of it to be commercial-in-confidence.

It must be recognised that irrigators do not manage the water resource, State water agencies and MDBC have that responsibility. There is thus a danger that this

Committee will cut across their responsibilities creating unnecessary tensions.

Furthermore, provision of information will not achieve a better deal for irrigators and other water users whilst ever Snowy Hydro retains the rights bestowed on it by the water licence.

Whilst there are provisions in the licence to vary the licensee's obligations, if not agreed by the licensee such variations are subject to independent expert determination and payment of compensation to Snowy Hydro. (Clause 10).

Except for some provisions that relate to the revocation of the licence there are no specific penalties for failure to meet licence conditions and the revocation provision is such that it can easily be avoided by the licensee. (Clause 11).

Whilst the licence is for 75 years it is subject to reviews, the first being after 5 years and relates to Snowy River flows and a more general review on every tenth anniversary, however, the licence provides no detail as to how such reviews are to be conducted. (Clause 10).

Thus it is my view that the water licence does not adequately regulate Snowy Hydro with respect to the Snowy Schemes water resource;

- because it is couched in terms such as 'do all things reasonably necessary', 'consider in good faith', and to provide advice as to 'likely range of releases',
- because of Snowy Hydro's total control over the storage and release of 'above target' water.
- because of the limited extent that other parties, can influence the content of the Annual Operating Plan,

- because of the lack of any penalties for failure to meet licence conditions/obligations,
- because of lack of obligation on Snowy Hydro to provide up to date information on Scheme operations to water agencies responsible for regulation of downstream water storages,
- because there is no requirement for Snowy Hydro to meet regularly with, for example, the Water Consultation and Liaison Committee to discuss emerging water and electricity issues and to reach agreement on mutually acceptable outcomes,
- and because it is marked commercial-in-confidence which means its terms are virtually unknown, except for the select few, thus making its terms non-transparent to water users.

In Summary; the licence must be completely reviewed and redrafted as necessary so as to:

- Achieve an equitable balance between Snowy Hydro's rights over use of the Schemes water for electricity production versus its obligations to store and release the water for irrigation, the environment and communities.
- Remove Snowy Hydro's total control over the storage and release of 'above target' water,
- Provide for the adequate over-sight by water agencies of Snowy Hydro's operations and for the provision of sufficient information to facilitate such over-sight.
- Include appropriate performance indicators with respect to the maintenance, refurbishment and performance of the Scheme's



infrastructure and with respect to the collection, storage, diversion and release of water.

- Include appropriate penalties for failure to meet performance indicators.
- Remove or amend the compensation clauses to achieve a more equitable balance between the release of water for electricity production and trading versus its use for irrigation, the environment and communities,
- and finally; the appropriateness of the Licence being solely 'owned' and administered by the NSW Water Administration Ministerial Corporation must be seriously questioned as this effectively disenfranchises Victorian water agencies and the Murray Darling Basin Commission.

An alternative over-sight mechanism needs to be put into place with the MDBC being the only existing body that represents all the interested parties.

Over arching Ministerial over-sight is also desirable and the Murray Darling Basin Ministerial Corporation could conceivably fulfil this requirement.

### *(ii) Cloud Seeding*

Snowy Hydro are in the process of conducting a cloud seeding trial to establish the level of increased water yield that can be achieved within the Snowy Catchment.

The Managing Director of Snowy Hydro has recently said (Weekly Times 14 June 2006) that the trial will not proceed unless the additional water is accounted as 'above target'. That is, it is under the total control of Snowy Hydro to support its electricity business as cloud seeding has the potential to be quite profitable (as demonstrated below) this statement should be challenged.

- o With annual income of \$450 million from minimum releases of 2088 GL this

equates to an income per gigalitre of \$215,500.

- For a stated yield of 70GL this equates to an income of \$15 million – a handsome return for a \$4 million investment.
- The yield of 70 GL looks low with yields of 6% of inflows (140GL and \$30 million income) or higher being possible.
- Actual yields will be firmed up as the trial progresses.

Thus there appears to be no foundation in the claim that any additional water from cloud seeding must be accounted as 'above target' as it is extremely profitable when accounted as 'below target'.

#### **1(e) *Removal of disused Hydro infrastructure in National Parks***

The Corporatisation Agreements provided for 'former Scheme sites' (mostly tunnel spoil dumps) to be taken over by National Parks and for Snowy Hydro to make a financial contribution for their management/removal.

However, I understand that papers released to the NSW Parliament contained an amendment to the Water Licence that gives Snowy Hydro the right to remove Scheme infrastructure provided that it does not impact on its ability to meet its licence obligations, and that the period of public consultation was waived.

The reasons for this amendment are unclear and the fact that it was done in secret at the height of the Sale process is of considerable concern.

The implications of the amendment are unknown but conceivably give Snowy Hydro the right to decommission infrastructure, for example, the Guthega development, without reference to its stakeholders.

Snowy Hydro must justify why the amendment was necessary and it must not be allowed to stand without first being subject to full and open consultation.

As Snowy Hydro infrastructure in the National Park is on a Park Lease I suspect that the Park would demand that any disused infrastructure be completely removed and the site rehabilitated. A horrendously expensive and difficult task if significant structures such as dams and power stations are involved.

Any future licence amendments must be subject to the statutory period of public consultation.

**1 (g) *Any other related matters.***

**(i) *Electricity Market Participation***

Snowy Hydro is a significant player in the National Electricity Market and occupies a unique position in the market, providing peak and shoulder energy and energy related services to the market and hedge products to other market participants.

It has to abide by the National Electricity Market rules and is subject to industry regulation as are other market participants – these rules are still evolving and are not perfect.

Statements such as – Snowy Hydro needs to grow and increase its influence in the Market – should be of concern as Snowy Hydro already has a strong (monopolistic) presence in the market and has the ability to influence market price. Any future plans for expansion must be subject to close scrutiny by shareholder governments.

**(ii) *Snowy Hydro Shareholding Ministeries***

I understand that Snowy Hydro Shares are held on behalf of Governments by Finance and/or Treasury portfolios.

This has proven to be unsatisfactory as shareholding Ministers have viewed Snowy Hydro as just another electricity business and have permitted it to develop inappropriate growth strategies in pursuit of ever increasing profits.

The shares should be held by Energy and Water Portfolios and going forward there must be greater direction to, and closer oversight of the Board, to ensure that stakeholder expectations are met.

In this regard I suggest that a Ministerial Standing Committee be established to provide Board direction, to approve Snowy Hydros' Strategic Plan and to meet regularly with the Board to monitor compliance and performance.

***(iii) Snowy Hydro Board.***

Into the future it needs to be acknowledged and accepted that Snowy Hydro is not just an electricity generating and trading business but a complex integrated water and electricity business with water likely to be paramount in the future – there is a need to get back to a much greater focus on the original purpose of the Scheme which was to provide water for crop irrigation west of the divide, but now also for the environment and communities.

Construction costs and ongoing operation and maintenance costs were to be financed by the sale of electricity. Whilst water use priorities have changed somewhat, with water no longer being seen as just for irrigation, the original concept of the Scheme remains as relevant today as it did in 1949.

This then brings into question the appropriateness of the Board that was appointed

during the sale process. The Board has an over abundance of directors with financial market experience and has no water management representation – it is thus totally unbalanced given that Snowy Hydro is an integrated water/energy business. Recent Board appointments should therefore be reviewed with the view to having them replaced.

Also, Snowy Hydro's Managing Director Terry Charlton, and its pre-existing Board were of the belief, and persuaded Governments, that Snowy Hydro needed access to massive amounts of capital (\$1.5 billion over 5 years) to invest in what can only be viewed as questionable and highly risky projects, otherwise it would 'wither and die' and that privatisation was the only means to this end.

Additionally, recent statements by Terry Charlton, (Melbourne Age and Financial Review 15 June 2006) have confirmed that Snowy Hydro intends to pursue growth and that this will be achieved, in part, by deferring capital expenditure on traditional assets, thus ignoring the integrated water/electricity nature of Snowy Hydro in the blind pursuit of growth and increased shareholder value.

Given these beliefs, and the fact that the sale is not to proceed, the continued presence of these Board members and Terry Charlton as Managing Director, is no longer appropriate.

The Board and Managing Director should therefore be replaced.

Finally, John Della Bosca is reported (Financial Review 15 June) as saying that 'the people who blocked the float on fears about water rights have condemned the

Company to a slow death?

As this is his belief it is no longer appropriate for him to be the Snowy Hydro Shareholding Minister. He should take the only honourable course of action and relinquish the role.

#### **Enron – a lesson.**

In conclusion I would like to leave you with an extract from 'WINNING' (HarperCollins) a book by Jack Welch the former CEO of General Electric, the world's most valuable corporation.

'In its prior life, Enron was a simple, rather mundane pipeline and energy company. Everyone was focused on getting gas from point A to point B cheaply and quickly, a mission they accomplished very well by having expertise in energy sourcing and distribution.

Then, like Arthur Andersen, the Company changed missions. Someone got the idea to turn Enron into a trading company. Again the goal was faster growth.

At Arthur Andersen, auditors wearing green eyeshades were suddenly sharing office space with MBAs in Armani suits. At Enron – again, figuratively speaking – the guys in coveralls were suddenly riding the elevator with MBAs in suspenders.

Enron's new mission meant it focused first on trading energy and then on trading anything and everything. That change was probably pretty exciting at the time, but obviously no one stopped to figure out and explicitly broadcast what values and corresponding behaviours would support such a heady goal. The trading desk was the place to be, and the pipeline and energy generation business got shoved to the background. Unfortunately, there were no processes to provide checks and balances for the suspenders crowd. And it was in that context – of no context – that Enron's collapse occurred'.

Such a scenario could also occur at Snowy Hydro (it is already somewhat down that path) if it is permitted to pursue fast and inappropriate growth strategies to the detriment of core business.

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# SNOWY HYDRO – FACTS

## Max Talbot FIEA. BCom.

- The Snowy Mountains Scheme was constructed between 1949 and 1974. The purpose being to collect water from the east of the great divide and to divert it westwards through the Snowy Mountains to the Murray and Murrumbidgee River systems.
- The Scheme collects an average of 2500 giga litres (gl =1000 million litres) of water annually.
- The Scheme was financed by the Commonwealth Government from taxation revenue.
- Income from the sale of electricity generated by diversion of water was to repay the Commonwealth over 70 years.
- A 1958 Agreement between the Commonwealth, NSW & Victorian governments established electricity and water sharing arrangements. These being briefly –
- **Electricity** – 58% NSW - 29% Victoria and - 13% Commonwealth
- **Water** – minimum annual release: Murray River 1062 giga litres  
Murrumbidgee River 1026 giga litres
- The Scheme was corporatised by the abovementioned governments in 2002 with the formation of Snowy Hydro Ltd (SHL).
- Shares were issued at no cost to the governments, 58% NSW, 29% Victoria and 13% Commonwealth, with each having equal voting rights.
- The outstanding construction debt was refinanced by SHL and repaid to the Commonwealth.
- The Scheme has a generating capacity of 3756 mega watts (MW = million watts) and generates an average of 4500 giga watt hours (Gwh) of energy per annum, which is less than 5% of the Eastern Australian Electricity Market.
- SHL sells the Scheme's electricity and related services within the National Electricity Market (NEM). SHL also contracts risk management products (financial derivatives) to other market participants, underpinned by the reliability and flexibility of its generating plant.
- SHL thus occupies a unique (monopolistic) position in the NEM, a position that cannot be easily emulated by others; giving it the ability to control market outcomes at critical times.

NEM rules and market regulation is still evolving. Market complexities make it difficult to effectively regulate the activities of market participants in the interests of consumers.

- SHL has an income of around \$450 million pa, net profit before tax of about \$200 million and has paid cash dividends of \$140m (03/04) and \$110m (04/05) with retained earnings of \$188m.
- Additionally it has invested over \$500m in gas turbine plant and a retail business in Victoria and around \$80m to modify Jindabyne dam to provide for environmental flows.
- Ongoing capital expenditure to refurbish and enhance (modernise) the Snowy Schemes assets amounts to \$20-25m per annum, well within its ability to self finance.
- On corporatisation SHL was granted a 75 year Water Licence that gives it rights over the collection, storage and release of the Snowy Schemes water resource.
- Whilst the State retains ownership of the water this is somewhat academic as the rights bestowed on SHL by virtue of the licence are tantamount to ownership.
- SHL must release minimum quantities of water to the Murray and Murrumbidgee Rivers each year (1062 gl and 1026 gl respectively, a total of 2088 gl).
- On average it collects around 2500 gl, the additional water above minimum releases, some 300 - 400 gl, known as above target water, can be stored and released at SHL's discretion to support its electricity trading activities.
- The above quantities will be modified in future as environmental releases are agreed.
- Due to the large storage capacity of Lake Eucumbene many years of above target water can be stored. Currently, SHL have in excess of 1000 gl of above target water in storage.
- The above target water cannot be accessed by Governments or irrigators without SHL's agreement and without the payment of millions of dollars in compensation.
- During the recent severe drought irrigators payed SHL millions of dollars to 'borrow' water from future minimum releases. This water has to be payed back.



- At the same time SHL had in excess of 1000 gl of above target water in storage which irrigators could not gain access to.
- SHL must prepare an Annual Operating Plan and submit the Plan to the NSW Water Administration Ministerial Corporation for approval.
- Whilst the Ministerial Corporation can comment on the Plan they cannot force a change to the Plan provided it meets the licence conditions, if SHL do not agree. E.g. it cannot demand that less or more water be released.
- The pattern of annual releases and whether or not above target water will be released is at the discretion of SHL and will be dictated by its electricity trading activities.
- There is thus no guarantee that releases will coincide with when the water is required for irrigation or the environment.
- There is provision to review the licence, however, any changes that have a potential to impact on SHL's profitability are subject to compensation payments – these are likely to be hundreds of millions of dollars.

**The licence thus falls a long way short of optimising water utilisation.**