



**THIRTY-EIGHTH PARLIAMENT**

**STANDING COMMITTEE ON PUBLIC  
ADMINISTRATION  
SPECIAL REPORT  
REGARDING “REPORT 14 –  
*UNASSISTED FAILURE*”**

Presented by Hon Max Trenorden MLC (Chairman)

October 2012



## STANDING COMMITTEE ON PUBLIC ADMINISTRATION

### Date first appointed:

17 August 2005

### Terms of Reference:

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

#### **“3. Public Administration Committee**

3.1 *A Public Administration Committee* is established.

3.2 The Committee consists of 5 members.

3.3 The functions of the Committee are to –

(a) inquire and report on –

(i) the structure, efficiency and effectiveness of the system of public administration;

(ii) the extent to which the principles of procedural fairness are embodied in any practice or procedure applied in decision making;

(iii) the existence, adequacy, or availability, of merit and judicial review of administrative acts or decisions;

(iv) any Bill or other matter relating to the foregoing functions referred by the Council;

and

(b) consult regularly with the Parliamentary Commissioner for Administrative Investigations, the Public Sector Standards Commissioner, the Information Commissioner, the Inspector of Custodial Services, and any similar officer.

3.4 The Committee is not to make inquiry with respect to –

(a) the constitution, functions or operations of the Executive Council;

(b) the Governor’s Establishment;

(c) the constitution and administration of Parliament;

(d) the judiciary;

- (e) a decision made by a person acting judicially;
- (f) a decision made by a person to exercise, or not exercise, a power of arrest or detention; or
- (g) the merits of a particular case or grievance that is not received as a petition.”

**Members as at the time of this inquiry:**

Hon Max Trenorden MLC (Chairman)

Hon Jim Chown MLC

Hon Jon Ford MLC (Deputy Chairman)

Hon Ed Dermer MLC

Hon Ken Baston MLC

**Staff as at the time of this report:**

Dr Colin Huntly (Advisory Officer)

Mr Alex Hickman (Advisory Officer (Legal))

Ms Margaret Liveris (Committee Clerk)

**Address:**

Parliament House, Perth WA 6000, Telephone (08) 9222 7222

lcco@parliament.wa.gov.au

Website: <http://www.parliament.wa.gov.au>

**ISBN 978-1-922047-18-2**

# CONTENTS

<b>EXECUTIVE SUMMARY AND RECOMMENDATIONS.....</b>	<b>i</b>
EXECUTIVE SUMMARY.....	i
RECOMMENDATION.....	iv
<b>REPORT.....</b>	<b>1</b>
1 REFERENCE AND PROCEDURE .....	1
Terms of Reference .....	1
Inquiry Process.....	1
2 FINANCIAL AUDIT .....	6
Parliament is the Auditor General’s only client. ....	7
General suggestion that Report 14 contained “ <i>inaccuracies and misunderstandings</i> ” about the Office of the Auditor General.....	8
The Auditor General’s overarching suggestion.....	8
Committee response to the overarching suggestion. ....	8
Auditor General’s refusal to provide the Committee with access to relevant information.....	8
Auditor General’s failure to provide detailed and plausible answers to concerns raised in Report 14.....	9
Specific suggestions of “ <i>inaccuracies and misunderstandings</i> ” of Report 14 that relate to the Office of the Auditor General.....	11
Committee response to the specific suggestions. ....	11
The Auditor General’s suggestion of an inaccuracy and or misunderstanding at paragraph 6.23 .....	12
Committee response to the Auditor General’s suggestion regarding paragraph 6.23 .....	12
Auditor General’s failure to provide detailed and plausible answers to concerns raised in Report 14.....	14
Auditor General’s refusal to provide the Committee with access to relevant information.....	14
The Auditor General’s suggestion of an inaccuracy and or misunderstanding at Paragraph 8 of the Executive Summary .....	14
Committee response to the Auditor General’s suggestion regarding paragraph 8 of the Executive Summary.....	15
Auditor General’s failure to provide detailed and plausible answers to concerns raised in Report 14.....	16
The Auditor General’s suggestion of an inaccuracy and or misunderstanding at paragraph 9.10 .....	16
Committee response to the Auditor General’s suggestion regarding paragraph 9.10 .....	17
The Auditor General’s suggestion that Report 14 demonstrates a “... lack of understanding of the accounting and auditing standards” .....	17

	The Auditor General’s role and function.....	18
	Fiduciary relationship between Parliament and the Auditor General. ....	20
	Statutory duties of the Auditor General. ....	21
	The Auditor General’s explanation.....	22
	The Committee’s View .....	23
	Serious issues falling within the Auditor General’s statutory duties. ....	23
	The Committee’s requests for additional information .....	23
	The Auditor General’s response to requests for additional information.....	25
	Lack of critical analysis .....	26
	Request for Professor Parkin’s Opinion.....	26
	Committee’s substantive concern not addressed by the Auditor General.....	28
	Does the Auditor General audit agency Annual Reports? .....	28
	The Committee will post an “Erratum” .....	29
	The Committee’s substantive concern has not been addressed.....	29
	Parliament relies upon the Auditor General to report on the quality of information presented by agencies. ....	31
	The Parliament’s entitlement to rely on the Auditor General to provide information .....	31
	Does the Auditor General express an opinion on the Director’s Report?.....	32
	What standards does the Auditor General Act 2006 impose on the conduct of audits?.....	33
	Possible weakness in Report 14.....	34
	Has the Auditor General identified a significant inaccuracy in Report 14 relating to Financial Audit?.....	35
3	PERFORMANCE AUDIT .....	35
	Committee’s finding about performance audits .....	36
	Auditor General’s rationale for conducting no performance audits.....	37
	Committee’s disappointment that no performance audits were conducted.....	38
	Possible limitation in Report 14.....	39
	Western Power’s failure to comply with relevant enactments.....	39
	The Auditor General’s restrictive reading of section 28 of the Auditor General Act 2006 .....	39
	Statutory Independence. ....	40
4	OTHER ISSUES .....	41
	“OAG Commitment to the Committee” .....	41
	Strategic Development Plans and Statements of Corporate Intent. ....	41
5	CONCLUDING REMARKS .....	43
	“Inaccuracies” and “misunderstandings” .....	43
	Substantive Concerns in Report 14 regarding the Auditor General .....	43

**APPENDIX 1 LETTER FROM AUDITOR GENERAL DATED 25 JANUARY 2012 ..45**

**APPENDIX 2 LETTER TO AUDITOR GENERAL DATED 7 MARCH 2012 .....49**

**APPENDIX 3 LETTER FROM AUDITOR GENERAL DATED 21 MARCH 2012.....53**

**EXECUTIVE SUMMARY AND RECOMMENDATION FOR THE  
SPECIAL REPORT OF THE STANDING COMMITTEE ON PUBLIC ADMINISTRATION  
REGARDING REPORT 14 – UNASSISTED FAILURE**

**REPORT**

---

*There is one Western Power, there is one Auditor General and there is one Parliament of Western Australia. If matters come to the attention of the Auditor General that are potentially relevant to the Parliament, the special relationship that exists between the Auditor General and the Parliament places an obligation on the Auditor General to ensure that the Parliament is not misinformed. It is not acceptable for the Auditor General to draw artificial lines around his financial audit function and his other functions in such a way as to leave the Parliament materially misinformed about the operations of Government agencies and trading enterprises.*

[Paragraph 2.90 below.]

**EXECUTIVE SUMMARY**

- 1 On 20 January 2012 we tabled Report 14 – *Unassisted Failure*. That Report contained a number of findings relating to the Auditor General, and highlighted a level of concern that we had about why, between 2006 and 2011, he did not address any of the issues that had been raised by EnergySafety and the Economic Regulation Authority (**ERA**), about Western Power’s asset management systems, processes and practices.
- 2 In Report 14, we suggested that the Parliament was owed a detailed and plausible explanation by the Auditor General about why he has never conducted a performance audit of Western Power. We also suggested that the Auditor General owed the Parliament a detailed and plausible explanation about why he has not reported on Western Power’s apparent failure to meet key statutory obligations between 2006 and 2011, to the satisfaction of both EnergySafety and the ERA.

- 3 On 25 January 2012 the Auditor General wrote to us suggesting that Report 14 contained “inaccuracies” and “misunderstandings”. We took the unusual step of replying to the Auditor General asking him to provide us with the details of those inaccuracies and misunderstandings. We did this out of respect for the Office of the Auditor General, and on the basis of its status as an independent statutory officer of the Parliament.
- 4 On 21 March 2012 the Auditor General provided us with his detailed response to Report 14 (the “Detailed Response”), outlining what he claimed were inaccuracies and misunderstandings.
- 5 We were concerned by the content of the Detailed Response for two reasons. Firstly, the Detailed Response contained no evidence that would help us to weigh up his complaints about inaccuracies and misunderstandings on our part in Report 14. Second, the Auditor General did not address any of the substantive concerns that we outlined in Report 14, about his conduct with respect to Western Power between 2006 and 2011.
- 6 Given our growing concern, we arranged a public hearing to be held with the Auditor General. A week before that hearing, we gave the Auditor General a written copy of the questions we wanted to ask him, so that he would not be caught by surprise in the hearing.
- 7 The Auditor General took the written questions we provided in advance to the legal advisor to the Government, the State Solicitor’s Office, to obtain legal advice. We question whether seeking advice from the Government’s legal advisor about how to answer questions from the Parliament as his client, is consistent with the statutory independence of the Office of Auditor General. Other sources of advice were available to the Auditor General. For example, advice could have been sought from the Clerk of the Legislative Council and Clerk of the Parliaments, or from any of the suitably qualified legal professionals operating in the private sector.
- 8 We are also concerned that the legal advice on which the Auditor General relied in the 20 June 2012 public hearing, did not address the tension that exists within the *Auditor General Act 2006*, between section 46 and section 23. Section 46 of that Act appears to prohibit disclosure of information by the Auditor General, while section 23 of the Act appears to permit disclosure of information by the Auditor General. We specifically raised this issue with the Auditor General in the 20 June 2012 public hearing. He acknowledged that this issue was not addressed in the legal advice.
- 9 We asked the Auditor General for information in his possession that could prove whether, and if so, to what extent, he had considered the issues we raised in Report 14 about his audits of Western Power between 2006 and 2011. This request was repeated approximately 35 times during the public hearing.

- 
- 10 In the 20 June 2012 public hearing, on every occasion that we asked the Auditor General for information in his possession that could answer our concerns about his conduct of Western Power’s audits between 2006 and 2011, the Auditor General refused to provide the information we requested. The Auditor General’s refusals were based on his legal advice from the State Solicitor’s Office – legal advice which the Auditor General acknowledged did not consider the significance of the power of disclosure at section 23 of the *Auditor General Act 2006*.
- 11 We can only make findings on the basis of evidence. Unless the Auditor General shows us the information we have requested, we have no way of knowing whether or not our concerns in Report 14 were based on “*inaccuracies*” and “*misunderstandings*”, or if they were reasonable in all the circumstance.
- 12 We do not believe it is reasonable for the Auditor General to claim that Report 14 contains “*inaccuracies*” and “*misunderstandings*”, and then refuse to provide information that we have asked for, and which is in his possession, that can prove whether or not we were accurate in what we wrote in Report 14.
- 13 We do not wish to mislead the Legislative Council, or people of Western Australia, in any respect.
- 14 In a single instance, the Auditor General has demonstrated to our satisfaction that we need to clarify one short passage in Part 9 of Report 14. An “*Erratum*” to that effect will be placed on the Committee’s website alongside Report 14.
- 15 At no time has the Auditor General supported any of his suggestions about Report 14 containing “*inaccuracies*” and “*misunderstandings*” with documentary evidence. Accordingly, with the exception of the single instance referred to in the previous paragraph, we cannot find that any of the Auditor General’s suggestions about Report 14 containing “*inaccuracies*” and “*misunderstandings*” have been proved.
- 16 Since we held the public hearing on 20 June 2012, the Auditor General has tabled an Annual Report in which he has stated that this Committee’s views represent an “*audit expectation gap*”. In other words, our level of expectation was beyond what can be expected from a financial audit. We have looked carefully at the *Auditor General Act 2006* and we find that the Auditor General has statutory duties to the parliament as his client that go beyond mere financial audit. Given the Auditor General’s repeated refusal to provide us with information in his possession, we are unable to determine whether or not the Auditor General has discharged these broader statutory duties to an appropriate standard, with respect to Western Power since 2006.

- 17 We also remain troubled by the Auditor General's repeated refusal to conduct a performance audit into Western Power, even in the light of our findings in Report 14 – *Unassisted Failure*.

*Given that the Committee has been expressly denied access to relevant evidence currently in the possession of the Auditor General, the Committee continues to hold the concerns that it expressed in Report 14 relating to the performance of the Auditor General in his roles as both financial and performance auditor of Western Power, and as an independent statutory officer of the Parliament, during the 2006-07 to 2010-11 financial years. In these circumstances, the Committee does not believe that the Auditor General's objections to the Committee's findings in Report 14 are either reasonable, or acceptable.*

[Paragraph 2.74 below.]

## RECOMMENDATION

The recommendation is shown as it appears in the text at the page number indicated:

Page 44

**Recommendation 1: The Committee recommends that the Legislative Council do require the Auditor General to provide detailed responses to the questions appearing at paragraphs 5.3.1 to 5.3.4 to this Special Report, including the provision of all relevant documentary evidence in his possession, or in possession of any auditor providing contract services to the Auditor General in connection with those questions. Further, that such responses and documentary evidence to be provided prior to 27 November 2012.**

## SPECIAL REPORT OF THE STANDING COMMITTEE ON PUBLIC ADMINISTRATION

### IN RELATION TO THE

#### SPECIAL REPORT RE: REPORT 14 – *UNASSISTED FAILURE*

---

## 1 REFERENCE AND PROCEDURE

### Terms of Reference

- 1.1 On 9 September 2009, the Committee resolved to undertake an inquiry into electricity transmission and distribution management by Western Power and Horizon Power, and in particular:
1. issues raised in the report released by EnergySafety, 2008 Distribution Wood Pole Audit Review (May 2009);
  2. maintenance procedures;
  3. current wood distribution pole management practices;
  4. current wood transmission pole management practices;
  5. the use of other materials beside wood for electrical transmission and distribution poles;
  6. electricity pole management practices in other jurisdictions; and
  7. any other relevant matter.
- 1.2 On 15 September 2009 the Committee advised the Legislative Council of the above own-motion inquiry (the **Inquiry**), by way of Special Report.<sup>1</sup>

### Inquiry Process

- 1.3 This Committee reported its substantive findings arising from that Inquiry in Report 14 - *Unassisted Failure (Report 14)* by presentation to the President of the Legislative Council on Tuesday, 17 January 2012. Pursuant to SO338, the President advised that Report 14 should be published on Friday, 20 January 2012.
- 1.4 Subsequent to the tabling of Report 14, the Committee received a letter from the Auditor General dated 25 January 2012 (the **Initial Response**). A copy of this letter is

---

<sup>1</sup> Hon Max Trenorden MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, Tuesday, 15 September 2009, p6844.

---

attached at Appendix 1 to this Special Report. The Auditor General's Initial Response advised the Committee that the Office of the Auditor General would not be proceeding with a performance audit into Western Power. The Initial Response also suggested that Report 14 "*contains a number of inaccuracies and misunderstandings*".

- 1.5 The Committee notes the following observations of the President of the Legislative Council, Hon Barry House MLC, addressing the Legislative Council on 3 May 2012, in connection with issues arising before the Joint Standing Committee on the Corruption and Crime Commission:<sup>2</sup>

*... Any misleading report must be corrected in both houses of Parliament. In future, committees must ensure that an addendum and the correction to the tabled paper are tabled in this house for members' information.*

- 1.6 The Committee notes the specific nature, and particular context of the above comments of the President. However, the Committee believes that the principle articulated by the President on the occasion in question has broader application to Committees generally. That is to say, should it transpire that any report by a Committee to the Legislative Council is subsequently shown to be misleading, a correction and addendum should be reported separately to the Legislative Council at the earliest opportunity.

- 1.7 On 28 September 2011 the Committee held a private hearing with the Auditor General. One of the most important issues which arose during that hearing was the pressing need, as a matter of public interest, for the Auditor General to conduct a Performance Audit of Western Power, relating to its management of the wooden power pole asset base. The relevant exchange is reproduced at this point to provide the reader with important context to the Committee's concerns in this area:

***Hon ED DERMER:** I have to intervene at this stage and say that the other context that worries us sick is the number of fires that have killed people that appear to be associated with the failure of Western Power assets initiating the fire. It is the combination of those two factors that are foremost in our mind.*

***The CHAIRMAN:** The 2006 were a primary—but Ed Dermer is correct. There are other issues why we have the inquiry and a range of other information. Still, we will be talking to you this morning a lot about 2006 and 2008 Office of Energy reports and how we view that and ask you questions about that. Question 3, on your first answer, you said that —*

---

<sup>2</sup> Hon Barry House MLC, President, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 3 May 2012, p2275.

*Many poles have already fully depreciated and therefore any re-assessment of their useful life will not affect the financial reporting.*

*We say correct, but what about performance audit? Both those reports have clearly outlined that it was going to take Western Power greater than 400 years to replace their poles or greater than 263 years depending on what the criteria are and the Office of Energy in both its reports said that that is nonsense; these poles have a life expectancy of considerably less years than that. If you look at the database of Western Power, something like a third—someone might correct me if I have got the figures wrong—are just dated as having started in existence in 1970, because that is when Western Power started their process. They really do not know the age of a big slice of their poles. Therefore, we are going to be questioning—when we actually get to them—very strongly about whether they understand their asset base at all. So, we can understand why you would say to us they are already fully depreciated in any financial reporting, but what about performance auditing?*

**Mr Murphy:** *Look, Chair, I think you have hit on the key point. A number of your questions seem to suggest that a financial audit will help you to get to the heart of the issues that you are obviously concerned about. I would agree with you that they are not likely to. The fundamental requirements of the financial audit are to verify that the assets exist and that they are not actually overstated in terms of their value. There is a materiality testing there as well, which means that they are not materially misstated in terms of—*

**The CHAIRMAN:** *I don't think the members here are going to argue about the financial aspects.*

**Mr Murphy:** *That is fine. I guess the financial audit is not going to get to the heart of the issue that you are talking about. Certainly a performance audit would be needed to examine the sorts of issues that you talked about. We met with the office of EnergySafety. We are aware of their concerns. We have certainly had a look at what appears to be a very public difference of opinion between Western Power and the office of EnergySafety, fundamentally about the inspection and maintenance regime of power poles, and have had that on our topic selection for a performance audit over that period. In fact, in my view, in error we actually commenced down that path and wrote to Western Power and Horizon when my staff discovered the work of this committee or realised that this was ongoing. It is sort of*

one of our requirements that we examine context to see what other examinations are taking place at the same time and on the basis that this committee was currently examining this issue, we deferred our performance examination, but it is still very firmly on our books. We have developed criteria. We know what would be encompassed. In fact, we have written to Western Power and Horizon identifying what we would be looking at in a performance audit of that nature.

**The CHAIRMAN:** We have noted the response and what we would like to talk to you about, in fact, encourage you, is to do that urgently. That is one of the primary reasons for meeting you today. We believe it would be a great assistance, not to us, because we will continue on with our report anyhow, but to the Parliament, if a performance audit was done on Western Power immediately. Because I think you are going to find that once we start hearing from Western Power this will be somewhat messy and probably angry and it would be useful if you were doing your business independent of ourselves and looking at a range of agreed issues with some urgency.

**Mr Murphy:** Certainly, as you know, I always take on board any suggestions or requests from parliamentary committees. So I would be very happy to take that on board and see what we could schedule into our future work program. One of the reasons why we do not like to undertake examinations while there is a review by a committee at the same time is the burden that it imposes on the entity and the potential of confusion about who is looking at what. That would probably involve—there would be a number of things for us to consider, including scheduling priorities and other issues, but we might like to also have some discussions, perhaps, with the committee staff about the committee's program and what it is that you are actually doing, to help us to gain confidence that we were not going to put an unnecessary burden on Western Power and Horizon in conducting that work.

**Hon ED DERMER:** I think the logic of what you just said is very clear. Our concern is that the need for improvement of Western Power is becoming more apparent to us as we gather more evidence and I, for one, would be quite concerned if I thought the work that we were doing in any way was slowing down their improvement. Obviously, our objective is quite the opposite to doing that. That is part of why I would be concerned that something you may have otherwise been doing has not been occurring because of our work, whereas we think that both our work and your work should have the effect of encouraging improved safety.

---

*Mr Murphy: The irony of that was not lost on me when I read through the committee's questions.*

- 1.8 Against this backdrop, the Committee was concerned to seek further and better particulars about the Auditor General's concerns, expressed in his Initial Response. The Committee therefore, wrote to the Auditor General on 7 March 2012 requesting that he particularise the specific "*inaccuracies and misunderstandings*" to which he had referred. A copy of the Committee's letter of 7 March 2012 is reproduced at Appendix 2 to this Special Report. The Committee's letter also noted its disappointment in learning that the Auditor General had determined not to proceed with a performance audit of Western Power, despite the Committee having requested the Auditor General to consider such an audit in September 2011.
- 1.9 The Committee subsequently received a letter from the Auditor General dated 21 March 2012 (the **Detailed Response**), in which he documented the particular instances in Report 14 that, in the Auditor General's opinion, "*are either inaccurate or warrant clarification*". A copy of this letter is attached at Appendix 3 to this Special Report.
- 1.10 The Committee wanted to ensure that there was clarity and transparency surrounding the concerns raised by the Auditor General in his Detailed Response. To this end, a public hearing with the Auditor General was held on Wednesday, 20 June 2012. The Auditor General was provided with a written copy of questions that the Committee intended to ask, one week prior to the public hearing. At the hearing, the Committee sought to clarify suggestions made by the Auditor General relating to following areas:
- 1.10.1 Financial Audit
  - 1.10.2 Performance Audit
  - 1.10.3 Other issues
- 1.11 At the public hearing of 20 June 2012, the Committee questioned the Auditor General about the basis on which the Auditor General asserted that Report 14 contained "*inaccuracies and misunderstandings*". In response to the Committee's questions at the hearing relating to matters of detail in connection with the issues raised in Report 14, the Auditor General repeatedly refused to provide the Committee with the requested information. The Auditor General cited legal advice obtained from the State Solicitor's Office relating to section 46 of the *Auditor General Act 2006* as his authority for these refusals to provide information. These matters were the subject of a previous Special Report to the Legislative Council by this Committee, tabled on Wednesday, 27 June 2012.

- 1.12 Accordingly, the Committee cannot advise the Legislative Council whether, and if so, to what extent the Auditor General's suggestion to the Committee that Report 14 contained "*inaccuracies and misunderstandings*" has been proved.
- 1.13 The following sections of this Special Report address the Auditor General's suggestions relating to Report 14, based on the evidence that has been made available to the Committee.

## 2 FINANCIAL AUDIT

- 2.1 Each year, agencies that are required to be audited by the Auditor General must submit to an audit of their finances by the Auditor General. The *Auditor General Act 2006* (the **Act**), at section 7, provides that the Auditor General is an independent officer of Parliament. The Committee particularly notes this overriding relationship between the Auditor General and the Parliament of Western Australia. Section 7 of the Act reads as follows:

### 7. *Status and independence of Auditor General*

- (1) *The Auditor General is an independent officer of Parliament.*
- (2) *The functions of the Auditor General are as specified in this Act and other written laws and there are no implied functions arising from the Auditor General being an independent officer of Parliament.*
- (3) *The powers of Parliament to act in relation to the Auditor General are as specified in or applying under this Act and other written laws and there are no implied powers of Parliament arising from the Auditor General being an independent officer of Parliament.*
- (4) *In subsection (3) —*  
**Parliament includes —**
  - (a) *each House of Parliament; and*
  - (b) *the members of each House of Parliament;*  
*and*

- 
- (c) *the committees of each House of Parliament and joint committees of both Houses of Parliament.*
- (5) *The Auditor General is authorised and required to act independently in relation to the performance of the functions of the Auditor General and, subject to this Act and other written laws, has complete discretion in the performance of those functions.*
- (6) *In particular, the Auditor General is not subject to direction from anyone in relation to —*
- (a) *whether or not a particular audit is to be conducted; or*
- (b) *the way in which a particular audit is to be conducted; or*
- (c) *whether or not a particular report is to be made; or*
- (d) *what is to be included in a particular report; or*
- (e) *the priority to be given to any particular matter.*

*Parliament is the Auditor General's only client.*

2.2 The import of section 7 of the *Auditor General Act 2006* was acknowledged by the Auditor General in evidence before this Committee, when he affirmed the simple fact that the Parliament is the Auditor General's sole client.<sup>3</sup>

2.3 Specific provisions relating to the audit of Western Power's financial statements are found at *Electricity Corporations Act 2005* Schedule 4, Division 3, Subdivision 2.

---

<sup>3</sup> Mr Colin Murphy, Auditor General for Western Australia, *Transcript of Evidence*, 20 June 2012, p6.

**General suggestion that Report 14 contained “inaccuracies and misunderstandings” about the Office of the Auditor General**

*The Auditor General’s overarching suggestion.*

- 2.4 In his Detailed Response to the Committee, the Auditor General suggested that Report 14 contained “inaccuracies and misunderstandings” with respect to the audit of Western Power’s financial statements. In particular, the Detailed Response stated:<sup>4</sup>

*The report contains a number of comments that were highly critical of the Auditor General’s financial audits of Western Power (WP). These comments, which appear to be based on misunderstandings of relevant accounting and auditing standards and practices, could cause uninformed readers to lose confidence in the Office of the Auditor General (OAG).*

*At the heart of our concern is the suggestion that the Auditor General should have issued qualified audit opinions on WP’s recent financial statements.*

*Committee response to the overarching suggestion.*

- 2.5 The Committee draws the attention of the Legislative Council to the fact that, nowhere in Report 14, does it suggest that the Auditor General should have qualified any of his recent financial audits of Western Power. However, it is reasonable to infer, from the evidence presented in Report 14 that the Auditor General’s audit opinions on Western Power’s Financial Statements since 2006 may need to be reviewed by a suitably qualified, independent expert, in light of what is now known about Western Power’s asset management systems, processes and practices during that time.

*Auditor General’s refusal to provide the Committee with access to relevant information.*

- 2.6 During its public hearing of 20 June 2012, the Committee repeatedly requested the Auditor General to provide the Committee with information, held by the Auditor General that would enable the Committee to independently test the adequacy of Western Power’s financial audits by the Auditor General since 2006. Without access to this information, the Committee is unable to answer the questions raised in Report 14 to which the Auditor General has raised objection in the Detailed Response. As

---

<sup>4</sup> Letter from Mr Colin Murphy, Auditor General for Western Australia, 21 March 2012, p2.

---

noted at paragraph 1.11 above, the Auditor General repeatedly refused to provide the Committee with the information requested.<sup>5</sup>

- 2.7 In Report 14, the Committee carefully surveyed the readily available information falling within the terms of reference of its inquiry. This survey demonstrated that despite significant, repeated and continuing adverse regulatory findings by both EnergySafety and the Economic Regulation Authority (ERA) relating to Western Power's principal distribution asset management systems, Western Power's annual audit reports were consistently unqualified. The Committee contrasted the treatment of Western Power's asset management systems by Energy Safety and the ERA on the one hand, with the apparent treatment of the same asset management systems by the Auditor General on the other.
- 2.8 The Auditor General may have had sound reasons for issuing Western Power with unqualified audit reports since 2006, notwithstanding the consistent and repeated adverse findings of Western Power's regulators relating to that corporation's asset management systems, processes and practices. The Committee, in Report 14 deliberately drew attention to these differing treatments, and suggested that the Auditor General's position should be clarified to the satisfaction of the Parliament and people of Western Australia.<sup>6</sup>

*Auditor General's failure to provide detailed and plausible answers to concerns raised in Report 14.*

- 2.9 In correspondence with the Committee as at the date of this Special Report the Auditor General has not addressed the fact that his Office appears to have regarded Western Power's distribution asset management systems as being fit for purpose, when both the ERA and EnergySafety had publicly found that the same asset management systems were inadequate. At one point in evidence before this Committee the Auditor General appeared to suggest that no documents exist that would provide assurance that this apparent difference in treatment of Western Power's principal distribution asset was specifically addressed in the course of the Auditor General's financial audit of Western Power.<sup>7</sup> On other occasions during the public hearing, the Auditor General suggested that such evidence did exist, but that, on the basis of legal advice, he would not provide the documents in question to the Committee.<sup>8</sup>

---

<sup>5</sup> Note the broad powers of inquiry available to the Auditor General at s18(2) *Auditor General Act 2006*, together with the power of disclosure at s23 *Auditor General Act 2006*. Note also the extent to which this Committee attempted to obtain reasonable disclosure from the Auditor General in relation to Western Power at a public hearing held on 20 June 2012 (Special Report, 27 June 2012, Appendix 2 "*Transcript of Proceedings of a Public Hearing with the Auditor General 20 June 2012*").

<sup>6</sup> Report 14, p108.

<sup>7</sup> Mr Colin Murphy, Auditor General for Western Australia, *Transcript of Evidence*, 20 June 2012, p10.

<sup>8</sup> *Ibid*, pp11-18.

- 2.10 In Report 14 the Committee similarly drew attention to Western Power’s assertion in its most recent Annual Report that it was “*managing the network*”, providing “*the solution*” to the challenge, that its asset management systems were “*fit for purpose*”, and it was well advanced on its “*compliance journey*”. The Committee was careful to note that these management assurances did not sit well with the public statement, just eight days after signing off on the same Annual Report, that Western Power’s “*network was reaching the end of its useful and safe life*”. In the same context, the Committee noted that the Auditor General had not expressed a qualified opinion about Western Power’s Financial Statements in any of the previous five financial years. On the basis of these apparently inconsistent events, the Committee found that the Parliament was owed a detailed and plausible explanation of these apparent anomalies by both Western Power, and the Auditor General.<sup>9</sup>
- 2.11 In correspondence to the Committee, as at the date of this Special Report, the Auditor General has not addressed the fact that; Western Power’s 2010-2011 Annual Report, including the Financial Statements, painted a positive picture of the asset management challenges being faced; and, barely a week later, the corporation made a public statement that Western Power’s “*network was reaching the end of its useful and safe life*”. The extent to which such information might affect the way in which the Annual Report, including the Financial Statements, could be understood by a reasonable reader has similarly not been addressed by the Auditor General as at the date of this Special Report.
- 2.12 During the public hearing of 20 June 2012, the Auditor General was asked if he had considered the extent to which the 2010-2011 Annual Report, including the Financial Statements, appeared to be inconsistent with Western Power’s Media Statement of 15 September 2011. In his response, the Auditor General assured the Committee that this had been done, but on the basis of legal advice, he advised that he would not provide the Committee with any of the documents that could verify this assurance.<sup>10</sup> The Auditor General appeared to suggest that it was not his role as Parliament’s auditor of Western Power’s Annual Reports, including Financial Statements, to consider such matters.<sup>11</sup>
- 2.13 Rather than address these substantial and unresolved issues, the Auditor General’s Detailed Response asserted that Report 14 contained “*inaccuracies and misunderstandings*”. The Auditor General has repeatedly sought to support this suggestion, by means of reference to Committee comments, taken out of their original context within Report 14, by reliance upon the distinction between a financial audit

---

<sup>9</sup> Report 14, p223.

<sup>10</sup> Mr Colin Murphy, Auditor General for Western Australia, *Transcript of Evidence*, 20 June 2012, pp11-18.

<sup>11</sup> *Ibid*, p24.

and a performance audit,<sup>12</sup> and by reference to the auditing and accounting standards.<sup>13</sup>

### **Specific suggestions of “inaccuracies and misunderstandings” of Report 14 that relate to the Office of the Auditor General**

2.14 The following excerpt from the Detailed Response illustrates how the Auditor General has suggested that Report 14 contains “inaccuracies and misunderstandings”, by relying upon selective extracts, each taken out of their full context:<sup>14</sup>

*At the heart of our concern is the suggestion that the Auditor General should have issued qualified audit opinions on WP's recent financial statements. For example:*

- *the Auditor General accepted "... without question or comment the accounting treatments adopted by Western Power ..." (paragraph 6.23, p107)*
- *"... the Auditor General consistently gave Western Power's Annual Reports unqualified Audit Opinions ..." (paragraph 8 of the Executive Summary)*
- *"... Western Power announced to the world that its 'network was reaching the end of its useful and safe life' without the Auditor General once expressing a qualified opinion about its financial reports in any of the previous five financial years." ... paragraph 9.10, p223)*

*It appears that this comment is based on a judgement that the Auditor General has been wrong to accept WP's accounting treatment for assets. In our view this demonstrates a lack of understanding of the accounting and auditing standards.*

#### *Committee response to the specific suggestions.*

2.15 Each of the above comments in the Detailed Response, taken from Report 14, were selectively extracted, and used out of their proper context from within that Report. It appears that they may have been so extracted in the Auditor General's Detailed

<sup>12</sup> Mr Colin Murphy, Auditor General for Western Australia, *Transcript of Evidence*, 20 June 2012, p9, 11, 13, 16, 19, 21, 22.

<sup>13</sup> *Ibid*, p10, 16, 20, 23, 25.

<sup>14</sup> *Ibid*, p2.

Response, as to give an impression that cannot reasonably be ascribed to Report 14, when each of these extracts are read in their proper context.

- 2.16 Put simply, if the above comments were made in Report 14 in the way the Detailed Response claims that they were in the passage above, the comments would indeed have been misleading. However, the above comments, when read in their proper context within Report 14, do not, in fact, say what the Auditor General has asserted. It follows, therefore, that it is the Detailed Response which is written in a potentially misleading manner – not Report 14.
- 2.17 This of course, may merely amount to a difference of opinion. However, the Committee notes that its views on these matters have been substantiated by direct reference to the available evidence which was analysed carefully in Report 14. The Committee, therefore, would have naturally expected the Auditor General’s Detailed Response to contain an equal level of analysis and reference to evidentiary material, to support his suggestion that a material inaccuracy or misunderstanding has been demonstrated on the part of the Committee.
- 2.18 For these reasons, it may assist the reader to consider the Auditor General’s Detailed Response with some care and attention.

**The Auditor General’s suggestion of an inaccuracy and or misunderstanding at paragraph 6.23**

- 2.19 The Auditor General has stated that this Committee suggested at paragraph 6.23 of Report 14 that the Auditor General “*should have issued qualified audit opinions on WP’s recent financial statements*”.<sup>15</sup>

*Committee response to the Auditor General’s suggestion regarding paragraph 6.23*

- 2.20 The Committee notes the way in which the passage of the Auditor General’s Detailed Response, quoted above at paragraph 2.14, has characterised the extract shown from Paragraph 6.23 of Report 14. The significance of the way in which the extract from paragraph 6.23 of Report 14 has been used will be appreciated when it is read in its full context. The entire paragraph 6.23 is reproduced for the benefit of the reader. The text that was extracted in the Auditor General’s Detailed Response is underlined:<sup>16</sup>

6.23 Acceptance, without question or comment, on the part of the Auditor General, of the accounting treatments adopted by Western Power over the past five years strongly suggests that the Auditor General was sufficiently satisfied that Western

---

<sup>15</sup> Letter from Mr Colin Murphy, Auditor General for Western Australia, 21 March 2012, p2.

<sup>16</sup> Report 14, p107.

---

*Power's wooden power poles had been adequately "assessed as safe and in good working condition" and that "regardless of age they need not be replaced." The Committee notes that such observations do not sit comfortably with the findings of both EnergySafety's and ERA's audits and reviews, both of which suggested that Western Power's "pole replacement program" for the period 2006-2009 amounted to little more than replacing those wooden power poles that either fell over, or were condemned.*

- 2.21 When paragraph 6.23 of Report 14 is read in its entirety, it will be understood that the point the Committee made, was to contrast the Auditor General's apparent position with that of EnergySafety and the ERA. Given its proper context, the Committee is unclear about what particular aspect of paragraph 6.23 could reasonably be claimed to "demonstrate a lack of understanding of the accounting and auditing standards". At most, it appears more likely that there is a difference of opinion. In such a case, it is worth noting that the Committee's concerns in this instance were shared by both EnergySafety and the ERA.
- 2.22 It should also be noted that the Committee's comments in paragraph 6.23 of Report 14, were themselves made in the broader context of paragraphs 6.21-6.24. Reference to those paragraphs of Report 14 will reveal that the Auditor General's own evidence to the Committee is substantially reproduced in that place, in its entirety, so far as that evidence touched upon the issues in question. It follows therefore, that, rather than being based on a "lack of understanding of the accounting and auditing standards", the Committee's observations in this instance were, in fact, based at least in part on the evidence of the Auditor General himself.
- 2.23 Contrary to the impression contained in the Auditor General's Detailed Response, and reproduced at paragraph 2.14 above, the key passage of Committee opinion in this matter was actually located at paragraph 6.24 of Report 14, which reads as follows:

*6.24 The Committee has formed the view that, given the troubling findings of EnergySafety in 2006 and 2009, together with those of the ERA's reviewer, and the consistent adverse findings of the ERA itself about Western Power's wooden power pole management systems over a period of years, the Auditor General should have been put on inquiry about the possible inadequacy of those internal controls and asset management systems on which his audit opinions since 2009 have been based.*

- 2.24 The Committee does note that, at the public hearing of 20 June 2012, the Auditor General took strenuous exception to paragraphs 6.21-6.25 of Report 14.<sup>17</sup>
- 2.25 The Auditor General's objections, surrounded the fact that the Auditor General's opinions on the Financial Statements of Western Power since 2006 have been expressed purely on the basis of an application of the relevant auditing and accounting standards. The Committee does, however note that the Auditor General did accept in evidence to this Committee that his performance as the Parliament's auditor of Western Power should not be restricted purely to accounting and auditing standards.<sup>18</sup>

*Auditor General's failure to provide detailed and plausible answers to concerns raised in Report 14.*

- 2.26 Notwithstanding the fine distinctions raised in the Detailed Response, at the date of this Report, the Auditor General has not addressed the core substantive concern that the Committee raised in paragraph 6.24 of Report 14. Namely, once he became aware of the repeated findings of both EnergySafety and the ERA, about the possible inadequacy of Western Power's asset management systems, did the Auditor General take further steps to assure himself that the assumptions on which his actual Audit Opinions for Western Power had been based were, in fact, sound?

*Auditor General's refusal to provide the Committee with access to relevant information.*

- 2.27 This Committee was so concerned about this important question that it was substantially repeated in a number of places throughout Report 14, including at paragraphs 3.57-3.64 and 5.92. The Auditor General was also given repeated opportunities in the public hearing of 20 June 2012 to provide the Committee with documentary evidence to demonstrate what steps, if any, he actually took to assure himself that the assumptions on which his Audit opinions relating to Western Power have been based were, in fact, well founded. Despite these opportunities, on the basis of legal advice, the Auditor General advised the Committee that he would not provide it with any of the documents that would provide the detailed and plausible explanation that was requested in Report 14.<sup>19</sup>

**The Auditor General's suggestion of an inaccuracy and or misunderstanding at Paragraph 8 of the Executive Summary**

- 2.28 The Auditor General has stated that this Committee suggested, at paragraph 8 of the Executive Summary of Report 14, that the Auditor General "*should have issued qualified audit opinions on WP's recent financial statements*".

---

<sup>17</sup> Mr Colin Murphy, Auditor General for Western Australia, *Transcript of Evidence*, 20 June 2012, pp25-26.

<sup>18</sup> *Ibid*, 20 June 2012, p26.

<sup>19</sup> *Ibid*, pp11-18.

- 2.29 The attention of the reader is drawn to the way in which the passage of the Detailed Response reproduced at paragraph 2.14 above, has characterised the extract from paragraph 8 of the Executive Summary to Report 14. Paragraph 8 of the Executive Summary is reproduced, in its entirety, for the benefit of the reader. The text that was extracted in the Auditor General’s Detailed Response is underlined.<sup>20</sup>

*During this inquiry, Western Power continued to attract adverse commentary from its principal regulators about its wooden power pole asset management systems, practices and processes [paragraphs 7.1 to 8.80]. Despite this growing catalogue of regulatory compliance notices and adverse comment, Western Power’s asset management systems continued to receive positive audits from its own consultant reviewers. In addition, the Auditor General consistently gave Western Power’s Annual Reports unqualified Audit Opinions, and did not see fit to conduct a performance audit on Western Power. All the while, Western Power was sending out messages in various reports to the effect that it was “Managing the Network”; and developing “comprehensive wooden power pole replacement plans”, that would provide “The Solution”, to its aging network “Challenge”. Western Power was well advanced on its “compliance journey”.*

*Committee response to the Auditor General’s suggestion regarding paragraph 8 of the Executive Summary*

- 2.30 As will be appreciated, the extraction of the underlined comment from its full context gives the impression that, in Report 14, the Committee made a suggestion that the Committee did not, in fact, make. As will be seen from the above paragraph, the Committee was again drawing attention to the apparent inconsistency between regulatory comment by both EnergySafety and the ERA on the one hand, and the Auditor General and certain internal Western Power reviewers on the other.
- 2.31 It is a matter of public record that the Auditor General did, in fact, express unqualified audit opinions regarding Western Power during the relevant period. It is also a matter of public record that the Auditor General has not conducted a performance audit of Western Power. The basis of the Auditor General’s objection to what are little more than statements of fact in paragraph 8 of the Executive Summary is, therefore, obscure.

---

<sup>20</sup> Report 14, pii.

*Auditor General's failure to provide detailed and plausible answers to concerns raised in Report 14.*

- 2.32 When the Committee raised this issue with the Auditor General in person at the public hearing on 20 June 2012, the Auditor General advised that he had reviewed his audits of Western Power's Financial Statements for the relevant period and could not find any basis on which those audits could have been qualified.<sup>21</sup> No reference was made at this time to the Auditor General's decision not to conduct a performance audit.
- 2.33 Of additional concern to this Committee is the fact that, as discussed in the preceding section of this Special Report, the Auditor General has offered no explanation for the apparent inconsistency between the regulatory treatments that were adopted by EnergySafety and the ERA on the one hand, and the approach adopted by the Auditor General over the same time period on the other.

**The Auditor General's suggestion of an inaccuracy and or misunderstanding at paragraph 9.10**

- 2.34 The Auditor General has suggested that this Committee stated at paragraph 9.10 of Report 14, that the Auditor General "*should have issued qualified audit opinions on WP's recent financial statements*".
- 2.35 The attention of the reader is drawn to the way in which the passage of the Detailed Response, reproduced at paragraph 2.14 above, has characterised the extract taken from paragraph 9.10 of Report 14. The entire paragraph 9.10 of Report 14 is reproduced for the benefit of the reader. The text that was extracted in the Auditor General's Detailed Response is underlined.<sup>22</sup>

*9.10 Western Power's response to this sustained regulatory critique has consistently been that it is "managing the network", providing "the solution" to the challenge, its asset management systems are "fit for purpose", and it is well advanced on its "compliance journey". Despite these management assurances, on 15 September 2011 and barely a week after signing off on its most recent Annual Report, Western Power announced to the world that its "network was reaching the end of its useful and safe life", without the Auditor General once expressing a qualified opinion about its financial reports in any of the previous five financial years. This Committee finds that the Parliament is owed a detailed and plausible explanation of these anomalies by both Western Power, and the Auditor General.*

---

<sup>21</sup> Mr Colin Murphy, Auditor General for Western Australia, *Transcript of Evidence*, 20 June 2012, p26.

<sup>22</sup> Report 14, p223.

---

*Committee response to the Auditor General's suggestion regarding paragraph 9.10*

- 2.36 It will be appreciated that the selective extraction of the above comments from their full context has the potential to distort the meaning that was actually conveyed by the Committee in Report 14. The point that the Committee made in Report 14 was to contrast the statements and conduct of both Western Power and the Auditor General, prior to 15 September 2011, with the content of Western Power's Media Statement of that date. The Committee stressed in Report 14 that the Parliament is owed a detailed and plausible explanation of these anomalies by both Western Power and the Auditor General.
- 2.37 The extent to which the Committee's observations in paragraph 9.10 demonstrate a "*lack of understanding of the accounting and auditing standards*" is entirely unclear. The Committee was merely contrasting two facts and indicating that the Auditor General should provide a detailed and plausible explanation. No understanding of accounting and auditing standards is necessary in order to make such a suggestion.
- 2.38 The Committee notes that Western Power's response to these anomalies is a matter of public record. For its part, Western Power has since conveyed its unconditional apology to the Committee for its lack of candour. The Committee also notes that Western Power's response to Report 14 states that "*it is appropriate that the directors' report be expanded in the 2010/11 document*".<sup>23</sup> The Legislative Council will form its own view as to whether, and if so, to what extent, a "*detailed and plausible explanation of these anomalies*" has been provided by the Auditor General as at the date of this Special Report.

*The Auditor General's suggestion that Report 14 demonstrates a "... lack of understanding of the accounting and auditing standards"*

- 2.39 Contrary to the assertion made in the Auditor General's Detailed Response, this Committee expressed no concluded judgement about the Auditor General's conduct in Report 14.
- 2.40 In Report 14, the Committee expressed numerous concerns about the way in which the Auditor General's functions had been discharged with respect to Western Power, based on evidence before the Committee, after explaining to the reader what the relevant evidence revealed. As highlighted above in this Special Report, in a number of significant instances within Report 14, the evidence that was surveyed by the Committee that gave rise to these concerns was provided by the Auditor General himself in a response to written questions, and at a private hearing.

---

<sup>23</sup> Western Power (2012) Standing Committee on Public Administration Report 14 (*'Unassisted Failure'*) – Western Power's Response. DM#:9060540 p 4. In Tabled Paper No. [4570](#). Tabled on 12 June 2012.

- 2.41 The Auditor General's Detailed Response asserts that the Committee's observations in Report 14 relating to the Auditor General's conduct with respect to Western Power demonstrated a lack of understanding of the relevant professional standards on the part of the Committee. As demonstrated in the foregoing paragraphs of this Special Report, the Auditor General's assertions significantly misrepresented this Committee's comments in Report 14 that were selectively extracted in the Detailed Response. Reference to the above analysis illustrates that the Committee's assessments in Report 14 were not made on the basis of accounting and auditing standards. The Committee's concerns were, in fact, based on a common sense reading of the known facts, and available evidence.
- 2.42 The Auditor General's decision to express unqualified opinions on Western Power's financial reports over the previous five year period were presumably based on his understanding and application of the relevant professional standards. However, it remains a matter of public record that, eight days after the Auditor General's most recent unqualified audit opinion was signed off, Western Power announced publically that its principal distribution asset was "*reaching the end of its useful and safe life*", and needed 20 years of accelerated investment, starting with \$1.222 billion over five years.
- 2.43 These facts raise questions about whether the assumptions underlying the Auditor General's unqualified audit opinions were valid, and how a reasonable reader of the Financial Statements to which they related might interpret them. That was the point made by this Committee, and it was the question posed in Report 14. With respect to the Auditor General, it did not require a detailed understanding of accounting or auditing standards in order to pose such questions.

**The Auditor General's role and function.**

- 2.44 The Auditor General's role as an accountability agency reporting to the Parliament does not, and should not, place the Office of Auditor General itself beyond scrutiny and accountability to the Parliament and people of Western Australia.
- 2.45 It may be the case that the Auditor General's "*detailed and plausible explanation*" of these anomalies will rely heavily on accounting or auditing standards. However, nothing provided to this Committee, to date, by the Auditor General has satisfied its level of concern about the facts in issue.
- 2.46 Nevertheless, quite beyond any question of accounting or auditing standards, this Committee was gravely concerned about the adequacy of Western Power's compliance with the full range of *Electricity Corporations Act 2005* disclosure requirements pertaining to its Annual Report. Those broader concerns were informed by the professional advice of an independent expert, namely, Professor Derek Parkin.

2.47 The Committee's expert accounting and auditing opinion did not suggest to the Committee that it would be wrong for an auditor in general practice to take a global view of the Annual Report holistically, in addition to simply expressing a narrow standards-based view on the financial reports. To suggest otherwise would be to accept a check-box approach to financial auditing of the sort roundly criticised by Hon Justice Neville Owen in his "HIH Royal Commission" Reports.<sup>24</sup> Such a suggestion is clearly not appropriate for a financial auditor in general practice, and it is not appropriate of an auditor in public sector practice. Indeed, the importance of taking a global view of any Annual Report within which an auditor's opinion will be reproduced has been confirmed to the Committee by the Auditor General's Detailed Response as follows:<sup>25</sup>

*The audit does not include an assessment of the completeness of, for example the Managing Director's Report, the Directors' Report or the Corporate Governance statement. However, the audit does involve a review of the drafts of such documents that are available at the time of our opinion to assess whether they contain material inconsistencies with the financial reports. If such inconsistency is noted we then decide whether the audited financial report or the other information needs to be revised.*

2.48 The views which this Committee expressed in Report 14 in this respect, were formed on the balance of the evidence, including that obtained from Western Power, the Auditor General and the opinion of Professor Parkin. Professor Parkin's understanding of, and ability to advise upon, relevant "accounting and auditing standards" - so far as any such standards were relevant to this issue - is not in question. In addition, the extent to which Professor Parkin's professional opinion was relied upon by the Committee in forming its views was disclosed in its entirety at paragraph 7.68 of Report 14 which provided as follows:

7.68 *In order to assure itself of this fact, the Committee obtained the opinion of a leading Accounting professional about the degree of disclosure relating to Western Power's wooden power poles in the 2010/2011 Annual Report. Notre Dame University Professor of Accounting, Derek Parkin provided the Committee with the following opinion on this matter:*<sup>26</sup>

*Had there been more expansive discussion earlier in the Annual Report, this could have been specifically referred to in the Directors' Report. However, in the*

<sup>24</sup> Commonwealth, (2003) The HIH Royal Commission: The failure of HIH Insurance, *Final Report*.

<sup>25</sup> Letter from Mr Colin Murphy, Auditor General for Western Australia, 21 March 2012, p3.

<sup>26</sup> Expert's Report from Professor Derek Parkin FCA, CPA, FAICD, 22 December 2011, p17.

*absence of such discussion, the disclosure in the Directors' Report would appear to be inadequate in the context of the media release of 15 September 2011 and, more properly, the information known to the Directors at the time of finalising their report.*

...

*Hence, in my opinion, there was insufficient disclosure in Western Power's 2011 Annual Report, other than the Financial Report, in relation to the imminent AA3 submission to the Economic Regulation Authority on 30 September 2011, the subject of the media release by Western Power on 15 September 2011.*

- 2.49 The Auditor General is not merely a financial auditor in general practice. Quite apart from the work practices of a financial auditor in general practice, the Committee takes the view that the Auditor General, as an independent statutory officer of the Parliament, has an obligation to ensure that the Parliament is not misinformed in any material respect regarding matters about which he may, or ought to have, specialist knowledge or insight. Indeed, the Auditor General's unique position as an independent statutory officer of the Parliament could be read in an even more positive manner.

*Fiduciary relationship between Parliament and the Auditor General.*

- 2.50 It could be argued, as indeed this Committee does argue, that the Auditor General stands in a fiduciary relationship with the Parliament as his client, placing duties of utmost faith and full disclosure on the Auditor General towards the Parliament. If such a view is endorsed by the Parliament, the extent to which the content of Western Power's second Access Arrangement submission to the ERA was known to the Auditor General prior to reporting day, would be a matter of significant public interest and a matter of direct relevance to the interests and valid expectations of the Auditor General's client.
- 2.51 The Auditor General, in his most recent Annual Report, has suggested that what the Committee has identified amounts to an "*audit expectation gap*"; meaning that the Committee has expressed a level of expectation of the duties of the Office of the Auditor General that is contrary to the actual technical requirements of the Office. According to the Auditor General: "*This expectation gap is an important communication issue for my Office and one which we continue to address.*"<sup>27</sup>

---

<sup>27</sup> Auditor General for Western Australia, *Annual Report 2011-2012*, Office of the Auditor General, Perth, Western Australia, 16 August 2012, p5.

- 2.52 The Committee does not concur with the Auditor General's view. In reaching this conclusion, the Committee has been careful to refer to the actual provisions of the *Auditor General Act 2006*.
- 2.53 In this respect, the Committee particularly notes the requirements of Part 3 of the *Auditor General Act 2006*, relating to the scope of the Auditor General's statutory remit. It is noted that this remit extends to auditing the Public Ledger, the Annual Financial Statements of Government, the annual financial statements of all Government agencies, and those of many other public sector entities.
- 2.54 The Committee further notes that the Auditor General also has extensive powers of inquiry at Part 3 of the *Auditor General Act 2006*, including pertaining to the conduct of performance audits.<sup>28</sup>
- 2.55 Quite apart from these routine functions, the Committee is mindful of the wide freedom that is enjoyed by the Auditor General to report to the Parliament on any matter, pursuant to sections 18 and 25 of the *Auditor General Act 2006* as follows:

***Report on an examination or investigation***

*(1) The Auditor-General may at any time cause a report to be tabled in either House of the Parliament on any matter.*

- 2.56 On the basis of the foregoing, it is open to the Auditor General to report to the Parliament about any outstanding issues relating to this Special Report.

*Statutory duties of the Auditor General.*

- 2.57 In discharging his functions, the Auditor General is required, under section 28 of the *Auditor General Act 2006*, to discharge the following duties:

**28. *Duties of Auditor General as to audits***

- (1) The Auditor General is to carry out an audit in such manner as the Auditor General thinks fit having regard to —*
- (a) Auditing and Assurance Standards; and*
- (b) the character and effectiveness of the internal control and internal audit of the relevant agency, person or body.*

---

<sup>28</sup> See for example: Office of the Auditor General, Western Australia, Report 12, *Major Capital Projects*, October 2012.

- (2) *In carrying out an audit the Auditor General is to consider whether the requirements of relevant enactments have been complied with.*

- 2.58 In his Detailed Response, the Auditor General asserted a “*lack of understanding*” on the part of the Committee, when it formed the views expressed in Report 14 about the adequacy of Western Power’s disclosures in its Annual Report. The specific “*lack of understanding*” asserted with respect to the Committee by the Auditor General, relates to accounting and auditing standards. It will be appreciated from the previous paragraphs of this Special Report, that the Committee formed the views and concerns it documented in Report 14, about the conduct of the Auditor General with respect to Western Power, on a wider basis of inquiry than merely auditing and accounting standards. The Committee notes that the Auditor General acknowledged the appropriateness of such an approach in evidence before this Committee at the public hearing of 20 June 2012.<sup>29</sup>
- 2.59 The Committee was concerned to ensure that the Auditor General was given an opportunity to furnish the Committee with any documentary evidence that might answer the Committee’s concerns - expressed in a circumspect manner in Report 14 - about whether or not the Auditor General discharged his statutory duties with respect to Western Power in a way that satisfies all of the requirements of section 28 of the *Auditor General Act 2006*. The Committee requested copies of the relevant information from the Auditor General at the public hearing on 20 June 2012, after providing prior notice by way of letter dated 13 June 2012.
- 2.60 Despite these repeated requests for information, the Committee notes that, as was highlighted in the Special Report tabled on 27 June 2012, the Auditor General repeatedly refused to provide the Committee with the relevant information on the basis of State Solicitor’s Office advice.
- 2.61 The Auditor General has therefore, refused to provide the Committee with any of the documentary evidence that could satisfy the Committee that the Auditor General has met the reasonable expectations of his Office in this instance. The extent to which this decision on the part of the Auditor General is consistent with the special relationship that his Office has with the Parliament, is unclear.
- 2.62 The foregoing critique is illustrated, by reference to the actual content of the Auditor General’s Detailed Response, in the following paragraphs.

*The Auditor General’s explanation*

- 2.63 The second page of the Detailed Response provided a close survey of elements of the Auditor General’s tabled response, dated 28 September 2011, to the Committee’s

---

<sup>29</sup> Mr Colin Murphy, Auditor General for Western Australia, *Transcript of Evidence*, 20 June 2012, p26.

---

earlier written questions. This close survey repeated much of the detail that was reproduced by the Committee at paragraphs 6.21 and 6.22 of Report 14. Paragraph 2.23 of this Special Report above discussed the issue that the Committee raised at paragraphs 6.23-6.25 of Report 14. Those paragraphs of Report 14 considered the Auditor General's prior explanations, and highlighted an apparent inconsistency in the assessment of the fitness for purpose of Western Power's asset management systems by both EnergySafety and the ERA on the one hand, and by the Auditor General on the other. This is clearly a matter about which the Auditor General has a statutory duty to have regard, given the text of subsections 28(1)(b) and (2) of the *Auditor General Act 2006* reproduced above at paragraph 2.57.

#### *The Committee's View*

2.64 The Auditor General's Detailed Response carefully re-stated the evidence that the Auditor General had already provided to the Committee, as surveyed in Report 14. However, the Auditor General's Detailed Response did not address the Committee's central concern arising from that evidence. It will be recalled that the Committee's central concern was that Western Power had consistently assessed its own wooden power pole network as being "*safe and in good working condition*", on the basis of what Western Power asserted were sound systems of internal control. Western Power's assessment does not appear to have been seriously questioned by the Auditor General in any report to the Parliament, despite the adverse findings, and compliance failure orders, of both EnergySafety, and the ERA over a 5 year period. Instead of assessing what audit risk (if any) was posed by such adverse regulatory findings and compliance failure orders, the Auditor General advised the Committee on 28 September 2011 that he viewed these matters as a "*debate*" and "*difference in view*" between Western Power and the regulators in question.

#### *Serious issues falling within the Auditor General's statutory duties.*

2.65 These are not minor issues. They are, as this Committee has stated publicly, matters of life and death. In addition, they are questions that do not reside in any "*audit expectation gap*" that might be said to apply to the Auditor General. These are considerations that clearly fall within the scope of the Auditor General's statutory duties, as provided at subsections 28(1)(b) and (2) and 18(2) of the *Auditor General Act 2006*.

#### *The Committee's requests for additional information*

2.66 At the public hearing of 20 June 2012, the Committee raised these issues directly with the Auditor General, with reference to Western Power, for each financial year since

2006. The following extract of the transcript is an important example of the relevant evidence from the public hearing:<sup>30</sup>

**The CHAIRMAN:** *In the financial year 2006-07, did you go to either Western Power or EnergySafety to find out if any of these problems affected Western Power's internal audit or internal control systems? We are talking about exactly the same issue—not the same issue, but the same process. We are going to ask you for the same information.*

**Mr Murphy:** *The answer is the same.*

**The CHAIRMAN:** *So the answer is no?*

**Mr Murphy:** *No, the answer was not no; the answer is that we routinely engage with the key regulators of our clients to see if there are any issues that will have an impact on the financial audit of that entity. So, yes, we did engage with key regulators of Western Power. We do that as a routine matter of our financial audit to see if there are any matters that will have an impact on the financial audit. We have done that in every year that we audited Western Power.*

**The CHAIRMAN:** *And we have a concern about Western Power. The question remains the same: will you table the audit working papers and the corporate executive minutes?*

**Mr Murphy:** *No.*

**The CHAIRMAN:** *In the financial year 2006-07, did you go to Western Power or EnergySafety to find out if any of these problems meant that Western Power was not complying with its statutory obligations?*

**Mr Murphy:** *We do routinely do that as a matter of course. Statutory obligations are examined to see whether they will have a material impact on the fair presentation of the financial statements, so we do that routinely as a matter of course; and, yes, we would have in this case.*

**The CHAIRMAN:** *Are you prepared to table the evidence that you actually did go through that process?*

**Mr Murphy:** *I do not believe I can.*

---

<sup>30</sup> Mr Colin Murphy, Auditor General for Western Australia, *Transcript of Evidence*, 20 June 2012, p10.

- 2.67 The foregoing testimony appears to suggest that the Auditor General's view is that the statutory obligations of government trading enterprises are only relevant to his own statutory duties, when he conducts a financial audit, where "*they will have a material impact on the fair presentation of the financial statements*". Even if one accepts that such an interpretation of section 28(2) of the *Auditor General Act 2006* is appropriate, the Committee would only be in a position to comment on the adequacy, or otherwise, of Auditor General's consideration of the facts in issue at the relevant time, by examining the evidence in possession of the Auditor General.

*The Auditor General's response to requests for additional information*

- 2.68 To date, the Auditor General has not provided the Committee with any copies of any specific management audit letters between the Office of the Auditor General and Western Power; minutes of the Western Power Board's Audit Subcommittee; audit working papers and related correspondence; Corporate Executive minutes etc. Nor has any performance audit of the relevant databases and internal control systems within Western Power been conducted by the Office of the Auditor General. Any or all of these sources of evidence could provide assurance that the substantial issues of concern raised in Report 14 were, in fact, addressed appropriately in each of the past six years by the Auditor General. One inference that arises from the Auditor General's failure to adduce probative evidence in response to the concerns raised in Report 14, is that such evidence may not exist.
- 2.69 The Committee does not share the views at paragraph 2.66 above, expressed by the Auditor General at the 20 June 2012 hearing, that section 28(2) of the *Auditor General Act 2006* limits the Auditor General's considerations to the impact such matters might have on the "*fair presentation of the financial statements*". Such a view is not compatible with the special relationship of mutual trust and confidence which must exist between the Parliament and the Auditor General. The Committee reads the statutory duties at section 28(2) of the *Auditor General Act 2006* as having application *regardless* of any consideration of the accounting and auditing standards.
- 2.70 In addition, as noted at paragraphs 7.95-7.97 of Report 14, in evidence to this Committee on 28 September 2011, the Auditor General endorsed the earlier Western Power position that public disclosures by Western Power relating to the condition of the distribution network and its asset management systems, prior to 15 September 2011 were entirely adequate. In light of Western Power's recent apology and undertaking to the Committee, published by this Committee in the Special Report of 3 May 2012, it is doubtful if Western Power itself would make such an assertion at this point in time. Indeed, Western Power's own response to Report 14 has noted that "*it is appropriate that the directors' report be expanded in the 2010/11 document*".<sup>31</sup>

---

<sup>31</sup> Western Power (2012) Standing Committee on Public Administration Report 14 (*'Unassisted Failure'*) – Western Power's Response. DM#:9060540 p 4. In Tabled Paper No. [4570](#). Tabled on 12 June 2012.

*Lack of critical analysis*

- 2.71 Given the foregoing, the Committee's concerns, expressed in paragraph 6.25 of Report 14, that "*the Office of the Auditor General's obligations have been discharged, in this instance, in a less than satisfactory manner*", and that the Auditor General's responses "*lack the level of critical analysis that the Committee would have expected from an independent Parliamentary Officer*" were merely statements of opinion drawn from a survey of the available documentary and testimony evidence. The Committee has given the Auditor General ample opportunity, in writing and at a public hearing, to provide the Committee with evidence that supports his contrary assertion. No such evidence has been provided by the Auditor General as at the date of this Special Report.
- 2.72 The Detailed Response suggests that the Auditor General's explanations to the Committee about his conduct regarding Western Power in the 2006-07 financial year were either misunderstood, or were not accepted. Any reasonable reading of Report 14 will reveal that the Auditor General's explanations were, in fact, understood. However, the Committee has been unable to accept the explanations provided by the Auditor General as at the date of this Special Report. This is because The Auditor General's explanations have not included any evidentiary material that demonstrates how, and to what extent, the Committee's concerns, expressed in Report 14, about the 2006-07 financial year, were misinformed.
- 2.73 The Committee's concerns in this instance, referred directly to available evidence that was surveyed in Report 14 – including evidence provided to the Committee by the Auditor General. At the public hearing of 20 June 2012, the Committee specifically asked for further evidence, within the Auditor General's possession, that would demonstrate clearly whether, and if so, to what extent, the Committee's concerns were reasonable in all the circumstances. The Auditor General declined to provide this evidence on the basis of legal advice received from the State Solicitor's Office.
- 2.74 Given that the Committee has been expressly denied access to relevant evidence currently in the possession of the Auditor General, the Committee continues to hold the concerns that it expressed in Report 14 relating to the performance of the Auditor General in his roles as both financial and performance auditor of Western Power, and as an independent statutory officer of the Parliament, during the 2006-07 to 2010-11 financial years. In these circumstances, the Committee does not believe that the Auditor General's objections to the Committee's findings in Report 14 are either reasonable, or acceptable.

*Request for Professor Parkin's Opinion*

- 2.75 The Committee notes that the Auditor General's Detailed Response made direct reference to paragraph 6.25 of Report 14. However, the Committee once again

observes that the reference made was highly selective, and took the reference out of context, for an unrelated purpose. The Detailed Response uses the extracted text from paragraph 6.25 of Report 14 to imply that the Committee made the relevant comments in reliance upon the expert accounting and auditing opinion of Professor Derek Parkin. The entire paragraph 6.25 of Report 14 is reproduced for the benefit of the reader. The text that was extracted in the Auditor General's Detailed Response above is underlined in the following paragraph:<sup>32</sup>

*The Committee's finding therefore that:*

*"... the Office of the Auditor General's obligations have been discharged, in this instance, in a less than satisfactory manner," (paragraph 6.25. p 108)*

*was of great concern. We understand that Professor Derek Parkin of Notre Dame University has provided some accounting advice to the Committee. We would welcome the opportunity to consider this advice and would also welcome his advice, or that of other experts being sought on this matter.*

2.76 As explained above in paragraphs 2.21 and 2.22 of this Special Report, the Committee's concerns in Report 14 about the Auditor General's statutory responsibilities regarding Western Power, were primarily based on the available evidence, with an eye to the Auditor General's broader statutory responsibilities. The evidence that gave rise to the expression of opinion in paragraph 6.25 of Report 14 that the "*Office of the Auditor General's obligations have been discharged, in this instance, in a less than satisfactory manner*" was provided by the Auditor General himself, by EnergySafety and by the ERA - as was clearly explained in Report 14. Professor Parkin's expert report did not feature in the Committee's deliberations on this particular issue.

2.77 Professor Parkin's opinion was expressly relied upon by the Committee in a single instance, and that related to the Director's Report. Professor Parkin's opinion was extracted, in its proper context, to the extent that it was relied upon by the Committee, at paragraph 7.68 of Report 14. The Committee notes that, in evidence during the public hearing of 20 June 2012, the Auditor General himself concurred with Professor Parkin's findings, to the extent those were relied upon in Report 14. The following extract from the public hearing of 20 June 2012 demonstrates this point:

***The CHAIRMAN:** Do you think that Western Power's 2010–11 annual report tabled on 22 September 2011 gave an accurate picture to the Parliament about the CapEx challenges and the risks to public safety created by Western Power's distribution network?*

---

<sup>32</sup> Letter from Mr Colin Murphy, Auditor General for Western Australia, 21 March 2012, p3.

**Mr Murphy:** *I have not audited the annual report, but I do know that in the committee's report has advice from an expert that suggests that the disclosures were not to the standard that would have been expected and I certainly agree with the advice of the expert, but we have not conducted an audit into the annual report or the disclosures.*

*Committee's substantive concern not addressed by the Auditor General*

- 2.78 The Committee notes that the Auditor General's Detailed Response did not engage meaningfully with the substance of the concern raised by the Committee in Report 14, that the "*Office of the Auditor General's obligations have been discharged, in this instance, in a less than satisfactory manner*". In response to this concern, the Committee had hoped that the Auditor General would provide the Committee with evidence from his own records and audit files, of the sort canvassed above at paragraph 2.68 to this Special Report.
- 2.79 As indicated elsewhere in this Special Report, at the public hearing of 20 June 2012, on the basis of legal advice provided by State Solicitor's Office, the Auditor General refused to provide this Committee with any of the documentary evidence that would enable it to make an informed assessment of the Auditor General's objections regarding Report 14. Once again, in such circumstances, the Committee does not believe that the Auditor General's objections to these findings are either reasonable, or acceptable.

*Does the Auditor General audit agency Annual Reports?*

- 2.80 The third page of the Auditor General's Detailed Response suggests that this Committee has misunderstood the nature of the Auditor General's audit responsibilities. In support of this suggestion, the Detailed Response selectively quoted an extract from paragraph 9.9 of Report 14 as follows:

*Related to the above is the potentially important misunderstanding the Committee may have that the OAG audits agency Annual Reports. For example:*

*"... The Committee is troubled by the fact that the Auditor General signed off on the 2010/2011 Annual Report which talked about 'Managing the Network', only to have Western Power make a public statement barely a week later that its 'network was reaching the end of its useful and safe life', ..."*  
*(paragraph 9.9, p 223)*

*Our annual financial audit of WP is conducted in accordance with the requirements of the Electricity Corporations Act 2005. Section 15 of Schedule 4 of the Act essentially requires the Auditor General to form*

---

*an opinion as to whether WP's financial report complies with the accounting standards. Section 7 defines the financial report as comprising:*

- *The financial statements and notes*
- *The Directors' Declaration about the statement and notes. The declaration essentially covers whether the statements are in accordance with the accounting standards and whether the Directors believe that WP is able to pay its debts when they fall due.*

*The audit does not include an assessment of the completeness of, for example the Managing Director's Report, the Directors' Report or the Corporate Governance statement. However, the audit does involve a review of the drafts of such documents that are available at the time of our opinion to assess whether they contain material inconsistencies with the financial reports. If such inconsistency is noted we then decide whether the audited financial report or the other information needs to be revised.*

*The Committee will post an "Erratum"*

- 2.81 The Committee accepts as correct, the Auditor General's insistence that paragraph 9.9, given a strict literal interpretation, may suggest that the Auditor General "*signed-off on Western Power's 2010-2011 Annual Report*". Accordingly, the Committee draws the attention of the Legislative Council to the fact that the third sentence of paragraph 9.9 of Report 14 should have been expressed in the following terms:

*The Committee is troubled by the fact that the Auditor General signed off on the **Audit Opinion relating to the Financial Statements of Western Power's 2010/2011 Annual Report** which talked about "Managing the Network", only to have Western Power make a public statement barely a week later that its "network was reaching the end of its useful and safe life", requiring 20 years of increased remedial investment, beginning with a five year \$1.222 billion program.*  
 [Inserted text indicated in bold lettering]

- 2.82 An "Erratum", to this effect, will be posted on the Committee website.

*The Committee's substantive concern has not been addressed*

- 2.83 The Committee does observe, however, that the substantive issue raised in paragraph 9.9 remains unchanged, notwithstanding the inclusion of this clarifying text.

- 2.84 As with other extracts from Report 14 that were selectively quoted in the Auditor General's Detailed Response, the extract above failed to adequately reflect the context within which the statement in question occurred in Report 14. The entire paragraph 9.9 of Report 14 is reproduced for the benefit of the reader. The text that was extracted in the Auditor General's Detailed Response above is underlined in the following paragraph:<sup>33</sup>

*In this respect, the Committee has also had cause to question whether Western Power has observed its statutory obligation of full disclosure to the Auditor General. This Report has highlighted a number of instances where the Auditor General may have been either intentionally, or carelessly, misled by Western Power. The Committee is troubled by the fact that the Auditor General signed off on the 2010/2011 Annual Report which talked about "Managing the Network", only to have Western Power make a public statement barely a week later that its "network was reaching the end of its useful and safe life", requiring 20 years of increased remedial investment, beginning with a five year \$1.222 billion program. This concern is exacerbated by the finding that the Auditor General has never conducted a performance audit on Western Power's asset management systems practices and processes. The Committee is further concerned to observe that Western Power's key asset management systems have been subject to sustained critique by both of its principal regulators for over five years. This sustained critique has included repeated adverse regulatory compliance notices and orders.*

- 2.85 Viewed in its proper context, it will be appreciated that the point that the Committee actually made in paragraph 9.9 of Report 14, was to question the candour of Western Power during the audit process. It was not, as the Detailed Response has implied, an indication by the Committee that there had been an audit failure on the part of the Auditor General. In paragraph 9.9 of Report 14, the Committee expressed its inability to reconcile Western Power's contradictory messages in the "2010/2011 Annual Report which talked about 'Managing the Network'" on the one hand, with Western Power's "public statement barely a week later that its 'network was reaching the end of its useful and safe life'" on the other.
- 2.86 The Auditor General was mentioned in this context at paragraph 9.9 of Report 14, on the basis that the full picture may have been concealed from the Auditor General by Western Power, and not that it was something the Auditor General had simply failed to consider. The only way an adverse inference about the Auditor General could reasonably be raised in the context of his audit of Western Power, would be if the

---

<sup>33</sup> Report 14, p223.

---

conduct of the actual audit was deficient. Such a possibility was not a matter that was considered by the Committee, and it is not suggested in paragraph 9.9 of Report 14.

- 2.87 The Auditor General's Detailed Response to the Committee's concerns about this matter appear to simultaneously suggest that Western Power's 15 September 2011 announcement was not significant, and that it was outside the technical scope of his audit. With respect to the Auditor General, these responses do not engage meaningfully with the substance of the Committee's concerns about the level of public disclosure of material information by Western Power prior to 15 September 2011.

*Parliament relies upon the Auditor General to report on the quality of information presented by agencies.*

- 2.88 This aspect of the Auditor General's Detailed Response is disturbing to this Committee. The Parliament, quite properly, relies very heavily on the Office of the Auditor General as an independent statutory officer of the Parliament, to provide assurance that it is receiving the best quality information from the agencies of Government. This issue is dealt with in greater detail below in this Special Report.

- 2.89 However, as explained above at paragraphs 2.49-2.62 of this Special Report, the statutory duties of the Auditor General under the *Auditor General Act 2006* do not begin and end at auditing and accounting standards. The full range of the Auditor General's statutory duties at section 28 of the *Auditor General Act 2006*, together with the special relationship of his Office with the Parliament, suggest strongly to this Committee that it was well justified in expressing its concern, expressed in paragraph 9.9 of Report 14 and reproduced above at paragraph 2.84, about Western Power's contradictory public statements in September 2011 being:

*... exacerbated by the finding that the Auditor General has never conducted a performance audit on Western Power's asset management systems practices and processes. The Committee is further concerned to observe that Western Power's key asset management systems have been subject to sustained critique by both of its principal regulators for over five years. This sustained critique has included repeated adverse regulatory compliance notices and orders*

*The Parliament's entitlement to rely on the Auditor General to provide information*

- 2.90 There is one Western Power, there is one Auditor General and there is one Parliament of Western Australia. If matters come to the attention of the Auditor General that are potentially relevant to the Parliament, the special relationship that exists between the Auditor General and the Parliament places an obligation on the Auditor General to ensure that the Parliament is not misinformed. It is not acceptable for the Auditor General to draw artificial lines around his financial audit function and his other

functions in such a way as to leave the Parliament materially misinformed about the operations of Government agencies and trading enterprises.

- 2.91 In response to these concerns, the Committee had hoped that the Auditor General's Detailed Response would have provided some evidence from his own audit files, of the sort canvassed above at paragraph 2.68 to this Special Report. Such evidence might make clear to the Committee the nature of any misunderstanding that was demonstrated in Report 14 about the Auditor General's statutory obligations. As indicated elsewhere in this Special Report, at the public hearing of 20 June 2012 on the basis of legal advice provided by State Solicitor's Office, the Auditor General refused to provide this Committee with any of the evidence that would enable an informed assessment to be made of the Auditor General's objections in this matter regarding Report 14. In such circumstances, the Committee does not believe that the Auditor General's objections to these findings are either reasonable, or acceptable.

*Does the Auditor General express an opinion on the Director's Report?*

- 2.92 Page 3 of the Auditor General's Detailed Response appropriately refers to the Auditor General's statutory reporting obligations under item 15, Schedule 4 of the *Electricity Corporations Act 2005*. Nowhere in Report 14 did the Committee assert that the Auditor General is required to express an opinion on the content of the Annual Report, other than on the Financial Reports.
- 2.93 However, as discussed at paragraph 7.68 of Report 14, Professor Parkin's expert opinion makes it clear that the Annual Report, taken as a whole, was deficient. This was because it failed to disclose Western Power's knowledge of the significant capital investment challenges it had identified, in the preparation of its AA3 submission, prior to reporting day. As noted above, this assessment was specifically endorsed by the Auditor General at the public hearing of 20 June 2012. This absence of disclosure by Western Power in its Directors Report would have affected the way in which a reasonable reader may have interpreted the Annual Report.
- 2.94 On this basis alone, it was a matter to which the Auditor General could reasonably have been expected to address his mind in forming and framing his opinion. This is without even considering the unique statutory duties placed on the Auditor General at section 28 of the *Auditor General Act 2006*, or the obligations of utmost good faith and full disclosure applicable to the Auditor General due to his special relationship with the Parliament as an independent Officer of the Parliament. Despite these particular public interest considerations applicable to the exercise of his independent discretion, the Auditor General has provided this Committee with no evidence, of the sort canvassed above at paragraph 2.68 to this Special Report, that would demonstrate that he did so address his mind to the overall adequacy of disclosure in Western Power's Annual Report for 2010-2011.

- 2.95 For this reason, the Committee in Report 14, relying on the expert accounting and auditing opinion of Professor Parkin, advised the Legislative Council that the Auditor General had opined - without qualification - on the Financial Statements of an Annual Report that did not comply fully with the applicable statutory requirements. Despite the careful analysis of available evidence in Report 14 that lead to this Committee forming this conclusion, the Auditor General's Detailed Response provides no evidence that these matters were considered by him in forming the audit opinion in question. The only aspect of the Detailed Response that approaches the issue to any extent is the following passage:

*The audit does not include an assessment of the completeness of, for example the Managing Director's Report, the Directors' Report or the Corporate Governance statement. However, the audit does involve a review of the drafts of such documents that are available at the time of our opinion to assess whether they contain material inconsistencies with the financial reports. If such inconsistency is noted we then decide whether the audited financial report or the other information needs to be revised.*

*What standards does the Auditor General Act 2006 impose on the conduct of audits?*

- 2.96 It should be noted once again that the above passage of the Detailed Response does not refer to the wider statutory duties of the Auditor General established at section 28 of the *Auditor General Act 2006*, quoted above at paragraph 2.57 to this Special Report. These statutory duties include, at subparagraph (2) the following mandatory requirement:

(2) *In carrying out an audit the Auditor General is to consider whether the requirements of relevant enactments have been complied with.*

- 2.97 The significance of the above subsection is that it differs from the discretion afforded to the Auditor General in subsection 28(1) of the *Auditor General Act 2006*. The Committee particularly notes that subsection 28(2) is phrased in mandatory terms. There is no discretion to modify or exclude this statutory duty as expressed in the provision.

- 2.98 As discussed above in this Special Report at paragraph 2.69, the Auditor General has expressed the view to this Committee that his statutory duties, at subsection 28(2) of the *Auditor General Act 2006*, are limited to considering the extent that any statutory obligations of auditee agencies are relevant to a financial audit carried out under the terms of auditing and accounting standards. This Committee can see nothing in section 28 of the *Auditor General Act 2006*, or the terms of that Act more generally, to suggest that such an interpretation is appropriate. Firstly, the Committee notes that,

contrary to the views expressed elsewhere by the Auditor General,<sup>34</sup> the Auditor General has discretion at subsection 28(1) about the extent to which he relies on the auditing and accounting standards in the conduct of his audits. The same permissive discretion is not included at subsection 28(2). Second, the Committee notes that the statutory duties at section 28 apply to all of the Auditor General's audits, and not only to financial audits. Given that auditing and accounting standards are of little relevance or applicability to performance related audits, it is clear that the duties expressed at subsection 28(2) were intended to have a broader application than within the application of auditing and accounting standards.

- 2.99 It will be recalled that the Committee made the following finding at paragraph 7.71 of Report 14 on the basis of the probative evidence before it:

*7.71 If this Committee's understanding of the activities of Western Power, and the construction of Western Power's statutory reporting obligations, as outlined in the preceding paragraphs is correct, it follows that Western Power's Director's Report which appears in the 2010-2011 Annual Report may not comply with the requirements of the Electricity Corporations Act 2005 Sch 4 cl(11).*

- 2.100 It remains an open question as to whether Western Power's knowledge of the material capital investment challenges it had identified in the preparation of the AA3 submission prior to reporting day, was communicated to the Auditor General.
- 2.101 It is similarly an open question whether, in light of the numerous compliance failures of Western Power published by both ERA and EnergySafety over the previous 5 years, the Auditor General had been sufficiently put on notice about this issue, to warrant greater attention than was afforded to the matter in light of the Auditor General's broader statutory duties. Nothing in the Detailed Response addresses these key questions. As indicated elsewhere in this Special Report, at the public hearing of 20 June 2012, on the basis of legal advice provided by State Solicitor's Office, the Auditor General refused to provide this Committee with any of the evidence that would enable an informed assessment to be made of the Auditor General's objections in this matter regarding Report 14. In such circumstances, the Committee does not believe that the Auditor General's objections to these findings are either reasonable, or acceptable.

*Possible weakness in Report 14*

- 2.102 The Committee did not approach the foregoing questions relating to the Auditor General in forensic detail during its inquiry into Horizon Power and Western Power culminating in Report 14. The principal reason for this was that the inquiry was not

---

<sup>34</sup> Mr Colin Murphy, Auditor General for Western Australia, *Transcript of Evidence*, 20 June 2012, p20.

---

primarily focussed on the Auditor General. For this reason, the Auditor General was only referred to in Report 14 so far as his conduct directly related to the Committee's primary focus, as that focus became clear during the inquiry, namely; Western Power.

- 2.103 However, given the public interest questions involved, and subsequent enquiries made into the Auditor General by this Committee, the approach adopted in Report 14 may have been a significant weakness in that Report. This is especially so, given the range of agencies falling within the jurisdiction of the Auditor General, and the wider implications of the Auditor General's stated approach to his statutory duties, as articulated in the public hearing of 20 June 2012.

**Has the Auditor General identified a significant inaccuracy in Report 14 relating to Financial Audit?**

- 2.104 The Committee has noted above in this Special Report, at paragraph 2.81, a single instance at which the Auditor General has demonstrated clearly that a comment made by the Committee in Report 14 lacked technical precision.
- 2.105 The Committee's responsibility to the reader of its reports is to analyse the available evidence, and to express a view about what such evidence suggests. The Committee makes no assumptions as to the level of prior information which any given reader of its reports may have.
- 2.106 As discussed above throughout this Special Report, the Auditor General has repeatedly refused to provide this Committee with evidence that would demonstrate how, and to what extent, his stated objections to substantive statements made in Report 14 relating directly to his Office can be supported. Without such evidence, the Committee is unable to advise the Legislative Council to what extent, if at all, the Auditor General's objections have been substantiated.
- 2.107 Further, the Auditor General refused to engage in a responsible and meaningful manner with the many significant concerns that were raised about the conduct of his Office by the Committee in Report 14. The Auditor General repeatedly refused to provide the Committee with requested documents.

**3 PERFORMANCE AUDIT**

- 3.1 Part 3, Division 2 of the *Auditor General Act 2006*, in particular at section 18, empowers the Auditor General to perform an audit of the performance of any of the agencies of Government. The question of which such performance audits are conducted by the Auditor General is entirely a matter left to the discretion of the Auditor General. However, the choice of whether and, if so, which such performance audits are conducted is a matter about which the Auditor General is to observe the statutory duties of his Office, and the nature of the special relationship which applies

to him with respect to the Parliament as discussed in section two of this Special Report.

*Committee's finding about performance audits*

3.2 In this context, the Committee notes the comments contained in the Auditor General's Detailed Response, which provides as follows:<sup>35</sup>

*A key finding made at numerous places within the report was criticism of the Auditor General for failing to undertake a performance audit of WP's wooden power pole asset management systems, particularly given the critical reports by its two regulators in 2009.*

3.3 The Auditor General has been offered the opportunity to challenge the Committee's view, and provide rebuttal evidence to support an alternative hypothesis. As at the date of this Special Report, the Auditor General has provided no documentary evidence that might demonstrate that the Committee's view in this matter was either mistaken or inaccurate. As indicated elsewhere in this Special Report, at the public hearing of 20 June 2012, on the basis of legal advice provided by State Solicitor's Office, the Auditor General refused to provide this Committee with any of the documentary evidence that would enable an informed assessment to be made of the Auditor General's objections in this matter regarding Report 14.

3.4 As referred to in paragraph 2.85 above, the Committee did make two "findings" about facts with respect to the Auditor General in Report 14. These were firstly, a "finding" in paragraph 9.9 that; *"This concern is exacerbated by the finding that the Auditor General has never conducted a performance audit on Western Power's asset management systems practices and processes."* A similar "finding" was made in paragraph 3.58 of Report 14.

3.5 The second and final "finding" about facts relating to the Auditor General was highlighted above at paragraph 2.34, dealing with paragraph 9.10 of Report 14, in which the Committee expressed concern that the Auditor General had not conducted a performance audit of Western Power. To the extent that a statement of fact can be interpreted as a criticism, the statement from paragraph 9.10 of Report 14, referred to in the Detailed Response, has been accurately represented in the Detailed Response.

3.6 However, the Committee notes that its "finding" is no more than a statement of fact, and that no formal recommendations relating to the finding. It is therefore difficult to understand what the Auditor General's precise issue on this point is, beyond expressing dissatisfaction with a statement of fact. This does not equate to identifying

---

<sup>35</sup> Letter from Mr Colin Murphy, Auditor General for Western Australia, 21 March 2012, p4.

---

a “misunderstanding” or an “inaccuracy” on the part of the Committee or in Report 14.

- 3.7 Nevertheless, as discussed above in this Special Report, the statutory duties of the Auditor General, and the nature of the special relationship which applies to the Auditor General with respect to the Parliament, provide appropriate boundaries to the way in which the Auditor General performs his statutory functions.

*Auditor General’s rationale for conducting no performance audits*

- 3.8 At page 4 of the Detailed Response, the Auditor General provides an explanation of why the Auditor General has conducted no performance audit on Western Power since 2006. This passage of the Detailed Response reads as follows:

*In the case of WP’s wooden power poles, our topic selection process identified the wooden pole issue as a potential audit in 2009. However, given that WP’s two regulators had both published critical reports, we had a strong reason to believe that Parliament, the Government, the media and the public were fully informed of the issue. Moreover, subsequent statements by government and WP indicated that sizeable funds were being allocated to address the concerns of the regulators. For this reason, no audit went ahead at that time.*

*In late 2010, we again considered the issue with the view that we could add value by assessing the progress made by WP in addressing concerns. An audit was approved and planning commenced ' in late 2010 and WP was informed of the audit in February 2011.*

*However, the audit was put on hold soon after when we became aware that the Committee had commenced its own enquiry in late 2009 and that its terms of reference overlapped those of the audit.*

*No consideration was given to conducting an audit that paralleled the enquiry. We were conscious of the primacy of Parliament and had no wish to undermine that by conducting an audit of the same issues. As well, we saw no benefit to the public interest by auditing areas that were also the subject of the enquiry.*

*We note the Committee’s opinion “... that, should equivalent circumstances arise in the future in a different context, the Office of the Auditor General should make inquiry of the relevant Committee before making an independent assessment of it and if so, to what extent, the statutory functions of that Office should be constrained or modified in the wider public interest.” (paragraph 8.58, p 202)*

*While we do not consider it appropriate for the statutory independence of the Office to be constrained or modified, the sentiment behind the words is accepted.*

*The prospect of a performance audit in this area remains firmly on our agenda, although it will not proceed immediately'. We will monitor developments including WP's and the Government's response to the Committee's recommendations before making a decision about timing for the audit.*

- 3.9 Further reasons why the Auditor General has determined not to proceed with a performance audit into Western Power were advanced by the Auditor General at the public hearing of 20 June 2012.<sup>36</sup>
- 3.10 In addition, in separate correspondence, the Auditor General previously indicated that he will not implement his previously advised performance audit of Western Power, despite the urgings of the Committee at a private hearing on 28 September 2011.<sup>37</sup>

*Committee's disappointment that no performance audits were conducted*

- 3.11 In Report 14, at paragraph 8.58, the Committee noted the Auditor General's earlier evidence about his reasons for not conducting a performance audit of Western Power at any time since 2005. Paragraph 8.58, in its entirety, reads as follows:<sup>38</sup>

*It is somewhat regrettable that the Auditor General should have felt constrained by the existence of a Parliamentary inquiry from engaging in a performance audit relating to issues of public safety. Nevertheless, the concerns which led to this circumstance are not entirely unreasonable. The Committee recommends that, should equivalent circumstances arise in the future in a different context, the Office of the Auditor General should make inquiry of the relevant Committee before making an independent assessment of if, and if so, to what extent, the statutory functions of that Office should be constrained or modified in the wider public interest.*

- 3.12 The Committee finds it disturbing that the Auditor General should decide not to proceed with a performance audit of Western Power because a Parliamentary Committee was inquiring into the agency, and yet refuse to provide that Committee with vital documentary evidence relevant to the inquiry in question.

---

<sup>36</sup> Mr Colin Murphy, Auditor General for Western Australia, *Transcript of Evidence*, 20 June 2012, pp13-14.

<sup>37</sup> Letter from Mr Colin Murphy, Auditor General for Western Australia, 25 January 2012.

<sup>38</sup> Report 14, p202.

---

*Possible limitation in Report 14*

- 3.13 As explained above, the Committee's observations in Report 14 were primarily addressed to Western Power. The inquiry which gave rise to Report 14, was not primarily focussed on the Auditor General. For this reason, the Committee's comments regarding the Auditor General in Report 14 were phrased in a circumspect manner.
- 3.14 However, given the public interest questions involved, this approach may have been a significant limitation in the Terms of Reference applicable to Report 14. Had the Terms of Reference permitted, the Committee may have focussed a portion of its inquiry on the role of the Auditor General, in his independent capacity to inform the Parliament about the performance of public agencies.

*Western Power's failure to comply with relevant enactments*

- 3.15 The Committee is mindful that the compliance breaches identified by Western Power's regulators over a five year period, and the apparent failure of Western Power's Annual Report 2010-2011 to comply with the *Electricity Corporations Act 2005*, all of which were identified in Report 14, each amount to a potential failure of Western Power to comply with relevant enactments.

*The Auditor General's restrictive reading of section 28 of the Auditor General Act 2006*

- 3.16 Given this context, the Committee would have expected the Auditor General's Detailed Response to have clearly demonstrated how his repeated failure to conduct a performance audit into Western Power was consistent with both his statutory duties at section 28 of the *Auditor General Act 2006 Act*, and the special relationship that exists between the Auditor General and Parliament. The Committee does not accept that the references in the Detailed Response to a vague conception of "*public interest*", or a selective reading of section 28 of the *Auditor General Act 2006* referred to at paragraph 2.98 to this Special Report above, are sufficient to address this apparent inconsistency between the express statutory duties of the Auditor General on the one hand, and the apparent inaction of the Auditor General in this instance. Accordingly, as at the time of this Special Report the Committee believes that there is still an important unanswered question surrounding the Auditor General's repeated refusal to conduct a performance audit of Western Power since 2006. This is a question that goes to the heart of the statutory function of the Auditor General, and it deserves to be answered by the Auditor General to the satisfaction of the Parliament.
- 3.17 It may also be worth asking whether, if the Committee had adopted the approach taken by the Auditor General in this matter, anything within Western Power relating to its management of wooden power poles, or its corporate attitude towards regulatory compliance is likely to have changed.

### **Statutory Independence.**

3.18 As indicated above in this Special Report, the Committee takes a serious view of the functions and duties of the Auditor General. The Committee further notes the following observations of the *Royal Commission into Commercial Activities of Government* in its second Report. The Committee believes that it may be timely to restate those observations espoused by the Commissioners that were of direct relevance to the office of the Auditor General.<sup>39</sup>

*3.10.3 The Auditor General is no mere scrutineer of the financial affairs of the departments and agencies of government, notwithstanding the importance of this responsibility. The Auditor General's role must now be accepted as multi-purposed. The Financial Administration and Audit Act 1985 itself acknowledges as much. In auditing the accounts of an agency, the Auditor General is expected to address not merely the financial integrity of the agency's activities but also such matters as the agency's compliance with the law and the legislation and directions under which it acts and the controls it has to secure that compliance; the probity of official conduct in its financial affairs; the appropriateness of performance indicators; and, of no little importance, given our inquiries, the adequacy of the records on which its management is based and carried into effect. As well, the Auditor General has an expanding and more far reaching responsibility, one which relates directly to protecting the public purse.*

3.19 The Auditor General's Detailed Response correctly highlights the statutory independence of the Auditor General, as established under the *Auditor General Act 2006*. Given this independence, it is surprising that the Auditor General should have postponed any performance audit of Western Power because of the accountability activities of regulators and Parliamentary committees.

3.20 Having exercised his discretion in such a manner, the Auditor General's statutory independence does not place his decisions beyond scrutiny. Such independence and discretion as are reposed in the Office of Auditor General do not amount to absolute freedom. The independence and discretion afforded to the Office of Auditor General under the *Auditor General Act 2006* serves a specific accountability purpose, and must conform to the statutory duties, and must be in conformity with the nature of the

---

<sup>39</sup> Western Australia (1992) *Royal Commission into Commercial Activities of Government*. Report II (presented to His Excellency the Governor on 19 November 1992) at p 3-17. See [http://www.slp.wa.gov.au/publications/publications.nsf/DocByAgency/EB7A73F79B8C4FCA482569850012E10E/\\$file/report2.pdf](http://www.slp.wa.gov.au/publications/publications.nsf/DocByAgency/EB7A73F79B8C4FCA482569850012E10E/$file/report2.pdf) (accessed 25 May 2012).

---

special relationship between the Auditor General and the Parliament. As at the date of this Special Report, the Auditor General has not provided this Committee with sufficient evidence to suggest how his repeated refusal to conduct a performance audit into Western Power is consistent with his statutory duties, or the nature of his special relationship with the Parliament.

#### 4 OTHER ISSUES

##### **“OAG Commitment to the Committee”<sup>40</sup>**

- 4.1 The Committee notes that the Auditor General’s Detailed Response states as follows:<sup>41</sup>

*Comments in the report regarding the adequacy of our submission to the Committee were disappointing.*

- 4.2 The Auditor General’s expression of disappointment does not equate to identifying a “misunderstanding” or “inaccuracy” on the part of either the Committee, or Report 14.
- 4.3 As to the Auditor General’s subsequent comment that neither the Committee nor its secretariat indicated that further information was required, this is indeed the case. Presumably the Committee was entitled to rely on the Auditor General’s evidence, in the absence of any notice of correction or retraction by the Auditor General. It is therefore entirely unclear what point was being made in this passage of the Detailed Response.
- 4.4 It is telling, however, that, when this Committee requested detailed evidence from the Auditor General at the public hearing of 20 June 2012 about each of its areas of concern, on the basis of legal advice provided by State Solicitor’s Office, the Auditor General refused to provide this Committee with any of the documentary evidence that would enable an informed assessment to be made of the Auditor General’s objections.

##### **Strategic Development Plans and Statements of Corporate Intent.**

- 4.5 The Committee notes that the Auditor General’s Detailed Response provides, with respect to the reference at paragraph 7.65 of Report 14 to Strategic Development Plans (**SDP’s**), as follows:<sup>42</sup>

*We believe that the reference to the tabling of SDP’s was an error and the report may have meant to refer to Statements of Corporate Intent (SCI).<sup>43</sup>*

---

<sup>40</sup> Letter from Mr Colin Murphy, Auditor General for Western Australia, 21 March 2012, p5.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

- 4.6 The Committee does not accept that reference to SDP's in Report 14 at paragraph 7.65 was an error. Section 90 of the *Electricity Corporations Act 2005* requires an SDP, and not an SCI, as is evident from the opening clause of the section:

**90. *Matters to be included in strategic development plan***

- (1) *The strategic development plan must set out economic and financial objectives and operational targets and how those objectives and targets will be achieved.*

...

- 4.7 Regardless of the fact that the Detailed Response highlights a distinction between an SDP and an SCI, the substantive point that was made by the Committee at paragraph 7.65 of Report 14 related to the broad statutory accountability requirements of Western Power to the Parliament, as can be seen from paragraph 7.65:

*7.65 The Committee also notes that, while the Electricity Corporations Act 2005 at section 90, provides for Western Power to produce a "Strategic Development Plan". Such a plan is to include details of competitive strategies, pricing of products, productivity levels, financial requirements, capital expenditure and personnel requirements. A strategic development plan is to cover a forecast period of 5 years (or a lesser period agreed with the Minister). Once agreed, this plan is to be tabled in Parliament. Given that Western Power has never tabled a strategic development plan in Parliament, the Committee is of the view that Western Power's statutory disclosure requirements for its Annual Reports should have been interpreted broadly by Western Power in order to meet its overriding accountability to the Parliament. A reasonable reading of Western Power's Annual Reports since 2006, at least with respect to its network wooden power pole assets, does not reflect such a corporate commitment to Parliamentary accountability.*

- 4.8 The Auditor General's Detailed Response focuses on a single point of minutiae in paragraph 7.65 of Report 14, in order to make an entirely unrelated comment about the Office of the Auditor General's past whole-of-government pronouncements about SCI's. Report 14 did not refer to SCI's in any respect. It is unclear which aspect of Report 14 has the potential to cause "*uninformed readers to lose confidence in the Office of the Auditor General*", as asserted in the Detailed Response.

---

<sup>43</sup> Letter from Mr Colin Murphy, Auditor General for Western Australia, 21 March 2012, p5 of 5.

- 4.9 This Committee has taken care to analyse all available documentary evidence regarding the issues canvassed in Report 14, for the benefit of the people of Western Australia. The Auditor General, however, has repeatedly refused to provide evidence on which he has made his assertions about Report 14. The evidence will demonstrate whether it is the Auditor General or this Committee that has made appropriate information available to readers.

## 5 CONCLUDING REMARKS

### “Inaccuracies” and “misunderstandings”

- 5.1 The Committee has considered the various issues raised by the Auditor General in his Detailed Response and, apart from the single instance referred to at paragraph 2.81 above, finds nothing contained therein to suggest that a correction or addendum to Report 14 should be reported to the Legislative Council.

### Substantive Concerns in Report 14 regarding the Auditor General

- 5.2 It is troubling to this Committee that the few substantive concerns raised in Report 14 regarding the conduct of the Auditor General, with respect to Western Power, as requiring further explanation have not been meaningfully addressed by the Auditor General as at the date of this Special Report.
- 5.3 In this respect, the specific concerns that are yet to be addressed meaningfully by the Auditor General, by reference to specific probative evidence, were as follows:
- 5.3.1 Why was no performance audit of Western Power conducted by the Office of the Auditor General following; either of EnergySafety’s adverse audit reports published in 2006 and 2009; or after the adverse findings made in the ERA’s 2009 section 32 – *Electricity Industry Act 2004* Notice of Compliance Failure; or after EnergySafety’s 2009 section 18B – *Energy Coordination Act 1994* Inspector’s Order; or after the ERA’s Final Second Access Arrangement decision in 2009; or after this Committee requested that one be conducted in September 2011; or even after the publication of Report 14 in January 2012?<sup>44</sup>
- 5.3.2 How can the repeated findings of both Energy Safety and the ERA, over a five year period, relating to the inadequacy of Western Power’s principal distribution asset management system, be reconciled with the repeated unqualified audit opinions of the Auditor General over the same time period?<sup>45</sup>

---

<sup>44</sup> Report 14, paragraphs 3.57-3.64.

<sup>45</sup> *Ibid*, paragraphs 6.21-6.25.

- 5.3.3 On what basis does the Auditor General assert that Western Power's level of public disclosures prior to 15 September 2011 – relating to the condition of Western Power's principal distribution asset, the risks to public safety presented by this condition, and the size of the investment challenge that it presented – were adequate?<sup>46</sup>
- 5.3.4 Each of the foregoing concerns suggest a fourth concern. Namely, what was the actual level of disclosure between Western Power and the Auditor General relating to the condition of Western Power's principal distribution asset, the risks to public safety presented by this condition, and the size of the investment challenge that it presented during the period 2006-2011?<sup>47</sup>
- 5.3.5 Of most troubling concern, this Committee questions whether the Auditor General's conduct with respect to Western Power in the period since 2006, has been consistent with either his statutory duties, or the nature of his fiduciary relationship with the Parliament and people of Western Australia?
- 5.4 The Committee repeats its assertion in Report 14 that the Parliament and people of Western Australia are owed detailed and plausible responses to these concerns from the Auditor General.

**Recommendation 1: The Committee recommends that the Legislative Council do require the Auditor General to provide detailed responses to the questions appearing at paragraphs 5.3.1 to 5.3.4 to this Special Report, including the provision of all relevant documentary evidence in his possession, or in possession of any auditor providing contract services to the Auditor General in connection with those questions. Further, that such responses and documentary evidence to be provided prior to 27 November 2012.**



---

Hon Max Trenorden MLC  
Chairman

23 October 2012

---

<sup>46</sup> Report 14, paragraphs 7.95-7.97.

<sup>47</sup> *Ibid*, paragraphs 9.9-9.10.

**APPENDIX 1**  
**LETTER FROM AUDITOR GENERAL**  
**DATED 25 JANUARY 2012**



## APPENDIX 1

### LETTER FROM AUDITOR GENERAL DATED 25 JANUARY 2012

---



Our Ref: 4869-03



7th Floor, Albert Facey House  
469 Wellington Street, Perth

The Hon Max Trenorden MLC  
Chairman  
Standing Committee on Public Administration  
Parliament House  
PERTH WA 6000

Mail to: Perth BC  
PO Box 8489  
PERTH WA 6849

Tel: (08) 6557 7501  
Fax: (08) 6557 7511  
Email: ag@audit.wa.gov.au

Dear Mr Trenorden

I am writing with regard to Report 14 of the Standing Committee on Public Administration – "Unassisted Failure".

The report states that the Office of the Auditor General has commenced a performance audit of Western Power. Separately it notes "the Office of the Auditor General has advised this Committee that preparations for a performance audit of Western Power's wooden power pole asset management systems have commenced." I would like to clarify the position. My Office has commenced preparations for a performance audit of Western Power's wooden power pole asset management systems. We have spent considerable time researching this topic and preparing for an audit. However, this audit has not commenced. Given recent reporting by the Economic Regulation Authority, the Committee's current and planned future report and recommendations calling for both a review and a wide ranging enquiry, I am not convinced that launching an audit at this stage would be in the public interest. We will of course continue to monitor developments in this area and the prospect of a future audit remains. I would be pleased to discuss this approach with you or the Committee.

While I welcome fair and constructive criticism, I have noted the report contains a number of inaccuracies and misunderstandings. I would be pleased to provide further information about these matters, either personally with you, through the staff of the Committee or by meeting with the Committee as a whole.

Yours sincerely

  
COLIN MURPHY  
AUDITOR GENERAL  
25 January 2012



**APPENDIX 2**  
**LETTER TO AUDITOR GENERAL**  
**DATED 7 MARCH 2012**



## APPENDIX 2

### LETTER TO AUDITOR GENERAL DATED 7 MARCH 2012

---



#### STANDING COMMITTEE ON PUBLIC ADMINISTRATION

Mr Colin Murphy  
Auditor General  
Office of the Auditor General  
PO Box 8489  
PERTH WA 6849

7 March 2012

Dear Auditor General

**Letter sent to the Standing Committee on Public Administration, dated 25 January 2012**

Thank you for your letter to this Committee, dated 25 January 2012.

The Committee notes that you have decided not to proceed with a performance audit of Western Power's asset management systems. Given the findings of this Committee as published in Report 14 – *Unassisted Failure*, this decision on your part is regrettable. This is particularly so, given this Committee's advice to you in person on 28 September 2011.

The Committee is surprised and concerned at the suggestion in your letter that the Report contains a "number of inaccuracies and misunderstandings". The Committee would not wish the Legislative Council to be provided with a Report containing "inaccuracies and misunderstandings".

Accordingly, the Committee requests that you particularise the specific "inaccuracies and misunderstandings" you have identified in Report 14 so that the Committee can determine what action, if any, needs to be taken in this regard.

The Committee would appreciate your reply within 14 days from the date appearing on this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read "Max Trenorden".

**Hon Max Trenorden MLC**  
Chairman

*Note that this document (including any attachments) is privileged. You should only use, disclose or copy the material if you are authorised by the Committee to do so. Please contact Committee staff if you have any queries.*



**APPENDIX 3**  
**LETTER FROM AUDITOR GENERAL**  
**DATED 21 MARCH 2012**



## APPENDIX 3

### LETTER FROM AUDITOR GENERAL DATED 21 MARCH 2012

---



Our Ref: 4869-03  
Your Ref: A325961



7th Floor, Albert Fazy House  
469 Wellington Street, Perth

Mail to: Perth BC  
PO Box 8489  
PERTH WA 6849

Tel: (08) 6557 7501  
Fax: (08) 6557 7511  
Email: [ag@audit.wa.gov.au](mailto:ag@audit.wa.gov.au)

The Hon Max Trenorden MLC  
Chairman  
Standing Committee on Public Administration  
Parliament House  
PERTH WA 6000

Dear Mr Trenorden

**REPORT 14 OF THE STANDING COMMITTEE ON PUBLIC ADMINISTRATION –  
“UNASSISTED FAILURE”**

Thank you for our phone conversation on 31 January where I raised my concerns about aspects of the Committee's report that relate to my Office that are either inaccurate or warrant clarification. As suggested by you in your letter of 7 March, I have documented these matters (see attached) for the Committee's consideration.

Ahead of you considering my comments, I would firstly like to put on record my support for the Committee's enquiry. The Committee is justified in its concern about the condition of the State's wooden power pole network and the implications for public safety and public and private property.

My comments do not challenge what I consider to be the key finding of the enquiry which was the failure of Western Power to adequately address the serious concerns of its regulators. Rather, they seek to provide clarity about audit requirements and the role of my Office as well as correct some inaccuracies contained in the report.

I am pleased to let the Committee decide how it uses the information I have provided. However, should the Committee or yourself wish to meet with me to discuss the information provided, then I would welcome that opportunity.

Yours sincerely

  
COLIN MURPHY  
AUDITOR GENERAL  
21 March 2012

Attach

**Attachment – comments and information from the Office of the Auditor General on Report 14 of the Standing Committee on Public Administration – “Unassisted Failure”.**

For ease of understanding and consideration, the matters of concern or requiring clarification have been grouped by category.

**Financial Audit**

The report contains a number of comments that were highly critical of the Auditor General's financial audits of Western Power (WP). These comments, which appear to be based on misunderstandings of relevant accounting and auditing standards and practices, could cause uninformed readers to lose confidence in the Office of the Auditor General (OAG).

At the heart of our concern is the suggestion that the Auditor General should have issued qualified audit opinions on WP's recent financial statements. For example:

- the Auditor General accepted *“...without question or comment the accounting treatments adopted by Western Power...”* (paragraph 6.23, p107)
- *“...the Auditor General consistently gave Western Power's Annual Reports unqualified Audit Opinions...”* (paragraph 8 of the Executive Summary)
- *“...Western Power announced to the world that its 'network was reaching the end of its useful and safe life', without the Auditor General once expressing a qualified opinion about its financial reports in any of the previous five financial years...”* (paragraph 9.10, p223)

It appears that this comment is based on a judgement that the Auditor General has been wrong to accept WP's accounting treatment for assets. In our view this demonstrates a lack of understanding of the accounting and auditing standards.

The Auditor General sought to explain this issue in writing in response to written questions received ahead of his Committee appearance and again when verbally asked by the Committee. However, it appears the explanation was either not understood or accepted.

Essentially, the Committee sought to understand<sup>1</sup> the carrying amounts and depreciation charges for wooden power poles and the implications for the financial statements from the variation between WP's depreciation of its wooden power poles and the much slower rate that the poles were being replaced.

The Auditor General sought to explain the issue in the context of the requirements of the accounting and auditing standards. The explanation included that:

1. The audit followed the auditing standards by determining:
  - whether WP's assessment of the remaining useful life was reasonable and whether there was a need to reduce the remaining useful life by accelerating the depreciation. We noted that many poles are already fully depreciated and therefore any reassessment of their remaining useful life would not affect the financial reporting.
  - whether the carrying value of the poles was higher than the recoverable amount – this was not the case in any of the 5 years.
  - whether there was an impairment trigger to cause a write down – there was not
  - whether management representation letters raised any matters of concern including with property, plant and equipment – they did not.

---

<sup>1</sup> Written question 3 (a) and 4 (a) and (b) of seven questions that were sent to the Auditor General on 26 September.

2. The pole replacement program is a condition based replacement program. Age alone will not determine the depreciation rate or whether a pole needs to be replaced.
3. The auditing standards for financial reports require the audit of financial statement depreciation. The standards do not require the audit of the pole replacement program as this is management information
4. Whether WP met the minimum recognition, measurement and disclosure requirements of the accounting standards within their financial report – they did.

The Committee's finding therefore that:

- *"...the Office of the Auditor General's obligations have been discharged, in this instance, in a less than satisfactory manner."* (paragraph 6.25, p 108)

was of great concern. We understand that Professor Derek Parkin of Notre Dame University has provided some accounting advice to the Committee. We would welcome the opportunity to consider this advice and would also welcome his advice, or that of other experts being sought on this matter.

Related to the above is the potentially important misunderstanding the Committee may have that the OAG audits agency Annual Reports. For example:

- *"...The Committee is troubled by the fact that the Auditor General signed off on the 2010/2011 Annual Report which talked about 'Managing the Network', only to have Western Power make a public statement barely a week later that its 'network was reaching the end of its useful and safe life',...."* (paragraph 9.9, p 223)

Our annual financial audit of WP is conducted in accordance with the requirements of the *Electricity Corporations Act 2005*. Section 15 of Schedule 4 of the Act essentially requires the Auditor General to form an opinion as to whether WP's financial report complies with the accounting standards. Section 7 defines the financial report as comprising:

- The financial statements and notes
- The Directors' Declaration about the statement and notes. The declaration essentially covers whether the statements are in accordance with the accounting standards and whether the Directors believe that WP is able to pay its debts when they fall due.

The audit does not include an assessment of the completeness of, for example the Managing Director's Report, the Directors' Report or the Corporate Governance statement. However, the audit does involve a review of the drafts of such documents that are available at the time of our opinion to assess whether they contain material inconsistencies with the financial reports. If such inconsistency is noted we then decide whether the audited financial report or the other information needs to be revised.

An example of an inconsistency would be if the 'Managing the Network' section of the Annual report asserted that WP's wooden power poles were of greater value/condition than was reported in the financial report, given that much of WP's wooden poles are fully depreciated. We note that the 'Managing the Network' section made no such assertion.

### Performance Audit

A key finding made at numerous places within the report was criticism of the Auditor General for failing to undertake a performance audit of WP's wooden power pole asset management systems, particularly given the critical reports by its two regulators in 2009. For example:

- "...the question must be asked as to why no performance audit was conducted as a matter of course...." (paragraph 16 of the Executive Summary)
- "It is of significant concern to this Committee that the Office of the Auditor General has published no compliance-related performance audit report on any aspect of Western Power's asset management systems since 2006, despite the repeated adverse findings of both EnergySafety and the ERA with respect to Western Power's asset management practices." (paragraph 3.58, p 32)

Whilst we respect the Committee's opinion, we maintain a different view and offer the following information for any further consideration the Committee wishes to give to this matter.

Our selection of topics for new performance audits follows a comprehensive, criterion driven process that recognises the high cost of these audits and the limited number that can be conducted each year.

Since 2010, the process has also involved writing to the Public Accounts Committee and the Estimates and Financial Operations Committee about our proposed forward program. The Auditor General has then met with the two Committees to discuss the program and to invite suggestions for other audits. Each standing committee of the Parliament is also advised approximately quarterly on the status of audits that relate to their terms of reference.

The topic selection process is undertaken twice per year and involves a scan across the public sector (approximately 200 entities). Potential audits are shortlisted for more detailed analysis against a range of criteria. About 30 - 40 potential audits are then individually discussed by senior management before a much reduced list is approved for further development.

In assessing a potential topic, a factor against conducting an audit would be if it duplicates any recent work of a material nature by other reputable bodies as this risks the wasting of limited resources and creates a lost opportunity to audit other public sector operations.

In the case of WP's wooden power poles, our topic selection process identified the wooden pole issue as a potential audit in 2009. However, given that WP's two regulators had both published critical reports, we had a strong reason to believe that Parliament, the Government, the media and the public were fully informed of the issue. Moreover, subsequent statements by government and WP indicated that sizeable funds were being allocated to address the concerns of the regulators. For this reason, no audit went ahead at that time.

In late 2010, we again considered the issue with the view that we could add value by assessing the progress made by WP in addressing concerns. An audit was approved and planning commenced<sup>2</sup> in late 2010 and WP was informed of the audit in February 2011.

However, the audit was put on hold soon after when we became aware that the Committee had commenced its own enquiry in late 2009 and that its terms of reference overlapped those of the audit.

---

<sup>2</sup> Paragraph 16, page iv of the Committee's report inaccurately states that "It is of concern to this Committee that it was only after the Committee raised the issue with the Auditor General in September 2011 that a performance audit was commenced."

No consideration was given to conducting an audit that paralleled the enquiry. We were conscious of the primacy of Parliament and had no wish to undermine that by conducting an audit of the same issues. As well, we saw no benefit to the public interest by auditing areas that were also the subject of the enquiry.

We note the Committee's opinion "*...that, should equivalent circumstances arise in the future in a different context, the Office of the Auditor General should make inquiry of the relevant Committee before making an independent assessment of if, and if so, to what extent, the statutory functions of that Office should be constrained or modified in the wider public interest.*" (paragraph 8.58, p 202)

While we do not consider it appropriate for the statutory independence of the Office to be constrained or modified, the sentiment behind the words is accepted.

The prospect of a performance audit in this area remains firmly on our agenda, although it will not proceed immediately<sup>3</sup>. We will monitor developments including WP's and the Government's response to the Committee's recommendations before making a decision about timing for the audit.

### Other issues

#### OAG Commitment to the Committee

Comments in the report regarding the adequacy of our submission to the Committee were disappointing. For example:

- *"No subsequent comments, additional to those above, have been received by this Committee from the Auditor General in connection with the Committee's questions. ..."* (paragraph 7.98, p 157)
- *"The above responses by the Auditor General to questions from this Committee lack the level of critical analysis that the Committee would have expected from an independent Parliamentary Officer. ...."* (paragraph 7.97, p 157)

The OAG has consistently demonstrated that it is committed to meeting the needs of the Parliament. This was clearly demonstrated by the Auditor General when he attended the Committee hearing with limited notice and submitted a formal response to the Committee's written questions ahead of the hearing.

Neither the Committee during this brief hearing nor the Committee's secretariat after the hearing indicated that further information was required.

The OAG remains available to provide any further information that the Committee requests.

#### Strategic Development Plans and Statements of Corporate Intent

We note that the report made reference at paragraph 7.65 to WP's failure to comply with s90 of its legislation and table its Strategic Development Plan (SDP) in Parliament. We believe that the reference to the tabling of SDPs was an error and the report may have meant to refer to Statements of Corporate Intent (SCI).

SDPs are not required to be tabled in Parliament though a direction by a Minister in regard to the contents of an SDP must be tabled. The Electricity Corporations Act (section 103(2)) does however require SCIs to be tabled by the Minister in Parliament.

The Committee may also recall that the Auditor General has, for some years, reported that SCIs of many government entities including WP's SCI are regularly tabled late or not at all.

<sup>3</sup> Paragraph 3.64, page 35 of the Committee report states that "Since its hearing with the Auditor General in September 2011, the Committee understands that the Office of the Auditor General has commenced a performance audit of Western Power." As stated above and by the Auditor General in his evidence to the Committee on 28 September 2011, the audit is on hold.