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# Current Arrangements for Energy Retailing

Supporting paper to 1<sup>st</sup> Interim Report - Review Of Energy Markets in light of Climate Change Policies

**AEMC Staff Paper**

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## Inquiries

The Australian Energy Market Commission

PO Box A2449

Sydney South NSW 1235

E: [aemc@aemc.gov.au](mailto:aemc@aemc.gov.au)

T: (02) 8296 7800

F: (02) 8296 7899

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## About the AEMC

The Council of Australian Governments, through its Ministerial Council on Energy, established the Australian Energy Market Commission (AEMC) in July 2005 to be the Rule maker for national energy markets. The AEMC is currently responsible for Rules and policy advice covering the National Electricity Market and elements of the natural gas markets. It is a statutory authority. Our key responsibilities are to consider Rule change proposals, conduct energy market reviews and provide policy advice to the Ministerial Council on Energy as requested, or on AEMC initiative.

This report has been prepared by AEMC staff to support the analysis of issues for the Review of Energy Markets in light of Climate Change Policies. The contents of this paper does not necessarily represent the views of the Commission.

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## Executive Summary

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This supplementary paper to the 1st Interim Report of the Review of Energy Market Frameworks in light of Climate Change Policies describes the current regulatory arrangements for electricity retailing in the National Electricity Market (NEM) and gas retailing in the eastern states gas markets, including a summary of current retailer roles and responsibilities, Commonwealth and jurisdictional schemes and arrangements for retailer market exit. The report's appendices provide further detail on the current Retailer of Last Resort (RoLR) schemes, jurisdictional price path regulatory arrangements and energy related schemes.

## 1. Retailer roles and responsibilities

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### Market roles

Retailers act as a service interface between the energy market and customers. Electricity retailers manage the price fluctuations that occur in the wholesale market pool on behalf of customers. To manage these price fluctuations, retailers may enter into bilateral contracts with generators or may make use of other financial risk management instruments. Gas retailers enter into arrangements with gas producers to supply quantities of gas and negotiate transportation of this gas to their customers with pipeline operators. Complaint handling, service information, billing, connection and transfer applications are all managed by retailers. They also have a role in delivering a range of Commonwealth and jurisdictional schemes, including community service obligations, energy efficiency schemes, hardship schemes and renewable and other energy generation schemes.

By providing a “smoothed” price for customers, contracting with suppliers and providing an interface service, retailers effectively play a “buffering” role between the supply and demand sides of the market. For absorbing the risks of price volatility and demand uncertainty, retailers require a profit margin, which could also be viewed as a risk premium.

In markets where consumers have a choice of retailers, these markets have been divided between “host” and “non-host” retailers.<sup>1</sup> Traditionally, jurisdictional regulations require the host retailer to offer supply contracts in their local area. This is normally at the regulated tariff, although in Victoria, which has introduced price deregulation, the host retailer will define the offer rate. In Queensland, the retailer who currently bears financial responsibility for a connection point also bears the obligation to offer supply.<sup>2</sup>

### Market obligations

Retailers are obligated to deliver a range of jurisdictional and Commonwealth schemes.

### Jurisdictional social welfare schemes

#### *Community service obligation*

Across the NEM jurisdictions and the eastern states gas markets, jurisdictional governments have implemented a range of social welfare schemes relating to the provision of energy. These schemes, or community service obligations (CSOs), can generally be defined as socially orientated welfare services which, although delivered

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1 The “host retailer” is also known as a “Tier 1 retailer” or the “Standing Contract retailer” in different jurisdictions. For the sake of consistency, the term host retailer will be used throughout this document.

2 In effect, this arrangement means that any retailer, host or non-host, may bear the obligation to offer supply.

by retailers, would not normally be in a retailer's commercial interests to provide. Each jurisdiction may offer a range of CSO schemes, examples of which include:

- rebates for pension, health care and other concession card holders;
- rebates for the running of life support machinery or grants for thermo-regulatory energy needs;
- assistance to customers experiencing financial difficulty in meeting the cost of their energy bills;
- drought relief;
- heating allowances;
- off peak concessions; and
- network tariff rebates, designed to offset intra-regional network cost differentials.

In nearly all cases, a CSO is funded by the jurisdictional government and delivered by electricity retailers.

### **Renewable energy, energy efficiency and feed-in tariff schemes**

Further detail of these schemes can be found in Appendix C.

#### ***Renewable energy, greenhouse gas abatement and gas generation schemes***

The Commonwealth Mandatory Renewable Energy Target (MRET) is designed to encourage the development of renewable energy generation and has set an overall Commonwealth target of energy to be produced from renewable sources. This scheme requires all retailers (and some large consumers) to purchase a quantity of certificates created by renewable generators (and some electricity displacement activities), proportional to their overall acquisition of electricity, and surrender these each year to the Office of the Renewable Energy Regulator. The Victorian government has also introduced a mandatory renewable energy target (VRET) which places similar obligations on retailers as the Commonwealth MRET.

The New South Wales greenhouse gas abatement scheme (GGAS) is intended to reduce greenhouse emissions associated with the production and use of electricity and to develop activities related to the offsetting of these greenhouse emissions. The scheme obligates retailers (and some generators and large users) to obtain and surrender a number of abatement certificates, which may be produced by a variety of activities including low emission generation, demand side abatement (including energy efficiency measures), large user abatement and carbon sequestration. In 2007, New South Wales passed legislation for a renewable energy target (NRET). However, the commencement of the expanded national RET may supersede the start of this scheme.

The Australian Government's announcement of an expanded RET will increase the current MRET from 9 500 GWh to 45 000 GWh. Coupled with the 15 000 GWh of renewable generation already present in Australia, this will take Australia's total renewable generation capacity to 60 000 GWh, or 20 per cent of total energy usage, by 2020. The intention is to roll the current jurisdictional schemes into this expanded national scheme.

Queensland has introduced the Queensland gas scheme which requires retailers to surrender a quantity of gas energy certificates (which are created by gas fired generators) equal to 13 per cent of their total electricity consumption in a given year, with targets increasing year to year.

### *Energy efficiency schemes*

The only currently functioning scheme which relates to energy efficiency is the Demand Side Abatement Rule (Rule 3) of the New South Wales GGAS scheme. Rule 3 allows for the creation of abatement certificates through "energy efficiency or demand management projects ...that reduce greenhouse gas emissions on the customer side of an electricity meter".<sup>3</sup> Projects that have already been accredited under the program include the provision of energy efficient domestic equipment, energy upgrades of industrial facilities and whole of building efficiency upgrades on major commercial premises. This aspect of the GGAS scheme will be replaced by tradeable energy efficiency certificates under the New South Wales Energy Efficiency Target (NEET) when that scheme commences in 2009.

Victoria and South Australia are in the process of introducing schemes that aim to reduce greenhouse gas emissions by increasing the energy efficiency of electricity customers. These schemes are due to start during 2009. As part of the jurisdictional greenhouse gas abatement target, these schemes will obligate retailers to surrender a number of energy efficiency certificates or complete a number of energy efficiency activities to fulfil a quota, proportionate to their electricity supply. Retailers will be subject to penalties if they do not surrender their allocated quantity of certificates to the regulator or otherwise fulfil their obligations.

The Victorian scheme will enable certificate trading. At this stage, this may not be the case for the South Australian scheme. The South Australian scheme will also obligate retailers to complete energy efficiency audits, with a defined quota of these audits to take place in "hardship" or low income households.

The MCE is currently developing a National Framework for Energy Efficiency. Stage One of this framework revolves around improving overall energy efficiency standards in buildings, industry, appliances, government functions and to improve training and education around energy efficiency. At this stage, there is no indication that this scheme is looking towards the establishment of a national energy efficiency scheme which places obligations on retailers similar to the jurisdictional schemes.

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<sup>3</sup> Department of Water and Energy, Introduction to the Greenhouse Gas Reduction scheme, current as at September 2008, p.13.  
<http://www.greenhousegas.nsw.gov.au/documents/syn91.asp>

### *Feed-in tariffs*

Feed-in tariff schemes involve the payment of a tariff to residential and some small business customers for electricity that they generate from installed micro-generation, including rooftop photovoltaic (PV) installations.

These schemes either offer payment for all the electricity produced by the installation (gross) or only for the electricity exported back to the grid, after accounting for the household's electricity consumption (net). Currently, South Australia, Queensland and Victoria have net feed-in tariff schemes in place whilst the ACT is planning to introduce a gross feed-in tariff. Tasmania and New South Wales have each announced the introduction of a feed-in tariff scheme but have not yet indicated what the design of the final scheme will be.

Other than Victoria, all current schemes define the feed-in tariff as a cents per kilowatt hour rate. In Victoria, the rate is set by retailers at a level determined to be "fair and reasonable" by the regulator; this is normally equal to the average tariff that the retailer charges its customers, although it may be higher. The Australian Capital Territory rate is likely to be set as a multiple of the current regulated tariff, although the design of this scheme has not been finalised.

In most jurisdictions, distributors are liable for the cost of these tariffs, with retailers acting as intermediaries administering payment to customers. In Victoria, retailers are liable for the current feed-in tariff scheme, although a new "premium" scheme will place liability on distributors, in alignment with other jurisdictional schemes.

## **Jurisdictional and market operator compliance requirements**

### *Compliance obligations*

Host retailers in jurisdictions other than Queensland are obligated to supply electricity to all those customers in their local area. In Queensland, this obligation falls to whichever retailer is the financially responsible market participant (FRMP) for the relevant connection point, although the new connection supply obligation still falls to the original "local area" retailer.

Host retailers (or the FRMP) are also obligated to offer the regulated tariff to all customers in their local area, although in Victoria this will change to a rate set by the host retailer, subsequent to price deregulation.

Jurisdictional governments also have standards that all retailers must adhere to when supplying electricity or gas. These standards are established in various regulatory instruments, codes and guidelines and apply to billing procedures, marketing conduct, information provision, complaint handling and meter reading, amongst others. These instruments normally detail the procedures that retailers must follow when transferring customers. Some jurisdictions require retailers to provide information relating to customer numbers, annual consumption and annual revenue to the jurisdictional regulator.

### *Hardship policy*

Most jurisdictions have a compliance obligation relating to customers who are having difficulties in paying their energy bills. These “hardship” policies normally involve establishing payment plans for these customers. They may also include requirements for retailers to perform energy efficiency audits.

In addition, most jurisdictional compliance regimes set out timeframes for customer disconnection. In some jurisdictions, this may include steps like offering a customer a payment plan option prior to disconnecting them.

### **RoLR schemes**

In the NEM, all jurisdictions currently have schemes in place designed to guarantee supply to the electricity customers of a retailer who exits the market in a sudden or unplanned manner. Similar schemes exist for gas in Victoria and New South Wales. These schemes involve compliance obligations for retailers and are discussed below.

## 2. Retailer costs and cost recovery

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### Retailer costs

#### Electricity wholesale costs

In electricity, retailers purchase wholesale electricity from the spot market. As the spot market price can be volatile, retailers manage their exposure by purchasing financial contracts. These financial contracts try to mirror the base and peak load profile of a retailer's customer base as a way of managing financial risks. Contracts managing exposure for a base load tend to lock in a wholesale price ("swap contracts"). Contracts covering peak load tend to act as an insurance product, in general "capping" the wholesale price for an agreed load ("cap contracts"). Retailers may enter into these contracts bilaterally (over-the-counter or OTC), usually with a generator, or may obtain futures contracts via a financial exchange such as the Sydney Futures Exchange.<sup>4</sup>

#### Gas wholesale costs

In gas, retailers negotiate bilateral contracts with wholesale gas suppliers. These bilateral contracts are generally long term, confidential, and establish the prices, quantities and terms of supply. These contracts may contain take or pay provisions, under which shippers agree to pay for a certain quantity of gas, irrespective of whether they are actually able to on-sell it. In Victoria, retailers may purchase additional gas from the gas balancing market.

In all markets, there are arrangements in place to settle any imbalances between supply of gas and customer demand. In markets other than Victoria, gas market rules provide for arrangements which ensure that gas remains in balance, including bilateral trading of gas between market participants. In Victoria, retailers settle their imbalances on the spot market. This is a net balancing market operated by VENCorp with a spot price set every four hours, which varies between \$0 and \$800/GJ.

#### Wholesale market developments

On 1 July 2008, the gas market Bulletin Board (BB) became operational. This electronic information resource is designed to facilitate trade in gas and capacity by publishing system and market information.

Currently VENCorp is developing a Short Term Trading Market (STTM), which is planned to commence in June 2010. The STTM is a market-based wholesale gas balancing mechanism which will improve transparency using market driven short-term (daily) prices. The STTM will facilitate short term trading of gas between pipelines, participants and production centres and will allow contracted parties to manage short term demand and supply fluctuations. The market will be established at defined gas "hubs". Initially, these will be Sydney and Adelaide, with additional hubs

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<sup>4</sup> There are a range of financial products available to manage financial risks in the energy markets.

in Queensland and the Australian Capital Territory potentially included in the scheme at a later date.<sup>5</sup>

The intention of both of these projects is to improve transparency and ease of price discovery in the market, thereby facilitating improved decision making and gas trading.

### **Electricity transmission and distribution costs**

As electricity transmission and distribution are monopoly businesses, the AER regulates the total revenue that these businesses may earn. The individual businesses are then able to establish their own tariffs, subject to the overall revenue cap and pricing principles established by the AER.

Retailers pay for access to these networks through use of system charges (TUOS and DUOS respectively). Retailers pay both use of system charges through a combined network usage fee which is paid to the distributor.

### **Gas transmission and distribution costs**

Retailers arrange for the transportation of gas from the wellhead to their customers with transmission and distribution pipeline operators. These pipelines may be regulated (covered) or not regulated (uncovered).

On a covered pipeline, the pipeline operator is required to have an access agreement in place that has been approved by the AER (or the Economic Regulation Authority (ERA) in WA). The access arrangement provides the reference tariffs and terms and conditions for access to the pipeline. A pipeline may also be subject to a light regulation determination. This requires the pipeline operators to publish the tariffs and terms and conditions for access to the pipeline, however the approval of the AER (or ERA in WA) of these tariffs, terms and conditions is not required. Retailers may also negotiate tariffs, terms and conditions with a covered pipeline operator that are different to those under the access arrangement.

For an uncovered pipeline, retailers and/or shippers negotiate prices and terms and conditions for access with the pipeline operators.

### **NEMMCO/VENCorp prudential requirements, fees and charges**

#### *Prudential requirements*

NEMMCO is responsible for ensuring that all market participants meet certain minimum credit risk criteria before allowing them to participate in the spot market. To manage the risk of non-payment at settlement, NEMMCO requires retailers to provide

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<sup>5</sup> STTM establishment project, current as at 11 November 2008  
[http://www.vencorp.com.au/index.php?pageID=11767&action=filemanager&folder\\_id=1023&pageID=11767&sectionID=7721](http://www.vencorp.com.au/index.php?pageID=11767&action=filemanager&folder_id=1023&pageID=11767&sectionID=7721)

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financial security in the form of prudential guarantees. These guarantees can be met using their own business credit rating or by obtaining the credit support of a third party that satisfies NEMMCO's credit criteria.

NEMMCO's monitoring of market participant's risk includes setting a maximum credit limit (MCL) for each participant. This limit is determined as a factor of the average level and volatility of the relevant region's spot price, the pattern and quantity of the retailer's normal energy trading, and the correlation between metered amounts of electricity and the regional spot price.<sup>6</sup> If this limit is approached, the market participant is required to reduce the amount owing or provide additional security guarantees.

The MCL also takes account any "re-allocation" transactions of offsets expected in the immediate future. Prudential requirements may be offset by financial contracts with generators, subject to the generator agreeing. The AEMC is also considering a Rule change proposal about using futures contracts in the same way.

In the Victorian gas spot market, participants are also required to provide similar guarantees to the market operator, VENCORP. However, as the Victorian system is a net trading market used for gas balancing, participants provide prudential guarantees only for the amount of balancing gas which they obtain from the market. While market participants define their own levels of market security, this level must be above an annual minimum defined by VENCORP to cover fees.

Counterparties of OTC contracts deem each other credit worthy and therefore do not require prudential guarantees. Futures contracts are marked-to-market each day so if a counterparty fails to meet a margin call, the contract is annulled, and the counterparty is left with an exposure.

### *Market operation fees and market operator interventions*

Consistent with clause 2.11.1 of the National Electricity Rules, NEMMCO recovers its costs by charging market participants, including retailers, fees to participate in the market. In the NEM, retailers also have obligations to fund some unpredictable costs. These include NEMMCO directions and payments to electricity reserve suppliers (such as the Reliability and Emergency Reserve Trader).

In the Victorian gas market, retailers must pay market participation fees to VENCORP, the market operator.

## **Cost recovery**

### **The regulated offer**

Currently all NEM jurisdictions set the tariffs, terms and conditions that an electricity host retailer must offer small customers who remain on the regulated offer. New

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<sup>6</sup> NEMMCO, Australia's National Electricity Market – Trading Arrangements in the NEM, Executive Briefing, 2004, p.16. Available <http://www.nemmco.com.au/about/000-0178.pdf>

South Wales, Victoria and South Australia also provide a regulated offer for gas.<sup>7</sup> Victoria is in the process of phasing out price regulation for both electricity and gas.

The regulated price is determined via a price path review process. These processes occur every 3-3½ years in New South Wales and South Australia, every 2½ years in Tasmania (at present) and annually in every other jurisdiction. Generally, these reviews determine the maximum total revenue (weighted average price cap), or the maximum average tariff, that the host retailer may recover from or charge its regulated offer customers over the period to which the price path applies. Appendix B of this report provides further detail of price regulation in each jurisdiction.

In order to determine the revenue or tariffs, jurisdictional regulators construct a price build up of the efficient costs that the host retailer is likely to incur when supplying its regulated customer base. For some of the cost components, there is scope for negotiation on the level. These include wholesale energy costs, retailer operating costs, retailer profit margins and, in the case of gas retailers, pipeline transmission costs. Other costs are determined by other processes and regulatory bodies and are taken as given by the retailer and jurisdictional regulators. These include electricity transmission and electricity and gas distribution network charges.

Jurisdictional regulators or governments may increase the overall level of the regulated tariff or revenue cap year to year in order to allow for increases in retailer costs. Over 2007 and 2008, several jurisdictional governments and regulators allowed for increases in the regulated tariff due to increases in wholesale energy and hedging costs. Appendix D, which is reproduced from information provided by the AER in its 2008 State of the Market report, provides more detail on the extent of these increases.

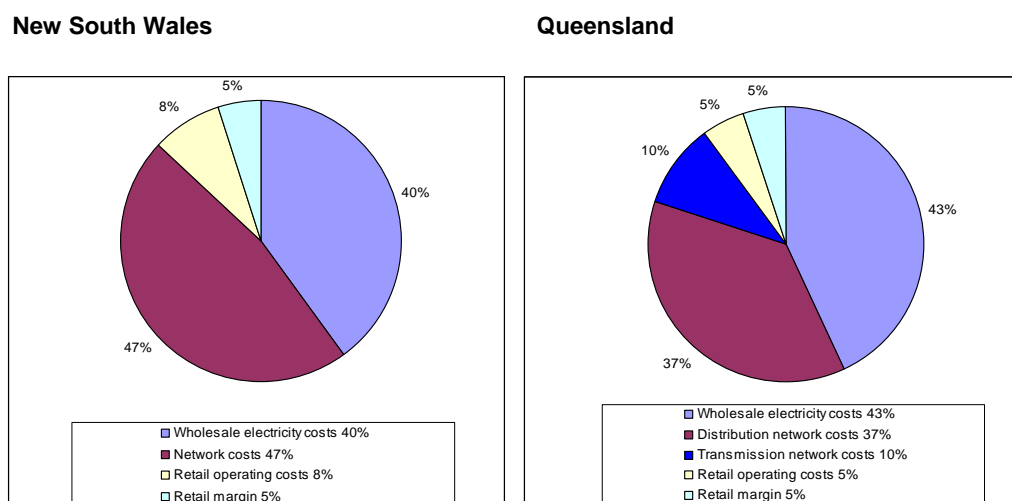
Figure 1.1 below sets out a composition of residential electricity bills in New South Wales and Queensland to provide an indicative cost break down. Wholesale and network costs make up the majority of retail costs. It is important to note that cost compositions vary between jurisdictions.

Regulators use a variety of methodologies to calculate wholesale costs, including projections of long run marginal costs, modelling of spot/contract portfolio spreads and combinations of these and other methodologies.

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7 The form of price regulation for gas differs between each of these jurisdictions. The South Australian regulator conducts a full price path inquiry for gas, whilst in New South Wales the regulator negotiates voluntary transitional pricing agreements with gas retailers. In Victoria, where price regulation is in the process of being phased out, regulated prices are negotiated directly between the state government and retailers. Gas remains unregulated in the Australian Capital Territory, Tasmania and Queensland.

**Figure 1.1 Wholesale, network, retail operating costs and retail margins**



Data source: AER, *State of the Energy Market 2008*, Figure 6.8, 20 November 2008, p.186.

### Pass through mechanisms

The length of the period in which a price path applies may mean that cost forecasts differ from the actual costs incurred by the host retailer over that period. Accordingly, the regulated price path determination may contain provisions allowing for the “passing through” of unpredicted, unavoidable and substantial additional costs to customers. These provisions normally allow for the pass-through of once-off identifiable costs that may stem from events like a new tax requirements, a new regulatory requirement or a NEMMCO intervention in the market.

Some jurisdictional regulators have given consideration to the pass through of costs relating to the introduction of the CPRS and other “green energy” initiatives. For example the Essential Services Commission of South Australia (ESCOSA), amended its definition of a regulatory requirement pass through event trigger in both its 2007 electricity determination and 2008 gas determination. The new definition included any regulatory requirement imposed on a retailer to purchase financial products related to a specific generation type or to participate in a scheme with a specific environmental or energy efficiency outcome.<sup>8</sup>

However, ESCOSA noted that there are issues surrounding the suitability of pass through provisions in dealing with cost increases that are only indirectly related to the introduction of the CPRS. This relates to the difficulties likely to be encountered in defining the nature and extent of any CPRS related wholesale cost increases that are to be passed through.<sup>9</sup>

<sup>8</sup> ESCOSA, Final Inquiry Report & Price Determination, 2007 Review of Retail Electricity Price Path – Part B, November 2007, pp. B25-B26;  
ESCOSA, Final Inquiry Report & Final Price Determination, 2008 Gas Standing Contract Price Path Inquiry – Part B, June 2008, p.B25.

<sup>9</sup> ESCOSA, 2007 Review Of Retail Electricity Price Path Draft Inquiry Report & Price Determination”, p.A40.

In its 2007 electricity determination, ESCOSA noted that pass through events were typically those events which impacted on a retailer's costs and which were beyond the direct control of the retailer. In its 2008 gas determination, ESCOSA further refined this definition as an event which is clearly identifiable and has a direct and measurable impact on a retailer's costs.<sup>10</sup> Although the CPRS is likely to have a substantial impact on wholesale prices and price volatility, this impact will be indirect and difficult to quantify. ESCOSA went on to state that such an indirect cost increase may not qualify as a pass through event.<sup>11</sup>

ESCOSA suggested that the indirect costs stemming from the introduction of the CPRS and expanded RET might be better dealt with via a re-opening of the price path itself. Under the "special circumstances" provisions of the South Australian Electricity Act and Gas Act, ESCOSA has the power to re-open its price determination if it considers that an event has occurred which has "disturb[ed] the fundamental basis of an existing price determination".<sup>12</sup> In its 2007 Electricity Price Path Determination, ESCOSA stated that:

*"any fundamental shift in the wholesale market is likely to have implications for customer numbers, churn and even consumption forecasts. In this case the whole basis of the price path may be brought into question."*<sup>13</sup>

In its 2008 Gas Price Determination, ESCOSA went on to say that

*"The "special circumstances" provisions of section 34B of the Gas Act provide the appropriate vehicle for addressing the indirect impacts on costs from the introduction of a carbon trading scheme."*<sup>14</sup>

It is therefore probable, given these comments and the nature of pass through provisions, that re-opening events are the most likely manner in which the South Australian regulated electricity and gas prices will be adjusted to pass through increased wholesale prices that result from the CPRS and national RET.

The New South Wales regulator, the Independent Pricing and Regulatory Tribunal (IPART), also discussed "green energy" related costs in its 2007 electricity retail price determination. IPART included "green energy schemes" in its regulatory reset definition, indicating that any financial obligation placed on a retailer to increase the amount of energy sourced from renewable generation, invest in technologies to

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10 ESCOSA, Final Inquiry Report & Final Price Determination, 2008 Gas Standing Contract Price Path Inquiry, June 2008, pp.43-44.

11 Ibid, p.A45.

12 ESCOSA, Draft Inquiry Report & Price Determination, 2007 Review of Retail Electricity Price Path, August 2007, p.42.

13 Ibid, p.30.

14 ESCOSA, Final Inquiry Report & Final Price Determination, 2008 Gas Standing Contract Price Path Inquiry, June 2008, p.45.

reduce/offset emissions or reduce consumption of electricity could be counted as a trigger for a pass through event.<sup>15</sup>

IPART also introduced an annual electricity purchase cost allowance review as part of its 2007 regulated electricity small customer tariff review. The objective of this review is to manage the possibility of substantial changes in the wholesale cost of electricity which IPART is unable to forecast in its price determination. In order to ensure a balance between regulatory certainty and accuracy of pricing, the annual review is restricted to reviewing the electricity purchase cost allowance and no re-consideration is given to other allowances or costs. IPART bases the conclusions of its reviews on expert advice. The next review is due to commence in March 2009 and will report by May of that year.

The Australian Capital Territory regulator, the Independent Competition and Regulatory Commission (ICRC), in its June 2008 Electricity Price Determination, acknowledged the possibility that the introduction of a CPRS or feed-in tariff scheme may place additional cost burdens on the host retailer, ActewAGL, and allowed for the pass through of these costs. However, the regulator advised that it did not believe that the CPRS or feed-in tariff scheme was likely to come into effect prior to the commencement of the next price path review period. The ICRC also advised that any pass through would be subject to conditions including the extent of the costs and the ability of the retailer to present evidence of these costs.<sup>16</sup>

No other regulator made specific reference to the pass through of costs relating to the CPRS or expanded RET.

## **Market contracts**

Although the host retailer in each jurisdiction is obligated to offer supply at the regulated offer, all retailers are free to offer market contracts. Retailers can offer market contracts to those customers who are considered to be “contestable” customers.<sup>17</sup>

Retailers have advised that the regulated offer acts as a benchmark price against which market contracts are compared.<sup>18</sup> Although retailers may offer market contracts with tariffs higher than the regulated tariff, in practice any retailer who does this is likely to see their customers returning to the cheaper regulated offer. This means that in

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15 IPART, Promoting Retail Competition and Investment in the NSW electricity industry – Regulated electricity retail tariffs and charges for small customers 2007-2010, June 2007, pp.63.

16 ICRC, Final Decision and Price Direction – Retail Prices for Non-contestable Electricity Customers, June 2008, pp.56-57.

17 A contestable customer is a customer who is free to choose their own electricity or gas retailer. In New South Wales, South Australia, Queensland and the Australian Capital Territory all customers are contestable, whilst in Tasmania, WA and the NT, only those customers who consume quantities of energy above a certain annual threshold may choose their own retailer. Further details can be found in Appendix B.

18 Australian Energy Market Commission, *Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in Victoria: First Final Report*, December 2007, p.57.

markets with price regulation, the ability of retailers to adjust their market tariffs to allow effective recovery of costs is entirely dependent upon the regulator setting the regulated offer at a cost reflective rate.

Market contracts may also include provisions allowing retailers to pass through additional unexpected costs or to vary tariffs to allow these costs to be recovered. Retailers have indicated that costs related to the introduction of carbon trading will most likely be recovered using pass-throughs or tariff alterations. However, retailers may not have the ability to identify unique costs associated with the CPRS to pass-through. This lack of clarity relating to the exact cost of carbon has the potential to lead to legal disputes between retailers and customers.

### 3. Retailer of last resort

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#### Retailer of last resort schemes

In an effectively competitive energy retail market, entry, expansion and exit of market participants is based on those participants' ability to manage costs, risks, regulatory obligations and other aspects of a retail business. Inefficient firms lose customers to those firms run more effectively and may exit the market if their position becomes untenable. Such retailers may exit the market in a planned fashion by selling or gradually reducing their customer base. Alternatively, retailers may choose or be forced to exit the market in an unplanned fashion, an event which normally occurs rapidly.

All jurisdictions in the NEM have schemes in place to ensure that the customers of an electricity retailer who exits the market in an unplanned fashion are guaranteed to continue receiving supply of electricity. Such Retailer of Last Resort schemes (RoLR) are important due to the essential nature of electricity supply. For gas, New South Wales and Victoria are the only jurisdictions to currently have RoLR schemes in place.

Generally, the objectives of a RoLR scheme is to ensure the continued supply of energy as well as to protect the interests of customers, market participants and the integrity of the market as a whole. RoLR schemes normally define the triggers that may activate the scheme, detail the obligations that a RoLR must fulfil and the tariffs, terms and conditions that a RoLR must apply when supplying power. These schemes may also allow a RoLR to charge additional fees to recoup its costs. A more detailed summary of the different jurisdictional schemes and their components can be found attached in Appendix C of this report.

There are a number of issues surrounding the effectiveness of current RoLR schemes. These may pose substantial risks to the ability of the RoLR scheme to deal effectively with the untimely or immediate exit of a retailer. The key issues are presented below.

- **High cost of sourcing wholesale energy at short notice.** In the NEM, a RoLR would need to purchase electricity from the spot market, finding itself exposed to price volatility to the extent it was also unable to hedge that exposure at short notice. For gas, a RoLR may be unable to source gas, or may only be able to purchase wholesale gas at a premium. The RoLR may also face physical capacity constraints, if it is unable to obtain sufficient pipeline capacity to transport the additional volume of gas to meet its new customer demand. In Victoria, the RoLR may find itself exposed to the gas spot price, when there is surplus gas available on the balancing market.

A related, and substantial expense, is the need to obtain adequate coverage for prudential risks. In the NEM, this is provided to NEMMCO to cover wholesale spot purchases. For the Victorian gas spot market, VENCORP collects prudentials to cover purchases of its balancing market. The RoLR will need to obtain sufficient prudential coverage to cover its new wholesale energy loads in very short timeframe; for the NEM, it is around 48 hours. In the NEM, failure to obtain sufficient coverage may result in the RoLR itself becoming insolvent or failing to

meet NEMMCO's prudential requirements, and therefore being suspended from the market.

- **Delays in customer information transfer to RoLR.** When a RoLR assumes responsibility for providing energy to a failed retailer's customers, it is important for the RoLR to know how much energy it must purchase to meet its new customer demand. This includes information on customer size, demand profile and location. Delays in transferring information may leave the RoLR with a wholesale energy exposure, requiring it to purchase energy on the spot or balancing markets, but for an unknown demand. This lack of information may result in inefficient levels of energy being purchased.
- **Limited cost recovery arrangements.** Generally, the tariff of the RoLR contract is predetermined and approved by the regulator with some jurisdictions allowing for a one-off amount to be charged by the RoLR per customer. As wholesale energy prices and volatility increase, these capped cost recovery options may hinder the ability for a RoLR to efficiently recover costs from its new customer base.
- **Lack of RoLR arrangements for gas.** Not all jurisdictions have a RoLR scheme or a legislated authority for the executive to intervene in the event of a gas retailer exiting the market. While this may be less of a problem for residential customers in those jurisdictions where gas is a discretionary rather than an essential fuel, it may still be a problem if a multi-jurisdictional retailer fails with customers in a non-RoLR scheme jurisdiction for the reasons identified below.
- **Inconsistency between jurisdictional RoLR schemes.** If a larger retailer should fail and require the services of a RoLR, it is possible that this could affect multiple jurisdictions and both electricity and gas customers. Under the current framework, this could result in an uncoordinated response across the affected jurisdictions depending on the differences between (or absence of) RoLR schemes in those jurisdictions.

There has only been one RoLR event in Australia. It was a small company with electricity customers predominantly in a single jurisdiction. A summary of the event is presented in Box 1.1 below.

### **Box 1.1: Energy One's exit from the New South Wales retail market**

In June 2007, Energy One, a New South Wales based retailer with approximately 10 000 customers, exited the market. Its exit triggered the first RoLR event in the NEM. The majority of Energy One customers were allocated to Integral Energy, Country Energy and Energy Australia, as per the retailer of last resort arrangements in New South Wales. Energy One was suspended from operating in the NEM; its licence to retail electricity in New South Wales was not suspended, however.

Energy One's stated reason for exiting the retail market was due to rising wholesale prices and a regulated fixed price cap exerting "margin squeeze" on the business and rendering it unprofitable. Although Energy One, a non-host 2nd tier retailer, was not directly obligated to offer the regulated tariff and contract, the presence of the regulated offer effectively mean that it was unable to exceed this upper limit in its own contracts without losing customers.

Some market participants and commentators at the time considered that the Energy One RoLR event was not an example of retailer failure but rather a voluntary decision to exit the market for financial reasons.

## **MCE RoLR review**

Under the Australian Energy Market Agreement (AEMA) of 2004, jurisdictions agreed that retail and distribution regulation (excluding retail price regulation) should be transferred to a national framework. One aspect of this process is to develop a National Energy Customer Framework to regulate the supply of energy to customers. Part of this is a national RoLR framework.

The MCE's Standing Committee of Officials (SCO) commissioned NERA and Allens Arthur Robinson (AAR) to develop recommendations for a national RoLR framework. On 30 September 2008, the SCO published this consultancy report.<sup>19</sup>

The SCO anticipates releasing a policy response to the consultancy report around March 2009, which will likely outline a proposed national framework. The SCO anticipates that the Second Exposure Draft on the National Energy Consumer Framework, due mid-next 2009, will include provisions to implement the national RoLR framework.

The NERA and AAR consultancy report proposed the following five objectives for a national RoLR scheme<sup>20</sup>:

1. to ensure that all customers of the failed retailer continue to be supplied with energy;

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<sup>19</sup> NERA Economic Consulting and Allens Arthur Robinson, *Retailer of Last Resort – Review of Current Jurisdictional Arrangements and Development of a National RoLR Framework*, Report prepared for the MCE Retail Policy Working Group, 30 September 2008.

<sup>20</sup> Ibid, p.35.

2. to ensure the integrity of wholesale market settlements and network balancing arrangements in the relevant market;
3. to protect the interest of customers, with regard to the prices they pay for energy and the other terms and conditions on which the energy is supplied and sold;
4. to ensure that the RoLR is provided with a reasonable opportunity to recover the efficient costs it incurs in complying with its RoLR obligations; and
5. to maintain continuity of payments to suppliers of distribution services, metering and data management agents and other ancillary services related to the supply and sale of energy.

These objectives identify the importance of not only managing customer supply but also the consequential impacts of retailer failure on system operation, the wholesale and financial markets and the RoLR itself.

The report examined the different aspects of the current RoLR schemes as they currently exist in each jurisdiction. It examined the ways in which a retailer may exit the market and how the design of the different RoLR schemes may influence the behaviour of market participants given these parameters. The report then put forward recommendations for the national scheme's design, consistent with the objectives listed above.<sup>21</sup> These included:

1. A retailer be appointed as the RoLR (as opposed to a distributor).
2. The AER be responsible for appointing the RoLR.
3. The appointment of a retailer as RoLR should be a voluntary appointment, or, failing this, a mandatory appointment by the AER. The AER to appoint the largest retailer in an area as the RoLR, unless a large retailer has failed, in which case responsibility may be split between other retailers.
4. A national RoLR scheme should apply to all large and small electricity and gas customers across all jurisdictions, although jurisdictions may opt out of the gas RoLR scheme.
5. Trigger events are to be loss of authorisation, suspension from the market, insolvency and appointment of an administrator/liquidator.
6. Disincentives to be put in place to discourage voluntary retailer exit using the RoLR scheme and to encourage managed exit.
7. There is an obligation to supply to commence following a RoLR event and notification from the AER. There will be no minimum or maximum timeframes for a customer to remain on the RoLR tariff but with an automatic transfer after three months for any small customers remaining on the RoLR tariff to the standing offer tariff.

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21 NERA Economic Consulting and Allens Arthur Robinson, *Retailer of Last Resort – Review of Current Jurisdictional Arrangements and Development of a National RoLR Framework*, Report prepared for the MCE Retail Policy Working Group, 30 September 2008, pp.iv-xi.

8. The RoLR tariff for small customers is to be based on the standing offer tariff plus an upfront fee. For large customers the tariff to be equal to wholesale energy costs, network charges plus a margin approved by the AER. The RoLR to also be allowed an ex-post recovery of additional efficient costs, including wholesale energy costs, recovered through a levy on distribution businesses which is passed on to customers.
9. Contracts between the failed retailer and its customers cease at the commencement of the RoLR event. The RoLR scheme is not to interfere with the hedge or wholesale supply contracts of the failed retailer.
10. The standard retail offer and market contract contain an explanation of what happens to customers in a RoLR event. Continuous disclosure requirements obligating retailers to advise if a RoLR event is likely to occur and obligating market operators/AER to advise each other if a market suspension or authorisation cancellation is about to occur.
11. Standard Business to Business provisions for information transfer of customer data to be maintained but should be better enforced.

## 4. Competition effectiveness

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The Council of Australian Governments, through its Ministerial Council on Energy, has agreed to review the effectiveness of competition in energy retailing across the various Commonwealth jurisdictions. This agreement, the Australian Energy Market Agreement, requires the AEMC to conduct reviews of electricity and gas market competitiveness across each jurisdiction of the NEM. Where the AEMC finds competition to be effective, we are required to provide advice to the MCE on ways to phase out retail price regulation. Where competition is found not to be effective, our advice is required to identify ways to develop effective competition.

We conducted a review of Victoria in 2007 and have completed the final stage of our review of South Australia. At the time of printing, the final report of the South Australian review was yet to be published, however this is due in December 2008.

In December 2007, we published our final assessment of competition<sup>22</sup>, and, in February 2008, our final advice concerning the future of price regulation in Victoria.<sup>23</sup> We recommended to the MCE and Victorian Government that retail price regulation be removed for retail energy customers from 1 January 2009. Our assessment found that competition in both electricity and gas retailing in Victoria was effective. The strong combination of effective competition and a strong consumer protection regime provided a sound basis for the advice. We also recommended a number of improvements to consumer protection in light of the proposed removal of price regulation.

In October 2008, the Victorian Parliament passed legislation amending the Electricity Industry Act 2000 (Victoria) and Gas Industry Act 2001 (Victoria) that largely reflects our recommendations and will remove price regulation for residential gas and electricity customers from 1 January 2009.

In September 2008, the AEMC published the assessment of energy retail competition in South Australia. We concluded that competition is effective for small electricity and natural gas customers, although relatively more intense in electricity than in gas.<sup>24</sup> Our finding was based on evidence that competition has been effective in constraining retailers' prices to reflect the real input costs and that margins were at or below competitive levels. However, we foreshadowed that increasing energy costs and prices due to the tightening supply-demand balance and the introduction of climate change policies could impede the effectiveness of competition in the future unless standing and market contract prices were sufficiently flexible to accommodate future cost increases. We noted that the regulated standing contract price had become a constraint on such market price responses.

We concluded that retail price regulation should not continue in South Australia. In our draft advice to the MCE and South Australian Government, we recommended that retail price regulation be replaced by competitive market pricing accompanied by a comprehensive price monitoring regime and a reserve pricing power to re-impose

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<sup>22</sup> AEMC, *Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in Victoria - First Final Report* (Victorian First Final Report), 19 December 2007.

<sup>23</sup> AEMC, *Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in Victoria - Second Final Report* (Victorian Second Report), 29 February 2007.

<sup>24</sup> AEMC, *Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in South Australia - First Final Report* (South Australia First Final Report), 19 September 2008, p. iii.

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price regulation should competition deteriorate in the future.<sup>25</sup> Our final advice on ways to remove price regulation has been finalised however, at the time of printing, this advice had not yet been published. This advice will be published during December 2008.

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<sup>25</sup> AEMC, *Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in South Australia – Second Draft Report* (South Australia Second Draft Report), 14 October 2008, p. viii.

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## Appendix A: Current RoLR arrangements by jurisdiction

This information has been sourced from Appendix B of the Draft report *Retailer of Last Resort – Review of Current Jurisdictional Arrangements and Development of a National Policy Framework* prepared by Allens Arthur Robinson and NERA for the MCE. A copy of the report can be found <http://www.mce.gov.au/assets/documents/mceinternet/Release%20of%20the%20Retailer%20of%20Last%20Resort%20combined%20file20081003154023.pdf>.

State	Who and what triggers event?	RoLR(s)	RoLR Obligations	What are the default tariffs, terms and conditions? Who is covered?	One off fees applicable? Other cost recovery mechanisms?
NSW (e)	<p>Suspension notice issued by NEMMCO.</p> <p>Minister may suspend license if retailer has contravened the Act or Regulation.</p> <p>Nothing to prevent license holders applying to cancel their own license.</p>	<p>Energy Australia,</p> <p>Integral Energy,</p> <p>Country Energy</p>	<p>RoLR must make and maintain a contingency plan for a RoLR event, detailing all aspects of RoLR implementation.</p> <p>RoLR must supply to all those in its supply area. RoLR may not refuse a contract with a bad debt customer. RoLR must inform customers of their new conditions of supply and that they are free to choose another retailer. Payment plan and disconnection obligations continue under RoLR</p>	<p>Standard contract and tariff applies to all small RoLR customers.</p> <p>Non-small RoLR customers may negotiate with the RoLR for terms and tariffs of supply. Where no agreement is reached, the obligation to supply still exists and the only specified term relates to price.</p>	<p>RoLR's may charge those customers who were previously <i>not</i> on the standard offer tariff a one-off fee of no more than \$50.</p> <p>Note that the 2007 electricity price determination refers to the pass through mechanism being applicable to RoLR events,</p> <p>No other one-off fees or cost recovery options are available to RoLRs.</p>
NSW (g)	<p>The Minister may form the opinion that a supplier is unable to supply to a group or all of its customers or is unable, failed or refused to participate in the retail market. The Minister may then cancel the suppliers authorisation.</p> <p>Nothing to prevent license holders applying to cancel their own license or refusing to participate in the retail</p>	<p>ActewAGL, AGL, Energex, Country Energy, Origin</p>	<p>RoLR must make and maintain a contingency plan for a RoLR event, detailing all aspects of RoLR implementation.</p> <p>RoLR must supply to all those in its supply area. RoLR may not refuse a customer with bad debt. Small RoLR customers</p>	<p>It appears that the scheme is limited to small customers (consuming less than 1TJ)</p> <p>Standard contract and tariff applies to all small RoLR customers.</p>	<p>RoLR's may charge those customers who were previously <i>not</i> on the standard offer tariff a one-off fee as determined by the Minister.</p>

State	Who and what triggers event?	RoLR(s)	RoLR Obligations	What are the default tariffs, terms and conditions? Who is covered?	One off fees applicable? Other cost recovery mechanisms?
	market.		<p>must remain with the RoLR for a period of 28 days.</p> <p>RoLR must inform customers of their new conditions of supply and that they are free to choose another retailer. Payment plan and disconnection obligations continues under RoLR</p>		
VIC(e)	<p>The Essential Services Commission of Victoria (ESCV) may revoke a participants license for violation of a license condition or determination made by the ESCV.</p> <p>Suspension or termination of the right of a licensee to acquire wholesale electricity from the NEM is also a trigger event.</p> <p>No framework for retailers to voluntarily invoke the RoLR scheme however a retailer defaulting under the NER would automatically trigger this.</p>	AGL, Origin Energy, TRUenergy	<p>The RoLR for an area is the local retailer responsible for the area in which the relevant customer is located.</p> <p>The RoLR must provide to the ESCV a schedule of the proposed tariffs, terms and conditions under which the RoLR would sell electricity to RoLR customers.</p> <p>The ESCV may review and amend these tariffs, terms and conditions.</p> <p>RoLR must inform customers of the details of their new conditions of supply and other relevant details.</p> <p>The obligation on the RoLR to supply electricity ends 3 months after the RoLR event. Payment plan and disconnection</p>	<p>Customers covered by the RoLR scheme are both large and small customers.</p> <p>Although up to the discretion of the ESCV, in practice the standard contract and tariff applies to small customers.</p> <p>Terms and conditions can be negotiated between the RoLR and large customers and are not regulated by the ESCV.</p> <p>There is no minimum time the customer must stay with the RoLR.</p>	<p>For small customers, a one off fee of \$65 was approved by the ESCV in the 2008 RoLR determination.</p> <p>No other one-off fees or cost recovery options are available to RoLR.</p>

State	Who and what triggers event?	RoLR(s)	RoLR Obligations	What are the default tariffs, terms and conditions? Who is covered?	One off fees applicable? Other cost recovery mechanisms?
			<p>obligations continue under RoLR.</p> <p>Relevant customer information from the defaulting retailer can be obtained by the ESCV and must be provided by the defaulting retailer upon request.</p>		
VIC(g)	<p>ESCV may revoke a licensee's license if licensee is in breach of license conditions or a determination made by the ESCV.</p> <p>The defaulting licensee may be deregistered by Vencorp if the licensee is in breach of the MSO rules.</p> <p>No framework for retailers to voluntarily invoke the RoLR scheme however a retailer defaulting following prudential requirements not being maintained or failure under the MSO rules.</p>	AGL, Origin Energy, TRUenergy	<p>Same as electricity.</p> <p>Some discussion currently underway as to whether the local retailer or host retailer is obligated to be the RoLR.</p>	<p>Same as electricity.</p> <p>VENCorp must declare an administered price period after a RoLR event. During this time the market price is limited to the administered price cap.</p>	<p>For small customers, a one off fee of \$36 was approved by the ESCV in the 2008 RoLR determination.</p> <p>No other one-off fees or cost recovery options are available to RoLR.</p>
QLD (e)	<p>Trigger events:</p> <p>A retail entity is suspended from trading by NEMMCO.</p>	Country Energy, Origin, any another entity declared by the Minister.	<p>The regulator may require the RoLR to provide written plan for the management of a RoLR event.</p> <p>RoLR must supply to all customers in its defined RoLR area.</p>	<p>Customers covered by the RoLR scheme are both large and small customers.</p> <p>The non-tariff terms of the RoLR contract is the standard retail contract for both small and large customers, as applicable. For small customers, the tariff is the regulated standard tariff. For large customers, tariffs are based on spot prices, participant fees, charges and other costs.</p>	<p>Yes – a one off fee, payable by both large and small customers, may be approved by the regulator to compensate the RoLR for its costs as RoLR.</p> <p>No other one-off fees or cost recovery options are available to RoLR.</p>

State	Who and what triggers event?	RoLR(s)	RoLR Obligations	What are the default tariffs, terms and conditions? Who is covered?	One off fees applicable? Other cost recovery mechanisms?
	<p>A retail entities retail authority is cancelled or suspended by the QCA.</p> <p>No framework for retailers to voluntarily invoke the RoLR scheme however a retailer defaulting under the NER would automatically trigger this.</p>		There is no minimum or maximum time the RoLR must supply to the customer.	There is no minimum time a customer must stay with the RoLR.	
QLD (g)	No RoLR scheme for gas in QLD				
SA (e)	<p>Trigger events:</p> <p>A retailer entity has its license suspended by ESCOSA.</p> <p>A retailer's right to purchase electricity from the market for wholesale trading is suspended by NEMMCO.</p> <p>A retailer has ceased to actively retail electricity in SA.</p>	ETSA Utilities (contracted out to AGL)	<p>ESCOSA must approve the RoLR terms and conditions, which must be published in the Gazette.</p> <p>RoLR responsible for all customers in the distribution area.</p> <p>RoLR is obligated to RoLR customers until 3 months after the date of a RoLR event, 30 June 2010, or until the customer moves off the RoLR contract.</p> <p>RoLR must inform customers of the details of their new conditions of supply and other relevant details.</p>	<p>Customers covered by the RoLR scheme are both large and small customers.</p> <p>The RoLR must supply electricity under terms and conditions approved by ESCOSA.</p> <p>For small customers, the RoLR must charge a tariff with a fixed and variable component. The variable component is consistent with the standing offer price. The fixed element may not exceed \$1 per day per connection point.</p> <p>For large customers, the prices the RoLR may charge must be 'fair and reasonable' in relation to their component costs.</p>	<p>There are 3 components to cost recovery for the RoLR:</p> <p>1 – Establishment costs: Set through distribution price determination and recovered via DUOS charges.</p> <p>2,3 – Energy and retail operating costs: may be recovered in part or full from the charges imposed by ETSA on customers (RoLR charges) when acting as RoLR.</p> <p>Where the RoLR does not</p>

State	Who and what triggers event?	RoLR(s)	RoLR Obligations	What are the default tariffs, terms and conditions? Who is covered?	One off fees applicable? Other cost recovery mechanisms?
	A retailer may voluntarily surrender its license to ESCOSA however they must provide 6 months notice. However there is nothing preventing a retailer from ceasing to retail electricity or defaulting on the NER obligations.			<p>The terms and conditions of the RoLR contract approved by ESCOSA do not include the same terms in relation to concessions as the standing offer contract. Other consumer protection measures appear to apply. Customers may be disconnected for non-payment of bills under the RoLR contract.</p> <p>Customers are not required to stay with the RoLR for any minimum amount of time.</p>	recover sufficient charges through RoLR charges, it may apply for a pass through under the distribution price determination.
SA (g)	Although legislation allows for a RoLR scheme, the SA Govt has not as yet established one. The SA Govt currently relies on the corporations act to resolve any retailer failure event backed up by a contingency plan which is still being formulated.				
TAS (e)	<p>Trigger events:</p> <p>A retailer's license is cancelled (by OTER), surrendered or expires</p> <p>A retailer is suspended from the NEM</p> <p>The retailer ceases retailing in</p>	Aurora	<p>The RoLR must develop a pro-forma RoLR contract for approval by OTER.</p> <p>The RoLR must supply the customer for 3 months or until the customer transfers or electricity to the site is disconnected.</p> <p>The RoLR must provide the customer with notice of the commencement of the RoLR</p>	<p>Small and large customers are covered by the scheme. All small customers are currently non-contestable so are currently supplied by Aurora.</p> <p>There are currently no specific RoLR contract requirements however the RoLR contract must be approved by the regulator and comply with the relevant Act and the retailer's license conditions.</p> <p>The RoLR contract price must not exceed the cost to the RoLR of supplying power taking into consideration wholesale pool</p>	No one-off fees or cost recovery options are available to RoLR.

State	Who and what triggers event?	RoLR(s)	RoLR Obligations	What are the default tariffs, terms and conditions? Who is covered?	One off fees applicable? Other cost recovery mechanisms?
	<p>Tasmania</p> <p>Note that a retailer may voluntarily surrender their license if they provide 6 months notice. Retailers may also cease activity in Tasmania or go into default under the NER.</p>		contract and a copy of the contract.	price, transmission/distribution charges and retail margin.	
TAS(g)	No RoLR arrangements currently in place however, given certain conditions, the Gas Act allows the Director of Gas to take over the operations of a gas company if authorised under Order in Council.				
ACT (e)	<p>The ICRC may trigger a RoLR if a retailer ceases, either permanently or temporarily, to be able to lawfully supply electricity. Examples include a prudential crisis, issue of a suspension notice by NEMMCO or a suspension /cancellation of the retailer's license.</p> <p>A retailer can voluntarily suspend its license if it provides 90 days notice to the ICRC. Retailers must consult with the ICRC if it is to engage in any activity that may adversely affect its ability to provide services.</p>	ActewAGL	<p>RoLR must have a standard RoLR contract containing set provisions.</p> <p>RoLR must supply to all customers of the failed retailer.</p> <p>The RoLR must specify all tariffs, terms and conditions to the customer. RoLR must provide all other relevant information.</p> <p>RoLR is obligated to provide RoLR services until termination by the customer or a 3 months period from the RoLR event.</p>	<p>There is no specific link to the standard offer. A specific RoLR contract is defined in ICRC the RoLR Guidelines.</p> <p>Basic content requirements of the RoLR contract include obligation to supply, notification requirements, maximum terms and provision for RoLR charges. No differentiation between small and large customers.</p> <p>Charges paid by RoLR customers are the greater of the RoLR default tariff (defined in reference to tariffs published by the ICRC) or the pool price plus a margin of 10% (capped at \$20MWh and indexed.</p> <p>There is no minimum period a customer</p>	No other fees or charges applicable.

State	Who and what triggers event?	RoLR(s)	RoLR Obligations	What are the default tariffs, terms and conditions? Who is covered?	One off fees applicable? Other cost recovery mechanisms?
				must remain with the RoLR.	
ACT (g)	No RoLR scheme for gas in the ACT. However the Minister may appoint a controller in certain circumstances. Other restrictions exist in terms of retailers obligations and powers of the ICRC.				

## Appendix B: Price regulation in the jurisdictions of the NEM<sup>26</sup>

Jurisdiction	Who initiates price review	Who conducts price review	Ministerial approval required	Period that determination applies	Which electricity customers are eligible to receive the regulated offer	Which gas customers are eligible to receive the regulated offer
QLD	Delegation of responsibility from Minister for Queensland Competition Authority (QCA) to conduct annual review	Queensland Competition Authority	Yes	1 year	Annual consumption <100MWh	There is no price regulation of gas in QLD
NSW	Relevant Minister	Independent Pricing and Regulatory Tribunal	No	3 years	Annual consumption <160MWh	Annual consumption <1TJ
ACT	Attorney General	Independent Competition and Regulatory Commission	No	1 year	Annual consumption <100MWh	There is no price regulation of gas in the ACT
VIC <sup>27</sup>	Prices negotiated between the government and retailers in a closed process.	Victorian government	Yes – negotiated by govt	1 year	Annual consumption <160MWh (note that price regulation is being phased out removed in Victoria)	Annual consumption <5TJ
SA	Host retailer	Essential Services Commission of South Australia	No	A minimum of 3 years, currently 3.5 years	Annual consumption <160MWh	Annual consumption <1TJ
TAS	Host retailer	Office of the Tasmanian Energy Regulator	No	2.5 years (currently)	All customers with annual consumption below 750MWh are non-contestable and must remain on the regulated tariff	There is no price regulation of gas in Tasmania

<sup>26</sup> Sourced from websites, price determination review publications and market review publications.

<sup>27</sup> Price regulation for electricity and gas is being phased out, with legislation currently before the Victorian parliament.

## Appendix C: Renewable energy, CO2 abatement, gas generation, energy efficiency and feed-in tariff schemes<sup>28</sup>

Jurisdiction	Renewable Energy scheme	Energy Efficiency scheme	Feed in tariff scheme
QLD	Queensland gas scheme: Retailers must obtain and surrender gas certificates from gas fired generators equal to 13% of their overall electricity consumption. Increasing to 15% by 2010 and to 18% beyond 2010	No specific programme obligation for retailers.  However, the Energy Savings Action Plan - Smart Energy Savings Programme obliges energy suppliers to provide details of any customers to whom they provided between 10 and 500 TJs of energy in a financial year	Net feed in tariff. Distributor liable, administered by retailer. set at 44c p/kWH.
NSW	GGAS: Retailers and large users obligated to obtain and surrender abatement certificates created by a range of abatement activities including low emission generation, demand side abatement, large user abatement and carbon sequestration.  NRET: Market based scheme obligating retailers to obtain and surrender renewable energy certificates from renewable generators proportionate to their acquisitions of energy.	NEET: The NSW Energy Efficiency Target is set to commence on 1 January 2009 and will replace the demand side abatement activities currently in the GGAS scheme. Retailers will be liable to obtain and surrender a number of NEET certificates created by abatement activities. Tradeable certificates are created for these activities	Scheme announced, government to begin consultation on model to be adopted.
ACT	No scheme currently in place.	No scheme currently in place.	Planned for 2009, gross feed in tariff. Distributor liable, administered by retailer. Legislation notes premium rate set at 3.88 times the transition franchise tariff on the day of the Act's commencement.

<sup>28</sup> Sourced from websites, scheme design information publications and media releases.

VIC	VRET: Market based scheme obligating retailers to obtain and surrender renewable energy certificates from renewable generators proportionate to their acquisitions of energy.	VEET: The Victorian Energy Efficiency Target is set to commence in 2009. Retailers will be responsible for meeting their proportion of an overall state emission reduction target through energy efficiency abatement activities. Tradeable certificates are created for these activities	Net feed in tariff, currently set a 'fair price' (effectively a rate equal to or greater than the tariff under which the customer is supplied power). Retailer liable for cost.  Premium net tariff feed in rate of 60c per kWh to be introduced in 2009. Distributor liable, retailer administers.
SA	No scheme currently in place.	REES: The Residential Energy Efficiency Scheme is set to commence on 1 January 2009. Retailers will be responsible for meeting their proportion of an overall state emission reduction target through energy efficiency abatement activities. A defined number of these activities must occur in low income households. No tradeable certificates created for these activities.	Net feed in tariff. Distributor liable, administered by retailer, set at 44c p/kWh
TAS	No scheme currently in place.	No scheme currently in place.	Currently Aurora provides a feed-in tariff. Government has released discussion paper on options for feed in tariff scheme

## Appendix D: Electricity retail prices: recent regulatory and government decisions

In its State of the Market 2008 report, the AER reported that several jurisdictions had announced increases in regulated retail tariffs in 2007 and 2008 in response to rising wholesale energy and hedging costs. The below table is replicated from its report.

As the AER notes, price comparisons between jurisdictions should be taken with care. This is because the level of competition, business structure, and operating environment differ, including the degree of retailer exposure to wholesale costs. The starting point for the price changes also differ between jurisdictions. Electricity price increases in the eastern states are linked to the effects of the drought on wholesale costs. Increases in gas prices are responding to rising wholesale costs.<sup>29</sup>

Jurisdiction	Period	Retailers	Increase in regulated tariff
New South Wales	1 July 2007 to 30 June 2010	EnergyAustralia Integral Energy Country Energy	CPI + 4.1% CPI + 4.9% CPI + 3.7% (annual adjustments)
Victoria	1 January 2008 to 31 December 2008	AGL Energy Origin Energy TRUenergy	CPI + 10.7% CPI + 10.9% CPI + 15.5%
Queensland	1 July 2008 to 30 June 2009	All licensed retailers	5.40%
South Australia	1 January 2008 to 30 June 2010	AGL SA	12.3% in 1 Jan 2008-30 June 2008 and CPI-only increase to July 2011
Tasmania	1 January 2008 to 30 June 2010	Aurora Energy	16% in 1 Jan 08-30 June 08, 4% in 2008-09 and 3.8% in 2009-10
ACT	1 July 2008 to 30 June 2009	ActewAGL Retail	7.11%
Western Australia	1 July 2009	Synergy Horizon Power	10%

Source: AER, State of the Energy Market 2008, p.15, November 2008

<sup>29</sup> AER, *State of the Energy Market 2008*, November 2008, p.16.