



Australian Energy Market Commission (AEMC)

**Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in South Australia**

Second Draft Report – Public Forum  
Friday, 7 November 2008  
12:30pm  
The Stamford Plaza, Adelaide

*Key:*

JT – John Tamblyn, Chairman, AEMC  
CM – Catherine McKay, Senior Advisor, AEMC  
MH – Mark Henley, UnitingCare, Wesley  
TW – Tony Westmore, ACOSS  
BS – Burcu Subasi, Business SA  
OC – Owen Covick, ECC  
AS – Anna Stewart, AGL  
MB – Melinda Brindle, COTA Senior Voice  
PW – Pat Walsh, ESCOSA

*Abbreviations/Acronyms:*

AEMA – Australian Energy Market Agreement  
COAG – Council of Australian Governments  
CPRS – Carbon Pollution Reduction Scheme  
ESCOSA – Essential Services Commission of South Australia  
ESIPC – Electricity Supply Industry Planning Council  
ETSA – ETSA Utilities  
FRMP – Financially Responsible Market Participant  
MCE/SCO – Ministerial Council of Energy / Standing Committee of Officials  
RoLR – Retailer of Last Resort

JT Good afternoon everybody and thank you very much for coming to this AEMC public forum. Firstly I'm John Tamblyn the Chairman, I think I've met most of you, and Catherine McKay who has done much of the work on the report and will help me this afternoon. What we are doing is recording the proceedings today so when your opportunity comes for you to speak could you wait on the microphone and then identify yourself by name and organisation. That will help the transcript which will go on our website. We have a presentation to give you, which we'll try to go through very quickly, that simply recaps the main points of the report that we are dealing with. I would want to just proceed through the presentation but if you've got clarifying comments or questions you want to raise please do and then once we've laid that out

we'll just have open discussion from the floor. We really want to hear your comments and questions.

Can I emphasise at the start that we are dealing with a draft report. It has been put out for consultation. This public forum is one important part of that consultation. We are also expecting submissions in by the middle of November and the final report will, as appropriate, be adapted and modified as we consider the public comments that we receive on the report. So I'm just emphasising the report we put out represents our current thinking but it is open for discussion and modification.

Now let's quickly run through the agenda that we have for today. I'll quickly recap on some of the background but do it very quickly.

1. The purpose of the Second Draft Report, the background.
2. The Australian Energy Market Agreement background to our advice.
3. What we've given in our draft advice and why
4. And then we'll talk about further consultation and process and then open it up for questions and comments.

First of all this is the South Australian Review. Under the Australian Energy Market Agreement, which is a COAG – Council of Australian Governments – agreement by heads of Governments, the AEMC is required to assess the effectiveness of competition in each participating jurisdiction. Where we find that competition is effective we are required to give advice on how price regulation may be removed. Where we find competition is not effective we are to advise on how competition could be improved, particularly if there are obstacles or barriers. So this is the task we have. That's the context in which we've put this second report in, which is dealing with the question of what to do with the retail price regulation.

Further background was published in our First Final Report on 19<sup>th</sup> September dealing with the effectiveness of competition in the South Australian Retail Market for small customers. Our conclusion was that competition was effective for electricity and gas. There was quite a dialogue between the draft and final reports and a number of issues were raised in your submissions and other submissions which we dealt with in that Final Report. We may or may not have dealt with them to your satisfaction but we certainly addressed the important issues that you raised.

Now, the Second Draft Report that we have published now simply outlines our draft advice on how to deal with and eliminate price regulation given our conclusion that competition is effective.

I've got a bit of background here on the draft advice, the reasoning. I won't go through that in great detail but I think the important point was that all of the analysis that we did showed that competition in South Australia had been keeping prices closely in line with costs as they change and retail margins were at competitive levels or below competitive levels and so the broad conclusion there is that competition is keeping prices and real costs of supplying energy in line and in that context we asked the question why should you continue price regulation. We also noted importantly that this is a time of transition and change in the Australian energy markets and also here in South Australia because there have been quite significant increases recently in the cost of supply, the energy cost component but also materials, plant and equipment costs have been rising. The supply and demand balance around Australia, including in South Australia is now much tighter than it had been in years gone by and we have the prospect of climate change policies being introduced in the coming years with clear implications for the cost of supply. So in that context we raised the question or made the comment that we believe a competitive retail market, such as that which exists in South Australia, can continue to keep prices and costs in line and maintain the viability of retailers provided prices are sufficiently flexible to adjust to quite rapidly changing costs as we have seen. So that is where we got to in the first report on competition.

Let me go to our draft advice on what should be done about price regulation in the context of our conclusions about the effectiveness of competition. This is a quick overview of what we'll talk about.

We'll first of all give you the key recommendations. We'll elaborate the key features of the arrangements that we've recommended, in particular then we'll develop the reasoning behind our advice and talk about some consequential amendments to the South Australian legal and regulatory framework which we think would be required.

Could I just make this point as well which I haven't really emphasised. The final report which we put forward will be advice, policy advice to the South Australian Government and to the Ministerial Council on Energy. The decision on what to do about our advice is clearly one for the South Australian Government but they will have the benefit of the analysis that we have done on the competitive market place and the thinking and consultation we have undertaken about how the regulatory framework might be adjusted to be more flexible in the pricing arena while still maintaining a protective framework of oversight for small customers in South Australia. My point there though is that this is a decision for the South Australian Government we are making recommendations.

Now, the key recommendations. Going through those, and you will have read our report, the headline recommendation is the existing framework for regulating retail prices should be replaced by a transparent price monitoring framework. Regulation of standing contract prices should cease by no later than the expiration of the current determinations for electricity and gas which is in 2010 for electricity and 2011 for gas. And under our recommended model, cost reflective prices would continue to be set by the competitive retail market. The analysis that has been done for us has demonstrated that costs and prices have been kept closely aligned and that retail margins have not been excessive. In fact, if anything they have been a bit low and we believe that the competitive process will continue to maintain that.

However ESCOSA under this model would maintain a transparent price monitoring and reporting arrangement. They would gather data on what is happening to, and I'll describe this a bit further, the standing offer prices offered by individual retailers and also monitor market prices in the market place, the competitive market prices being offered and other data consistent with the kind of data ESCOSA is currently collecting and that monitoring information would be the basis for periodic half yearly reports, publicly and to the Government to monitor very carefully what is happening in the market place.

We are also recommending that the South Australian Government has a conditional reserve pricing power to reimpose price controls if there is evidence that competition has deteriorated. What we have here is that the competitive market continuing to perform as it has in maintaining prices in line with cost. The monitoring framework is ESCOSA, on behalf of the Government and the community, monitoring what is happening in the future in relation to costs and prices in the market place and the Government, where there is evidence coming out of that monitoring process, has the legislative power with conditions to reimpose price regulation if there is evidence that competition has weakened, market power is emerging and market power is being exercised in this market contrary to the experience of the last 4-5 years. The conditions on the Government exercising that reimposition of price regulation would be that where events occur which trigger concern, the AEMC is asked to come back and review quickly the circumstances. We are suggesting that it would be a review done in a period of 35 days and to recommend to the Government: yes, there has been a change in the competitive environment and, yes, the appropriate response is to reintroduce price regulation. So we're saying there, and the last point I mentioned is that all of the non-price consumer protection arrangements that currently exist in South Australia would continue. The various codes and obligations that operate under ESCOSA's licensing arrangements would continue. So we are suggesting here

that this is actually a prudent, responsible but more flexible pricing oversight arrangement better suited to the changing market circumstances that I have described that are currently evident and are in prospect with changing market and policy circumstances. So that's the broad model that we've recommended but I want to emphasise that this is not the Government and the regulator walking away and leaving customers exposed to the competitive market. This is a different model. This is ex-post oversight as opposed to ex-ante. By that I mean currently ESCOSA seeks to forecast what price and cost circumstances and market circumstances will be over a forward three year period and sets a price cap going forward. As market circumstances do change and perhaps there are departures from their forecast ESCOSA has some flexibility to adjust the price caps to pass through unanticipated changes and so on but this is the regulator trying to estimate and guess, with consultation, where the market is going to go. The model we are suggesting, because we have evidence of effective competition, is let the price run in the market place with competition keeping price and cost in line; watch what the market is doing very closely and intervene only when you see a departure from effective competition. So the Government under our model is still present, still overseeing the market place, still with the capacity to reintervene if damaging changes occur in the market place.

That's the broad overview. What I'll do now is ask Catherine to go through in a bit more detail some of the key elements of that model and then I'll perhaps sum up a little later. So over to you Catherine.

CM Thanks, John. Good afternoon everyone. What we've done in the next couple of slides is set out probably the key half dozen or so features of the model that we're recommending. The first one relates to the standing contract pricing. Obviously under the current framework those prices are linked to the standing contract retailers' obligation to supply energy to particular customers if requested to do so. We felt that the obligation to supply was an important part of the consumer protection framework in South Australia and proposed that that continue but we proposed that there be a modification to that - rather than Origin and AGL, in respect of gas and electricity, be the only retailers subject to that obligation we have suggested that the FRMP model be adopted such that any retailer who is financially responsible for a connection point has an obligation to offer to supply gas or electricity as appropriate to the customer at that connection point. Accordingly they would do so under the standing contract price that the retailer itself determines and so essentially every retailer who has a customer in South Australia would be required to determine its own standing contract price and have a corresponding set of terms and conditions under which that offer is made. The application of the Energy Retail Code that

ESCOSA currently monitors would continue to apply in respect of those non-price terms and conditions, so in terms of things like disconnections, billing obligations and that sort of thing.

Currently there are a range of price disclosure obligations that apply under the price disclosure code that ESCOSA has developed. These currently do not apply to standing contracts or default contracts and it was the AEMC's proposal that the application of the code extend to these contracts. The principle effect of this would be that for each retailer for its standing contract and for its default contract products would be required to publish on its website a price fact sheet which sets out the likely bill that a customer who consumes a particular amount of energy would be required to pay under that particular offer.

The second principle effect of extending the application of the code is also to require the retailer to provide certain information to ESCOSA about the various products that it offers. Principally relating to prices, the pricing structure, I think there is obligations in relation to any rebates or additional fees that are payable.

John has already spoken about the monitoring role that we foreshadowed for ESCOSA. I think it's important to note and John made this point earlier that what the AEMC has talked about in its Second Draft Report would be a monitoring role that would exist in addition to the existing role that ESCOSA already performs. I am sure you're all familiar with the annual reports that come out – the marketing monitoring reports that ESCOSA produces that talk about market share and customer numbers. ESCOSA's monitoring obligation with respect to standing and default contracts would apply over and above that under our proposed framework. We also considered in the report, and we'll come back to those a little later in the presentation, is whether or not there is an additional monitoring requirement to address pricing for regional gas customers in South Australia. I'll talk about that issue more in a moment.

The monitoring role that we have proposed would apply for a three year period and if during that period ESCOSA's powers and functions with respect to energy were to be transferred across to the AER then the monitoring role that we are currently talking about as applying to ESCOSA would also transfer across to the AER. Noting that ESCOSA's current reports come out once a year what we were proposing was that there be a half yearly report prepared. This would provide a range of factual information about what was happening with the various standing and default contracts that are offered by retailers in terms of what the price levels were, had there been increases or decreases over time, whether or not there were new or innovative developments in terms of the pricing structures that were adopted under those

contracts. For example there is evidence in the UK that following the removal of price regulation retailers have come out with new innovative products that have demonstrated a response to consumer's needs and a wider variety of platforms upon which to compete with one another.

The Second Draft Report doesn't go into excruciating detail about precisely the factors that ESCOSA would look at. We feel that the AEMC can appropriately make some suggestions but ultimately it is a matter for the South Australian Government and for ESCOSA to work out what the precise nature of those monitoring reports should be.

John has also mentioned already the reserve pricing power. This is a pretty important part of the AEMC's Second Draft Report in the sense that we think that it is very important that consumers understand that there is a mechanism for the Government to respond in the event that the competitive environment in the state changes. We're proposing that it is a statutory power that is introduced into the Electricity Act and the Gas Act. We haven't gone to the extent of crafting language or setting out in detail what the legislative amendment would be, except to say that the AEMA itself imposes some limitations on what this reserve pricing power can look like. We agree that it is appropriate that the Government should be constrained to some extent by there first being a review by the AEMC that finds that competition is no longer effective. This is a mechanism that is set out in the AEMA as I've mentioned and it's also the process that Victoria has adopted in its response to the AEMC's recommendations for the Victorian review. Importantly it's not enough for just the AEMC to say competition is no longer effective, the other key part of the pre-condition is that the AEMC is also to recommend that reintroducing price regulation is the appropriate response to the change in the market conditions. So conceivably there could be a circumstance where, for instance, market structures have changed or the market shares of the various retailers have changed but upon the conclusion of the review by the AEMC it might be that this might just be a point in time and so introducing price regulation may not be the appropriate response in those circumstances. The other important point that we made in our Second Draft Report was that although the reserve pricing power also is intended to give consumers some assurance that the Government is, as John was saying, continuing to monitor the situation, we also think there is some benefit in that it provides an incentive for the retailers to behave in a manner which is consistent with a competitive market. Obviously the costs that can be sustained by retailers in terms of managing regulatory processes and doing regular price reviews is something that they might wish to avoid and so we would hope that they would continue to compete vigorously with one another over time.

The other recommendation that we made was that the AEMC conduct a review within the first three years of the price monitoring framework being in place to assess its effectiveness and to determine whether or not it is an appropriate regulatory framework going forward.

Now I mentioned earlier that the AEMC had given some consideration to whether or not specific price monitoring or some other process was required to address concerns that were raised during consultation on the first draft report about competition in regional areas for gas customers. Our First Final Report found that there were some limitations that were constraining the ability for retailers to enter and compete in regional areas against the standing contract retailer, Origin. Although the investigations that we undertook indicated that some of these constraints were likely to fall away in the short to medium term, we felt that it was appropriate to test through public consultation what stakeholders' views were about whether or not something other than the development of the market would be appropriate to ensure that regional gas pricing continues to be competitive.

We did note in the First Final Report and indeed in the Second Draft Report that the market contract that Origin was providing to its regional gas customers did show a level of discounting that was commensurate with the discounts which were available to Adelaide metropolitan customers but we thought that something else could be required. We came up with two options in the Second Draft Report and I'd just like to emphasise the point that John made earlier, these are just a starting point from the AEMC's perspective. We've put them out there, we've asked for comments both today on these proposals but also in your written submissions. And so by no means is the AEMC particularly wedded to these ideas. The first one is a specific reporting obligation effectively for ESCOSA to look at the what the pricing for market contracts and for standing contracts is from the regional areas versus what the pricing structure is in Adelaide. This has been reported as part of each of the half yearly reports that ESCOSA prepares. Now it might be that there is a perspective amongst some stakeholders that perhaps this isn't quite enough and perhaps there needs to be a more rigorous investigative mechanism in place. One of the ideas we drew on was the Gas Rules and we thought there was some possibility to discuss whether or not there should be some kind of register, and there are different views as to whether this should be public or private, but a register that Origin is required to report on regularly to ESCOSA about the number of access requests that are made to it for the SESA pipeline but also the laterals on which access has been traditionally difficult to obtain and what the outcome of those access requests were. So that is something that we would really ask people to think about. If you have an alternate proposal that you think is good, there are reasons why these options are good or inappropriate, we would ask you to provide your comments to us on

those matters. That's really the end of the specifics of the framework. I'm just going to hand back to John and he's going to talk more about the policy reasons behind our recommendations.

JT I think we can get through the rest of this pretty smartly. What we've got on the next couple of slides simply reiterates what I said earlier so I won't elaborate on it. We found competition is effective, we found that changes in costs and prices are being kept in line by competition. We think that price monitoring in a changing market environment is a prudent and responsible oversight approach. There is the power to re-regulate so the Government has not vacated the field. Retailers have an incentive to behave competitively and not to invite the Government back into the market place with direct regulation. We think that there is an appropriate incentive there. We think that the viability of the retail sector and the reliability of supply is more likely to be maintained under this more flexible arrangement. I just make the point that retailers, including the smaller and perhaps less financially strong balance sheet retailers, contact with generators in the market place. Generators will be concerned that the counter parties to their contracts are viable and can continue to meet their obligations under energy contracts and risks and uncertainties that might arise in that area can impact on the willingness and timing of generator investments over the medium term. So I'm simply saying a viable retail sector is in the interest of customers, the competitive process and the reliability of supply over the medium term in a changing market environment is also very important. So we raise those points but as well the very comprehensive consumer protection framework that currently exists in South Australia would continue to apply with all the rights and transparency and the complaint handling and other mechanisms that occur with that.

So, in summary, we think that this is a comprehensive and appropriate set of recommendations. It is not bare earth deregulation, there are a number of balancing features in the model that we've put together which we think is consistent with the requirements of the market to continue to perform efficiently but appropriate protection and safeguards for customers.

Now we've got a bit of quick discussion here on consequential amendments.

CM The Second Draft Report considered what would happen to various other aspects of the regulatory framework in South Australia if the Government accepts our recommendation that price regulation be removed. These are covered off in the next two slides and dealt with in the report.

The first one: the continuation of the obligation to supply but the adoption of the FRMP model we have already discussed. We haven't talked specifically about what happens with default

contract pricing but I think it is sufficient to simply say that retailers would continue to set their own prices as they currently do but our recommendation was that the ability for ESCOSA to set those prices, or the ability for those prices to be set by reference to the electricity pricing order or a historic schedule to the Gas Act actually be removed. More by way of completeness than anything else we just noted that there is no gas RoLR scheme in South Australia and we thought that it might be appropriate for the Government to consider introducing one at some stage.

The next point is somewhat more of an esoteric issue. There is a link currently between the RoLR price as set under ESCOSA's guideline and the standing contract price, so if you remove the single standing contract price it is appropriate to have a look at this guideline to determine whether or not changes need to be made to address that.

The final aspect was something that we recommended in Victoria and that was a consumer education campaign. We felt that it was appropriate that customers are aware that changes were taking place but they be reassured that consumer protection framework was remaining in place and we also felt there was an opportunity to try and educate customers a little bit more about some of the aspects of the energy market that they may not be completely familiar with at the moment.

JT Just to remind you submissions on the Second Draft Report are due on Monday 17<sup>th</sup> November and we'll be publishing our final report in mid December. We'll publish the Second Final Report and send it to the South Australian Government and the MCE and then the South Australian Government will take whatever action it considers appropriate on the report. So we're now ready for open discussion and I'm sorry that took a little longer than anticipated but now it is open to you to raise issues, make comments, criticisms that you would like to raise. We put a couple of issues up here for discussion but before we even look at those I would ask are there general comments or broader comments that anyone would like to make about the recommendations and approach we've adopted in this Second Draft Report. So open to the floor.

TW Tony Westmore from ACOSS. I'm just interested in terms of intersecting processes. You've moved to suggest the take up of the FRMP model but that's something which has been considered in the context of the National Energy Consumer Protection Framework and I'm just wondering if maybe there is some potential further down the track for you to need to revisit this.

JT Potentially there may be. What we have said is that we have been following closely the debate at the MCE/SCO level on this question and we feel that what we are recommending is consistent with the direction that that debate is going and we are anticipating that what we are recommending here will be, if not exactly the same, consistent with the MCE/SCO recommendations. Are you getting a different sense from your following of that debate?

TW I was just wondering to what extent you might be referencing the national framework.

JT No it's simply as you know the timing of the MCE/SCO process and, this is not a gratuitous comment, sometimes take a little extra time. We are following that closely and trying to be as compatible as we can. It may be that when that is clear there may be some adjustments that South Australia has to make.

MH Mark Henley from *UnitingCare* Wesley Adelaide. Just going back to one of your earlier comments you made in your presentation which is, I suppose, underpinning much of your analysis and you made a comment something like: competition is keeping prices in line for energy in South Australia; but I would have thought that it has been the role of the regulator and regulated price paths which has actually been keeping prices in line and I'm an observer as a South Australian resident of a history that when FRC was introduced a brand of price deregulation occurred. Prices jumped dramatically for low income households and it has only been with, I would suggest, a fair bit of vigilance from community and regulator that there has in fact been some checking of prices. So my question is about the role of regulator rather than the role of marketing, keeping energy prices in South Australia in line over the last 3-4 years.

JT It's a good question, Mark, to raise. I'm not fully familiar with the history of that very large price adjustment that occurred in South Australia but my understanding is that historically costs have got considerably out of line, I'm - sorry prices - out of line with requirements for business viability and it was recognised after a review by ESCOSA that there had to be a significant adjustment to prices, so that 21% price increase was in that context but I'm not expert on that. You're making the proposition though that having then imposed price regulation and a forward looking price path over time has been putting the cap on prices. I guess my response to that is that, as I understand it, ESCOSA's forecasting of cost requirements and so on has been looking to take account of real costs and real cost changes in operating the energy market and they've set conservatively a price path, under which the market has been discounting quite considerably between 4 and 8% we see, and competition is operating underneath that price cap.

In recent times we have found, and this is quite a section in our report dealing with retail margins, the evidence available and it's evidence that has come from ESCOSA's database, is that margins have been reduced to unsustainable levels because of that price cap. So that price cap is sitting there preventing adjustments or, no retailer is going to offer a price above the regulated price and if the regulated price is not reflecting changing costs you are going to have viability problems. So we're saying leave the flexibility to the market place, watch it closely and intervene if you see problems. So I think you're seeing it differently from what we are. We're saying the marketplace is doing the job, you're saying it wouldn't do it without the price regulation and I guess that our analysis is not agreeing with your view. Now regrettably perhaps that's not an ongoing debate. We've finalised our analysis and reasoning on the competitive marketplace. It was quite a complex and long report but we were confident of our interpretation, but we've seen your submission and a number of community sector submissions putting in that view that you will not get competitive price outcomes absent regulated benchmark. We think the evidence of retail rivalry, customer churn, other indicators that we've looked at suggests we have a very competitive market and it will keep prices in line with costs. So that's our advice. You legitimately are taking a different view.

JT Any other comments.

BS Burcu Subasi from Business SA. I would like to make a general comment. I would like to point out that Business SA is supporting most of your recommendations and we thank you for the report, and we do support removal of all price caps in South Australia mainly due to the upcoming CPRS, the Carbon Pollution Reduction Scheme. The fact that yes, markets do need some push from the Government for regulation and we do support the monitoring by ESCOSA but the whole point of CPRS is to get rid of the caps and to increase the carbon price so that people can reduce their consumption. So we do specifically support your recommendations in due care of coming CPRS as well.

JT Thank you for that, and to the extent that you are intending to make a submission you could make that comment and you could perhaps put the business community perspective on why they feel that might be good for South Australia and good for the energy market and so appreciate the comment. There may be different views on that and I would welcome to hear them. Any other comments in general before we go to the specific matters? Mark.

MH The analysis and the whole review, I understand, is about retail prices etc, however we simply raise concern about wholesale market places and the "gentailer" impact and so when you're

talking about profitability profit margins, I am assuming you only looked at the retail component rather than the net effect of gentailer and the net impact of profitability at the wholesale market and we continue to be concerned about the relationship between the wholesale energy market in South Australia and the retail energy market in South Australia.

JT As you've raised in your submission, and it was well supported I think by the customer side, a very comprehensive submission on that point. Again you may not agree with us but we took your submission very seriously. We examined the issues that you had raised from a number of different points of view. We certainly spoke to all of the retailers that operate in the South Australian market, that is to say the host retailer with the TIPS association and the others, we spoke to the AER and the ACCC and their views – who looked at this whole question from a competition law point of view. We spoke to ESIPC here in South Australia and ESCOSA. We took it very seriously. We also got a consultant to give us advice, an expert on competition law and industrial organisation, and we put down reasoning in our report why we felt the dramatic issues that were seen in March were transitory, in our view. And the combination of unusual weather patterns in March, the contracting positions that some retailers were in, including AGL having just acquired that plant, as well as the changes to the interconnector all combined to a set of circumstances which, yes, there was price taking activities in that time but we concluded, for reasons put in our report, that this was not a sustained demonstration of market power. So again your submission took a different view on that. We responded to it, analytically and in some detail and we did not agree that there was a sustained market power issue. There are structural issues in South Australia including the position of TIPS in the merit order which are of concern, or aren't as competitive as they might be. We understand, including from ESIPC that from many of the dramatic changes in the merit order and the generation entry that will occur, are planned and will occur in the context of climate change policy, that situation is likely to change. But you would have doubtless, Mark, read the rather tortured and detailed response we put to your submission and I guess that is the position that we came to after all our analysis. And again you and some of the industrial commercial customers in South Australia, may continue to be concerned about that situation whether the future developments we're anticipating actually emerged, but that was our conclusion.

MH I guess my supplementary question is one about timing. You talked about the changes in the merit order for TIPS and my understanding and I may well be wrong here, but my understanding is that that is still 2 to 3+ years out. So my understanding is that South Australia given similar weather circumstances, February/March 2009 that we had this year, is quite likely to see similar results in the wholesale-retail market in South Australia, which would to us

suggest a very cogent reason for in fact pushing out any removals or reductions in price control because we don't see that the market is going to change quickly enough to merit the fairly prompt removal of price controls that the AEMC is proposing. Could you just talk about the time frame issue?

JT Well I will, I was going to go back to the point that was raised with us by AGL, the retailer and generator in question and other retailers that the particular contracting position that AGL found itself in having acquired TIPS and having had a full contract position, motivated or necessitated a particular approach to that event which would not have occurred had they had a balanced contract book. So there were a range of reasons including the interconnector de-rating, and the lack of transparency on that matter, which ought to change the future behaviour so analysis tells us even if there wasn't a dramatic and early change in the mix of generation in South Australia. In terms of the future development we, as you probably know, are going to be doing a review as I mentioned on the impacts of climate change policy on the energy market and this whole question of what changes are likely to occur where in the merit order. What changes are likely to occur in the mix of generation and South Australia is going to be a particular focal point for a lot of renewable generation. Those matters are still under analysis. The ultimate outcome will depend on what investors do when they know what the rules of the game are. So I can't really forecast a timing issue other than to say there are pressures building for some quite significant changes in generation in South Australia and elsewhere but the couple of points I've raised. AGL's contract position and the rerating of the interconnector, they are put to us as matters that were transitory, impacted on the situation that occurred as well as very unseasonal and consistently hot days in March for which retailers and generators were not appropriately contracted for. So for all that and particularly relying on people with more expertise in this market power area, the AER and the ACCC who put in submissions into our process, we also spoke to them privately and we were persuaded these were transitory matters and not sustained matters. Now, Mark I don't know that I will persuade you of those matters but that's our view...

MH So is there a guarantee that it will be cool until next March?

JT Who knows, but there are going to be issues on which we are not going to agree. You've put your strong view and we respect it. We've put our response to it and I think we've finished up in different quadrants as to how we see that particular issue. That part of our work has now closed. That's gone off to the MCE and the focus now is what will the South Australian Government make of our analysis, our recommendations and their response to that. And so,

you don't need my encouragement. There is another stage in this process where you are of course open to present your views and arguments and I am sure you will. Okay, other comments and questions.

TW Just on the monitoring thing and it goes to the issue of whether it is a cap or a standing offer. In other jurisdictions people can offer to sell electricity at higher prices and people do buy at higher prices because there has been product innovation, including stuff like Green Power and there is a sucker born every minute. So it is not in fact a cap and the CPRS in fact could be part of a regulated price. The impact on the cost of wholesale electricity could be actually fed through to a regulated price. Which goes to my point about monitoring. I'm no expert in this stuff either, but it struck me that what you were talking about was monitoring retail prices and reporting on retail prices, whereas what regulators have been doing around the country is building a price from various bits and pieces that come together, so wholesale and network and all of the other bits and pieces. So you're going to be looking at prices from the outside, you say transparently, but as I understand it not investigatively, not with any kind of notion of interrogation about what lies behind those prices and so CHOICE is, for example, about to enter the market of comparators and say in your jurisdiction, in your locale, you can compare blah, blah, blah. I am just wondering what, in fact, are the costs and benefits of comparing retail prices that are available transparently, publicly to everybody.

JT A couple of things. Whether they inform people's choices, that's more the comparator CHOICE magazine approach. They may, depending how ESCOSA put out the information, it may be a quick reference as someone decides to go to the market and investigate more. But I think the proposition that a public report on the performance of retailers operating in a market on prices, what is their standing offer price in the terms that we have defined and how do they compare with each other at a point in time, how do they vary over time, is useful information. As well, ESCOSA has the current power and it would continue to collect information, have reported to it information on the market offer prices that are in the market place. So there's another dimension. That's useful and comparisons in a public report across business as to how that is going, is useful. ESCOSA also in its current information disclosure code and obligations collects a range of other information about market shares and cost circumstances and it would be able periodically as further reference, for example, to look at what is happening in the wholesale market contract market. It might be able to collect periodic information on various relative cost inputs. So how it puts together this monitoring report and how it comments on the changes and implications from report to report has two things of value. One, when I was in Victoria and I know the same is here in South Australia, these monitoring reports on the performance of

retailers or distributors, they take notice of, and where they sit in the pecking order and what is being said publicly about their performance in the pecking order, matters. As well it is informative to Governments as they look at this question, is something changing, do we have to call on the AEMC or even as a prima facie investigation do we have to ask ESCOSA to look a bit further at something, there's been a change in the market, what is it. So it just seems to me that is the context in which we are saying there can be reasonably comprehensive monitoring and reporting but still let the market run and only when there is a trigger, some event or change which can be supported by the data that ESCOSA collects, would you then trigger this question of reintroducing regulation. So it's not just trends in prices, there can be more that can be gathered and ESCOSA currently has the power and is currently doing it. Now I've probably talked around your point but it is a little different from simply a price comparator is what I'm saying. Okay any other points?

OC My name is Owen Covick I'm the chair of the Energy Consumer's Council here in South Australia. The Energy Consumer's Council is required to advise, or provide our advice to the Minister here in South Australia, so this question is designed to get some help from you in our deliberations on one particular feature here, so the feature I am interested in is this reserve power to reintroduce price regulation. I am not for a minute suggesting that prejudging whether we are happy to get to that point, but imagine if we do get to that point and imagine if the AEMC had been able to judge if there was effective competition or an absence of effective competition. Hypothetically let's imagine that you've adjudged that there is an absence of effective competition, I understand that that requires a lot of imagination to imagine that you ever would judge that there was an absence of effective competition from what we've seen so far, but if you are happy to hypothetically to imagine that it did happen, could you explain the additional step, what types of circumstance at that point would you rule out of justifying reintroduction of regulation of the price and what type of circumstances would at that point would you judge would you require the, or justify the reintroduction of regulatory prices.

JT I won't go back to whether we could ever see a need for regulation, I'll pass that by, taking in your terms the broad case or justification for price regulation is where you have evidence of market power, you haven't got a competitive market structure and behavioural environment such that prices can be kept and sustained above the cost of supply because you haven't got that competitive pressure. So you'd be looking for market power, a change in the structure or heaven forbid a change in the coordination or collusion arrangements within the industry that was sustainably keeping prices above cost.

OC <inaudible> hypothetically you've got to have the absence of the competition. So you've done that and you've found that there is an absence of effective competition, could you then tell us the next step.

JT Okay, then the next step is to say Ok, part of that first question, what is the cause? I mean, hypothetically again, if the cause were that there was some regulatory or other obstruction in the marketplace that if it were removed, or some disincentive, for competitive behaviour if that could be addressed rather than regulating price, you might recommend something that could address the obstacle to competition. Assuming though, with straight market power, five retailers have left the market you've got two large retailers there, they are vertically integrated, they are behaving in an anti-competitive way in the sense of inefficient pricing, the evidence shows that, that seems to be a black and white clear case that the market pressure of competition is not disciplining monopolistic behaviour so there is the black and white case. You've got market power, the structure of the market has changed, the evidence from the pricing and cost behaviour is you've got profit taking on a continuous basis and the market is not going change that, absence intervention, price regulation. That is that end of the spectrum. Now there may be within that shades of grey where you would see enough in the change of the circumstances and enough anomaly in the pricing behaviour for you to say no, there is a case for putting a price cap over this stuff to make sure that they stay within that margin. So I don't know, because we are talking hypothetically it is a bit hard to be more precise than that, but I think you can see at least the book ends, one end is caused by some distortion which could be removed from the market. At the other end you've got a market structure and behaviour where competition is simply not disciplining price, regulation is the tool. We regulate distribution and transmission simply because they are largely monopoly networks, we are not going to see competitive behaviour disciplining them. If the retail market evolved to that end of the spectrum, then the price regulation tool is an appropriate policy tool. Now I'm talking in extremes here but I'm trying to get to the essence of what you are raising. Is that helping at all? Good. Right any other points to raise?

In one sense what we've put on the table isn't a complex matter. I think you can see our model. You can see how it varies from the existing arrangements and the high level question is for the South Australian Government, should we do it or not. We've got a lot of detail within that which needs to be clarified including the monitoring arrangements but I think our proposition is fairly straight forward, you agree with it or you don't for a reason and we'd like to hear your reason where you don't. Are there disagreements with our proposition? I think Mark's view that you won't get competitive outcomes unless you've got a regulated price over the top of it is

one view which has been put. We haven't agreed with that but are there other views that this would expose customers in some way or be inappropriate in some way?

OC <inaudible> global financial crisis, our whole range of questions on energy prices which go above and beyond the CPRS, so for us there is a moral issue which is removal of price controls is exposing, particularly marginally disadvantaged customers to a very high level of risk because we are talking about a very volatile market. So there is an economic values question that we also hold very dearly and we think one of the things we think is, what's going to happen to the proportion of disposable income, available income spent by low income household on energy over the next 3-5 years. The sort of answers we are coming up with is that already we know that from household expenditure survey data that the poorest households in South Australia in 2003-2004 were spending about 8% of their disposable income on obtaining energy, now we can see that going up 15-20% of disposable income 3-5 year time horizon, so this is a major poverty and disadvantage issue, so for us exposing vulnerable households to much greater uncertainty than we believe necessary we don't think is a prudent measure. So and that's a broader philosophical point of view which I think is additional to what you've been talking about and does take into account some very major global events and the globalisation of energy markets. That's a statement more than anything else. I do have a couple of questions about the mechanics of the statutory power arrangements. And I really am wondering what sort of triggers would be observable and appropriate from your perspective to trigger a review of pricing in the South Australian Electricity or Gas market?

JT Well, first of all the way we are proposing this it would be a matter, and I think we've done this in Victoria as well, it would be a matter for the Minister to say, we think there is a prima facie case that circumstances have changed.

OC: <inaudible>

JT We are suggesting there be a power in the South Australian law for the Minister to request the AMEC to conduct a review because the Minister believes there's been a change of circumstance. By implication he would put whatever his prima facie case is and I would expect that the ESCOSA monitoring and any ad hoc enquiries that he might ask ESCOSA to conduct to support a preliminary case, but he would put the case. We're not saying it's got to be this, that or the other thing or there's some materiality threshold, he can request it, however then it would be for us to go through the process of what has happened, what has it done to the effectiveness of competition, what are the appropriate policy responses, is price regulation the appropriate

response. And that would be done fast. We've said 35 days. It has to be done quickly, we can't take a 12 month period. We would draw on, our base line would be our earlier review supported by data that ESCOSA had gathered and reported together with rapid fire enquiries around the market place, more of an ACCC type enquiry to various market participants. We would conduct that review, draw our conclusion on both competition and the appropriate policy response and provide our recommendation back to the Minister and the law, we are saying, should say that if we don't recommend that it should be done for a reason, he shouldn't do it. Now in other words he's got to have a positive recommendation from us to impose price regulation. So that's the proposition. That's broadly been accepted by the Victorian Government with some fine tuning. They've put some further bells and whistles around what we recommended. That's what's on the table for the South Australian Government. Do they see that as a viable model? We think it is but there is a debate at the policy level about that. But that's broadly how we would do it, but it would be his discretion to ask us and I'm assuming and expecting he would make a preliminary prima facie case that there had been a change which warranted it.

MH Is the trigger most likely to be <inaudible>

JT Yes.

MH <inaudible> a gas retailer leaving the South Australian market wouldn't be a prima facie trigger.

JT Not necessarily.

MH Despite high levels of industry concentration.

JT Yes. I mean we make the point, others might not agree, that numbers and concentration of itself isn't the definition of competition. It is certainly a very important input but you do look at behaviour and you can get, not much of Australia's industry is highly concentrated and much of it is highly competitive. You can get competition between small numbers. You can get either laziness, collusion or the exercise of market power amongst small numbers.

MH <inaudible>

JT So you'd look at a range of evidence including the structure but also the behaviour and related matters. So it's hard to forecast but this is the concept and the framework within which we think this would be addressed and our proposition is that the Minister has a tool to react and to reimpose regulation if there is a genuine case, accepting which he may or may not, our analysis and our recommendation as the safeguard, he can come back into this market if there is a genuine change of circumstances. So customers have got that level of assurance.

TW A couple of observations, the 35 day period depending on when you issue the writs for an election, 35 days would get you just about there. So prices might be sufficient to call it on I reckon. Just an observation about the monitoring with a view to the great dream of the national market. I am wondering whether some kind of comparison to inter-jurisdiction prices might be available, so this is what is on offer in South Australia and this is on offer a couple of selected randomised benchmarked whatever prices in other jurisdictions, might be interesting just by way of comparison.

JT Well, first of all, Victoria is in this space although the degree of data collection is less than we are recommending here in South Australia. So firstly some consistency about how this is done across jurisdictions, but then the capacity for someone like the AER to have a more comprehensive oversight. There is a little – or bigger – question about how far we need to take this. There is a bit of a risk that there's an enormous data collection and reporting process going on which exceeds the risk that we're trying to manage here but assuming proportionality about the way this is done I think some comparisons across jurisdictions can be helpful. I make this other point though, we are told through this review that energy costs throughout South Australia for a range of reasons are necessarily higher than a number of other jurisdictions so there are reasons why we see differences across jurisdictions but they could be identified.

TW I am just wondering does the Victorian regime, or what is proposed for Victoria, did they chose a lower set of standards or measures than you proposed or have you refined your approach in dealing with South Australia to suggest a tougher regime of compliance reporting, sorry, monitoring.

JT As I understand, correct me if I'm wrong Catherine, but in Victoria they added some features to what we had recommended, not a lot, but they added some extras. For instance we said initially you should monitor and report on the standing offer prices published by individual retailers and leave it there, because market prices in Victoria were not monitored and reported on, the Government I understand has decided that both standing offer prices and market offer prices

should be monitored and reported on, so they added that feature. Here we noted that ESCOSA already collects a range of data and it has to be reported to ESCOSA under its current price regulation arrangements. We are saying that data collection should continue as part of the monitoring arrangement and we should add to that monitoring the published standing offer prices of each individual retailer. So there is difference. It raises the question should we be adding degrees of differentiation across jurisdiction as we do this work but we take jurisdictions as we find them, the circumstances in South Australia are different. I think the reform process here is going to be, from a policy point of view, more challenging than it perhaps was in Victoria. It seemed to us that more data to give comfort to Government and the community was a reasonable thing to recommend here. But we do have to think about this cross jurisdictional difference and whether your point about comparisons across jurisdictions would be helpful. I like transparency myself but you can over do it, and there can be excessive cost for no extra benefit.

TW To go to the RoLR thing, just quickly, you know that there is some work underway to review RoLR arrangements nationally with a view to harmonisation and consistency. I don't know the detail of what happened here in South Australia. I do know that South Australia like Tasmania is a little different from some of the other jurisdictions in that the distributor is actually the retailer of last resort. What was interesting was the gentleman who attended the recent seminar about RoLR in Sydney reported that ETSA had gone to market effectively recently in search of a RoLR and I don't know it may have been that the terms on which they went to market were unattractive. The upshot is that though that they were unable to find anyone to put their hand up. They couldn't find a retailer who said: Yes I will take a whole bunch of customers, if you give them to me on a platter. I am just wondering: I understand that the conversation about whether or not there is competition here is closed but I am just wondering if you've got any reflections on what that might have meant.

JT Well it's a bit hard for me to say that and it might be appropriate to call on a couple of the ESCOSA members of the audience to comment on this but I'd just make the general point that there is remaining, which we all know, ambiguity about what the RoLR arrangements are in different jurisdictions particularly for electricity and how they would operate if there was a larger retailer failure so that question of a review and making sure we get both adequate design and performance in that area and as much consistency as possible across jurisdictions, noting many retailers operate in different jurisdictions, is important. The under-development of gas RoLR arrangements is also a worry because many retailers are not only multi-jurisdictional but dual fuel, and so if the retailer goes down and it's operating in three jurisdictions with gas and

electricity customers to be transferred and managed that is a significant issue, and as we look at child minding and financial institutions, ensuring that there is a prudent safeguard mechanism to deal with a potential serious failure is pretty important, for customers, but also for confidence in the market in managing that transition. It is with the MCE/SCO at the moment. There was a suggestion that it should come to us at one stage but I think that is where it is being handled. I'm not across the status of it at the moment. I don't know if there is any comment Pat you'd like to make in general on this matter.

PW Not terribly much. Pat Walsh, the Chair of the Essential Services Commission. But just on gas RoLR I think that is a question that does need to be directed to the South Australian Government. As I understand it the gas regulations do provide for the possibility of a gas RoLR to be established but it hasn't been done yet and it really does rest with the Government I think. In terms of the electricity RoLR arrangements, ETSA is the RoLR through to the end of its current regulatory period which is mid 2010. The Electricity Act specifies that, so the Parliament will need to either to extend that beyond that date or else someone else will need to be appointed. Clearly ETSA doesn't have many of the systems that are required that enable it to easily discharge those obligations. It doesn't have the wholesale market participation systems nor billing systems and those sorts of things. So in one way or another, the best way for it to meet its RoLR obligations is to seek to contract in some way with a retailer. Now in order to ensure that retailers do assist it to meet those obligations the Electricity Act requires that as a condition of retailers licenses they are in fact required to assist ETSA in meeting its RoLR obligations. Now I am aware of some negotiations that are underway. I think it would not be prudent of me to say exactly where those are at but there is an obligation on retailers to provide some assistance to ETSA in meeting its RoLR obligations.

JT In the context of climate change and the context of financial pressures this does remain an area of risk for the market that needs pretty urgent attention, it is with Governments. All we can do is urge them to speedy and effective action. By the way, we'll be commenting somewhat not gratuitous, but it is an observation in this report that this remains an area to be dealt with in South Australia and nationally for the security and the confidence of the market more generally.

MB Melinda Brindle, COTA Seniors Voice. COTA remains concerned about your finding that competition is effective for gas and electricity in South Australia largely because of concern that should the South Australian Government actually take that on board and remove price controls that prices will increase, particularly for our constituency many of whom are older, on fixed incomes and unable to afford their energy prices now, let alone if prices increase substantially

and there's every indication under the current initiatives on the table that they will actually increase over time and quite substantially. Catherine will know particularly in our submission that we were also concerned about gas in regional areas and ourselves argued that we didn't think that gas in regional areas was competitive at all. We are pleased to see in the second report that some attention to that has been given in the recommendations of monitoring by ESCOSA in terms of gas but I want to pick up on something that Catherine said in her presentation a little while ago about the maintenance of a register of approaches to Origin for access to the SESA pipeline and the outcomes of those requests. Catherine you mentioned or queried whether that would be made public or would remain private. I was not sure where you were going with that and whether or not information that was provided by Origin would in fact be made public.

JT Can I respond and you might add to it. My understanding of what Catherine was saying is that these kinds of negotiations for access to the pipeline either for firm capacity or interruptible capacity are important commercial negotiations and publishing the kind of negotiations that are going on may have detrimental commercial or competition implications, and I hear you say, what competition but leave that aside and so the question of the regulator being well informed by the principal contractor and operator of the pipeline of what requests are being received – are they all being knocked back, why are they being knocked back, is it to do with capacity on the pipeline, the pipeline is full or is there some indication that access is not being given anti-competitive reasons, that would be a trigger for the regulator to consider whether some issue needs to be raised with Government, whether there is an issue that is simply the normal commercial behaviour and there isn't capacity for these extra access seekers unless they pay for compression of the pipeline or some other thing, or is there a market problem, and doing that I think the point is, confidentially to the regulator with a judgement call then as to whether we've got a policy problem that needs action and whether it is action that can be taken by the regulator within its framework. There is or was, I understand, Pat, an MOU about how Origin would deal with access requests, is that MOU still existent and if it is, is it being complied with, if it is being complied with and there is still a problem is it inadequate. There are a whole range of questions or the reporting might say, within the constraints of the pipeline and the market place this is being handled properly there is no issue. But rather than publishing it, sometimes the independent official standing between market participants and the community to analyse these issues, to identify problems, suggest solutions is the better way to go. So I think that is what we were thinking about, not to be non-transparent but to recognise commercial and competitive implications of information of that sort. But if it were taken up, and it was only a

suggestion, ESCOSA then would be in a position to identify problems and initiate actions, was our thought.

? I'd just like to ask another question which is: Am I right in thinking that right now, at this moment you said that you are providing advice to the South Australian Government and it is up to the South Australian Government whether it accepts in full that advice or not?

JT Qualification – our final report in December will be our final advice to the South Australian Government, then it is a matter for their decision within the COAG Australian Energy Market Agreement and heads of Governments agreeing to certain policy directions. This work is part of that but it is still a call for the individual jurisdiction or Government as to how it handles this matter, so yes.

? So at the moment the Minister here in South Australia can look at the advice you've provided about the degree of competitiveness, degree of effective competition within the South Australian market. The Minister can look at other sources of advice he has received on the degree of effective competition within the energy markets in South Australia and can make a call that he hasn't been convinced that things have got to the point where the removal of the price regulatory arrangements is in order. That's the current position?

JT That is certainly the case. Noting he has before him a very comprehensive and persuasive case that competition is effective, if he wanted to look at other sources of advice both on that question and whether or not there was a policy action issue he should or should not take, the Government has jurisdiction in South Australia and they'll make the call.

OC But you seem to be proposing that we tear that up and as we go forward instead of the Minister receiving advice from you and from other people and forming a view as to which is the best advice, competition amongst sources of advice, we tear that up and we move into a situation where you are the 100% monopoly supplier of advice and without you having said it is our advice to do X, he can't say no to your advice. That is your recommendation. That's a pretty – for the Minister to accept that and tie his own hands going forward regarding reintroduction of regulation, tie the hands of any successor ministers of energy within the present Government, tie the hands of ministers of energy within alternative Governments should there be a change of Government in South Australia or to just accept one single source of advice, because it is possible, it's conceivable that the AMEC might fall into the hands of some sort of zealots who could not see any possibility that regulation could be the sort of things one should recommend.

JT I hope you weren't suggesting that we were over zealous already. Could I just make these points. You make a fair point. Here we are in a federation with individual Governments with their own jurisdictions. We have a COAG Council of Australian Government process, heads of Government come together periodically and agree frameworks for reform of industry or policy in the interests of Australia as a nation and they set high level frameworks within which more sectoral ministerial action occurs. I mentioned this Australian Energy Market Agreement, that's signed off by Premiers, Chief Ministers and the Prime Minister of the day. It is a COAG agreement. It is not law but it's an agreement. What we are doing in relation to these retail reviews and the role that we are playing is clearly set down in the Australian Energy Market Agreement and signed off by the Premier of South Australia amongst others. So the process: the AEMA says first of all we'll do these reviews, we'll conclude on the effectiveness of competition, we'll recommend on what should be done about retail price regulation and if there is a change of circumstances, regulation can be reintroduced but only after a recommendation from the AEMC recommending that that is a right course of action. So what we are doing is within the framework of a COAG agreement. Second point though is that if this South Australian Government hypothetically were to accept our recommendations, they would have to be given effect to in law of South Australia. The Minister and Government would have to take legislation to the South Australian Parliament and it would be dealt with in the normal Parliamentary process. So if the parliament on the basis of the case put by the Government in the context of a wider energy reform agenda, which is being conducted under this COAG agreement, if the parliament said yes, taking the long view, we will sign up to this method, then as you say subsequent Governments are bound, except to the extent, for whatever reason they go back to the parliament and say: no, we are not prepared to do that. So I think that it's within the framework of national economic reform under COAG but it recognises jurisdiction and legislation powers of individual parliaments and we are an advising instrument. We are not – we can be ignored, rejected but we put analysis on the table to inform policy after wide consultation so that Governments have the benefit of seeing that the submissions, the analysis, the data that was collected, and forming our conclusions, was systematically presented. Then they say well having said that, we've listened to various other sources of advice, we're either going to modify your recommendation, or we are going to reject it, or we are wholehearted persuaded that we are going to accept it. So I think the process is okay. We are simply advisers and that is the role we are playing. But our advice has to be sought before the Minister could introduce this conditional price regulation if our recommendations are accepted, they may not be. I hope they are. Now the Minister will publish and deal with our recommendations early in

the New Year and doubtless he will consult as he informs himself about the right position for South Australia in this matter. So that's the context we are in.

AS Anna Stewart from AGL. I guess this is more of a general comment, as well John, and it's in response to some concerns that the consumer around lower income and fixed income people bearing the brunt of any price increases, I think regardless of whether or not we find price caps are removed, prices are going up, climate change policies are pretty much guaranteeing that and I think that is where you need to look at the framework that is supporting the energy market. So in Victoria we're moving towards a deregulated market but we're not losing protections, retailers will still have to supply hardship programs and there is a very comprehensive concessions program in Victoria. I think this is something South Australia obviously needs to be thinking of as well. Price cap removal in and of itself is not what is going to potentially burden low income people further. I think it's about dealing with that and the reality is retailers will be bearing the risk of climate change, wholesale market cost increases. They need to be viable businesses in the community to provide the essential service so.

JT You raise I think a point that is worth commenting on. When the representative of the ageing was speaking I think we well understand the point about the ageing and the vulnerable customers and the impact of energy price increases on their available income and lifestyle. The question of whether that problem is appropriately addressed by holding prices at low levels when costs are increasing. I thought you were acknowledging that genuine cost increases have to be passed through and if as a result of that there are insufficient income problems for sectors of the community, appropriately that needs to be handled in other ways, possibly through some of the things that were just mentioned, concessions, hardship policies, but if I know this is not always accepted but the welfare sector of government needs to do much of the heavy lifting when we see this kind of change going on. If prices are suppressed below viable levels the consequences for all customers and the vulnerable are not acceptable. So it is a very important point and I know that Governments don't rush to deal with the point that I'm raising but if within the intention of helping the vulnerable prices are kept too low we are not going to help customers in general and those customers. And it is a dilemma as to how to deal with the vulnerable in a context of maintaining a viable and reliable energy market which we all want. I think you are raising that point that this is your issue as well.

MB I can quite understand the complexities involved in the issue and the last thing we would want to see is retailers go under and there would be no viable energy retailers in order to provide as you quite rightly say an essential service for people, because that's not an option for modern

society at all. And we do recognise that concessions are an important tool for assisting people to actually meet their energy costs, however COTA does have an issue with the States Government's concessions policy in this area and its concessions policy over all, in that it has concession for energy and other things but it sets it at a particular rate at a particular year, for whatever reason and then doesn't increase it and maintain it for real value, so the energy concession in this state has been set, I think the last setting was 2001, and energy costs have risen substantially in that time and there has been no subsequent increase in that concession over that period and so COTA is arguing in a number of areas that concessions policy should be reviewed in this state and that concessions should actually be maintained for their real value because at the moment that doesn't happen sadly and it does impact on people's ability to pay their energy bills on a regular basis.

JT Well maybe, far be it from me to advise you how to engage with the Government, but as this report of ours goes before the South Australian Government the question of the implications of it in a rising cost and price environment for the vulnerable simply raises the importance of reactivating that debate, that the welfare and vulnerable, hardship policies need to be consistent with the market environment which is evolving and pressure to consider both sides of that equation rather than one and put the other in the bottom draw would be one strategy to adopt. But I better stop with that kind of advice, but it does seem to me that it is often a question of the disadvantaged and the vulnerable that drives regulatory policy and energy when getting that balance right would allow both objectives to be better achieved. So you might think about that as well, I am sure you are.

MB Yes, we are. Thank you, I agree with you.

JT Well we've got a couple of points there, I think we're just about out of time. But the couple of issues we raised about the gas access and gas pricing issue. We floated those and we're seeking comments. You might - retailers present and customer reps - might just think about those and comment on them in submissions. We floated them as possible responses to concerns that have been raised. We also recognised there are commercial implications for introducing additional layers of oversight of that sought. We are pretty open in whether this is the direction to go or not and we'd certainly invite your comments and submissions on whether that would be constructive or not. And I think in particular Origin we would like to hear from Origin in terms of the commercial and market implications of the kinds of propositions that we've raised. We recognise that they may not be particularly attractive to Origin but we'd like to hear about that, other people's views given the nature of the concerns raised whether this transparency would

give comfort and may identify solutions if there are problems out there is another point that you might raise. Any other comments that people might like to raise things that we haven't deal with, because I think it is about time to close down. Well if there is not I would very much encourage you to get your submissions in. I hope you will be able to hit the deadline because we have to get them analysed and a decent final report in by the middle of December. If you have points to make but lack resources to make them, short emails, make your points, even a telephone conversation or a meeting with us if you want to elaborate a point, but don't feel it's got to be a 30 page paper. A one pager would do if you want to make an important point.

?? <inaudible>

JT We will if you want to put an email in and say I'd like to talk to you about this to elaborate the point and the concern we have, we would treat it in that way, in the next couple of weeks you could get your responses in we would very much appreciate it. Thanks for your time today it has been very helpful to us and I appreciate your time again.

End of transcript.