

25 July 2008

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Thank you for the opportunity to comment on the MCE SCO Paper National Framework for Regulating Electricity and Gas (Energy) Distribution and Retail Services for Customers Policy Response June 2008.

The Energy & Water Ombudsman NSW investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers.

Overall the proposed Framework provides an adequate basis for the development of law and regulation for energy services for customers. However, EWON believes that there are some aspects of the proposals that reduce current protections for NSW consumers and we will address these in our submission and in the Table of Recommendations.

We have commented on key aspects of the Policy Response Paper and have made specific comments on each recommendation in the Table of Recommendations.

For ease of reference we have adopted the same numbering as the MCE SCO paper National Framework for Regulating Electricity and Gas (Energy) Distribution and Retail Services for Customers Policy Response.

If you would like to discuss this matter further, please contact me or Chris Dodds, Policy Officer on 82185250.

Yours sincerely



Clare Petre
Energy & Water Ombudsman NSW



Energy & Water
Ombudsman NSW

Response to

*Ministerial Council on Energy
Standing Committee of Officials*

**National Framework for Regulating Electricity and
Gas (Energy) Distribution and Retail Services for
Customers Policy Response Paper June 2008**

Submitted by the

Energy & Water Ombudsman NSW

25 July 2008

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1 Introduction

The Energy & Water Ombudsman NSW (EWON) is pleased to respond to the MCE SCO Paper *National Framework for Regulating Electricity and Gas (Energy)*.

Established in 1998, EWON is the approved independent dispute resolution mechanism for customers of all electricity and gas providers in NSW, and some water providers. Our aim is to provide fair, equitable and independent investigation and resolution of customer complaints. We work with all the key stakeholders – utility providers, community agencies, government, regulators – to improve service delivery standards for the benefit of NSW consumers.

EWON has previously contributed our views to the consultation in relation to Working Papers 1-5 and to the Allens Arthur Robinson composite paper and table of recommendations. We acknowledge that a number of the issues we raised have been addressed in the current Framework.

We note that there are other energy reform programs occurring concurrently with this consultation. It is critical that where such processes overlap with consumer protection matters covered in this Framework document, the Laws and Regulation reflect all of the relevant considerations.

We suggest that of particular importance are Retailer of Last Resort arrangements, Business to Business rules concerning transfer of customers, and the various programs concerning meters and metrology. There is the possibility of significant consumer detriment if reforms in these areas are not fully reflected in the Laws and Regulations.

2 Governance Model

2.2 Contractual Model

EWON welcomes the contractual model endorsed by the Standing Committee of Officials (SCO).

In particular, we welcome the proposal for a default contractual relationship between distributors and customers. In the area of gas connections in New South Wales, there has to date been no contractual relationship between small end-use customers and the businesses that operate the gas distribution networks to which customers' premises are connected. The 'linear' contractual relationship of customer-retailer and retailer-distributor operated quite satisfactorily until recent times. However the introduction of retail competition for small gas customers in 2002 and the changing ownership and structure of the gas retail and distribution businesses in New South Wales mean that a move toward uniformity with the electricity contractual model will offer greater clarity to customers regarding connection and supply, eg the cost of new connections and responsibility for metering services.

2.3 Definition of distribution services

EWON agrees with the SCO that it is important to articulate what distribution services are provided to customers. EWON would endorse the four key points identified by the SCO, however we also would consider metering to be an essential service delivered by distributors to customers. While recognising that this issue is partially addressed in Section 2.5 of the Policy Response paper we suggest that installation, maintenance and reading of meters are clearly a distributor responsibility, and as such should be part of the definition of distribution services. We therefore suggest a further dot point which would read:

Services related to metering at the customer's premises.

This allocation of responsibility is a reflection of the recently adopted MCE Statement of Policy Principles on smart meter roll-out, in particular principle 3:

A distribution network service provider who is obliged to roll out smart meters should have exclusivity over meter provision and responsibility for related metering data provision in respect of the customers covered by the mandate during the period in which the distribution network service provider must complete that mandate.¹

¹ MCE Statement of Policy Principles June 2008

3 Retailer-Customer Arrangements

3.1 *The obligation to supply*

3.1.1 Designating retailers with the obligation

In responding to the *Retail Policy Working Group - National Framework for Distribution and Retail Regulation: Working Paper 1* EWON indicated our support for allowing designation of retailers with obligation to supply to be by Ministerial direction within local jurisdictions. EWON notes that Allens Arthur Robinson (AAR) identified some problems with the Financially Responsible Retailer (FRR) including:

the potential for additional regulatory burdens for second tier retailers, incompatibility with jurisdictional price regulation arrangements which are based on the LAR model and uncertainty surrounding the lack of practical experience with the model.²

We query the identified ‘incompatibility with jurisdictional price regulation’ in the light of the NSW Government’s decision to continue retail price regulation until 2013.

3.1.2 Customers who benefit from the obligation

Obligation to supply. EWON is concerned about the proposed reduction of protection for small non-residential customers in the SCO recommendation for the threshold to supply to be reduced to 100 MWh per annum. Given that only one state, Queensland, (as detailed in Table 3.1³) has a threshold for obligation to supply at 100 MWh per annum, the SCO proposal to have this as the national threshold significantly reduces the rights of non residential customers in every other jurisdiction.

As the Utility Regulators Forum (URF) pointed out:

There may be a case to argue that these customers do not require the same level of protections considered necessary for domestic customers. Conversely, there are some very small business customers who consume large amounts of electricity (for example, fish & chip shop and delicatessen owners,) who may not be any more sophisticated than some domestic customers and, in some areas, may have significant English-language and comprehension difficulties.⁴

² MCE SCO National Framework for Regulating Electricity and Gas (Energy) Distribution and Retail Services for Customers Policy Response Paper, June 2008, p19.

³ Ibid, p23.

⁴ *Regulation of Retail Service Standards in the National Market Utility Regulators’ Forum Position Paper September 2006*, p13

The URF thus concluded:

Small customers, including some small business customers, are not sufficiently informed, experienced or motivated to ensure that their energy market contracts contain efficient, fair and reasonable terms without the support of basic customer protections.⁵

The view of the Utility Regulators Forum is consistent with EWON's experience with many small businesses that use more than 160 MWh pa. EWON has been contacted by many businesses that use more than 160 MWh pa, but they are essentially small businesses in nature. For example, a food handling company might use a lot of electricity because of the size and number of freezers, but the company itself is quite small; a workshop or smash repair firm might rely on high powered equipment that uses a lot of power but the business itself is small.

When Joe opened a small café he arranged supply and regularly paid his electricity bills. After two years his retailer contacted him to advise that he had been incorrectly billed, that he should have realised this, and that he owed \$40,000 for the backbill. The retailer initially refused to apply the protections of the regulations as they argued the customer consumed over 160MWh per annum. Joe argued that if his billing had been correct, he would easily have able to reduce his electricity to below 160MWh and thus would have been eligible for the backbilling protections that limit recovery to up to 12 months prior to when the undercharge is discovered. EWON assisted in negotiating a payment plan and Joe is now on a standard supply contract with all of the relevant protections applying.

The Australian Bureau of Statistics provides the following definition of a small business:

For the purposes of this publication a small business is defined as a business employing less than 20 people. Categories of small businesses include:

- non-employing businesses - sole proprietorships and partnerships without employees;
- micro businesses - businesses employing less than 5 people, including non-employing businesses.⁶

⁵ Ibid, p3

⁶ <http://www.abs.gov.au>

- other small businesses - businesses employing 5 or more people, but less than 20 people;

Exclusion of non-residential customers who consume between 100 and 160MWh per annum from obligation to supply and a range of basic consumer protections is likely to impact on many small businesses.

Dispute resolution. One of the significant implications of the recommendation for a 100MWh threshold is to exclude many small businesses from access to no cost alternative dispute resolution. In EWON's experience the reference to dispute resolution mechanism in some business contracts is vague. Some contracts refer to commercial dispute resolution that can cost up to \$10,000 a day. Given the limited resources of many small businesses and the significant power imbalance between them and large retailers or distributors, a reduction in consumer protection including accessible dispute resolution is of concern.

Non standard contracts. The SCO paper suggests a further distinction between non-residential customers consuming between 40KWh and 100KWh per annum. This recommendation will mean that many small businesses will no longer have access to standard terms and conditions for their electricity supply and will have to accept a market contract. This is a further reduction of current protections for many small businesses.

Inconsistency between gas and electricity supply protections. EWON welcomes the SCO approach of maintaining the gas threshold at 1 TJ per annum. The approach to gas customers of basing the definition of small non-residential customers on current standards is welcome and one which EWON suggests should be applied to electricity customers.

EWON has been approached by small business operators with consumption over 1TJ per annum who have been denied supply at the point of contract renewal. Therefore we welcome the maintenance of the gas threshold at 1 TJ pa, as we would be concerned that any reduction of obligation to supply below 1 TJ per annum would see more small businesses denied a right to supply.

EWON also notes:

Accordingly, the SCO believes the consumption threshold that distinguishes small and large non-residential customers should be reviewed over time with the objective of reducing the small customer thresholds.⁷

⁷ Ibid, p29.

While EWON welcomes the prospect of a review we would argue that this should be on the basis of reviewing the effectiveness and efficiency of the existing thresholds on the basis of evidence, and not with a predetermined position of reducing thresholds.

The SCO paper distinguishes between residential and non residential customers in terms of electricity consumption.

In relation to residential customers SCO states the following:

SCO considers that there is no policy rationale for distinguishing between residential customers on the basis of consumption. However including all residential customers as “small” customers is consistent with the essential service nature of energy supplies.⁸

We agree with SCO’s position in relation to residential customers. However, we note that there are some residential customers who are also large users of electricity, in particular customers in residential Strata arrangements. EWON has dealt with a number of such customers who use more than 40 MWh per annum, and even more than 100 MWh pa in some cases.

Although individual strata units are separately metered and billed, the common areas are billed to the strata complex as a whole (usually through the Body Corporate or Strata Manager). This covers costs of outside and/or security lighting, lifts, swimming pool, common laundry etc. In large complexes these costs can be high, but they still apply to residential rather than business customers.

The advocate for customers in a Strata Plan contacted EWON after receiving a backbill for \$75,000 from 2003 through to 2007. They had been provided with 2 weeks to pay these arrears. The retailer had been applying an incorrect multiplier to this account. Once the Strata Scheme became aware of their real electricity costs they were able to reduce their consumption to 110MWh per annum, thus ensuring them protection under the relevant legislation. The dispute was resolved when the retailer applied the 12 month limit on backbilling and provided twelve months for the arrears to be paid.

EWON believes that residential strata customers should be provided with the same protections as other residential customers.

⁸ Table of contents 1.4

3.1.4.2 Standing offer terms and conditions

EWON has provided specific responses on this area in the Table of Recommendations. We would draw attention to our response concerning the following aspects of the proposed terms and conditions:

Meter reads (Recommendation 2.3)

The shift from an obligation for a meter read every 6 months to once every 12 months is a retrograde step with significant potential adverse consequences. Discrepancies in estimated billing can rapidly escalate a customer's liability, and regular meter reads are a key way of avoiding this. Regular meter reads can help to identify leaks and faults that are causing increased consumption. They can also provide information for customers about unanticipated high usage after purchase of new appliances/equipment and give customers the opportunity to take action to reduce their usage/costs..

The practice of limited actual reads contributed to the "Energy Billing Super complaint" on billing in the UK in 2005 in which it was found:

35% of those surveyed said that they received estimated bills frequently or very frequently. This is confirmed by what suppliers told us this year in our statutory information request and provides further robustness to other findings from our survey;

- 1 in 5 believe that the estimated bills they receive are very or fairly inaccurate;*
- fewer than 1 in 3 people said that their meters were read quarterly*
- less than a half (48%) check the accuracy of the energy bills they receive.⁹*

While the regulator rejected the super complaint they noted that:

The evidence received from suppliers on the extent of estimated reads shows a steady decline in the proportion of estimated reads to total reads used by suppliers over the past two years. Five of the six major suppliers are either in the process of increasing the frequency of meter reads to four reads per annum or already operate such a policy.¹⁰

We suggest that a reduction in the obligation to read meters to once every 12 months is not in the interests of all customers, and is a move away from industry best practice.

⁹ *Bad Billing: the costs Better Billing: the benefits Energy Billing Super Complaint referral by the Gas and Electricity Consumer Council to the Gas and Electricity Markets Authority March 2005, p22*

¹⁰ *Ofgem's response to the billing super-complaint Office of Gas and Electricity Markets July 2005, p36*

Particularly vulnerable to errors and billing confusion are tenants in the lower end of the rental market (including students) where relocations can be reasonably frequent and accounts are opened and closed on a regular basis.

Shortened collection cycle (Recommendation 2.25)

EWON has serious concerns about the introduction of a shortened collection cycle. We suggest that this approach to dealing with customers who are having difficulty in paying is counterproductive and is in stark contrast to the positive approaches to affordability issues developed through hardship programs.

The shortened collection cycle proposes that no reminder notices are sent for three consecutive bills once a customer has received reminder notices or disconnection warnings for two consecutive bills. We suggest this is disproportionate, and a considerable weakening of current NSW consumer protections. It could also be seen as punitive for customers in financial difficulty.

Many customers who are struggling to balance household budgets find it hard to acknowledge the need for special hardship consideration. The current protections provide customers with time to arrange financial assistance (either formally through EAPA¹¹ or informally through family and friends) and also to negotiate payment arrangements with retailers. For those who are seen by the industry as customers who “wont” pay there is a late payment fee. For most customers who wish to pay their accounts but are in financial difficulty, we would argue strongly against a shortened collection cycle.

A 2nd tier retailer, whose contact centre is located outside New South Wales inappropriately applied shortened collection cycles to the accounts of some of their New South Wales customers. This breached current NSW regulations but it appeared that this was an automated process that made no attempt to assess whether a customer was experiencing payment difficulties. The customers who approached EWON were clearly in financial distress and needed access to hardship programs rather than a harsher regime of a shortened collection which exacerbated their financial vulnerability and in some instances led to unnecessary disconnections.

Limitations on disconnection (Recommendation 2.27)

The time and days when disconnection can occur are limited, and these limitations are listed in recommendations 1.31 and 4.8 of the Table of Recommendations. We are very concerned that these proposals are a considerable reduction of current protections. EWON has made specific comment on these proposals in Section 4 of this submission.

¹¹ EAPA – Energy Accounts Payment Assistance – the NSW government program that provides financial assistance for payment of electricity and gas accounts

Reconnection (Recommendation 2.29)

EWON questions the proposal to limit the obligation to reconnect to 10 business days after the customer has remedied the grounds for disconnection. An arbitrary time limit after rectification does not take into account the various circumstances of customers.

In conjunction with Recommendation 4.8 which sees reconnections after 10 business days treated as new connections, this approach has the potential to exacerbate the issues that vulnerable customers have to face. EWON also cannot see any advantage to retailers or distributors through the inclusion of this limitation on reconnection and strongly urges that it be deleted from the recommendations.

3.2 Obligations relating to deemed supply

3.2.1. Circumstances under which a deemed supply arrangement arises

EWON supports the SCO recommendations concerning deemed supply arrangements (with the exception of the published deemed supply tariff - see comments on section 3.2.2). In particular we welcome the inclusion of the period following the termination of a current contract. In recent times a number of customers have contacted EWON after receiving correspondence from their current retailer indicating that their contract would not be renewed. The proposal to have a deemed supply arrangement would provide basic consumer protections for these customers while they made alternative supply arrangements.

EWON notes that section 2.26 in the Table of Recommendations gives a right to disconnect where “(in the case of a market retail contract) the contract has been terminated in accordance with the terms of the contract, and the customer has not entered into another retail contract.” This appears to be in opposition to such customers being included under the deemed supply arrangements.

3.2.2 Terms and conditions of the deemed supply arrangements

EWON has serious concerns over the SCO proposal to allow retailers to publish a price for deemed supply arrangements different from the published standard contract price. This proposal has the potential to seriously disadvantage consumers. There are a number of examples where customers may be on a deemed supply arrangement for a considerable period through circumstances beyond their control.

Customers who upon moving into premises arrange to enter into a contract (sometimes through a connection service) often find that a transfer from the current owner of the site can take up to three months (and in some cases considerably longer if human error or some other transfer delay intervenes). In these circumstances the customer is on a deemed supply arrangement until the transfer is complete. We believe it is unreasonable that such customers could be placed in the situation of having to pay an arbitrary tariff established by a retailer that is likely to be much higher than a contract rate.

Often customers in premises with gas common hot water systems and no other gas services are unaware of their responsibility to open a gas account. Again in this instance the possibility of a retailer publishing a deemed supply tariff significantly higher than the published standard contract price could unfairly impact on customers.

When Steve moved into his flat he was told by his Estate Agent that his flat was all electric. When he received a gas bill from a retailer he contacted EWON and investigation established that his building had a gas common hot water system. Steve opened an account and EWON was able to arrange with the retailer a repayment schedule and the waiving of two late payment fees and a special meter reading fee.

Customers who are in a crisis situation, for example because of domestic violence, may take several months to finalise utility arrangements. The process of establishing income support, banking services and even adequate identification papers may leave such people on deemed supply arrangements for several months. EWON believes that as a minimum the tariff for a deemed supply arrangement should be the retailer's published standard contract price.

3.3 Terms and conditions of market retail contracts

EWON has provided specific responses on this area in the Table of Recommendations

3.3.2 Prepayment meter minimum terms and conditions

EWON has long supported prepayment meters (with relevant protections) as one option for customers who wish to 'pay as you go' for their electricity. EWON endorses the SCO recommendations and in particular the requirement for explicit customer consent and the right of customers to revert to normal metering. EWON also welcomes the recording and reporting requirements relating to self disconnection.

3.4 Marketing Conduct

EWON agrees with SCO's recommendation that energy-specific regulation of marketing conduct is justified. This is also consistent with the position reached by the Productivity Commission's review of Australia's consumer policy framework.

However, EWON disagrees with SCO's comment in the Table of Recommendations at 3.10 that contact times for marketers are captured by generic customer marketing regulation. While the Commonwealth *Telecommunications (Do Not Call) (Telemarketing and Research Calls) Industry Standard 2007* prohibits telemarketing outside certain times, and jurisdictional fair trading laws (such as the NSW *Fair Trading Act 1987*) prohibit door-to-door marketing outside certain hours, EWON is not

aware of any national generic consumer regulation of door-to-door marketing contact times. The same could be said for regulation of the retention of customer contact records by marketers.

The Commonwealth *Trade Practices Act 1974* does not include any reference to prohibited door-to-door marketing times or customer contact records. EWON therefore considers that in the interests of national consistency, marketing contact times and the keeping of customer contact records should be explicitly dealt with in the national customer framework. The Productivity Commission's recommendation that there be a national generic consumer law (if adopted by Government) may address this issue in the longer term, but in the meantime, we believe that energy-specific regulation is required.

In previous submissions to the Ministerial Council on Energy, EWON has identified an important area of energy customer protection that we believe should form part of the national customer framework. This is the issue of persons other than the existing energy supply contract holder being able to sign a new contract without the knowledge or approval of the current account holder.

The current regulatory vacuum in this area has led to a large degree of confusion and anxiety for many account holders who have contacted EWON. These customers have found that a member of their household (including minors), or in some cases a visitor to their home, has entered an energy contract after contact by a door to door or telemarketer. This has had the effect of cancelling the customer's current contract without their knowledge or approval. In some cases they have been charged a termination fee by their current retailer.

EWON proposes a fairly straightforward measure that would not impede the successful marketing of a contract to a third party who is an 'authorised person' for this purpose, but which would also protect the interests of the current account holder. We suggest national regulation requiring that the consent of the existing contract holder for the relevant supply address must be obtained before a transfer can be validly initiated. This consent can be in writing (a form left with the 'authorised person' to be countersigned and returned by the current account holder) or by phone (provided verbal consent is electronically recorded and kept for the period of the contract).

3.5 Obligations in relation to hardship customers

EWON welcomes the inclusion into the national framework of this section relating to hardship. This is particularly relevant with all indicators pointing to considerable increases in the costs of energy including significant capital expenditure in transmission and network infrastructure, the smart meter rollout, carbon costs and increasing wholesale prices.

In particular EWON welcomes the consideration of capacity to pay in establishing payment plans as a critical element of any successful approach to customers in hardship. In addition we welcome the provision of fair and reasonable processes for dealing with payment difficulties experienced while customers are participating in the plan.

EWON notes that the SCO proposal specifically does not prescribe energy efficiency measures or call centre training in response to retailers' arguments concerning innovation and flexibility in customer service. EWON's experience has clearly indicated that as the first and often the only point of contact, the call centre is a critical point of access to hardship programs for many customers. Without adequate training and support call centre staff can become a barrier rather than a gateway to customers accessing support.

Information and opportunities to become more energy efficient are critical in helping customers reduce consumption and costs.

While best practice in the provision of hardship programs recognises staff training and energy efficiency as key aspects of a successful program EWON is concerned that these aspects are being left to the discretion of retailers.

EWON welcomes the proposal for the AER to establish hardship indicators and to undertake performance monitoring and reporting. We look forward to contributing to the development of such indicators. We also welcome the commitment of the MCE to monitor the effectiveness of these measures over time to ensure that customers in hardship are provided with adequate support, and that disconnection is not the response to financial hardship.

3.6 Informed consent

EWON supports the recommendations in regard to the minimum requirements on retailers to obtain the informed consent of customers before transferring them under a market energy supply contract.

However, as mentioned above, EWON strongly recommends that retailers also be required to obtain the specific informed consent of the existing energy supply contract holder before proceeding to transfer, where the existing energy supply contract holder is a person other than the customer with whom the retailer is contracting. This consent could be obtained in writing (for example by way of the retailer or marketer leaving a consent form with the third party customer for that person to have the existing contract holder sign and return to the retailer) or verbally (for example, by way of an electronically recorded telephone discussion between the retailer or marketer and the existing contract holder). Such a step in the contract formation-transfer process will significantly reduce the chances of an existing contract-holder having their contract

terminated without their knowledge or consent, as currently occurs and which leads to many complaints to EWON and other ombudsman offices.

4 Distributor-Customer Arrangements

EWON has provided specific responses on this area in the Table of Recommendations. We would draw attention to our response concerning the following aspects of the proposed terms and conditions:

Restrictions on disconnections (Recommendations 1.31 and 4.8)

The current limitations on disconnection in NSW include no disconnection on a Friday or a day before a public holiday. This is an essential limitation to ensure that in particular families with children are not left disconnected for lengthy periods. The current recommendation appears to expand the right to disconnect to Fridays and the day before a public holiday. If this is intentional rather than an oversight, this will have severe ramifications for customers and is a significant reduction in consumer protection for consumers in New South Wales at least. EWON strongly recommends that a prohibition on disconnection on a Friday or a day before a public holiday be included in the proposed regulations.

Given the increase in the centralising of customer service contacts with retailers EWON has identified problems when there are public holidays in other states and reconnection has been hampered by the absence of appropriate staff to make the necessary arrangements. EWON's position is that the current NSW definition needs expanding to include a provision that encompasses regional and inter-state holidays as well. This is essential to ensure that customers can be reconnected as quickly as possible.

EWON notes that there is a limitation on disconnection where an address has a registered life support system. We are not able to identify anywhere in the current considerations a definition of registration or an allocation of responsibility for the maintenance of such a registration system. We believe that this needs to be addressed in the current recommendations.

Finally EWON notes that in recommendation 1.31 there is

A requirement that distributors reconnect a disconnected customer if the reason for the disconnection has been removed.

however in recommendation 4.8 there is the following qualification

A time limit for reconnection will be included (10 business days) If reconnection has not occurred within that time, a request for connection will be treated as a new request for connection.

As noted above, EWON opposes the introduction of this 10 day concept. In particular we have concerns about the implications for vulnerable customers and the implications of being treated as a ‘new supply arrangement’.

5 Distributor-Retailer Arrangements

EWON supports the approach outlined and would emphasise the importance of clear communication between retailers and distributors in resolving customer disputes.

8 Enforcement and Statutory Objective

EWON would point to our previous comments concerning the Statutory Objective:

We are concerned that the failure to include environmental and social policy objectives will ensure that there will be future difficulties in ensuring an integrated approach to the development and implementation of relevant regulation.¹²

9 Implementation and Transition

EWON is concerned that there are some critical operating matters concerning dispute resolution that remain unclear. We note that previous Working Papers have clearly identified that external dispute resolution will remain a matter for jurisdictional regulation. However it is not clear how the interface between jurisdictional regulation and the new national legal and regulatory framework will work.

EWON welcomes the clear expression in Recommendation 2.27 of a limitation on disconnection where a matter is unresolved and being dealt with the “*relevant ombudsman*”. However, we note that in Recommendations 1.31 and 4.8 the limitation is only where a “*complaint remains unresolved*” without specific reference to the relevant ombudsman.

There are references and obligations relating to external dispute resolution processes in current licenses, laws and regulations. These need careful consideration to ensure that the process of allocating these to either the jurisdictional or national framework does not inadvertently create difficulties for consumers.

To ensure the success of this process and thus ensure that dispute resolution as a critical part of consumer protection is fully retained it is essential that there be a comprehensive

¹² EWON submission to National Framework for Distribution and Retail Regulation: *Consultation Paper (June 2007)*. August 2007, p4

approach. Therefore EWON recommends that there be a specific consultation between SCO, jurisdictional authorities, and the Ombudsman schemes to address these issues.

MCE SCO Table of Recommendations - National Energy Customer Framework

This table sets out the Ministerial Council of Energy (MCE) Standing Committee of Officials (SCO) policy response to the recommendations prepared by Allens Arthur Robinson (AAR) to assist in developing the National Energy Customer Framework (the national customer framework). The following Table of Recommendations takes into consideration submissions received by stakeholders after the initial release of the AAR Table of Recommendations.

SCO is presenting its policy recommendations in the same table format as that used by AAR in their Table of Recommendations. The table broadly retains the AAR numbered recommendations, so that stakeholders can use these as a reference point to identify the recommendations which SCO has adopted, rejected or modified. Part 6 contains those matters that are the subject of related work streams. Discussion surrounding each of the major policy issues can be found in the SCO Policy Paper.

The Table is divided into the following parts:

Part Number	Subject Matter of Recommendation	Recommendation Number/page
Part 1	Principal recommendations for obligation to supply, marketing, hardship regime, customer distribution services, retailer authorisation, enforcement.	Recommendations 1.1- 1.48 and 1.78– 1.86 (pp.2- 46)
Part 2	Regulation of standard retail & market retail contracts.	Recommendations 2.1- 2.48 (pp. 47- 66)
Part 3	Regulation of marketing conduct.	Recommendations 3.01- 3.11 (pp. 67- 70)
Part 4	Regulation of distributor-customer contract terms.	Recommendations 4.1- 4.11 (pp.71- 75)
Part 5	Regulation of distributor-retailer contract terms.	Recommendations 5.1- 5.23 (pp. 76- 84)
Part 6	Ring-fencing, retailer failure arrangements, customer registration and transfer, metering.	Recommendations 1.49 -1.76 (pp. 85- 100)

Part 1 – Principal recommendations

NO.	EWON COMMENTS (in bold)	SCO RECOMMENDATION	COMMENT
Retailer obligation to supply small customers			
1.1	<p>Definition of the obligation</p> <p>DISAGREE</p> <p>Concern about the exclusion of non-residential customers who consume between 100MWh and 160MWh per annum and the proposed variation of obligation to supply for non-residential customers who consume over 40MWh per annum (see submission)</p> <p>Application procedures</p> <p>AGREE</p>	<p>The Law will provide that designated retailers must, in accordance with the Rules, offer to sell energy to small customers.</p> <p>The obligation is an obligation to supply for use in a customer's premises on standard terms and conditions and at the standing offer tariff published on the retailer's website.</p> <p>However, if a small non-residential customer consumes (or is expected to consume) more than an amount of electricity specified in the regulations [the initial level for this amount is 40MWh per annum], then the retailer may:</p> <ul style="list-style-type: none"> • Instead elect to offer that customer a market retail contract (that is, based on minimum terms and conditions) at a tariff nominated by the retailer; and • If the retailer has offered a market contract to such customers, then it will be taken to have fulfilled the obligation to offer supply, and would not be required to make an offer to supply under standard retail contract terms and conditions in respect of that customer. <p>As matters of detail, the Rules will set out:</p> <p>Application procedures – including requirements for customers to provide:</p>	<p>SCO considers that energy is an essential service and small customers should be able to access a basic supply to meet their needs.</p> <p>SCO has considered that it is important to differentiate the obligation to offer supply to the higher consumption end of the small customer definition in electricity in order to recognise the potential for innovation and diversity in the price and non-price terms and conditions of supply. This is reflected in the two 'tiers' of electricity customer that benefit differently under the obligation to supply.</p> <p>Further details with respect to the two tiered obligation to offer supply to certain small customers is discussed in the Policy Paper, and will be developed in the drafting of the exposure draft instruments.</p>

NO.	EWON COMMENTS (in bold)	SCO RECOMMENDATION	COMMENT
	<p>Retailer information requirements</p> <p>AGREE</p> <p>Connection services</p> <p>AGREE</p> <p>Conditions to the obligation</p> <p>AGREE</p>	<ul style="list-style-type: none"> • acceptable identification (along the lines of the ESCV guideline); and • name and contact details. <p>Retailers will be required to provide to customers:</p> <ul style="list-style-type: none"> • a summary of the standing offer contract formed as a result of the application, and how copies of the contract may be obtained; • a summary of the retailer's and customer's respective rights and obligations concerning the supply under the Law and Rules, including relevant dispute resolution procedures; • particulars of any rebate or relief available under any government funded energy charge rebate or relief scheme; and • information in community languages about the availability of interpreter services for the languages concerned and telephone numbers for the services; <p>The retailer will be responsible to communicate to the relevant distributor within one business day of an application, to arrange connection services in respect of the customer's supply point.</p> <p>Conditions to the obligation: the circumstances in which the retailer may refuse to supply, i.e. conditions precedent are failure to provide:</p>	

NO.	EWON COMMENTS (in bold)	SCO RECOMMENDATION	COMMENT
		<ul style="list-style-type: none"> • acceptable identification (along the lines of the ESCV guideline); and • name and contact details. <p>Conditions subsequent:</p> <ul style="list-style-type: none"> • failure to provide the security the retailer is entitled to require under the standing offer terms; • failure to pay an amount due to the retailer in respect of the new supply (such as connection charges); • failure to provide access to the premises meter; and • other circumstances beyond the retailer's control (eg where distributor is not obliged to connect). <p>The Law will provide that the standing offer terms take effect as a standard retail contract between the retailer and customer.</p>	<p>The SCO seeks comment from stakeholders in relation to the failure to provide security as a condition subsequent. Where a customer is disconnected as a result of a failure to provide security, it may be sensible for subsequent connections to require security as a condition precedent.</p> <p>Note that the retailer's obligations are also subject to the retailer's obligations under the hardship policy – including the retailer obligation to offer a payment plan to certain customers</p>
1.2	<p>Designating retailers and supply remits</p> <p>AGREE</p> <p>But with concerns about complexity associated with retail price regulation existing until 2013 in NSW (see submission)</p>	<p>The Law will provide that, for the purpose of the obligation to supply, a designated retailer is a retailer designated as a local area retailer by a jurisdictional instrument (for new connections) and the Financially Responsible Retailer (FRR) for existing connections.</p> <p>A jurisdiction may designate the supply remit of a local area retailer by reference to:</p> <ul style="list-style-type: none"> • a geographical area; • particular premises or classes of premises; or 	<p>The SCO considers that the FRR model provides operational advantages as well as complementing and supporting the role of competition. It does not give an automatic advantage to a retailer simply on the basis of historical and geographical circumstance and so reduces barriers to entry. Rather, by encouraging retailers to maintain market share by becoming the relevant 'incumbent' it arguably encourages competition.</p> <p>Further, as the AEMC observes in its review of the</p>

NO.	EWON COMMENTS (in bold)	SCO RECOMMENDATION	COMMENT
		<ul style="list-style-type: none"> particular customers or classes of customers. 	effectiveness of competition in Victoria, it is a clear and simple approach to regulation of the obligation, imposes costs unlikely to be higher than under the alternative options and which are more likely to be fairly distributed
1.3	MCE principles for obligation to supply N/A	No longer required	AAR recommended that the MCE consider agreeing principles to be applied by jurisdictional ministers in determining whether or not to activate or de-activate the obligation to supply by making (or revoking) the relevant jurisdictional instruments. There is no need for such principles to be AGREE in light of other decisions as to the designated retailer regime.
1.4	Definition of small customers DISAGREE Concern over reduction in consumer protection for non-residential customers (see submission)	The Law will provide that, for the purpose of obligating retailers to offer supply, a 'small customer' is: <ul style="list-style-type: none"> a residential customer; or a non-residential customer whose actual or estimated energy consumption is less than a threshold level specified in the regulations. The initial threshold will be 100MWh of electricity per annum or 1 TJ of gas per year. <p>Small customers will receive equivalent benefits under the national customer framework across electricity and gas except to the extent that a retailer may elect to fulfil its obligation to offer supply in respect of some electricity customers, by making a market offer rather than a standing offer as</p>	SCO considers that there is no policy rationale for distinguishing between residential customers on the basis of consumption. However including all residential customers as “small” customers is consistent with the essential service nature of energy supplies. Further, small business customers should also receive the benefit of the obligation in order to facilitate competition and reduce the costs of these customers to participate confidently in the market.

NO.	EWON COMMENTS (in bold)	SCO RECOMMENDATION	COMMENT
		<p>discussed in recommendation 1.1.</p> <p>The Regulations will set out the mechanics of assessing customer consumption for the purpose of applying the threshold, including whether the threshold applies to individual premises or is aggregated.</p>	
1.5	<p>MCE directed review of small customer definition</p> <p>AGREE</p> <p>But have concern that review should be about effectiveness not a predetermined decision to reduce protection</p>	<p>The MCE will undertake a review of non-residential small customer thresholds with a view to reducing the thresholds. This review would occur periodically at intervals of no more than five years.</p>	<p>In order to give industry and customers a level of certainty from the outset of the regime, SCO has considered and made a recommendation on the small customer definition and consumption threshold. As competition develops, SCO considers the thresholds should be reviewed over time with the objective of reducing the threshold level.</p>
1.6	<p>Standing offer tariffs</p> <p>AGREE</p>	<p>The Law will provide that standing offer tariffs and variations to those tariffs for the standard retail contract are those published by the designated retailers on their website (and on the AER's website) from time to time.</p> <p>Variations to standing offer tariffs may not be made more often than 6 monthly and any variations must be published 20 business days in advance of the variation taking effect.</p>	<p>The standing offer tariff may be regulated in jurisdictions where retail price regulation continues.</p>
1.7	<p>Specification of terms and conditions</p> <p>AGREE</p>	<p>The Law will provide that the standing offer, incorporating the standard retail contract and standing offer tariff is to be published by designated retailers on their website. The terms</p>	

NO.	EWON COMMENTS (in bold)	SCO RECOMMENDATION	COMMENT
		and conditions of a standard retail contract published by retailers is not subject to prior regulatory approval, but would be lodged with the AER and subject to compliance monitoring and enforcement by the AER.	
1.8	Standard retail contract terms and conditions in Rules AGREE	The Rules will contain (in a separate schedule) the terms and conditions applicable to standard retail contracts, will be expressed as a model terms and conditions. Part 2 of this Table sets out the model terms and conditions for development of the initial Rules.	
1.9	Deemed supply arrangements AGREE	<p>With respect to circumstances where small customers are taking supply without having formally entered into a supply contract (including move-in supply) the Law will establish the existence of a deemed set of arrangements.</p> <p>The circumstances in which a deemed supply arrangement arises are matters of detail best dealt with in the Rules. On that basis it is proposed that the Law will provide that:</p> <ul style="list-style-type: none"> • the Rules may specify the terms and conditions that apply in any circumstance where a small customer is taking a supply of energy from a retailer without the customer and retailer having entered into a standard retail contract or market retail contract; and • the terms and conditions specified in the Rules take effect as a contract between the customer and the retailer in accordance with the Rules. 	
1.10	When a deemed	The Rules will provide for deemed supply arrangements to	.

NO.	EWON COMMENTS (in bold)	SCO RECOMMENDATION	COMMENT
	<p>supply arrangement arises</p> <p>AGREE</p> <p>EWON considers this recommendation should be balanced with a requirement on the retailer to provide adequate notice to a customer supplied under market contract customer that advises the customer of the impending end of the contract period and the customer's options regarding entering a new contract or being supplied under deemed supply arrangements. EWON suggests that reasonable notice would mean at least 21 days before the</p>	<p>arise in the following circumstances:</p> <ul style="list-style-type: none"> • where a small customer occupies premises that are already connected to the distribution system and commences to take a supply of energy; and • where a current standard or market contract terminates without new supply arrangements having been established, subject to any provision in the contract itself concerning the terms and conditions to apply on termination. 	

NO.	EWON COMMENTS (in bold)	SCO RECOMMENDATION	COMMENT
	<p>expiration date of the market contract. This would give the customer the opportunity to avoid being charged what could potentially be significantly higher tariffs compared to the tariffs applicable to their soon-to-expire market contract.</p>		
1.11	<p>Tariffs, terms and conditions of deemed supply arrangements</p> <p>AGREE</p> <p>On terms and conditions</p> <p>DISAGREE</p> <p>On Tariff (see Submission)</p>	<p>The Rules will provide that:</p> <ul style="list-style-type: none"> the tariff applicable to deemed supply arrangements is the standing offer tariff unless the retailer has published a deemed supply tariff; and the terms and conditions applicable to deemed supply arrangements are the relevant designated retailer's standard retail contract terms and conditions. 	
1.12	<p>Duration of deemed supply arrangements</p> <p>AGREE</p>	<p>Deemed supply arrangements for residential and small non-residential customers will continue until the customer enters into another contractual arrangement.</p>	

NO.	EWON COMMENTS (in bold)	SCO RECOMMENDATION	COMMENT
		<p>Small customers are required to take appropriate steps to enter into a supply contract and thereby exit deemed supply arrangements no later than six months after deemed supply taking effect. If after six months, the customer has not entered into a contract, the retailer will be entitled to arrange for disconnection of the premises.</p> <p>If the customer has already provided the required deemed supply notice under recommendation 1.13 (name, contact details and acceptable identification), and if not advised to the contrary, the retailer may take the customer to be requesting supply under the standing offer, and may transition the customer to the standard retail contract.</p>	
1.13	<p>Notice requirements for deemed supply arrangements</p> <p>AGREE</p>	<p>The Rules will require:</p> <ul style="list-style-type: none"> • small customers to give notice to the retailer equivalent to the application requirements for supply under a standard retail contract (i.e. name, contact details and acceptable identification); • the retailer to give the customer details of the tariffs, terms and conditions applicable to the supply and the customer's options for establishing a new supply arrangement. 	<p>To the extent that a customer does not satisfy the application procedures, the retailer's obligation to offer supply is modified and may give rise to a retailer's right to disconnect.</p>

No.	SUBJECT	SCO RECOMMENDATION	COMMENT
Retailer – small customer market retail contracts			
1.14	Generic versus energy specific regulation AGREE	SCO proposes reliance on national and jurisdictional consumer protection laws where these provide a consistent national approach in dealing with the relevant subject matter.	SCO endorses an approach which relies on an effective national framework for consumer policy to provide effective customer protection. However, until a national approach to consumer protection is endorsed by all jurisdictions, SCO considers that the essential nature of energy services warrant ongoing, industry specific regulation where generic legislation is inadequate.
1.15	Minimum terms and conditions of market retail contracts AGREE	<p>The Law will provide that market retail contracts with small customers, or categories of small customers, must comply with any requirements in relation to such contracts contained in the Rules.</p> <p>The Law will require a retailer to include minimum terms and conditions in a market retail contract to be offered to small customers.</p> <p>The Law will provide authority for the Rules to contain provisions which specify the minimum terms and conditions of market retail contracts.</p> <p>The Rules will contain (in a separate schedule) the minimum terms and conditions that must be included in market retail contracts.</p>	<p>Part 2 of this Table sets out minimum terms and conditions for market retail contracts in the initial Rules.</p>

No.	SUBJECT	SCO RECOMMENDATION	COMMENT
1.16	<p>Definition of small customers for purpose of market retail contracts</p> <p>AGREE</p> <p>Market retail contracts are by definition open to some level of negotiation between the retailer and customer prior to entry by both parties into a contractual relationship. EWON questions the need for scope in the Rules to distinguish between residential and non-residential small customers in this regard. In EWON's experience, non-residential small retail customers and residential small retail customers required the same level of consumer protection.</p>	<p>The Law will provide that a small customer for the purpose of market retail contract regulation has the same meaning as for the purpose of the obligation to offer supply. In addition, there will be scope for the Rules to distinguish between residential and non-residential small customers in the application of market retail contracts to those customers.</p>	

No.	SUBJECT	SCO RECOMMENDATION	COMMENT
1.16A	Prepayment meter systems AGREE	<p>The Law will authorise the Rules to regulate the use of prepayment meter systems for small customers.</p> <p>The Rules will contain (in a separate schedule) the minimum terms and conditions of market retail contracts pertaining to prepayment meter customers.</p> <p>The Rules will cover the following matters in relation to the use of prepayment meter systems for small customers:</p> <ul style="list-style-type: none"> • Prepayment meter contracts: <ul style="list-style-type: none"> • specific disclosure requirements to obtain a small customer's explicit informed consent to enter into a prepayment meter contract (this is a specific form of market retail contract); • prohibition on entering into a prepayment meter contract with a customer with a life support system; • additional requirements to provide information to a small customer who enters into a prepayment meter contract (for example, the operating instructions for the meter, information relating to the payment facilities available, credit retrieval and emergency credit); • minimum terms and conditions of a prepayment meter contract (for example, a mandatory trial period, provisions relating to the fees and charges that may be recovered through the prepayment meter system); and • termination of the prepayment meter contract by the customer, including a request to revert to normal metering or as a result of a transfer to another retailer. 	Retail contracts where prepayment meters are involved are to form a specific type of market retail contract.

No.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<ul style="list-style-type: none"> • variation of prepayment meter tariffs, undercharging, overcharging and recovery for illegal energy use. • Prepayment meter systems requirements: <ul style="list-style-type: none"> • specific requirements for the prepayment meter itself, including in relation to the information displayed, when the meter will disconnect and reconnect, emergency credit, provision of energy concessions, access to meter data; and • requirements in relation to payment facilities. • Other matters: <ul style="list-style-type: none"> • a requirement for the retailer to establish a specific telephone service for enquiries, complaints and emergencies relating to prepayment meter systems; • hardship and payment difficulties – the prepayment meter system must identify to the retailer instances of self disconnection, where the meter is technically capable, and the retailer must take action to revert a customer to standard metering in certain circumstances; and • retention of records in relation to the above. 	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Retailer – small customer marketing			
1.17	Generic versus energy specific regulation AGREE	General consumer protection laws with respect to marketing conduct should be relied on where these provide a consistent national approach in dealing with the relevant subject matter, but energy-specific regulation is justified where general consumer protection laws are inconsistent.	SCO provides discussion on the policy framework for marketing in section 3.4 of the SCO Policy Response Paper.
1.18	Marketing requirements AGREE	The Law will require retailers engaged in energy marketing (whether directly or indirectly) to comply with energy marketing requirements set out in the Rules. The Rules will contain (in a separate schedule) requirements applicable to the marketing of energy. Part 3 of this Table sets out the marketing requirements for the initial Rules.	
1.19	Retailers responsible for marketing activities AGREE	The Law will ensure that retailers are ultimately responsible for marketing conduct, whether the marketing is carried out by: <ul style="list-style-type: none"> ▪ the retailer's own staff or officers; ▪ persons acting as agents of retailers; ▪ persons who are otherwise contracted by the retailer; ▪ persons who receive a commission from the retailers, in relation to marketing conduct for the purpose of gaining new or retaining existing customers.	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
1.20	Definition of small customers AGREE Please note EWON's concerns at 1.1	The Law will provide that a small customer for the purpose of marketing conduct regulation has the same meaning as for the purpose of the obligation to supply.	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Hardship			
1.20A	Identifying hardship customers AGREE	A "hardship customer" is a residential customer who has been identified as a customer who is experiencing financial payment difficulties by a retailer under and in accordance with, that retailer's Customer Hardship Policy.	It should be noted that where small customers (who are not identified as hardship customers), experience payment difficulties from time to time, the retailer is obliged to provide certain payment options (see recommendation 2.24).
1.20B	Obligation on retailers to have a hardship policy AGREE	<p>The Law will provide that retailers must develop, implement and publish a hardship policy for supply of energy to residential customers experiencing hardship. This policy must include the following elements:</p> <ul style="list-style-type: none"> • flexible payment options for payment of energy bills; • processes for the early response by both retailers and residential customers to energy bill payment difficulties; and, • processes for identifying appropriate government concession programs and financial counselling services to assist in hardship mitigation and notifying customers in hardship of their existence. 	New recommendation included due to feedback from submissions to Composite paper and consultation with stakeholders.
1.20C	Alternative payment arrangements for hardship customers AGREE	<p>The Rules will require retailers to offer hardship customers, alternative payment arrangements prior to disconnection. These payment arrangements must include the option of payment by instalments.</p> <p>Such instalment payment plans must:</p>	New recommendation included due to feedback from submissions to Composite paper and consultation with stakeholders.

		<ul style="list-style-type: none"> • be established having regard to a customer's: <ul style="list-style-type: none"> • capacity to pay; • arrears; and • expected consumption needs over the following twelve month period. • include an offer for the customer to pay their energy consumption in advance or arrears by instalment payments; • inform the customer of: <ul style="list-style-type: none"> • the period or periods of the plan; • the amount of each instalment and the frequency of instalments; • if the customer is in arrears, the number of instalments to pay the arrears; and • if the customer is to pay in advance, the basis on which instalments are calculated. <p>The Rules will contain a general obligation for retailers to provide fair and reasonable procedures for dealing with payment difficulties that a hardship customer may experience under the plan.</p>	
1.20D	Disconnection of hardship customers AGREE	<p>The Law will state a general principle that disconnection of a hardship customer due to inability to pay should be the last resort.</p> <p>The Law will provide that hardship customers should be disconnected only where that customer has not paid a bill and has not:</p>	New recommendation included due to feedback from submissions to Composite paper and consultation with stakeholders.

		<ul style="list-style-type: none"> • agreed to an instalment payment plan or other payment option to pay a bill offered by the retailer; • adhered to the customer's obligations to make payments in accordance with an agreed instalment payment plan or other payment option relating to the payment of bills. 	
1.20E	<p>Hardship indicators</p> <p>AGREE</p> <p>EWON would support a requirement for the AER to publish the results of their findings in this regard.</p>	<p>The Rules will provide that the AER must:</p> <ul style="list-style-type: none"> • undertake performance reporting on specific hardship indicators as established by the AER; • have regard to hardship indicators established in jurisdictional frameworks and the effectiveness of those indicators when developing national hardship indicators. 	<p>New recommendation included due to feedback from submissions to Composite paper and consultation with stakeholders.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Contractual model for customer distribution services			
1.21	Default model AGREE See comment re Gas distributors in submission	The Law will provide for a contractual model incorporating deemed contractual arrangements between parties.	
1.22	Preferred model AGREE	<p>The Rules will describe the obligations to be imposed through the contractual model.</p> <p>A contractual model is proposed as the default model to apply in both the electricity and gas sectors to provide a framework for the development of the distributor-customer interface and the distributor-retailer interface arrangements.</p> <p>This model involves:</p> <ul style="list-style-type: none"> • a "deemed" contract between a distributor and each customer connected to the distributor's infrastructure governing the physical and operational aspects of the provision of customer distribution services to the customer, including liability issues; • a contract between the retailer and each of its customers which includes provisions governing the financial aspects of the provision of customer distribution services to the customer; and • a contract between a distributor and each retailer which sells energy to customers connected to the 	<p>The national customer framework will not prevent negotiated distribution contracts but will also not prescribe the terms and conditions of any negotiated distribution contract.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		distributor's infrastructure governing relevant financial and coordination arrangements between the distributor and the retailer.	
1.23	Small embedded generators No Comment	See comment.	<p>At this stage, SCO does not propose dealing with possible contractual arrangements between distributors and embedded generators. This is subject to implementation of arrangements for distributed generation in the economic regulation work streams of the MCE being managed by the Network Policy Working Group (NPWG).</p> <p>The SCO intends to revisit the issue of contractual arrangements for embedded generation closer to the implementation of the new national customer framework to take account of progress in related work streams, with a view to making provision for deemed standard arrangements for small embedded generators.</p> <p>The intention is to facilitate ongoing efforts to promote distributed generation in the national energy market.</p>

No.	Subject	SCO RECOMMENDATION	COMMENT
Distributor obligation to provide customer distribution services			
1.24	Scope of obligation AGREE	<p>The Law will provide that distributors must, in accordance with the Rules, provide customer distribution services in respect of a retail customer's premises.</p> <p>A “distributor” will be defined in Law to mean:</p> <ul style="list-style-type: none"> • a distributor whose network services are subject to access regulation under the Rules; or • any other distributors identified by jurisdictional instruments under and for the purposes of the definition. <p>The reference to a retail customer's premises limits the obligation to customers acquiring (or intending to acquire) energy through a retailer, as distinct from a customer acquiring energy directly from a wholesale market.</p>	<p>SCO has also decided to enable the inclusion of distributors who are not subject to access regulation within the national customer framework where appropriate and where jurisdictions elect to do so. The details of this will be further developed in the drafting stages.</p>
1.25	Definition of customer distribution services AGREE EWON proposes additional service “Services related to metering at the customer’s premises.” (see submission)	<p>Customer distribution services will be defined in the Law, for the purposes of the new national customer framework. These may include:</p> <ul style="list-style-type: none"> • the connection of the premises to the distribution network to allow the flow of energy between the network and the premises; • where a physical connection already exists, activating or opening the connection in order to allow the flow of energy between the network and the premises (this is referred to throughout as '<i>energisation</i>' of the connection); 	<p>The nature, scope and content of initial customer connection services are being dealt with concurrently, as part of the distribution connection & planning requirements work stream of the Network Policy Working Group (NPWG).</p>

No.	Subject	SCO RECOMMENDATION	COMMENT
	<p>Timeframes No comment</p> <p>Distributor information requirements AGREE</p>	<p>either the customer or its retailer;</p> <ul style="list-style-type: none"> • requiring a customer to provide acceptable identification; name and contact details and prescribed information relevant to the connection of equipment at the customer's premises (eg. life support, special plant and equipment). • for applications by the customer, the customer will be required to provide evidence of a retail contract with a retailer prior to energisation of the connection. <p>The NPWG is currently undertaking work on standard connection types and associated timeframes for electricity and gas. Where appropriate, any changes will be included in the package for the national customer framework.</p> <p>Distributor information requirements, requiring the distributor to provide to a customer:</p> <ul style="list-style-type: none"> • the deemed standard terms and conditions ("deemed customer distribution contract") applicable to that customer; • details of applicable GSL payments and service standards; • details of applicable connection, energisation and re-energisation timeframes; and • notice of the customer's rights in respect of the negotiation of different terms. <p>This information must be provided in circumstances specified in</p>	<p>While the specific details of service level and timeframes may vary from jurisdiction to jurisdiction (and hence cannot be specified within the standard model terms and conditions), customers should still be provided with the relevant information for their circumstances. The Rules will therefore require distributors to provide information about the applicable regulatory requirements.</p>

No.	Subject	SCO RECOMMENDATION	COMMENT
		<p>the Rules, including:</p> <ul style="list-style-type: none"> • on application for connection of the customer's premises; • on energisation of the customer's premises (if information not already supplied); • on request; • following any changes to the approved terms and conditions; and • on a request by the distributor or the customer to negotiate different terms 	

No.	Subject	SCO RECOMMENDATION	COMMENT
Distributor obligation to offer customer distribution services: customer connection			
1.26A	Scope of obligation to offer customer distribution services AGREE	<p>The Rules will provide that distributors must, as part of the requirement under the Law to offer customer distribution services, offer to connect a retail customer's premises to its network.</p> <p>This obligation will be expressed to be subject to the requirements of applicable Rules.</p>	<p>Issues relating to standard connection types and associated timeframes will be dealt with and addressed through the MCE's network planning and connection arrangements work stream in relation to the electricity sector.</p> <p>The various connection scenarios may be specified in economic regulatory instruments pertaining to that distributor (eg. distribution determinations and access arrangements) or may be specified in applicable Rules.</p> <p>Regulated distribution services which are provided for in the instruments governing economic regulation include "customer distribution services" to be provided to retail customers under the new national customer framework.</p>
1.26B	Connection requirements AGREE	<p>The Rules will provide that the distributor is not obliged to make a connection until the customer has met any connection requirements that apply, namely:</p> <ul style="list-style-type: none"> • payment for any augmentation, extension or other capital works to the distribution system if required to effect the connection; • completion of any works required for connection which are not part of the distribution system; 	<p>This rule will make the obligation to connect subject to the reasonable requirements which are provided for elsewhere in the applicable rules, whether jurisdictional or national.</p> <p>The NPWG will contribute further to these provisions in the context of the NER.</p>

	<p>Right to offer of customer distribution services once physical connection established</p> <p>AGREE</p>	<ul style="list-style-type: none"> • compliance with technical and safety requirements in relation to the customer's installation or equipment; and • provision of safe and unhindered access to meters and other equipment of the distributor on the customer's premises. <p>For the avoidance of doubt, once a physical connection is established with a customer's premises, that customer will have the benefit of the distributor's obligation to provide customer distribution services to those premises, irrespective of the type of connection or contractual arrangements entered into concerning the initial establishment of that connection.</p>	
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NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Distributor interface with customers			
1.27	<p>Establishment of deemed customer distribution contract</p> <p>AGREE</p> <p>Duration</p> <p>AGREE</p> <p>Negotiated customer distribution contracts</p> <p>AGREE</p>	<p>The Law will provide that upon connection of a retail customer's premises to a distribution system, or on the date a customer moves in to premises that are already connected, a contract is deemed to arise between the customer and the distributor on the terms and conditions of the deemed customer distribution contract applicable to that customer, except where a negotiated distribution contract exists.</p> <p>The deemed distribution contract (as amended from time to time where a Rule change occurs) will remain in effect while the customer is responsible to its retailer for the consumption of energy at the relevant premises or until the customer enters into a negotiated distribution contract with the distributor.</p> <p>A distributor and a customer may agree different terms to those contained in the deemed customer distribution contract, subject to:</p> <ul style="list-style-type: none"> • in the case of small customers, the provision of specified information in relation to their right to the application of the deemed customer distribution contract standard terms and conditions and an explanation of the implications of the proposed different terms; • coordination with the customer's retailer; and • any other requirements contained in the Rules. 	<p>SCO notes that breaches of the terms of the deemed distribution contract by the customer may result in disconnection and termination of the contract after due process, and breaches of the terms by distributors may result in enforcement action by the AER as a breach of the Law or Rules.</p> <p>Coordination between distributors and retailers will be required where a negotiated customer distribution contract applies. This will be managed by communication and coordination requirements in the Retail Support Contract.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		Where a small customer enters into a negotiated customer distribution contract, a retailer's obligation to offer supply in respect of that customer may be modified to the extent that the negotiated customer distribution contract terms and conditions differ from the standard retail contract terms and conditions.	
	Access regime still applies No Comment	The deemed customer distribution contract provisions do not affect the rights of a customer to negotiate for the direct provision of distribution services in accordance with Chapter 5 and 6 of the NER or under an access arrangement in accordance with the NGR.	
1.28	Deemed customer distribution contract terms and conditions AGREE	The Law will authorise Rules to be made for the model terms and conditions of a deemed customer distribution contract.	
1.29	Rules provisions Model terms for deemed customer distribution contracts AGREE Small customer definition AGREE	The Rules will include the following provisions in relation to the distributor - customer relationship: <ul style="list-style-type: none"> • Model terms for the deemed customer distribution contract applicable to small customers and all other retail customers (unless approved standard terms apply, or a negotiated contract applies). • The model terms of the deemed customer distribution contract will be in a separate schedule of the Rules so that it can operate for distributors as a contract • Small customers will be defined in the same way as for the retailer obligation to supply. 	Model terms will be developed for the customer distribution contract. These model terms will form the basis for any other deemed distribution contracts which may be made under the Rules. Part 4 of this Table sets out model terms and conditions for the development of the initial Rules.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	<p>If a deemed distribution contract is envisaged to include deemed network capacity charges, then EWON would support large customers having the opportunity to have such charges reviewed shortly after moving into new premises. This would particularly apply to business premises where a previous customer may have operated high-consumption machinery, but the new customer uses the premises mainly for storage or some other low-consumption purpose. In EWON's experience, some large customer</p>	<p>approved customer distribution contract').</p>	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	<p>capacity charges can form a significant component of a customer's bill.</p>		
1.30	<p>Direct regulatory obligations on distributors – Law</p> <p>AGREE</p>	<p>The Law will authorise (and oblige) distributors to disconnect, reconnect and interrupt supply in the circumstances set out in the Rules.</p> <p>The Law will also expressly require that a distributor must comply with the Rules, and the terms and conditions of the relevant deemed customer distribution contract in respect of customers connected to the distributor's network.</p>	
1.31	<p>Regulatory obligations - Rules</p> <p>Service standards</p> <p>AGREE</p>	<p>The Rules will include the following direct obligations in relation to the distributor – customer relationship:</p> <ul style="list-style-type: none"> • A requirement that distributors must comply with any applicable service standards. 	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	<p>before a public holiday should be included.</p> <p>Interruptions and curtailments</p> <p>AGREE</p> <p>Reconnection</p> <p>AGREE</p> <p>Dispute resolution</p> <p>AGREE</p> <p>Information provision</p> <p>AGREE</p> <p>Fault reporting and</p>	<ul style="list-style-type: none"> • The circumstances in which a distributor is entitled or required to interrupt or curtail the supply of energy to customer premises, including: <ul style="list-style-type: none"> • planned interruptions subject to prescribed advance notice periods; • unplanned interruptions (faults etc) and circumstances beyond the distributor's control, subject to information requirements and obligations to minimise the duration and extent of interruptions; and • for health and safety reasons or in an emergency, including at the direction of a relevant authority. • A requirement that distributors reconnect a disconnected customer if the reason for the disconnection has been removed. • A requirement that distributors must comply with any applicable jurisdictional dispute resolution requirements • Requirements for distributors to provide information to a customer or its retailer on request about the customer's consumption, network tariff or connection. • Requirements concerning the maintenance by 	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	<p>correction</p> <p>AGREE</p> <p>Small customer negotiated customer distribution contracts</p> <p>AGREE</p> <p>Distributor compliance with deemed customer distribution contracts</p> <p>AGREE</p>	<p>distributors of a 24-hour fault information and reporting line.</p> <ul style="list-style-type: none"> • Protections for small customers in relation to negotiated customer distribution contracts, including protected terms and cooling-off periods. <p>There is to be an express requirement in Law and Rules that a distributor must comply with the terms of the applicable deemed customer distribution contract in respect of customers connected to the distribution system.</p>	<p>SCO notes that the substantive obligations on distributors and protections relating to small customer contracts are to be contained in Rules and as such, cannot be negotiated away from. Customers are entitled to the provision of information as outlined in 1.27 regarding the implications of entering into a negotiated customer distribution contract. As such, SCO sees no need to provide further specific obligations on distributors in relation to negotiated customer distribution contracts.</p> <p>SCO considers it important that compliance with the terms of customer distribution contracts and AER-approved distribution contracts and RSCs are regulatory obligations. Compliance with the terms of these agreements by distributors is important to deliver the new national customer framework. Therefore, breaches of the terms of a distribution contract should be subject to regulatory oversight and where appropriate, enforcement action.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Distributor interface with retailers			
1.32	Nature of Retail Support Contract (RSC) AGREE	<p>The Law will include provision for a Retail Support Contract between each distributor and retailer that provides energy services to customers connected to the distributor's infrastructure.</p> <p>Both a RSC for electricity and a gas RSC must regulate the respective obligations consistently with the existing national access regimes applicable in each sector.</p> <p>For example, the new RSC will be designed to work consistently within the relevant access regimes under the NEL and the NER (for electricity) and the NGL and the NGR (in gas).</p> <p>The electricity and gas RSCs will otherwise cover the same subject matter, regulating the arrangements between distributors and retailers in relation to the provision of services to their joint customers.</p>	<p>Firstly, to distinguish between the various existing UoS and coordination contracts which cover considerably different ground, and to reinforce the goal of regulation in this space, SCO uses the term "Retail Support Contract" to denote the contractual relationship between distributors and retailers.</p> <p>In both electricity and gas, a RSC will be deemed to arise between a distributor and a retailer in respect of customers of the retailer connected to that distributor's network.</p>
1.33	Establishment of default Retail Support Contracts AGREE Negotiated Retail Support Contracts AGREE	<p>The Law will provide that except where a negotiated RSC exists, an RSC is deemed to be entered into by each distributor and each retailer where the retailer sells energy to customers connected to the distributor's infrastructure.</p> <p>The Law will not preclude a distributor and retailer negotiating different terms and conditions of their RSCs. However, the default RSC will apply in the absence of any such agreement between the parties and will effectively operate as the starting</p>	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	<p>Customer variations</p> <p>AGREE</p>	<p>point for any negotiated arrangements.</p> <p>The default RSC will provide that it does not apply in respect of particular customers to the extent that they have negotiated arrangements (in relation to the provision of customer connection and distribution services) with the distributor that require different arrangements.</p>	<p>Distributors and retailers will need to reach agreement where necessary to do so for such specific circumstances.</p>
1.34	<p>Default RSC terms and conditions</p> <p>AGREE</p>	<p>The Law will include authority for the Rules to make provision for the terms and conditions of a default RSC.</p>	
1.35	<p>Rules provisions for RSC</p> <p>Model terms and conditions for default Retail Support Contract</p> <p>AGREE</p>	<p>The Rules will include the following provisions in relation to the distributor – retailer interface:</p> <ul style="list-style-type: none"> Model terms and conditions of the default RSC will be in a separate schedule to the Rules so that it can operate for distributors and retailers as a contract. 	<p>For the avoidance of doubt, SCO considers that a schedule capable of adoption means a schedule that is, for all intents and purposes, a framed as a contract, minus the specific details of the distributor and retailer concerned, and any other matters of detail specific to their particular circumstance.</p> <p>Part 5 of this Table sets out a summary of the subject matters to be covered by the model terms and conditions of a default RSC for development of the initial Rules.</p>
	<p>Default Retail Support Contract</p> <p>AGREE</p>	<p>Where the default RSC forms the basis for the relationship between a distributor and retailer, each party must give notice of this by exchange of relevant details.</p>	<p>There is no need for adoption and publication by a distributor where the default RSC forms the contractual terms and conditions of the distributor-retailer relationship.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	<p>AER approval</p> <p>AGREE</p>	<p>The AER will not be required to approve a default RSC.</p> <p>However, a distributor may apply to the AER to vary the model terms of the default RSC. The Rules will provide guidance for the AER for such applications for variation based on AAR's proposed rationale for allowing flexibility in the terms of RSCs, namely:</p> <ul style="list-style-type: none"> • Customer service and network performance standards applicable to the distributor; • Any specific characteristics of the distributor's network; • Consistency with the regulatory obligations of retailers to customers; and • The statutory objectives of the NEL and the NGL. <p>Where a distributor applies to the AER to vary the model terms of the default RSC, a consultation process in relation to the proposed variations will occur.</p>	<p>SCO considers that a 'rubber stamping' process is not required where the default RSC model terms and conditions as set out in the Rules are relied upon.</p> <p>Distributors would only be able to seek variation to deal with the unique characteristics of their network.</p>
1.36	<p>Regulatory requirements</p> <p>AGREE</p>	<p>The Rules will include an obligation on distributors and retailers to comply with the terms of the relevant RSC, whether this is:</p> <ul style="list-style-type: none"> • a default RSC; • an AER approved RSC; or • a negotiated RSC. <p>Compliance will therefore be both a contractual obligation enforceable between the parties and a regulatory obligation enforceable by the AER.</p>	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		The terms and conditions of the RSC between a distributor and a retailer will not be subject to variation by the AER as an outcome of an access dispute.	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Distributor interface with embedded generators			
1.37	Process for new Rules for embedded generation AGREE	<p>Having regard to the NPWG policy process adopted in relation to this issue, policy outcomes should be capable of being implemented by a Ministerial order or, where appropriate, by the normal Rule change process.</p> <p>Accordingly, the amendments to the Laws for the new national customer framework will authorise Rules relating to the connection and operation of embedded generation to be made by Ministerial order.</p>	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Retailer business authorisation			
1.38	Substantive obligations as licence conditions AGREE	Substantive regulatory obligations will be contained in the Law and Rules rather than in licence conditions.	
1.39	Regulation of entry requirements AGREE	The Law will contain a general prohibition on a person engaging in the retail sale of energy, unless the person has obtained a retailer authorisation from the AER in relation to the carrying out of that activity, or is exempted from the requirement.	No national distributor authorisation will be introduced as part of the new national customer framework legislative package. Therefore the new general prohibition will not extend to a prohibition on carrying on a distribution business without a national business authorisation. Jurisdictional licensing will remain in place for safety and technical matters.
1.40	Entry tests AGREE Financial viability AGREE	The Law will set out the entry requirements to be satisfied by persons wishing to obtain energy business authorisations as retailers, and enable the AER to issue guidelines in relation to the authorisation procedures and its approach to assessing the criteria for authorisation. The criteria for business authorisation will include elements relating to the organisation and technical capacity necessary to meet the obligations of a retailer under the Law and Rules including: • financial viability – that the applicant has the financial resources required to undertake the relevant activity;	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	Suitable person AGREE Market operator registration AGREE	<ul style="list-style-type: none"> • A broad suitability criterion – that the applicant is a suitable person to hold the authorisation; • Criterion relevant to national energy and financial market participation– that the applicant is registrable by NEMMCO or the relevant gas market operator in accordance with any registration requirements under the NER or NGR. 	
1.41	Removal of overlap with NEMMCO registration AGREE	The existing registration requirements administered by NEMMCO under the NER will be modified to ensure there is no overlap with the processes and requirements for the new retailer authorisation administered by the AER. In particular: <ul style="list-style-type: none"> • NEMMCO requirements with respect to financial viability will be limited to satisfaction of the market prudential requirements under chapter 3 of the NER; • NEMMCO requirements with respect to organisational and compliance capacity will be limited to the relevant entity's safe and reliable interaction with the market and with technical requirements applicable under national framework instruments (including metrology). 	
1.42	Corresponding changes to gas market registration requirements No comment		The national requirements for gas market registration will be determined in due course as part of the single market operator work stream.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
1.43	Treatment of existing licensees AGREE	Retail businesses that hold current jurisdictional licences will transition to the national business authorisation without further processes.	
1.44	Exemptions AGREE	The Law will authorise the AER to exempt a person from the prohibition in accordance with the Law, the Rules and any guidelines issued by the AER. The Rules and AER guidelines will set out the matters to be considered by the AER in considering applications for exemptions, as well as general exemptions, in each case based initially on current arrangements. The making of guidelines and consideration of exemption applications will be subject to a consultation process.	The Rules will require the AER to develop "Exempt Retail Supply Guidelines" which must set out categories of exemptions, including: <ul style="list-style-type: none"> ▪ Specific exemption for one or more retailer authorisation obligations; ▪ Exemptions for particular activities; and ▪ Holders of a jurisdictional exemption
1.45	Exemption conditions and enforcement AGREE	The Law will provide that an exemption may be subject to conditions covering similar matters that apply to retailers. Exempt suppliers are to be subject to monitoring and enforcement by the AER in relation to compliance with the conditions of the exemption. In the case of a general exemption, it may be necessary for the AER to establish a framework to ensure it is aware of the persons conducting activities covered by the exemption so that it is able to monitor and enforce compliance by those persons with the conditions of their exemption.	
1.46	Revocation AGREE	The national framework will include a regime for the AER to revoke a retailer authorisation. The details of a revocation regime will be developed having regard to the national Retailer of Last Resort project, but the key elements of such a regime	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>would include:</p> <ol style="list-style-type: none"> 1. The relevant matters that must be satisfied before the AER can consider revoking an authorisation such as: <ul style="list-style-type: none"> • There must be a history of demonstrated and persistent breaches of the Rules with material consequences for third parties. • That the AER has reasonable grounds for believing that there is a real likelihood that previous and further enforcement action has not and will not be likely to remedy or prevent the continuation of breaches in the future. • A 'materiality' requirement will take into account both impacts on market participants and customers, and the cost and effort of compliance actions. 2. Procedural fairness requirements which would include: <ul style="list-style-type: none"> • Notice and opportunity to rectify and be heard by the retailer. • Consultation with relevant market operators. • Provision of reasons for the decision to revoke. 3. Managing the orderly transfer of customers of the retailer and any other obligations. 	
1.47	Register of authorised persons AGREE	The Law will require the AER to maintain a public register of authorised persons and exempt persons (excluding those exempt under a deemed exemption) and include details of the information to be included in the register.	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
1.48	Ancillary rights and powers AGREE	Ancillary rights and powers (such as those relating to compulsory acquisition and works on public and private land) will continue to be dealt with in jurisdictional legislation.	The general approach of not duplicating ongoing jurisdictional ancillary rights and powers will be adopted in the national framework.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Enforcement mechanisms			
1.78	Compliance monitoring and enforcement functions of the AER AGREE	The NEL and NGL will include provisions to support the AER's compliance monitoring and enforcement functions as follows: <ul style="list-style-type: none"> • a requirement for regulated entities¹ to establish systems and procedures to monitor regulatory compliance, in accordance with reporting requirements issued by the AER; • a requirement for regulated entities to notify the AER of breaches of regulatory obligations, in accordance with guidelines issued by the AER; • a requirement for regulated entities to undertake compliance audits, and to co-operate with such audits being undertaken by the AER or an independent auditor, in accordance with guidelines issued by the AER; and • a requirement for the AER to report on its compliance monitoring and enforcement functions. 	The regulatory reporting regime adopted by the AER would be modelled on current jurisdictional reporting requirements and are to be developed through a public consultation process. Any regulatory regime developed by the AER should reflect the relative importance of particular breaches of the Law or Rules. Consideration will be given to the extent to which regulatory information instruments will be used for these purposes.
1.79	Court based enforcement mechanisms AGREE	The court-based enforcement mechanisms provided for in sections 61, 63 and 68 of the NEL (and the equivalent provisions to be included in the NGL) should apply to the obligations to be included in the national customer	The identification of which provisions will be nominated as civil penalty provisions will be determined as part of the drafting of the legislative and rules package.

¹ References to 'regulated entities' in the paper are to distributors and retailers under the national customer framework.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		framework. Compliance with these requirements should be designated as civil penalty provisions.	
1.80	Additional powers for courts to make orders No comment	No longer required.	AAR recommended that consideration be given to expanding the description of orders available to the Court. SCO has decided not to expand Court powers to compensatory or other orders for the following reasons: <ul style="list-style-type: none"> • It is inappropriate for the regulator, as prosecutor, to decide if third parties affected by the conduct should be allowed to recover losses or damages; • The regulator is not in a position to know or plead the quantum damage allegedly suffered by a third party; and • There may be undue pressure from third parties on the regulator because of the possible financial advantage they may get from the proceedings.
1.81	Infringement notices AGREE	The provisions currently contained in the NEL (and to be included in the NGL) giving the AER the power to issue infringement notices where the AER believes that there has been a breach of a civil penalty provision will apply to the new national customer framework.	
1.82	Administrative remedies AGREE	The NEL and NGL will include provisions that enable the AER to accept enforceable undertakings modeled on section 87B of the <i>Trade Practices Act 1974</i> (C'th).	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
1.83	Revocation of business authorisation AGREE	The AER's power to revoke a business authorisation is only to be used as a last resort after all other enforcement mechanisms have been exhausted, and not as an enforcement mechanism to address one-off breaches.	
1.84	Additional enforcement issues – conduct provisions AGREE	Certain obligations arising from the distribution and retail regulatory functions will be enforceable as between the affected parties (distributors and retailers) for a specified and limited list of provisions that are identified as 'conduct provisions'.	<p>The new NGL includes a regime by which certain obligations may be nominated as conduct provisions which allows enforceability as between the two parties. This type of regime will be introduced into the NEL.</p> <p>Generally, SCO considers that provisions imposing an obligation on a party for the purpose of conferring a benefit on distributors, retailers and/or large end users would be the type of provision best suited to being a prescribed conduct provision. However, which provisions are identified as conduct provisions will be the subject of further consultation in the drafting of the package.</p>
	Other dispute resolution issues AGREE	<p>The dispute resolution provisions in Chapter 8 of the NER will apply in respect of the National Energy Customer Rules between NEM registered participants. Accordingly it will <i>not</i> apply to:</p> <ul style="list-style-type: none"> • disputes between regulated businesses and small customers; and • disputes between gas distributors and retailers. <p>Where court based remedies are to be used, enforcement in the lower courts, including the Federal Magistrates Court, is</p>	<p>SCO notes that chapter 8 of the NER dispute resolution process is not designed for disputes between regulated businesses and small customers, and therefore chapter 8 dispute resolutions will not be available for these disputes.</p> <p>In relation to disputes between gas distributors and retailers, SCO considers that there are adequate</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		to be allowed within the current court jurisdictions rather than (as at present) only in the Federal Court and Supreme Courts.	mechanisms in place under the national gas access arrangements for resolving disputes between gas distributors and retailers.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENTS
Statutory objectives			
1.85	Statutory Objectives of the NEL and NGL DISAGREE The absence of environmental and social objectives is a significant omission (See submission)	The current statutory objectives in the NEL and NGL are adequate to accommodate the transfer to the new national customer framework.	
1.86	Supplementary objectives	No supplementary objectives will be introduced for the new national customer framework.	

Part 2 – Regulation of standard retail and market retail contract terms

The recommended requirements as set out in this Part 2 of the Table will apply to both standard retail contracts and market retail contracts. The Table sets out the terms and conditions of the standard retail contract, some of which are also minimum terms and conditions that must be included in market retail contracts. Where the terms and conditions of market contracts can be varied, this is indicated by a 'Market Retail Contract Annotation' in the Table.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Calculation of Charges			
2.1	Tariffs and charges AGREE	<p>Charges under the standard retail contract are to be made on the basis of a published standing offer tariff that must be referred to in the contract.</p> <p>The standing offer tariff must be published by the retailer on its website and provided to the AER for publication on its website.</p> <p>Any variation to standing offer tariffs and charges must be published 20 business days in advance of the variation taking effect.</p> <p>A retailer is limited to varying a standing offer tariff to 6 monthly.</p> <p>Upon request, a retailer must provide a customer with information reasonably available to the retailer on network charges, retail charges and any other charges relating to the sale or supply of energy.</p> <p>Market Retail Contract Annotation</p> <p>Publication requirements do not apply to market retail contracts. Market retail contract tariffs must be included in</p>	<p>SCO notes that separate transitional provision will be made for jurisdictions where a regulated tariff continues.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>the contract and variations must be notified to the customer in accordance with requirements set out in the contract.</p>	
2.2	<p>Use of meter data</p> <p>AGREE</p>	<p>Unless otherwise permitted, a retailer must base the calculation of charges for a small customer's bill on metering data provided by the distributor or other responsible person in accordance with the Rules.</p> <p>A retailer may base the calculation of charges under a bill on an estimation of a small customer's consumption of energy in the following circumstances:</p> <ul style="list-style-type: none"> • where the customer consents to the use of estimates by the retailer; • where the retailer is not able to reasonably or reliably base the bill on a meter reading; or • where metering data is not provided to the retailer by the distributor or other responsible person. <p>Market Retail Contract Annotation</p> <p>May be varied by agreement in market retail contracts.</p>	
2.3	<p>Meter reads</p> <p>DISAGREE</p> <p>This will lead to an increased use of estimated reads, difficulties for customers, and customer disputes</p>	<p>A standard retail contract will inform the customer who is responsible to ensure that a meter reading takes place, and that this must take place at least once in each 12 month period.</p>	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	(see submission)		
2.4	Estimations AGREE	<p>Where estimations are permitted to be used as the basis for the calculation of energy charges under a bill for a small customer, the estimations may be based on:</p> <ul style="list-style-type: none"> • the customer's reading of the relevant meter; • historical meter data for the relevant customer reasonably available to the retailer; or • where there is no historical meter data for the relevant customer, the average usage of energy by a comparable customer over the corresponding period. <p>Market Retail Contract Annotation</p> <p>Where estimation is the basis for the calculation of charges under a market retail contract, the above standard requirements in relation to the basis of estimation are to be included as a minimum term for that contract.</p>	
2.5	Bill smoothing AGREE	<p>Where a retailer is entitled to use estimations as the basis for the calculation of charges under an energy bill, estimated bills may be provided under a smoothing arrangement if:</p> <ul style="list-style-type: none"> • the amount payable each month is initially the same; • the retailer's estimate is based on the customer's historical billing data or, if no such data exists, the average consumption of a similar customer; • the retailer re-estimates consumption after 6 months on the basis of a meter read; and 	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<ul style="list-style-type: none"> the difference between the initial estimate and the re-estimate is greater than 10%, the retailer resets the amount payable under each of the remaining bills to reflect the difference. <p>Market Retail contract Annotation</p> <p>May be varied by agreement in market retail contracts.</p>	
2.6	Meter access AGREE	<p>The standard retail contract will state that the customer must allow safe and unhindered access to the supply address for the purposes of reading the meter.</p> <p>If a failure to provide access results in a charge being based on estimation and the customer subsequently requests an actual read, the retailer may charge the customer its reasonable costs of complying with the request.</p>	
Termination			
2.7	Retailer termination AGREE	<p>A retailer may terminate a small customer supply contract where:</p> <ul style="list-style-type: none"> the retailer has a contractual right to disconnect, disconnection has occurred and there is no contractual right to reconnection; the small customer and the retailer have entered into a new customer contract; or financial responsibility for the small customer has transferred to another retailer. <p>Market Retail Contract Annotation</p> <p>Market retail contracts may provide for additional termination</p>	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		events, but must not vary the provisions relating to disconnection.	
2.8	<p>Customer termination</p> <p>DISAGREE</p> <p>Five business days notice would be onerous for many customers. The current NSW provision of 72 hours is more reasonable for customers.</p>	<p>A small customer may terminate a standard retail contract upon five business days notice to the retailer.</p> <p>Market Retail Contract Annotation</p> <p>A small customer is required to give no more than 28 days notice to terminate a market retail contract.</p>	
Security			
2.9	<p>Provision of security</p> <p>AGREE</p> <p><i>With addition of</i></p> <p>- the customer has not entered into a direct debit or Centrepay arrangement</p>	<p>A retailer may require a small customer to provide a security deposit where:</p> <ul style="list-style-type: none"> • the small customer still owes that retailer in relation to the supply of electricity to another address; • the customer has unlawfully acquired energy within the past two years; • the customer has refused to provide acceptable identification to the retailer; or • the retailer reasonably considers that the customer does not have a satisfactory credit history. <p>Payment of a security deposit in instalments will be provided for.</p>	<p>SCO considers that provision for instalment payment for security deposits more appropriately deals with the issue of customer credit risk.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>Market Retail Contract Annotation</p> <p>May be varied by agreement in market retail contracts.</p>	
2.10	<p>Information about credit history</p> <p>AGREE</p> <p>However EWON considers that the unsatisfactory credit history should be limited to energy debt with that particular retailer, and not the broader definition of credit history.</p>	<p>If a retailer requires a security deposit on the basis that a small customer has an unsatisfactory credit history, the retailer must inform the customer:</p> <ul style="list-style-type: none"> • that the retailer has decided the customer has an unsatisfactory credit history; • the reasons for the retailer's decision; • of the customer's rights to dispute the decision of the retailer; and • that the customer has the right to obtain details in relation to the information on which the retailer's decision was based. 	
2.11	<p>Amount of security</p> <p>AGREE</p>	<p>The amount of security may not exceed:</p> <ul style="list-style-type: none"> • 1.5 times the average quarterly bill (for customers on a quarterly billing cycle); • 2.5 times the average monthly bill (for customers on a monthly billing cycle); or • 2 times the average monthly bill (for customers on a two monthly billing cycle). <p>Market Retail Contract Annotation</p> <p>May be varied by agreement in market retail contracts.</p>	
2.12	Interest	The retailer must pay interest on a security deposit to the customer in accordance with an interest rate specified initially	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	AGREE	in the Rules and subject to periodic review by the AER. The rate is to be published on the AER website.	
2.13	Application of security AGREE	<p>The retailer may only apply a security deposit to off-set amounts owed to it where the customer has failed to pay a final bill and:</p> <ul style="list-style-type: none"> • the failure results in disconnection by the retailer and there is no contractual right to reconnection; • the customer vacates the property; • the customer requests disconnection; or • the customer transfers to another retailer. <p>The retailer must account to the customer within 14 days after application of the security deposit.</p> <p>Market Retail Contract Annotation</p> <p>May be varied by agreement in market retail contracts</p>	
2.14	Repayment of security DISAGREE EWON considers that the relevant time for repayment should be after 4 non-consecutive on time quarterly payments (or 8 for non-residential). Just 2 late payments could	<p>The retailer must repay a security deposit to the customer:</p> <ul style="list-style-type: none"> • after the customer has completed: <ul style="list-style-type: none"> • in the case of a residential customer – 12 months; • in the case of a non-residential customer – 2 years of on-time payment of energy charges; or • where the customer ceases to take supply from the retailer at the relevant address and there is no debt outstanding. 	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	see a retailer retain a security deposit for nearly 3 years under the current proposal.	<p>Market Retail Contract Annotation</p> <p>May be varied by agreement in market retail contracts.</p>	
Billing, apportionment of payment, disputes			
2.15	<p>Frequency of bills</p> <p>AGREE</p>	<p>Energy bills must be issued by the retailer at least every three months.</p> <p>Market Retail Contract Annotation</p> <p>May be varied by agreement in market retail contracts.</p>	
2.16	<p>Content of bills</p> <p>AGREE</p> <p>EWON would support the inclusion of comparative consumption data in the list of required bill content. EWON also notes that Time of Use (also known as Interval) meters generally have a limited ability to record cumulative consumption data, and that retailers whose billing relies</p>	<p>A bill should include the following content:</p> <ul style="list-style-type: none"> • customer's name, account number and address; • meter identifier; • bill period; • due date; • amount of arrears or credits; • relevant tariff; • whether the bill was issued as a result of a meter read or an estimation and, if issued as a result of a meter read, the date of the meter reading; • values of meter readings (or, if applicable, estimations) at the start and end of the billing period; 	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	<p>on such metering generally show zero as the start read in each bill issued to a customer. SCO may wish to consider the likely impact that this aspect of Time of Use metering will have on retailers' obligations to include a start and end read in customers' bills.</p>	<ul style="list-style-type: none"> • details of consumption or estimated consumption; • pro rata billing information (if applicable); • any amount deducted, credited or received under a Government rebate or concession scheme or under a payment plan; • the amount of any security deposit; • the basis on which charges are calculated, including fixed and variable charges and other miscellaneous fees or charges applicable to the small customer; • details of the available payment methods; • reference to any available government funded concessions or rebates; • telephone number for account and fault enquiries; 	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<ul style="list-style-type: none"> • contact details for complaints; and • availability of interpreter services in community languages. <p>Amounts billed for goods and services (other than the supply of energy) must be included in a separate bill or as a separate line item on an energy bill.</p>	
2.17	Payment terms AGREE	<p>The due date for payment of a bill may not be less than 12 business days from the date on which the bill is sent out.</p> <p>Market Retail Contract Annotation</p> <p>May be varied by agreement in market retail contracts.</p>	
2.18	Apportionment AGREE	<p>If a bill includes amounts payable for other goods and services provided by the retailer (apart from the supply of energy), any payment made in relation to such a bill must be applied firstly to the payment of the energy charge, unless otherwise directed or AGREE to by the customer or jurisdictional legislation expressly requires otherwise.</p> <p>Market Retail Contract Annotation</p> <p>May be varied by agreement in market retail contracts.</p>	<p>For example, funds are applied first to the Queensland Community Ambulance Cover Levy, under the <i>Community Ambulance Cover Act 2003</i>.</p>
2.19	Historical billing information AGREE	<p>A retailer must promptly provide historical billing data for the previous 12 months on request and without charge to a small customer. Any information provided prior to that period or more than once in any 12 month period may be subject to a reasonable charge.</p>	
2.20	Billing disputes AGREE	<p>A retailer must review a bill upon the request of a small customer in accordance with the retailer's standard</p>	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	<p>EWON recommends that there be a specific requirement for retailers to provide the contact details for the relevant ombudsman scheme to any customer who requests information on where they can refer an unresolved billing dispute.</p>	<p>complaints and dispute resolution procedures and in accordance with any time limits applicable under those procedures.</p> <p>The customer may request the retailer to arrange a meter test, with the cost of the test to be borne by the customer, but rebated to the customer if the meter is proved to be faulty.</p> <p>Retailers may require a customer to pay the greater of:</p> <ul style="list-style-type: none"> • the portion of the bill under review which is not in dispute; or • an amount equal to the average amount of the customer's bills over the previous year (excluding the bill in dispute), <p>and any future bills that are properly due.</p> <p>Where, after conducting a review of the bill, a retailer is satisfied that the bill is:</p> <ul style="list-style-type: none"> • correct, the customer must pay the amount outstanding; or • incorrect, the retailer must adjust the bill accordingly and refund any fee paid in carrying out any metering test. 	<p>This clause does not prevent the customer from referring a dispute according to the relevant ombudsman scheme.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Undercharging and overcharging			
2.21	Undercharging AGREE	<p>A retailer may recover from a customer any amount undercharged during the previous 12 months (unless the undercharging arises as a result of the fault or unlawful action of the customer, in which case the 12 month limitation does not apply).</p> <p>Interest is not payable on the amount undercharged and the customer must be given a period of time to pay any undercharged amount commensurate with the period of the undercharging. Any amount undercharged must be listed and explained as a separate item on the customer's next bill or on a separate bill.</p>	
2.22	Overcharging AGREE	<p>A retailer must promptly inform the customer within 10 business days of becoming aware of an overcharge that exceeds the relevant threshold amount and must repay any amount overcharged.</p> <p>If the amount overcharged is less than the threshold amount, the retailer must credit that amount to the next bill. If the amount overcharged exceeds the relevant threshold, the retailer must credit the customer's next bill unless otherwise directed by the customer.</p>	The initial overcharge threshold amount is proposed to be \$50.00.
Payment methods and difficulties			
2.23	Payment methods AGREE	<p>A retailer must accept payment by a small customer by any of the following payment methods:</p> <ul style="list-style-type: none"> • in person; 	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<ul style="list-style-type: none"> • by telephone; • by mail; or • by direct debit. <p>Where a direct debit arrangement is entered into, the retailer and the small customer must agree the amount, date and frequency of the direct debits and the customer's cancellation options.</p> <p>A retailer must offer hardship customers the option to pay by Centrepay. Other customers experiencing financial difficulties, may request Centrepay as a payment option.</p> <p>Market Retail Contract Annotation</p> <p>May be varied by agreement in market retail contracts. If direct debit is provided for in the market retail contract, the last paragraph must be complied with.</p>	
2.24	Payment difficulties AGREE	<p>A customer may be offered a payment plan if:</p> <ul style="list-style-type: none"> • the customer informs the retailer that it is experiencing payment difficulties; or • it becomes apparent to the retailer that the customer is experiencing payment difficulties <p>A customer requesting a payment plan is entitled to reasonable consideration of that request by the retailer.</p> <p>A retailer is not required to offer a payment plan if the</p>	<p>The extent of circumstances under which retailers are obliged to offer instalment payment plans and other services to hardship customers are separately covered under recommendations 1.20A-1.20E.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		customer has had two instalment plans cancelled due to non-payment in the previous 12 months.	
2.25	<p>Shortened collection period</p> <p>DISAGREE</p> <p>This is a significant reduction of current NSW consumer protection. (see submission)</p>	<p>A retailer may only place a customer on a shortened collection cycle if in the case of a residential customer, the retailer:</p> <ul style="list-style-type: none"> • has complied with the requirements as to assessing whether the customer is experiencing payment difficulties; • is satisfied that there are no apparent bill payment difficulties; • has given to the customer: <ul style="list-style-type: none"> • reminder notices for two consecutive bills or disconnection warnings for two consecutive bills; and • prior to the second reminder notice or second disconnection warning a notice informing the customer that: <ol style="list-style-type: none"> a) receipt of the second reminder notice may result in the customer being placed on a shortened collection cycle b) being on a shortened collection cycle means that the customer will not receive a reminder notice until the customer has paid three consecutive bills in the customers billing cycle by the pay by date 	SCO seeks comment on the effectiveness of shortened collection periods for managing customer debt.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>c) alternative payment arrangements may be available; and</p> <p>d) the customer may obtain further information from the retailer (on a specified telephone number)</p> <p>A retailer must give a customer notice that the retailer has placed the customer on a shortened collection cycle within 10 business days of doing so.</p>	
Disconnection			
2.26	<p>Grounds for disconnection</p> <p>AGREE</p> <p>Concern that the final dot point is inconsistent with the proposed establishment of deemed supply contract for customers at termination of a market contract</p>	<p>A retailer may arrange to disconnect or discontinue supply where a small customer:</p> <ul style="list-style-type: none"> • has not paid a bill for energy services; • has failed to provide security requested by the retailer (which it is entitled to request); • has denied access to a meter for three consecutive scheduled readings without reasonable excuse; • has refused to provide acceptable identification; • has acquired energy illegally; • has obstructed an authorised person in relation to acts to be done under the contract; and/or • (in the case of a market retail contract) the contract has been terminated in accordance with the terms of the contract, and the customer has not entered into another retail contract. 	
2.27	Limitations on disconnection	Other limitations will apply to the right to discontinue supply in circumstances where a small customer has not paid a bill	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	<p>AGREE</p> <p>EWON recommends that the requirement not to disconnect also apply to situations where a customer has an unresolved complaint being assessed or investigated by both their retailer and the relevant ombudsman.</p> <p>Note both this recommendation and 1.31 refer to “registered life support or critical medical equipment” but nowhere is there a definition of registration or who is responsible to maintain such registration.</p>	<p>on account of having insufficient income.</p> <p>In these circumstances, the retailer is (where the customer is a hardship customer) required to comply with its obligations under its Customer Hardship Policy before proceeding to disconnect a customer.</p> <p>Retailers are not entitled to disconnect while an application for Government assistance or a payment plan is pending or there is an unresolved complaint relating to the outstanding bill being dealt with by the relevant ombudsman.</p> <p>In addition, premises registered as containing life support or other critical medical equipment may not be disconnected.</p> <p>Retailers may only arrange for disconnections to occur before times of the day and on days as specified in the Rules (see recommendation 1.31).</p>	
2.28	<p>Notice</p> <p>AGREE</p>	<p>Disconnection may not be effected until the retailer has provided the customer with:</p>	<p>The notice given for disconnection will inform the customer of the due date for payment of any bills or</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	<p>With proviso disconnection notice provide contact details of relevant ombudsman</p>	<ul style="list-style-type: none"> • a reminder notice; and • a combined (second) reminder and disconnection notice, <p>containing minimum information and at minimum specified intervals.</p> <p>In addition, where the reason is non-payment of a bill, the retailer must make a reasonable attempt to contact the customer by telephone or other specified means.</p>	<p>remediation of any other ground for disconnection before disconnection is enacted.</p>
2.29	<p>Reconnection</p> <p>DISAGREE</p> <p>Reconnections should be required upon remedy of the breach as in recommendation 1.31</p>	<p>A retailer must notify a small customer of the arrangements which the customer will need to make in respect of reconnection, including any costs payable by the customer. Any payment arrangements for reconnection must allow for fair and reasonable payments at fair and reasonable intervals.</p> <p>A retailer must reconnect premises if the breaches described above are remedied within 10 business days. Retailers must make appropriate arrangements with the relevant distributor to ensure that reconnection occurs as soon as possible for the customer.</p>	
Liability and warranties			
2.30	<p>Liability and warranties</p> <p>AGREE</p>	<p>A retailer must not include any term or condition in an energy contract that limits the liability of the retailer for breach of the contract or negligence by the retailer, provided that:</p> <ul style="list-style-type: none"> • the retailer's liability may be limited as contemplated by section 68A of the <i>Trade Practices Act</i> or by equivalent State or Territory legislative provisions; and 	<p>The SCO notes that the provision dealing with liabilities as between retailers and customers is a key means for appropriately allocating risks and of critical importance to the overall contractual model.</p> <p>Interested parties may wish to give particular attention to providing feedback to SCO in this area as the</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<ul style="list-style-type: none"> there is no variation or exclusion of relevant legislative provisions which provide that the retailer is not liable for damages for failure to supply due to circumstances beyond its control (i.e. section 120 of the NEL). <p>A retailer may not include in an energy contract with a small customer a term pursuant to which the customer indemnifies the retailer, so that the retailer may recover from the customer an amount greater than the retailer would otherwise have been able to recover at general law for breach of contract or negligence by the customer in respect of the contract.</p>	detailed provisions are developed during the drafting of the initial Rules for the new national customer framework.
Miscellaneous			
2.31	Prepayment meters AGREE	A customer may agree but cannot be required to use a prepayment meter.	<p>While SCO agrees prepayment meters should be available as part of a market retail contract in the national customer framework, this is only where jurisdictions permit the use of prepayment meters and is not intended to mandate their use nationally.</p> <p>SCO considers that market retail contracts are the appropriate vehicle to contain the further requirements relating to the use of these meters.</p> <p>These requirements are to be based on existing jurisdictional codes for prepayment meters.</p>
2.32	Dispute resolution and complaints AGREE	A retailer must handle a complaint made by a small customer in accordance with the relevant jurisdictional dispute resolution process.	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Additional provisions required in market retail contracts			
2.33	Cooling-off period AGREE	<p>Market Retail Contract Annotation</p> <p>A retailer must ensure that each market retail contract entered into with a small customer enables the customer to rescind the contract within 10 business days after the contract is entered into or, if later, after the customer receives prescribed information relating to the cooling off period.</p>	
2.34	Dual fuel contracts AGREE	<p>Market Retail Contract Annotation</p> <p>In the case of dual fuel bills, payment is to be made as agreed with or directed by the customer. If there is no such agreement or direction, payment is to be applied in proportion to the relative value of the electricity and gas charges.</p> <p>Where jurisdictional legislation expressly requires otherwise, payment must be allocated accordingly.</p> <p>If disconnection is permitted, a retailer must ensure that a small customer on a dual fuel contract is initially disconnected from gas supply and that disconnection from electricity supply occurs within a certain period after the disconnection notice, unless otherwise directed by the customer or agreed by the customer.</p>	
2.35	Early termination charges AGREE	<p>Market Retail Contract Annotation</p> <p>The retailer may only impose an early termination charge under a small customer market retail contract if:</p> <ul style="list-style-type: none"> • the market retail contract includes details of the 	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>amount or manner of calculation of the early termination charge; and</p> <ul style="list-style-type: none"> the early termination charge is a reasonable estimate of the cost to the retailer resulting from the early termination. 	
Other provisions contemplated by AAR			
2.36	<p>Assessing credit risk (limiting assessment to utility related debt)</p> <p>DISAGREE</p> <p>EWON considers that retailers should only have regard to a customer's energy-related debt.</p>	<p>Retailers may have regard to a customer's general credit history when assessing credit risk rather than being restricted to utility-related debt.</p>	
2.37	<p>Customer consultative groups</p> <p>No Comment</p>	<p>The AER must establish a customer consultative group.</p>	<p>To be a direct obligation.</p>
2.38	<p>Discrimination based on customer supply or use of alternative energy sources</p> <p>AGREE</p>	<p>There will not be a specific provision relating to discrimination on grounds of customer supply or use of alternative energy sources.</p>	<p>Small customers irrespective of use of alternative energy sources (such as photovoltaic panels) must be supplied according to the standard retail contract by the designated retailers and this does not permit such discrimination.</p>
2.39	<p>Fees for late payment</p> <p>DISAGREE</p>	<p>Fees for late payment will be expressly permitted under standard retail contracts, provided that the retailer publishes</p>	<p>The amount of the late payment fee may be set by jurisdictions where retail price regulation continues</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	<p>In NSW late payment fees must be waived where a customer is seeking payment assistance from an agency, if EAPA is used to pay bill or where considered by Ombudsman. Any reduction of these provisions would seriously impact on disadvantaged consumers</p>	<p>a late payment fee with the standing offer tariff.</p> <p>Where a customer is a hardship customer (see recommendation 1.20A) (whether that customer is taking supply under a standard or market retail contract, a retailer must waive late payment fees.</p>	
2.40	<p>Compensation for wrongful disconnection</p> <p>DISAGREE</p> <p>In some cases customers who have been disconnected in error have experienced significant inconvenience or hardship. An absolute exemption from</p>	<p>Retailers are not required to pay compensation to customers who are wrongfully disconnected.</p>	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	compensation by retailers is not reasonable.		
Provisions to be included in the Rules			
2.41	Communications with customers AGREE	A retailer must provide access to multi-lingual services (for languages common to the relevant customer base) in order to meet the reasonable needs of its small customers.	
2.42	Customer information AGREE	A retailer must make available on request and without charge standardised information to a small customer concerning his or her rights, entitlements and obligations.	
2.43	Competitive pricing information DISAGREE This should be a required role of the AER to assist customers to make informed market choices.	The Rules should permit (but not require) the AER to require pricing information to be presented in a format which enables comparison between competing offers.	SCO invites stakeholder comment on the potential for – and options for – presentation of comparative pricing of market retail tariff offers across electricity and gas in the national market.
Provisions subject to separate policy review			
2.44	Consumption graphs AGREE This should be part of	Bills to include bill benchmarking data.	The arrangements for presentation of this information are currently being developed by the Consumer Information Implementation Committee.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	required billing information		
2.45	Provision of energy efficiency advice AGREE	On request, a retailer must provide energy efficiency advice to a small customer.	SCO supports this recommendation as it is consistent with broader demand management objectives and most current jurisdictional regimes.
2.46	Greenhouse gas emissions information on bills AGREE	Bills must include information concerning greenhouse gas emissions in accordance with guidelines.	The arrangements for presentation of this information are currently being developed by the Consumer Information Implementation Committee.
2.47	CSOs See ANZEWON submission to MCE review	Retailers may be required to deliver government funded CSOs.	The MCE is currently reviewing CSOs as requested by the Council of Australian Governments.
2.48	Service standards AGREE	Retailers must comply with specified service standards.	

Part 3 – Regulation of marketing conduct

The recommended requirements would apply to marketing conduct involving small customers.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
3.1	Pre-contractual disclosures - timing/form AGREE	A retailer must provide a small customer with certain specific information as follows: (a) prior to formation of a market retail contract: where the prescribed matters may be disclosed in writing, electronically or verbally; and (b) as soon as practicable after formation of a market retail contract: pursuant to a single written disclosure statement (unless such disclosure statement has already been provided).	
3.2	Pre-contractual disclosures - required disclosures AGREE	The information which a retailer must provide in the manner described above is information in relation to: (a) prices, charges, penalties, billing and payment arrangements: all applicable prices, charges, early termination payments and penalties, security deposits, service levels, concessions or rebates, billing and payment arrangements and how any of these matters may be changed; (b) contract duration: the commencement date and duration of the contract, the availability of extensions and whether the contract can be transferred to other premises if the customer moves out during the term of the contract; (c) cooling-off period: details of rights to rescind the	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>contract, including how to exercise these rights;</p> <p>(d) electronic transactions: if any marketing requirement is to be complied with by an electronic transaction, how the transaction is to operate and, as appropriate, that the customer will be bound by the electronic transaction or will be recognised as having received the information contained in the electronic transaction; and</p> <p>(e) standard retail contracts: the availability of standard retail contracts and the AER's contact details.</p>	
3.3	Cooling-off period AGREE	Unless such information has previously been supplied to the small customer, a retailer must send documentation to the small customer providing details of the customer's right to rescind the market retail contract, including information about how to exercise this right. A 10 business day cooling-off period will be put in place.	
3.4	Dispute resolution and complaints AGREE As noted above at 2.20, EWON recommends that there be a requirement for the retailer to advise the customer of the specific contact details of the relevant	A retailer must advise a small customer of the customer's right to complain to the retailer in respect of any marketing activity conducted on behalf of the retailer and, if such complaint is not satisfactorily resolved by the retailer, of the customer's right to complain to the relevant industry ombudsman.	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	industry ombudsman.		
3.5	General conduct standards AGREE	Marketers must, and retailers must ensure that marketers, comply with all applicable Commonwealth and State and Territory laws in relation to: (a) misleading, deceptive or unconscionable conduct; (b) undue pressure, harassment or coercion; and (c) the quality, form and content of marketing information. Marketers must have, and retailers must ensure that marketers have, adequate product knowledge. Adequate product knowledge covers knowledge of matters such as tariffs, billing procedures and the availability of rebates and concessions.	
3.6	Duties of marketers AGREE	At all times in connection with any marketing activity, a marketer must identify his or herself to a small customer. Identification involves the marketer using best endeavours to provide the small customer with: (a) the marketer's first name; (b) any relevant identification number; (c) the name of the retailer on whose behalf the marketing contact is being made and contact details for the retailer; (d) sufficient contact details to enable the customer to contact the marketer; and (e) advice as to the purpose of the marketing contact. Where marketing is conducted in person, a marketer must wear an identification badge showing the marketer's photograph, first name and the name of the retailer on whose	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		behalf the marketing contact is being made.	
3.7	Training AGREE	Retailers must ensure that marketers are appropriately trained in relation to compliance with marketing obligations.	
3.8	Record keeping AGREE	Retailers must keep records of all marketing related activities, including details of marketing visits which have been conducted, and telephone marketing calls which have been placed. Retailers must also retain records of any explicit informed consent obtained by a marketer for a specified period after such consent is obtained.	
3.9	Compliance audits AGREE	A retailer may be required by the AER to conduct a compliance audit in respect of the compliance by marketers with their marketing obligations.	
3.10	Contact records and contact times DISAGREE EWON believes that there should be nationally consistent rules (see submission)	The national customer framework will not deal with these matters.	These matters are captured by generic customer marketing regulation.

Part 4 – Regulation of distributor-customer contract terms

The following terms and conditions would be included in the model terms for deemed customer distribution contracts to be included in the Rules. Note that negotiated customer distribution contracts may be entered into where both parties agree, subject to requirements specified in the Law and Rules for small customers.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
4.1	Commencement of contract (as between the distributor and the customer at particular premises) AGREE	The customer distribution contract will apply in relation to a particular customer and premises on the date the premises are connected to the network (for new connections) or date on which the customer first took supply of energy at the premises.	
4.2	Collection of charges AGREE	An explanatory term is to be included noting that charges for customer distribution services (network charges) are paid to the retailer and that the distributor may not charge the customer directly for services unless it has a separate agreement with the customer.	
4.3	Termination of customer distribution services AGREE	The customer distribution contract will provide that the contract ends in relation to a particular customer and premises, on the earlier of: <ul style="list-style-type: none"> • the date the customer is disconnected in accordance with the disconnection procedures and any right of reconnection has expired; • the customer ceasing to be responsible for energy consumption at those premises following a specified period of notice to its retailer; 	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<ul style="list-style-type: none"> • the effective date of a negotiated distribution contract for the premises; or • the date otherwise AGREE between the customer and the distributor. 	
4.4	Interruptions to supply AGREE	The contract will refer to the provisions of the Rules in relation to interruptions and curtailments to supply.	
4.5	Service standards/Guaranteed service levels AGREE	The customer distribution contract will require that the distributor comply with any applicable service standards and guaranteed service level schemes. The following is an indicative list of the types of requirements that are dealt with via GSL/Service Standards: <ul style="list-style-type: none"> • frequency and duration of supply interruptions; • timely notice of planned interruptions; • quality of supply (excluding frequency) for electricity (this could include voltage variations); • wrongful disconnection; • timeframes for reconnection; • being on time for appointments; • response times for fault calls; and • provision of fault information. 	Due to ongoing jurisdictional regulation in this space, explicit provision for GSL/Service Standards in the model terms cannot be included in the Rules. Appropriate customer information requirements will be put in place through the Rules to ensure that customers are made aware of what their particular entitlements are in this respect.
4.6	Liability and warranties AGREE	The following limitations of liability may be included: <ul style="list-style-type: none"> • implied terms and warranties may be excluded to the extent permitted by law; 	The SCO notes that the provision dealing with liabilities as between distributors and customers is a key means for appropriately allocating risks and of critical importance to the overall contractual model.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<ul style="list-style-type: none"> • no liability for supply interruption or disconnection to the extent the distributor is entitled to do so under Law, Rules or contract; • no liability for reliability or quality of supply, except to the extent caused or contributed to by the distributor's default or negligence; and • contractual force majeure. <p>The contract should state that none of these limitations will limit any obligation to make a GSL/compensation payment.</p>	<p>Interested parties may wish to give particular attention to providing feedback to SCO in this area as the detailed provisions are developed during the drafting of the initial Rules for the new national customer framework.</p>
4.7	<p>Provision of information</p> <p>AGREE</p> <p>EWON recommends that there also be an obligation on the distributor to provide this information to the relevant industry ombudsman if the ombudsman requests it to assist in the resolution of a complaint.</p>	<p>The customer distribution contract may include an obligation on the distributor to provide information to a customer or its retailer on request about that customer's consumption, connection or applicable network tariff.</p>	
4.8	<p>Disconnections and reconnections (excluding temporary supply interruptions)</p>	<p>The customer distribution contract will adopt the provisions of the Rules in relation to the circumstances in which a distributor may, or must, disconnect. The contract will restate when a distributor must not disconnect.</p>	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
4.9	Fault reporting and correction AGREE	Provision of 24-hour fault information and reporting line.	
4.10	Dispute resolution AGREE	<p>The customer distribution contract will specify that customers are entitled to make a complaint in writing or by telephone to a representative of the distribution company, to have that complaint addressed-</p> <p>The customer distribution contract will specify that the customer has the right, and will be informed of their right, to take their complaint to the relevant jurisdictional ombudsman scheme if they are dissatisfied with the distributor's response.</p>	SCO will review the requirements of the jurisdictional ombudsman schemes to ensure that they include obligations for distributors to have robust complaint handling requirements to support the new national customer framework.
4.11	Customer obligations AGREE	<p>To be clearly expressed in the customer distribution contract, together with the consequences of non-compliance (eg disconnection) and provision for appropriate notice of non-compliance and an opportunity to remedy if applicable.</p> <p>Customer obligations may include matters relating to:</p> <ul style="list-style-type: none"> • theft/unauthorised supply; • provision of safe and unhindered access to meters and other equipment of the distributor; • protection of/tampering with distributor equipment on premises; • safety of customer installation; • compliance with any restrictions on consumption or use of energy; and • requirements to notify certain events (eg faults, 	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		leaks, change of use, safety requirements).	

Part 5 – Regulation of distributor-retailer contract terms

The following subject matters will be included in the model terms for Retail Support Contracts (RSC) to be included in the Rules. In general, the same terms and conditions apply to both electricity and gas RSCs. However, where necessary, the electricity and gas RSCs may be implemented with differences to accommodate the different national access regimes in electricity and gas. Note that negotiated RSCs may be entered into where the parties agree.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
5.1	Connections at request of retailer or end customer AGREE	The RSC will require the retailer to pass on to the distributor connection requests within one business day of receipt.	
5.2	Obligation to provide customer distribution services AGREE	The distributor will be required to provide customer distribution services in respect of a connection point for the retailer's customers connected to the distributor's infrastructure.	<p>SCO considers that the obligations and responsibilities of distributors and retailers under the RSC should be aligned as closely as possible with the respective responsibilities of each in the provision of services.</p> <p>Therefore, SCO considers that the RSC should provide that the retailer must pay the distributor all network charges in respect of the provision of customer distribution services to the premises of the retailer's customers.</p> <p>This can achieve greater consistency of approach between both the electricity and gas frameworks, and further detail on implementation will be developed in the drafting stage.</p>
5.3	Customers covered by	The RSC will define mutual customers of the distributor and	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	the RSC AGREE	retailer by reference to: <ul style="list-style-type: none"> • customers that are connected or seeking to be connected to the distributor's infrastructure; and • customers in respect of which the retailer has financial responsibility. 	
5.4	Collection and on-payment of network charges by retailer* AGREE	<p>The RSC will provide for the retailer to pay the distributor for customer distribution services regardless of whether the retailer receives payment from its customers. This makes it explicit that retailers bear the customer credit risk in relation to collection of network charges.</p> <p>However, the retailer will not be liable for charges, or a component of charge, where a distributor fails to provide correct billing data within the prescribed period (i.e. 12 months) within which the retailer would be permitted to recover such charges from a customer.</p> <p>The default RSC will not include payment for connections negotiated between the customer and the distributor, which may be paid directly by the customer (this is intended to refer to the cost of connection or augmentation works, rather than ongoing network service charges).</p>	
		Payment provisions will cover matters such as: <ul style="list-style-type: none"> • invoicing; • use of meter data/estimates; • adjustment of accounts for changes to meter data or correction of errors; 	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<ul style="list-style-type: none"> • over/under charging; • interest on late payments; and • disputes. <p>Provisions in the default RSC will be consistent with and support the related requirements applying between the retailer and customer as set out in Part 2 of this Table.</p> <p>The RSC will also provide for arrangements relating to passing on of any credits or miscellaneous charges (such as GSL payments or reconnection charges) that the customer may incur or be entitled to, with the exception of 'capital contribution' payments and other matters negotiated directly with the distributor.</p>	
5.5	Changes in network tariffs or customer distribution services AGREE	<p>The RSC will cover:</p> <ul style="list-style-type: none"> • interaction between the retailer and distributor in relation to the network tariff applicable to a particular customer, in particular, for the distributor to respond to retailer requests to change a customer's applicable network tariff and for the retailer to inform the distributor of changes to the use of customer premises which may alter the applicable network tariff; and • notification by the distributor to the retailer of general changes in its network tariffs or other relevant charges. 	
5.6	Information sharing to facilitate single billing,	The RSC will require:	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	billing disputes AGREE	<ul style="list-style-type: none"> • the distributor to provide certain information to the retailer to facilitate customer billing by the retailer; and • the parties to cooperate in relation to customer billing disputes. 	
5.7	Credit support No Comment	<p>A distributor will be able to require a retailer to provide credit support in certain circumstances (e.g. in response to evidence of past poor credit, default events or market suspension) and the RSC will set out the approach to determining the amount and nature of the credit support, when it may be drawn and other matters.</p>	<p>Where the existing national regulatory regimes deal with credit support arrangements (e.g. under the NER or under the gas access arrangements), the RSC will adopt, refer to or incorporate these existing requirements as appropriate to support the new national customer framework.</p> <p>The SCO believes that the credit support arrangements should provide an appropriate balance between minimising the risk exposure of distributors to the non-payment of distribution charges and the costs that the arrangements impose upon retailers. This may be achieved through providing the option to retailers of meeting credit support requirements through alternative means to bank guarantees</p>
5.8	Termination AGREE	<p>The RSC will make provision for termination rights for the distributor and retailer respectively.</p> <p>However, to protect customers in these circumstances, the relevant provisions would require a distributor to continue to provide services until the RSC has ceased to apply to all of the retailer's customers (for example, because they have transferred to a retailer of last resort).</p>	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
5.9	Interruptions to supply No Comment	The RSC will contain an acknowledgement of the distributor's right to interrupt supply in accordance with the relevant Laws and Rules.	The RSC will work consistently with existing national access framework arrangements in electricity and gas.
5.10	Allocation of liability between retailer, distributor and customer AGREE	<p>The RSC will provide for the liability of the distributor and the retailer and, in particular, for:</p> <ul style="list-style-type: none"> • the distributor to indemnify the retailer for customer claims for which the distributor would have been liable if the customer had made the claim under its contract with the distributor; • mutual indemnities, for example, in relation to customer claims for unlawful disconnection caused by the respective parties; • third party claims procedures; and • liability caps, exclusion of warranties and implied terms, preservation of statutory instruments. 	<p>The SCO notes that the provision dealing with liabilities of distributors, retailers and customers is a key means for appropriately allocating risks and of critical importance to the overall contractual model.</p> <p>Interested parties may wish to give particular attention to providing feedback to SCO in this area as the detailed provisions are developed during the drafting of the initial Rules for the new national customer framework.</p>
5.11	Disconnections at request of retailer, distributor or end customer AGREE	<p>The RSC contract will provide for:</p> <ul style="list-style-type: none"> • disconnections at the request of the retailer (by which the retailer is taken to warrant that it is entitled to disconnect under the Rules), which may include a requirement for the distributor to compensate the retailer where it fails to action such a request (subject to carve outs, eg. where the failure is due to health and safety reasons); • disconnections at the request of a customer 	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>(parties obliged to inform each other if they receive such a request);</p> <ul style="list-style-type: none"> • acknowledgement by the retailer of other circumstances where the distributor is entitled to disconnect; • the procedural requirements for reconnection. 	
5.12	<p>Enforcement of distributor's rights</p> <p>AGREE</p>	<p>The RSC may provide for the distributor to notify or consult with the retailer before enforcing its rights against a customer (including disconnection), and to indemnify the retailer for any assistance provided by the retailer.</p>	<p>AAR suggests this as an optional component of the RSC. SCO intends to adopt this provision.</p>
5.13	<p>Information sharing to facilitate connection, disconnection</p> <p>AGREE</p>	<p>See comments in relation to connection and disconnection above.</p>	
5.14	<p>Handling of fault complaints</p> <p>AGREE</p>	<p>The RSC will provide for:</p> <ul style="list-style-type: none"> • the retailer to transfer or (if transfer is not technically possible) refer to the distributor customer calls in relation to faults or emergencies; and • the information to be provided by the distributor to the retailer in this regard, and what information the retailer may provide to the customer. 	
5.15	<p>Handling of complaints (including re billing)</p> <p>AGREE</p>	<p>The RSC will provide for each party to otherwise transfer or refer to the other any customer complaints received that relate to the other party, and should also include provisions requiring the parties to cooperate in addressing such</p>	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		complaints.	
5.16	Other customer inquiries and claims AGREE	The RSC will similarly provide for the transfer or referral of customer inquiries and may also include provisions requiring the parties to cooperate in relation to addressing such inquiries/claims. Such provisions may specifically relate to cooperation in relation to disputes referred to the Ombudsman. See also above in relation to allocation of liability.	
5.17	Metering AGREE	See comments above in relation to billing. Other relevant provisions in relation to metering would be: <ul style="list-style-type: none"> • obligations imposed on the party responsible for metering to use best endeavours to read meters at a particular frequency and to provide metering data to the other party; • obligations on both parties to notify the other if they become aware of any change to access conditions to a customer premises. 	The purpose of these obligations is to ensure that distributors and retailers mutually support each other in the provision of their respective regulatory obligations to customers.
5.18	Information sharing in relation to customer information and planned and unplanned outages AGREE	The RSC will include additional obligations for the parties to share information such as: <ul style="list-style-type: none"> • the provision of customer details by the retailer to the distributor and of any customer details held by the distributor (eg. in relation to registered life support systems) to the retailer; • the provision of information in relation to planned and unplanned outages by the distributor to the retailer, consistent with obligations to provide the 	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>same information to the customer (and associated referral provisions, similar to faults, as discussed above); and</p> <ul style="list-style-type: none"> • a general obligation to provide information required by the other party to carry out its obligations under the RSC. 	
5.19	<p>Information to be provided to the customer</p> <p>AGREE</p>	<p>The RSC would require each party to refer to the other customer requests for information relating to the other party, but may also provide for the retailer to provide information to customers on behalf of the distributor in some circumstances.</p>	
5.20	<p>Information sharing to facilitate churn</p> <p>AGREE</p>	<p>See comments above in relation to sharing customer information.</p>	
5.21	<p>Communications generally</p> <p>AGREE</p> <p>This is essential in the light of a rising number of complaints concerning breakdown of B2B arrangements</p>	<p>The RSC may provide for the parties to develop communications protocols.</p>	
5.22	<p>Cooperation generally</p> <p>AGREE</p>	<p>The RSC would require the parties to provide information to, and generally cooperate with, the other to enable the other party to carry out its obligations under the agreement and</p>	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		under its agreements with customers.	
5.23	Dispute resolution No Comment	Dispute resolution procedure to be included.	<p>SCO notes that compliance with the terms of the RSC is a regulatory obligation and thus distributors and retailers as the parties can bring disputes concerning alleged breaches to the regulator's attention. Further, electricity distributors and retailers have recourse to the dispute resolution procedure under Chapter 8 of the National Electricity Rules in the electricity sector.</p> <p>SCO is not intending to introduce any additional dispute resolution procedure to apply between retailers and distributors at this time, but the obligation to comply with the requirements of a RSC will be nominated as a "conduct provision" in both gas and electricity which permits enforcement as between the parties.</p>

Part 6 – Ring-fencing, ROLR, customer transfer and metering

The following recommendations were presented to SCO by AAR as relevant to the National Energy Customer Framework. These areas are the subject of concurrent work streams but will be co-ordinated with the finalisation of the National Energy Customer Framework. The numbering of the recommendations below retains the AAR numbering of the Principal Recommendations numbered 49-76.

NO.	SUBJECT	AAR RECOMMENDATION	COMMENT
Ring-fencing			
1.49	Provisions to be included in the NEL AGREE	Electricity ring-fencing requirements should be included primarily in the NEL, modelled on the equivalent requirements included in the new NGL. This would include requirements relating to: <ul style="list-style-type: none"> • legal separation of the entity conducting a <u>distribution business</u> from other related businesses; • keeping separate and consolidated accounts for distribution services and other services; • cost allocation principles and methodologies in relation to the allocation of costs between distribution services and other services; • limitations on sharing of staff between the network service provider and related businesses; and • measures to ensure the network service provider's dealings with related parties are not on preferential 	A legislative and rules package is being developed for appropriate ring fencing requirements through the NPWG in a parallel work stream.

NO.	SUBJECT	AAR RECOMMENDATION	COMMENT
		<p>terms.</p> <p>Requirements relating to the use and disclosure of confidential information obtained by the network service provider should be dealt with in the NER.</p>	
1.50	<p>Additional ring-fencing requirements</p> <p>AGREE</p>	<p>The NEL should authorise the AER to impose additional ring-fencing requirements on individual network service providers or their associates in equivalent terms to the AER's power under section 120 of the exposure draft of the NGL.</p>	
1.51	<p>Waiver of ring-fencing requirements</p> <p>AGREE</p>	<p>The NEL should authorise the AER to grant waivers from the ring-fencing requirements in equivalent terms to section 121 of the exposure draft of the NGL (but incorporating criteria to be applied by the AER in granting waivers).</p>	
1.52	<p>Regulatory information instruments</p> <p>AGREE</p>	<p>The NEL should authorise the AER to issue Regulatory Information Instruments in equivalent terms to the AER's powers under Division 4 of Part 2.1 of the exposure draft of NGL.</p>	
1.53	<p>Alternative approach to legal separation</p> <p>AGREE</p>	<p>The requirement for legal separation would require transitional arrangements in those jurisdictions where operational separation is currently permitted and exists in practice. As an alternative to including a requirement for legal separation in the NEL, the NEL could authorise the making of Rules in respect of the operational separation of the business of providing network services from related businesses conducted by the same entity.</p>	

NO.	SUBJECT	AAR RECOMMENDATION	COMMENT
Retailer failure arrangements			
1.54	Statutory framework for RoLR scheme AGREE	The NEL and NGL should authorise the AEMC to make Rules in relation to the establishment and operation of a scheme to address the risks and consequences of retailer failure (<i>ROLR scheme</i>) and set out the objectives of the scheme. The objectives could be expressed as being, as far as practicable: <ul style="list-style-type: none"> • to ensure that customers of the failed retailer continue to receive energy services; • to manage the risks and costs of retailer failure; and • to ensure the integrity of the wholesale market settlements and network balancing arrangements in the relevant market. 	Please see SCO Policy Paper for further information relating to ROLR arrangements.
1.55	Description of matters to be included in the Rules AGREE	The Law should set out the matters to be addressed in the Rules by way of general description along the following lines: <ul style="list-style-type: none"> • provisions authorising the AER to appoint one or more entities to act as ROLR, with such appointments to be made on a basis which the AER considers will contribute to the achievement of the objectives of the scheme; • provisions specifying the process for and method of appointment; • provisions defining the events that trigger the ROLR's 	

NO.	SUBJECT	AAR RECOMMENDATION	COMMENT
		<p>supply obligations;</p> <ul style="list-style-type: none"> • provisions setting out the ROLR's obligations in terms of preparing for the occurrence of a trigger event, including the submission of plans and proposed supply prices, terms and conditions to the AER; and • provisions establishing the basis for determining the prices and terms and conditions of supply, and defining the duration of the ROLR's supply obligation. 	
1.56	<p>Consequences of a RoLR event</p> <p>AGREE</p>	<p>The Law should describe the legal consequences that can arise as a result of the occurrence of a trigger event and permit the Rules to define the manner in which those legal consequences occur. This would include provisions to the effect that, in circumstances described in the Rules:</p> <ul style="list-style-type: none"> • a contract may be deemed to exist between the ROLR and the customers of a failed retailer; and • contracts between the failed retailer and its customers may be deemed to be terminated or varied. 	
1.57	<p>Obligations on other market participants</p> <p>AGREE</p>	<p>The Law should also authorise the Rules to impose obligations on other market participants in connection with the operation of the scheme, including the failed retailer, distributors and market operators.</p>	
1.58	<p>Insolvency issues</p> <p>AGREE</p>	<p>Further consideration should be given to provisions imposing obligations on insolvency administrators or dealing with the use and application of funds of the failed retailer. Such provisions would need to be included in the Law rather than the Rules and may require complementary Commonwealth legislation.</p>	

NO.	SUBJECT	AAR RECOMMENDATION	COMMENT
1.59	Process for making initial Rules AGREE	<p>The Law should allow for the MCE to either make initial Rules for ROLR arrangements or direct the AEMC to make Rules for a ROLR scheme by a date specified in the Law. If a direction to the AEMC is used, it should enable the AEMC to make different Rules as between the electricity and gas sectors, and to assess the need for such Rules as between sectors and jurisdictions. This is intended to enable, as one possible outcome, that a ROLR scheme might not be considered necessary in the gas sector in particular jurisdictions.</p>	<p>The SCO has engaged AAR and NERA to examine ROLR arrangements within Australian jurisdictions and overseas and to prepare a document outlining possible national arrangements. This document may then provide the basis of a direction to the AEMC or, preferably, will be capable of being turned into drafting instructions.</p> <p>AAR and NERA will be conducting public consultation on ROLR arrangements.</p>

NO.	SUBJECT	RECOMMENDATION	COMMENT
Customer registration and transfer			
1.60	Electricity registration and transfer framework AGREE	The NEL will authorise the Rules to provide for: <ul style="list-style-type: none"> • the establishment and maintenance of a registry of information relating to each NMI that is eligible for contestability, and for access to and disclosure of that information; and • procedures for the efficient transfer of consumers between retailers subject to all applicable laws, for the purposes of facilitating the efficient and effective billing of retail and network tariffs and charges and wholesale market settlement.	
1.61	MSATS Procedures AGREE	The NER will provide guidance on the purpose and scope of the MSATS procedures and require them to include processes for implementing the functions and requirements set out in the Rules, including the form and manner in which those functions and requirements must be carried out. The MSATS procedures will require amendment to remove jurisdictional variations and reflect a consistent national approach to customer registration and transfer, subject to appropriate transitional arrangements. The subject matter addressed in the MSATS procedures would be consistent with the proposed amendments to the NER (as described below), and would not change significantly.	NEMMCO proposed that the provision of guidance in the rules on the purpose and scope of the MSATS procedures would assist in the development of the procedures. NEMMCO has proposed that it could progress the rule changes when developing further MSATS procedure changes.

NO.	SUBJECT	RECOMMENDATION	COMMENT
1.62	Electricity connection point registration AGREE NMI standing data	The NER will include provisions: <ul style="list-style-type: none"> • defining NMI standing data, and requiring distributors, or the appropriate participants, to maintain and provide NMI standing data to NEMMCO and notify changes to that data; • limiting disclosure of NMI standing data by NEMMCO to the FRR and (on a limited basis to be defined in the NER) to retailers (Market Customers) who specify the NMI or supply address and to ombudsmen for dispute resolution purposes; • specifying the purposes for which a retailer may access and use NMI standing data; and • requiring distributors to provide NMI standing data to Market Customers on request within a prescribed time (eg 1 business day), if they specify the NMI, supply address, or other unique meter number, provided the data is not available through MSATS systems. 	<p>NEMMCO is already addressing the harmonisation of jurisdictional rules in MSATS as part of the Business and Data Process Improvement Programme sponsored by the Retail Market Executive Committee (RMEC). This work will be assisted by the development of a national policy on customer protection.</p> <p>The changes reflect the information provided in submissions regarding current practice. The issues associated with which matters should be included in the NER and the NEM procedures are to be addressed through the AEMO implementation program.</p>
1.63	Electricity consumer transfers AGREE Initiation of transfers	The NER will include provisions: <ul style="list-style-type: none"> • requiring transfer requests to be initiated only by an incoming retailer submitting a request in accordance with the MSATS procedures; 	<p>These rules will need to be reviewed to ensure there is no overlap with existing procedures and gas retail rules and that the hierarchy of where the requirements are placed is consistent. This is a part</p>

NO.	SUBJECT	RECOMMENDATION	COMMENT
	<p>Transfer requests and process</p> <p>This is a significant issue and EWON would emphasise the need to obtain consent from the actual account holder</p>	<ul style="list-style-type: none"> • requiring a transfer request to be accepted as valid if: <ul style="list-style-type: none"> ▪ it contains all the prescribed information; ▪ the connection point details in the request are consistent with the NMI standing data; ▪ there is no outstanding transfer request in relation to the same connection point; ▪ the metering installation complies with applicable requirements for contestability; and ▪ the incoming retailer is registered with NEMMCO as a market participant; • prohibiting a retailer from submitting a transfer request unless: <ul style="list-style-type: none"> • it has obtained any applicable consents from the customer (account holder) to enter into the retail contract; and • it has all necessary agreements in place to enable the sale of energy to the customer at that connection point; • requiring the retailer to take into account applicable cooling-off periods by ensuring that transfers are not completed before expiry of the cooling-off period; 	<p>of the work being undertaken to establish the AEMO.</p> <p>This change is to clarify the party with the authority to request a transfer.</p> <p>These changes reflect NEMMCO comments relating to the capability of MSATS. Although concerns were raised by stakeholders suggesting that the transfer request should not be initiated until after the cooling off period, this issue should be addressed in the drafting to require retailers to withdraw transfer</p>

NO.	SUBJECT	RECOMMENDATION	COMMENT
	<p data-bbox="327 667 456 695">Objections</p> <p data-bbox="327 1015 510 1043">Transfer period</p> <p data-bbox="327 1283 495 1311">Meter reading</p>	<ul style="list-style-type: none"> <li data-bbox="636 325 1323 432">• permitting a retailer to withdraw a transfer request submitted by it at any time before the transfer has been registered by NEMMCO; <li data-bbox="636 456 1375 644">• requiring the provision of notice of a valid transfer request within one business day to prescribed persons (likely to be the distributor, existing retailer and any other person registered as a metering provider or metering data provider for the connection point); <li data-bbox="636 668 1368 820">• permitting a transfer objection to be lodged within a prescribed time (e.g. 5 business days from the date of the transfer request) in accordance with the MSATS procedures; <li data-bbox="636 844 1375 995">• requiring the incoming retailer and the objecting party to use best endeavours to resolve the objection, within a prescribed time, or the transfer request is deemed to have been withdrawn; <li data-bbox="636 1019 1352 1126">• specifying the period within which a transfer must be completed (being within 65 business days after a transfer request); <li data-bbox="636 1150 1330 1257">• the circumstances in which transfers may be made retrospectively effective and the applicable retrospective periods; <li data-bbox="636 1281 1357 1388">• requiring a transfer to be based on an actual meter reading (with the Rules to specify whether this will be based on a scheduled or special reading), obtained 	<p data-bbox="1402 268 1834 296">requests when a customer cools off.</p> <p data-bbox="1402 1283 2024 1390">This change is for clarification purposes. However, it is noted that the requirement for an actual meter reading would not apply to ROLR transfers. It is</p>

NO.	SUBJECT	RECOMMENDATION	COMMENT
	Notice to customer	<p>within a timeframe prescribed in the MSATS procedures;</p> <ul style="list-style-type: none"> requiring notice to be provided by the new retailer to the customer within 10 days after the transfer is completed. 	<p>expected that separate procedures would apply in this case (being progressed in the ROLR work program).</p> <p>This change provides further clarity on the responsibility for the notice.</p>
1.64	<p>Gas registration and transfer framework</p> <p>AGREE</p>	<p>The NGL will authorise the Rules to provide for:</p> <ul style="list-style-type: none"> the establishment and maintenance of a registry of information relating to each gas supply point that is eligible for contestability, and for access to and disclosure of that information; and procedures for the efficient transfer of consumers between retailers subject to all applicable laws, <p>for the purposes of facilitating the efficient and effective billing of retail and network tariffs and charges, wholesale market settlement and/or gas pipeline balancing.</p>	<p>These issues are currently dealt with under other procedures. The treatment of the content of other gas instruments as rules or procedures, and the process and timing for review, is part of the AEMO establishment work.</p>
1.65	<p>Grandfathering of retail market rules</p> <p>AGREE</p>	<p>The NGL will authorise the NGR to provide for those matters by requiring compliance with a retail market instrument (to be defined as an instrument identified in the NGR, or any other instrument approved by the AEMC for that purpose), and deeming the provisions of any such instrument to take effect as Rules, subject to the Rule-change procedures in the NGL.</p> <p>The existing gas retail market rules will be brought within the national framework in their current form by being deemed to take effect as Rules under the NGL authorising provision described above.</p>	<p>As above.</p> <p>The treatment of the clauses of other gas instruments as rules or procedures, and the process and timing for review, is to be clarified in the AEMO establishment work.</p>

NO.	SUBJECT	RECOMMENDATION	COMMENT
1.66	Process for review of grandfathered instruments AGREE	In progressing the work program of the GMLG or other process for development of national gas market arrangements, the SCO will consider a process for the development at a later stage of nationally consistent customer registration and transfer arrangements. This could be included as part of the process for development of the rules associated with the STTM or could be a direction to the AEMC to undertake a review after the initial Rules have been made.	This is another area to be clarified in the AEMO establishment work.
1.67	Gas retail market rule changes No comment	The Rule change procedures in the NEL and NGL should be amended in a manner which permits the AEMC to consider changes to Rules (including the instruments deemed to be made under the NGR) in accordance with a fast-track process which takes into account prior consultation. The amendments will be in accordance with the SCO proposed amendments to the AEMC Rule change process (subject to the suggestion that SCO consider whether the requirement for prior consultation must be with all relevant stakeholders or must be a public consultation).	This recommendation has been implemented in the National Gas Law. The fast-track process requires public consultation.

NO.	SUBJECT	RECOMMENDATION	COMMENT
Metering – electricity			
1.68	Principal regulation of electricity metering AGREE	<p>The NEL already contemplates in Schedule 1 that the NEL may contain rules in relation to:</p> <ul style="list-style-type: none"> • the metering of electricity to record the production or consumption of electricity; • the registration of metering installations used to meter electricity; and • the regulation of persons providing metering services relating to the metering of electricity. <p>The NEL does not distinguish between metering for wholesale or retail purposes and it is therefore not necessary to make any amendment for the purpose of bringing retail metering within the NEL.</p> <p>The principal regulation of metering will be contained in the NEL / NEM Metrology Procedure regime.</p>	This issue is to be progressed through NEMMCO rule change and metrology procedure change processes.
1.69	Provisions to be included in the NEL AGREE	<p>The amendments to the NEL and NEM Metrology Procedure currently being developed by NEMMCO as part of its NEM Metrology Programme will be implemented. In addition, these amendments will include certain provisions which are currently omitted from the NEMMCO process but which could be adequately addressed within the NEL/NEM Metrology Procedure framework (as set out in Part B of Attachment 9 to Working Paper 4).</p>	<p>The provisions in Part B of the Attachment 9 of Working Paper 4 outline a number of additional services associated with meters and meter reading. These provisions impose obligations to provide these services on the condition that the customer pays for the service. These issues would appear to be covered in the first package of the NEL in the treatment and classification of alternative control and negotiated services.</p>

NO.	SUBJECT	RECOMMENDATION	COMMENT
1.70	Process AGREE	These amendments could be implemented through the normal change procedures for the NER and NEM Metrology Procedure or, alternatively, by Ministerial order as part of the legislative package for the national energy customer framework. The appropriate option will be determined based on an assessment of the relative timing of each process, but a mechanism which avoids the need for complex transitional arrangements is preferred.	These amendments are to be implemented through a combination of normal change procedures by NEMMCO and the AEMO establishment work
1.71	Supplementary regulation of electricity metering Contractual/regulatory interface provisions AGREE Transfer code provisions Incidental jurisdictional legislative provisions	<p>Provisions relevant to metering are included in retail contracts (see Part 2 of this document), customer distribution contracts, Retail Support Contracts (see Parts 4 and 5 of this document). These provisions are in some cases repeated in existing metering regulatory instruments. The amendments proposed to be made to the NER/NEM Metrology Procedure will be reviewed as part of this exercise to avoid unnecessary overlap.</p> <p>Transfer code provisions relevant to metering will be harmonised within the national framework, as described in the customer registration and transfer recommendations set out above. The amendments proposed to be made to the NER/NEM Metrology Procedure will also be reviewed as part of this exercise to avoid unnecessary overlap.</p> <p>Current jurisdictional legislative provisions incidental to metering (in relation to access to premises and theft/diversion of electricity) should not be included in the NEL. Rather, these matters should continue to be regulated as part of the ongoing jurisdictional legislative regimes.</p>	<p>It is anticipated that the process for the jurisdictions to transition to the national framework will include the repeal of duplicate provisions in jurisdictional instruments and procedures.</p> <p>As above.</p> <p>Although some submissions consider that there would be benefit in incorporating a national approach to these issues, the responsibility for these issues is to remain with the jurisdictions.</p>

NO.	SUBJECT	RECOMMENDATION	COMMENT
1.72	Regulation of metering in non NEM jurisdictions AGREE	The non-NEM jurisdictions should continue to regulate metering under their current instruments.	
Metering - Gas			
1.73	Principal regulation of gas metering AGREE	The NGL should authorise the inclusion of Rules in relation to metering in the NGR in similar terms to Schedule 1 of the NEL, for example, that the NGR may contain rules in relation to: <ul style="list-style-type: none"> • the metering of gas to record the production or consumption of gas; • the registration of metering installations used to meter gas; and • the regulation of persons providing metering services relating to the metering of gas. 	
1.74	Grandfathering AGREE Gas retail market rules	The NGL should authorise the NGR to provide for those matters by requiring compliance with another instrument (to be defined as an instrument identified in the Rules, or any other instrument approved by the AEMC for that purpose), and deeming the provisions of any such instrument to take effect as Rules, subject to the Rule-change procedures in the Law. The metering provisions contained in the gas retail market rules would be grandfathered as part of those rules, as discussed in the customer registration and transfer recommendations above.	The treatment of the content of existing instruments as rules or procedures, and the process for review, is to be addressed through the AEMO establishment work. As above.

NO.	SUBJECT	RECOMMENDATION	COMMENT
	Other jurisdictional metering instruments	The regulatory requirements currently contained in additional jurisdictional instruments would also be grandfathered. However, in relation to these requirements, it may be appropriate in some cases to create new stand-alone instruments that either extract relevant metering regulation from a broader jurisdictional instrument (Victoria), or bring together the requirements of a number of jurisdictional instruments (New South Wales and Western Australia). This process would be undertaken by Ministerial order.	As above
1.75	Process for review of grandfathered instruments AGREE	In progressing the work program of the GMLG or other process for development of national gas market arrangements, the SCO should consider a process for the review at a later stage of the grandfathered instruments to establish (as far as practicable) nationally consistent gas metering arrangements. This could involve the GMO/NEMO undertaking a process similar to that undertaken by NEMMCO for electricity metering, with Rule changes to be submitted to the AEMC under the normal Rule change process.	The treatment of existing instruments as rules or procedures, and the process for review, is to be addressed through the AEMO establishment work.
1.76	Supplementary regulation of gas metering AGREE Contractual/regulatory interface provisions	As for electricity, relevant metering provisions considered in relation to retail contracts (Part 2 of this document) and in relation to the distributor-retailer and distributor-customer interfaces (Parts 4 and 5 of this document) should apply. Potential overlap with the grandfathered metering regulation will need to be considered in respect of the specific provisions adopted for the retail contracts and interface arrangements, with unnecessary duplication being removed.	The treatment of existing instruments as rules or procedures, and the process for review, is to be addressed through the AEMO establishment work.

NO.	SUBJECT	RECOMMENDATION	COMMENT
	Incidental jurisdictional legislative provisions	Current jurisdictional legislative provisions incidental to metering (in relation to access to premises and theft/diversion of gas) would not be included in the NGL. Rather, these matters would continue to be regulated as part of the ongoing jurisdictional legislative regimes.	