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Dear Sir/Madam

RPWG / AAR Composite Consultation Paper– National Framework for Distribution and Retail Regulation (non-economic)

Ergon Energy Corporation Limited and Ergon Energy Queensland Pty Ltd (together referred to as Ergon Energy) appreciate the opportunity to comment on the Allens Arthur Robinson - Retail Policy Working Group's (RPWG) "Composite Consultation Paper" (the Paper).

The Paper is careful to note that its contents are the view of Allens Arthur Robinson who are preparing options for the RPWG to take to the MCE SCO for determining its final policy position and then for Law and Rules drafting. Therefore, given the as-yet-unknown position of MCE SCO, Ergon Energy considers that further formal and detailed consultation will be critical. At this stage of the process, Ergon Energy broadly agrees with many of the recommendations in the Paper, but considers that much more detailed reviewing and debate will be necessary during the Law and Rules drafting stages once the MCE SCO's policy position has been made clear.

As requested, Ergon Energy has provided comments against each of the issues in the attached table. We also seek to draw attention to the following key issues that are particularly relevant to Ergon Energy.

Timetable and Transitional Arrangements

The timetable for completion of the non-economic package is currently scheduled for 1 July 2008. Ergon Energy understands there may be support for an extension of this timeframe in order to fully prepare and consult about the non-economic package.

Ergon Energy has previously made comment that the non-economic matters have a direct and critical impact on distributors' ability to prepare their Regulatory Proposals with certainty. Queensland and South Australia are currently preparing for their next resets which are due 1 July 2010. In accordance with the Draft Rules, the latest date for lodgement of Regulatory Proposals is 31 May 2009.

Therefore, it is our belief that, to the extent that Queensland and South Australia's Regulatory Proposal preparation is impacted by the introduction or timing of the non-economic package, then there should be favourable and explicit recognition of the need for transitional arrangements for those jurisdictions.

In any event, there will be a need to consider grandfathering and phasing in of many of the matters that are part of this round of consultation. Ergon Energy has made explicit comment about these matters in the attached table. It is our view that there should not be harmonisation of outstanding jurisdictional differences purely for the sake of a 'national approach'. The reason there are a small number of outstanding jurisdictional differences (particularly with regard to NMI data establishment and maintenance, metering and customer transfers) is that these matters are difficult to reach agreement about. There ought to be regard for the (in most circumstances satisfactory) current operation of the national electricity market before seeking to force harmonisation.

Ring-Fencing

Ergon Energy believes that the National Electricity Law should include a clear statement about the purpose and objective of ring-fencing – and it is our view that it ought to be limited to separation of market segments i.e. separation of monopoly transmission and distribution from generation (producing) and retailing (purchasing and selling) with a specific exemption provision for distributors to carry out network support generation.

Furthermore, Ergon Energy considers that it is timely to re-think the use of ring-fencing (particularly for electricity) in view of the proposed new suite of National Electricity Rules and AER Guidelines and the emerging policy position to better facilitate the use of network support generation.

Our view about ring-fencing has only crystallised recently as it has become clearer about the content and intended usage of the Law, Rules and Guidelines – which is why we have not previously proposed a departure from the National Gas Law approach. We believe that it is timely now to go back to first principles and review what ring-fencing is intended to achieve, and how it fits with the 'new' national arrangements for electricity.

Historically regulators have used ring-fencing, and in particular jurisdictional ring-fencing determinations and jurisdictional guidelines, as a mechanism to require information and control entities' operations. This may well have been appropriate given the guideline making powers void, that then existed under the National Electricity Code/Rules. However, it is Ergon Energy's view that several of the matters that have historically been regulated under the ring-fencing regime ought now to be excised from ring-fencing, and instead managed under other regulatory instruments that the AER will have explicit power to prepare such as cost allocation guidelines, business authorisations, regulatory reporting guidelines etc.

Definition of "Distribution Service"

Ergon Energy has raised in previous submissions (including regarding the Draft Rules), that 'distribution service' needs to be carefully defined, understood and used consistently in the national regime. There should be regard for the fact that 'distribution service' is already defined in the Rules' Chapter 10 and any proposal for its expansion or modification must be cognisant of any consequential impacts throughout the Rules.

Contractual Arrangements

For electricity, Ergon Energy broadly supports the hybrid approach proposed in the Paper.

Ergon Energy considers that the three contracts proposed in this consultation need to be clear as to what 'services' they relate to, including what amounts to 'distribution services' as noted above.

For example:

- Distributor-Customer Contract– relates to ‘connection’ and ‘supply’ of electricity services – this means both initial connection and ongoing conveyance of electricity to the premises utilising both connection assets and the upstream shared network – this includes all matters that are ‘physical’ and ‘operational’ in nature.
- Retailer-Customer Contract– relates to ‘sale’ – and is a pure financial arrangement relating to the selling of energy and the passing through of distribution (and transmission) charges – this also covers retailer arranging connection where one is available without the need for works by the distributor.
- Distributor-Retailer Contract – relates to ‘co-ordination’ – describes how, when, on what matters the distributor and retailer need to exchange information – also covers bills and payments between each other and responsibility for credit risk/securities.


Business Authorisations and Enforcement

Whilst supporting most of the proposals in the Paper, Ergon Energy seeks that the Rules explicitly state that business authorisations cannot be withdrawn for regulatory breaches. Instead business authorisations should only be withdrawn when an entity no longer meets the entry requirements to which the authorisation relates.

Additionally, the concept of ‘material’ breaches should be included in the Rules together with guidance to the AER as to what constitutes ‘material’.

Ergon Energy looks forward to providing continued input to the RPWG and MCE SCO in the development of a national regulatory framework for energy.

Yours faithfully



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National Framework for Distribution and Retail Regulation

Consultation Paper - Recommendations

This table reproduces the recommendations from the Consultation Paper prepared by Allens Arthur Robinson for the Retail Policy Working Group dated June 2007.

Persons wishing to make submissions in response to the Consultation Paper are requested to do so by completing the 'Comments' column in the table.

Part 1 – Principal recommendations

No.	Subject	Recommendation	Comments
Retailer obligation to supply small customers			
1.	Definition of the obligation	The Law should provide that designated retailers must, in accordance with the Rules, offer to sell energy to small customers for use in premises falling within the retailer's designated supply remit on standing offer terms and conditions.	Agree.
	Application procedures	<p>As matters of detail, the Rules should set out:</p> <ul style="list-style-type: none"> • Application procedures – including requirements for customers to provide: <ul style="list-style-type: none"> ➤ acceptable identification; and ➤ contact details, and requirements for retailers to provide: <ul style="list-style-type: none"> ➤ a description of the standing offer contract formed as a result of the application, and how copies of the contract may be obtained; ➤ a description of the retailer's and customer's respective rights and obligations concerning the supply under the 	Agree.

No.	Subject	Recommendation	Comments
	<p>Connection services</p> <p>Conditions to the obligation</p>	<ul style="list-style-type: none"> ➤ 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; <ul style="list-style-type: none"> • Connection services – the retailer's responsibility to arrange connection services in respect of the supply; and • Conditions to the obligation – the circumstances in which the retailer may refuse to supply, including: <ul style="list-style-type: none"> ➤ failure by the customer to satisfy the application requirements identified above; ➤ failure to provide any 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; and ➤ other circumstances beyond the retailer's control. <p>The Law should provide that the standing offer terms take effect as a contract between the retailer and customer.</p>	<p>Agree.</p> <p>Agree.</p>
2.	Designating retailers and supply remits	The Law should provide that, for the purpose of the obligation to supply, a designated retailer is a retailer designated as such by a jurisdictional instrument of the jurisdiction or jurisdictions in which it	Agree.

No.	Subject	Recommendation	Comments
		<p>supplies energy, and its designated supply remit is as specified in the instrument.</p> <p>A designated retailer's supply remit may be specified by reference to:</p> <ul style="list-style-type: none"> • a geographical area; • particular premises or classes of premises; or • particular customers or classes of customers. <p>Under this approach, whether the obligation applies or not will be a jurisdictional decision, depending on whether or not individual jurisdictions elect to make a designation. Similarly, the method of specifying the scope of the obligation (whether on the basis of geographical areas, financial responsibility for the supply point or some other means) will be a jurisdictional decision.</p>	
3.	MCE principles for obligation to supply	<p>The MCE should consider agreeing principles to be applied by jurisdictional ministers in determining whether or not to activate or de-activate the obligation by making (or revoking) the relevant jurisdictional instruments. However, there is no need for principles to be agreed at this stage concerning the retailers to be designated and the approach to specifying supply remits where the obligation is to be imposed.</p>	Agree.
4.	Definition of small customers	<p>The Law should provide that, for the purpose of the obligation to supply, a 'small customer' is a customer whose actual or estimated energy consumption is less than a threshold level specified in the Rules. The initial Rules should specify the existing jurisdictional thresholds.</p> <p>The Rules should 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</p>	Agree.

No.	Subject	Recommendation	Comments
		aggregated.	
5.	MCE directed review of small customer definition	The MCE should direct the AEMC to undertake a review of small customer consumption thresholds with a view to establishing a nationally consistent threshold, having regard to any policy principles specified by the MCE and the need for any transitional arrangements.	Agree. Ergon Energy made comment in our submission to Working Paper 4 that consultation about harmonisation of customer thresholds would best be dealt with separately to the current package. We also note that the definition of small customer consumption thresholds is currently defined in the CATS procedures (and not the NER).
6.	Tariffs	The Law should provide that standing offer tariffs are those published by designated retailers from time to time.	Agree.
7.	Specification of terms and conditions	The Law should provide that standing offer contract terms and conditions must be published by designated retailers and may either adopt the minimum terms and conditions set out in the Rules or provide for alternative terms and conditions which are not inconsistent with those set out in the Rules. Terms and conditions published by retailers should not be subject to prior regulatory approval, but would be subject to compliance monitoring and enforcement by the AER.	Agree.
8.	Standing offer terms	The Rules should contain (preferably in a separate schedule) the minimum requirements applicable to standing offer contracts, expressed in a manner which can take effect as contractual terms. Part 2 of this document sets out summary terms and conditions for development of the initial Rules.	Agree – refer to Part 2.
9.	Deemed supply arrangements	With respect to deemed supply arrangements (including move-in supply) the Law should establish the existence of a deemed contract, but the circumstances in which this arises are matters of detail best dealt with in the Rules. On that basis it is proposed that the Law should provide that:	Agree.

No.	Subject	Recommendation	Comments
		<ul style="list-style-type: none"> • the Rules may specify the tariffs, terms and conditions that apply in any circumstance where a customer is taking a supply of energy from a retailer without the customer and retailer having entered into a standing offer contract or market contract; and • the tariffs, terms and conditions specified in the Rules take effect as a contract between the customer and the retailer in accordance with the Rules. 	
10.	When a deemed supply arrangement arises	<p>The Rules should provide for a deemed contract to arise in the following circumstances:</p> <ul style="list-style-type: none"> • where a customer occupies premises that are already connected to the distribution system and commences to take a supply of energy; and • where a current contractual arrangement terminates without new supply arrangements having been established, <p>subject to any provision in the contract itself concerning the terms and conditions to apply on termination.</p>	<p>Agree.</p> <p>Re “<i>subject to any provision in the contract itself concerning the terms and conditions to apply on termination</i>” – may need to check with jurisdictions about whether this jeopardises any policy positions that are for small customers to be able to go to safety-net/modified prices and a ‘standard’ retail contract on termination of a small customer market contract.</p>
11.	Tariffs, terms and conditions of deemed supply arrangements	<p>For designated retailers, the Rules should provide that the tariffs, terms and conditions applicable to deemed supply arrangements are the relevant retailer’s standing offer tariffs, terms and conditions. This will automatically apply for those jurisdictions that assign the obligation to supply to the FRMP. For other retailers, the retailer may publish tariffs, terms and conditions to apply to deemed supply arrangements, which must be consistent with the standing offer terms set out in the Rules. If the retailer does not do so, the standing offer terms contained in the Rules will apply. In either case, while jurisdictional tariff regulation continues the tariff must not exceed the</p>	<p>Agree.</p>

No.	Subject	Recommendation	Comments
		tariff that would apply if the premises were being supplied by the designated retailer.	
12.	Duration of deemed supply arrangements	The duration of deemed supply arrangements should be 6 months unless terminated earlier. For jurisdictions that assign the obligation to supply to the FRMP, the supply obligation may continue indefinitely in that, if the customer takes no action, the supply will continue on the retailer's standing offer tariffs, terms and conditions.	Agree.
13.	Notice requirements for deemed supply arrangements	<p>The Rules should require:</p> <ul style="list-style-type: none"> • the customer to give notice to the retailer equivalent to the application requirements for supply under a standing offer; and • the retailer to give the customer details of the tariffs, terms and conditions applicable to the supply, the customer's options for establishing a new supply arrangement (including, where applicable, the availability of supply under a standing offer) and what will happen at the end of the deemed supply arrangement if the customer does not do so (including the retailer's entitlement to disconnect the supply and the tariffs, terms and conditions that will apply to the customer if the supply continues). 	Agree.

No.	Subject	Recommendation	Comments
Retailer – small customer market contracts			
14.	Generic versus energy specific regulation	<p>National and jurisdictional consumer protection laws should be relied on where these provide a consistent national approach in dealing with the relevant subject matter. Energy specific regulation is justified where general consumer protection laws are inconsistent or silent and the characteristics of the energy market justify additional regulation.</p> <p>General consumer protection laws are at present largely silent on the regulation of contract terms. The characteristics of the energy market that justify additional regulation are the essential service nature of energy supply and the new and developing state of competition in the energy market. This suggests that market contract regulation should be assessed primarily against the objectives of:</p> <ul style="list-style-type: none"> • ensuring that contractual processes do not result in customers ceasing to have a supply of energy without having an adequate opportunity to address the causes of the potential for disconnection, either independently or by recourse to assistance measures provided by governments or other agencies (recognising that ensuring a supply is ultimately a matter for governments); and • encouraging the development of the competitive market by facilitating consumer choice based on readily comparable market contract offers, recognising that further deregulation of market contract terms can be addressed through the AEMC Rule change process, having regard to the extent and nature of competition and the capacity of consumers to participate in the competitive market. 	<p>Agree.</p> <p>Note: Market Contracts are not relevant to Ergon Energy.</p> <p>Ergon Energy's retailer (Ergon Energy Queensland Pty Ltd, [EEQ]) is unique in that it is expressly prohibited from competing, and thus offering market contracts. Section 55G of the <i>Electricity Act 1994</i> (Qld) restricts EEQ from seeking new customers or offering existing customers a contract other than the Standard Retail Contract at a price other than the gazetted notified prices. Once a customer leaves EEQ to take up a market contract, they can never return to EEQ.</p>

No.	Subject	Recommendation	Comments
15.	Terms and conditions	<p>The Law should provide that market 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 should provide authority for the Rules to contain provisions which specify:</p> <ul style="list-style-type: none"> • terms and conditions which must be included in market contracts; • requirements with which the terms and conditions of market contracts must not be inconsistent; and • terms and conditions which must not be included in market contracts. <p>The Rules should contain (preferably in a separate schedule) the minimum requirements applicable to market contracts. This could be done by annotations to the schedule of standing offer terms. Part 2 of this document sets out summary market contract annotations to standing offer terms for development of the initial Rules.</p>	<p>Agree.</p> <p>Note: Market Contracts are not relevant to Ergon Energy.</p> <p>Ergon Energy's retailer, EEQ is unique in that it is expressly prohibited from competing, and thus offering market contracts. Section 55G of the <i>Electricity Act 1994</i> (Qld) restricts EEQ from seeking new customers or offering existing customers a contract other than the Standard Retail Contract at a price other than the gazetted notified prices. Once a customer leaves EEQ to take up a market contract, they can never return to EEQ.</p>
16.	Definition of small customers	<p>The Law should provide that a small customer for the purpose of market contract regulation has the same meaning as for the purpose of the obligation to supply, except that the Rules may distinguish between domestic and business small customers, may apply sub-thresholds and may allow for aggregation of consumption at separate premises for the purpose of specific regulatory requirements.</p>	<p>Agree.</p>

No.	Subject	Recommendation	Comments
Retailer – small customer marketing			
17.	Generic versus energy specific regulation	<p>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. Energy specific regulation is justified where general consumer protection laws are inconsistent and adopting consistent energy specific requirements will have material benefits in terms of:</p> <ul style="list-style-type: none"> • reducing retailer compliance burden or cost (this implies such requirements apply in place of general consumer protection laws); or • consumer protection, having regard to the distinguishing characteristics of the energy market. <p>Energy specific regulation of marketing conduct is justified where the marketing conduct has the potential to influence energy contract formation and terms (or compliance with requirements relating to such marketing conduct) but not in relation to general consumer issues (such as contact times).</p>	<p>Agree.</p> <p>Note: Market Contracts are not relevant to Ergon Energy.</p> <p>Ergon Energy's retailer, EEQ is unique in that it is expressly prohibited from competing, and thus offering market contracts. Section 55G of the <i>Electricity Act 1994</i> (Qld) restricts EEQ from seeking new customers or offering existing customers a contract other than the Standard Retail Contract at a price other than the gazetted notified prices. Once a customer leaves EEQ to take up a market contract, they can never return to EEQ.</p>
18.	Marketing requirements	<p>The Law should require retailers and other persons engaged in energy marketing to comply with energy marketing requirements set out in the Rules.</p> <p>The Rules should contain (preferably in a separate schedule) requirements applicable to the marketing of energy. Part 3 of this document sets out a summary set of marketing requirements for development of the initial Rules.</p>	<p>Agree.</p> <p>Note: Market Contracts are not relevant to Ergon Energy.</p> <p>Ergon Energy's retailer, EEQ is unique in that it is expressly prohibited from competing, and thus offering market contracts. Section 55G of the <i>Electricity Act 1994</i> (Qld) restricts EEQ from seeking new customers or offering existing customers a contract other than the Standard Retail Contract at a price other than the gazetted notified prices. Once a customer leaves EEQ to take up a market contract, they can never return to EEQ.</p>

No.	Subject	Recommendation	Comments
19.	Entities subject to regulation	<p>The Law will need to include a definition of persons engaged in marketing activities. This should include:</p> <ul style="list-style-type: none"> • retailers; • persons acting as agents of retailers for the purpose of gaining new or retaining existing customers; • persons acting as agents of one or more customers in respect of retail energy supply; and • persons otherwise acting as an intermediary between retailers and customers in respect of retail energy supply. 	<p>Agree. However the Law should provide scope for certain entities to be exempted – such as Ergon Energy Queensland.</p> <p>Ergon Energy's retailer, EEQ is unique in that it is expressly prohibited from competing, and thus offering market contracts. Section 55G of the <i>Electricity Act 1994</i> (Qld) restricts EEQ from seeking new customers or offering existing customers a contract other than the Standard Retail Contract at a price other than the gazetted notified prices. Once a customer leaves EEQ to take up a market contract, they can never return to EEQ.</p>
20.	Definition of small customers	<p>The Law should 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.</p>	<p>Agree.</p>

No.	Subject	Recommendation	Comments
Contractual model for distribution services			
21.	Need for a default model	A contractual model is required as a 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.	Agree.
22.	Preferred model	<p>A hybrid 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 direct contract between a distributor and each customer connected to the distributor's infrastructure governing the physical and operational aspects of the provision of 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 distribution services to the customer; and • a contract between a distributor and each retailer which sells energy to customers connected to the distributor's infrastructure governing the financial and coordination arrangements between the distributor and the retailer. 	<p>Agree.</p> <p>Ergon Energy considers that the 3 contracts need to be clear as to what 'services' they relate to.</p> <p>For example:</p> <ul style="list-style-type: none"> • D-C – relates to 'connection' and 'supply' of electricity services – this means both initial connection and ongoing conveyance of electricity to the premises – includes all matters that are 'physical' and 'operational' in nature. • R-C – relates to 'sale' – and is a pure financial arrangement relating to the selling of energy and the passing through of distribution charges – also covers retailer arranging connection where one is available without the need for works by the distributor. • D-R – relates to 'co-ordination' – describes how, when, on what matters the distributor and retailer need to exchange information – also covers bills and payments between each other and responsibility for credit risk/securities.
23.	Small embedded	Consideration should be given to including contractual arrangements	Ergon Energy believes there are sufficient persuasive

No.	Subject	Recommendation	Comments
	generators	dealing with small embedded generators in the framework for the hybrid contractual model.	<p>reasons to have distinct small embedded generator contracts relating to:</p> <ul style="list-style-type: none"> • Connection and export; and • Retail buy-back of exported energy. <p>These reasons include that (at least in Queensland) both the <i>Electricity Regulation 2006</i> and the <i>Electrical Safety Regulation 2002</i> require the distributor to explicitly 'consent' to the interconnection of generation to their networks, and this consent must include advice about the safe operation of the generator. Only when distributors know precisely at which premises generators are to be installed can they fulfil this obligations. Distributors need to be able to keep records of premises where there are interconnected generators. It would not be possible to do this where a 'deemed' standard connection contract includes provisions for the connection without the knowledge of the distributor.</p>

No.	Subject	Recommendation	Comments
Distributor obligation to provide connection services			
24.	Scope of obligation	<p>The Law should provide that distributors must, in accordance with the Rules, provide distribution services in respect of a retail customer's premises.</p> <p>The reference to a distributor means a distributor whose network services are subject to access regulation under the Rules.</p> <p>The reference to a retail customer's premises is intended to limit the obligation to customers acquiring (or intending to acquire) energy through a retailer, as distinct from a customer acquiring energy directly from the wholesale market.</p>	Agree.

No.	Subject	Recommendation	Comments
25.	Definition of distribution services	<p>Distribution services should be defined in the Law as:</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); and • maintaining the capability of the network to allow the flow of energy between the network and the premises through the connection. <p>The definition of distribution services in the Law should be capable of being supplemented by the AEMC in the Rules.</p>	<p>Partly Agree – Ergon Energy considers that the definition of 'distribution services' ought to be further expanded.</p> <p>The term 'distribution services' is already defined in the NER Ch 10 and used extensively throughout the NER. Any modification of the definition needs to have regard for any consequential impacts that may occur.</p> <p>Ergon Energy believes that 'distribution services' should include 'connection services' (which may be a sub-term). The first two dot points would seem to relate to connection services. Distribution services should also include activities and services relating to the ongoing conveyance of electricity throughout the shared distribution system.</p> <p>Ergon Energy reiterates comments in our submission to Working Paper 2 that the definition of distribution services needs to recognise that, in addition to the services that relate to connection and conveyance, there may be other services, such as network support generation and demand side management solutions, that assist with the provision of distribution services (such that energy can be delivered or exported to/from a connection point – sometimes in lieu of traditional poles-and-wires). If the definition of distribution services is drafted to accommodate network support generation and DSM services, this will go some way to achieving the objectives of the DG&DSM consultation paper.</p> <p>As commented above – inserting a definition of distribution services into the Law needs to take into account that the definition already exists in the NER and is extensively</p>

No.	Subject	Recommendation	Comments
	Connection requirements	<ul style="list-style-type: none"> • Connection requirements and conditions, including: <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; ➤ 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. 	Agree.
	Distributor information requirements	<ul style="list-style-type: none"> • Distributor information requirements, requiring the distributor to provide to a customer the approved standard terms and conditions (deemed distribution contract) applicable to that customer and notice of the customer's rights in respect of the negotiation of different terms. This information must be provided in circumstances specified in the Rules, including on application for connection of the customer's premises, 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. 	Agree.

No.	Subject	Recommendation	Comments
Distributor interface with customers			
27.	<p>Establishment of deemed distribution contract</p> <p>Duration</p> <p>Negotiated distribution contracts</p> <p>Access regime still applies</p>	<p>The Law should 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 distribution contract applicable to that customer, except where a negotiated distribution contract exists.</p> <p>The deemed distribution contract 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 distribution contract, subject to:</p> <ul style="list-style-type: none"> • in the case of small customers, the provision of prescribed information in relation to their right to the application of the approved standard terms 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>The deemed 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 of the NER or under an access arrangement in accordance with the NGR.</p>	<p>Agree.</p> <p>Agree.</p> <p>Agree.</p> <p>Agree.</p>
28.	Deemed contract terms and conditions	The Law should include authority for the Rules to make provision for the determination and approval of the terms and conditions of a deemed distribution contract, which may include (but will not be	Agree.

No.	Subject	Recommendation	Comments
		limited to) matters specified in the Schedule to the Law (these would include the subject headings in the table in Part 4 of this document).	
29.	<p>Rules provisions</p> <p>Model terms for deemed distribution contracts</p> <p>Small customer definition</p> <p>Standard deemed distribution contracts</p> <p>AER approval</p>	<p>The Rules should include the following provisions in relation to the distributor - customer relationship:</p> <ul style="list-style-type: none"> • Model terms to be included in a deemed distribution contract applicable to small customers, preferably in a separate schedule capable of adoption by distributors as contractual terms. Part 4 of this document sets out summary model terms for the development of the initial Rules. • Small customers should be defined in the same way as for the retailer obligation to supply. • Distributors must adopt and publish a standard deemed distribution contract which has been approved by the AER as part of the revenue determination/access arrangement approval process. • The AER would be required to approve proposed standard deemed distribution contracts that adopt the model terms set out in the Rules, with guidance for the AER in relation to the approval of variations to those terms. The AER would be permitted to allow variations that the AER considers reasonable having regard to: <ul style="list-style-type: none"> ➤ customer service and network performance standards applicable to the distributor; ➤ any specific characteristics of the distributor's network; and ➤ the object of the Law. 	<p>Agree – Refer to Part 4.</p> <p>Agree.</p> <p>Agree.</p> <p>Agree.</p> <p>Agree.</p>

No.	Subject	Recommendation	Comments
	<p>Restrictions on disconnection</p> <p>Interruptions and curtailments</p> <p>Reconnection</p>	<p>obligations under the deemed distribution contract that are expressed to give rise to an express right of disconnection (eg, failure to provide safe access or meet equipment specifications, or taking unauthorised supply).</p> <ul style="list-style-type: none"> • The circumstances in which a distributor must not disconnect customer premises (in some cases these may only be applicable to small or residential customers). • 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. 	<p>Agree.</p> <p>Ergon Energy will respond further about the detail surrounding the circumstances during the drafting stages.</p> <p>Agree.</p> <p>Ergon Energy believes there are additional circumstances that should also be listed, including:</p> <ul style="list-style-type: none"> - load shedding due to shortfall in generation; - direction by NEMMCO; - automatic shedding of load in power system security and reliability standards; - failure of shared transmission grid; - direction by police officer or authorised person; and - load curtailment in accordance with network tariff conditions. <p>Agree.</p>

No.	Subject	Recommendation	Comments
	<p>Dispute resolution</p> <p>Information provision</p>	<ul style="list-style-type: none"> • A requirement that distributors 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. 	<p>Agree.</p> <p>Agree - But note that a distributor should be entitled to request a reasonable charge and there should be a limitation imposed as to how far back a distributor is obliged to provide for.</p>
	<p>Fault reporting and correction</p> <p>Small customer contracts</p>	<ul style="list-style-type: none"> • Requirements concerning the maintenance by distributors of a 24-hour fault information and reporting line. • Protections for small customers in relation to negotiated distribution contracts, including protected terms and cooling-off periods. 	<p>Agree.</p> <p>Agree – But only to the extent that “cooling-off” periods apply to small customers and not large customers.</p>

No.	Subject	Recommendation	Comments
Distributor interface with retailers			
32.	Nature of UoS agreement/ interface contract	<p>The Law should include:</p> <ul style="list-style-type: none"> • in electricity, provision for a UoS agreement between each distributor and each retailer which sells electricity to customers connected to the distributor's infrastructure; and • in gas, provision for an interface contract between each distributor and each retailer which sells gas to customers connected to the distributor's infrastructure. <p>The distinction between an electricity UoS agreement and a gas interface contract is that:</p> <ul style="list-style-type: none"> • the electricity UoS agreement covers the provision of and payment for distribution services, and prudential requirements; • the gas interface contract would not cover these matters as they would already be addressed in the access terms and conditions of the distributor's access arrangement. <p>The electricity UoS agreement and gas interface contract would 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>Ergon Energy's comments as follows are with respect to electricity:</p> <ul style="list-style-type: none"> • It is our view that the term 'Co-Ordination Agreement' better describes the content proposed for the agreement between distributors and retailers – in that it is about financial and information flows, and rules for dealing with each other. • It is our view that the UoS/Co-Ordination Agreement should apply between distributors and retailers for both small and large customers. • The UoS/Co-Ordination Agreement should include that retailers carry the credit risk for both small and large customers' network charges (except in the small number of situations where the distributor bills network charges directly to customers). This would carry forward the existing practice where distributors pass network charge bills to retailers for payment.

No.	Subject	Recommendation	Comments
33.	<p>Establishment of deemed UoS agreement/interface contract</p> <p>Negotiated agreements</p> <p>Customer variations</p>	<p>The Law should provide that except where a negotiated UoS agreement/interface contract exists, a deemed UoS agreement/interface contract is deemed to arise between each distributor and each retailer where the retailer sells energy to customers connected to the distributor's infrastructure.</p> <p>The Law would not preclude a distributor and retailer negotiating different terms and conditions of their UoS agreement/interface contract. However, the deemed UoS agreement/interface contract would apply in the absence of any such agreement between the parties.</p> <p>The UoS agreement/interface contract should provide that it does not apply in respect of particular customers to the extent that they have negotiated inconsistent arrangements in relation to the provision of distribution services with the distributor.</p>	<p>Agree.</p> <p>Ergon Energy reiterates that this 'deemed' UoS/Co-Ordination Agreement should relate to both small and large customers.</p> <p>Agree.</p> <p>Agree.</p>
34.	Deemed contract terms and conditions	The Law should include authority for the Rules to make provision for the determination and approval of the terms and conditions of a deemed UoS agreement/interface contract, which may include (but would not be limited to) matters specified in the Schedule to the Law (these would be based on the subject headings in the table in Part 5 of this document).	Agree - Subject to specific comments in Part 5 of this document.
35.	<p>Rules provisions</p> <p>Model terms for UoS agreements/interface contracts</p>	<p>The Rules should include the following provisions in relation to the distributor – retailer interface:</p> <ul style="list-style-type: none"> Model terms to be included in a deemed UoS agreement/interface contract, preferably in a separate schedule capable of adoption by distributors as contractual terms. Part 5 of this document sets out summary model terms for development of the initial Rules. 	<p>Agree - Subject to specific comments in Part 5 of this document.</p> <p>Agree.</p>

No.	Subject	Recommendation	Comments
	<p>Standard UoS agreements/interface contracts</p> <p>AER approval</p> <p>Variations during regulatory period</p>	<ul style="list-style-type: none"> • Distributors must adopt and publish a deemed UoS agreement/interface contract which has been approved by the AER as part of the revenue determination/access arrangement approval process. • The AER would be required to approve proposed deemed UoS agreements/interface contracts which adopt the model terms set out in the Rules, with guidance provided to the AER in relation to the approval of variations to those terms and conditions. The AER would be permitted to allow variations that the AER considers reasonable having regard to: <ul style="list-style-type: none"> ➢ customer service and network performance standards applicable to the distributor; ➢ any specific characteristics of the distributor's network; and ➢ the object of the Law. • Distributors would be permitted to apply to vary the approved terms and conditions during a regulatory period subject to the AER's approval. Provisions relating to any resulting cost increases or decreases should be dealt with in the revenue determination/access arrangement approval. 	<p>Agree.</p> <p>Agree.</p> <p>Agree.</p>
36.	Regulatory requirements	<p>The Rules should include an obligation on distributors and retailers to comply with the terms of deemed UoS agreements/interface contracts. Compliance would therefore be both a contractual obligation enforceable between the parties and a regulatory obligation enforceable by the AER.</p> <p>The terms of deemed UoS agreements/interface contracts should</p>	Agree.

No.	Subject	Recommendation	Comments
		not be subject to variation as an outcome of an access dispute.	

No.	Subject	Recommendation	Comments
	Suitable person	<p>which it is seeking authorisation and to comply with its regulatory obligations;</p> <ul style="list-style-type: none"> suitable person – that the applicant is a suitable person to hold the authorisation; 	Agree.
	<p>Jurisdictional licensing</p> <p>Market operator registration</p>	<ul style="list-style-type: none"> jurisdictional licensing – in the case of distribution businesses, that the applicant holds any jurisdictional licence or authorisation required with respect to technical and safety matters; and market operator registration – that the applicant has been registered by NEMMCO or the relevant gas market operator in accordance with any registration requirements under the NER or NGR. 	<p>Agree. Ergon Energy sees value that the jurisdictional licence is obtained before NEMMCO approval is completed.</p> <p>Agree.</p>
41.	Removal of overlap with NEMMCO registration	<p>The existing registration requirements administered by NEMMCO under the NER should be modified to remove overlap with the new business authorisation requirements to be administered by the AER. In particular:</p> <ul style="list-style-type: none"> NEMMCO requirements with respect to financial viability should be limited to satisfaction of the market prudential requirements under chapter 3 of the NER; NEMMCO requirements with respect to organisational and compliance capacity should 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). 	Agree.
42.	Corresponding changes to gas market registration requirements	Corresponding modifications should be made to existing gas market rules to be 'grandfathered' under the national framework.	No comment.

No.	Subject	Recommendation	Comments
43.	Treatment of existing licensees	Distribution and retail businesses that hold current jurisdictional licences should transition to the national business authorisation without further processes.	Agree.
44.	Exemptions	The Law should 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 should 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.	Partly Agree – the AER ought to be able to issue licence exemptions. However Ergon Energy considers that the recommendation should read “...the AER should be required to consult about general exemption guidelines and consult specifically about each non-general exemption from the prohibition.....”
45.	Exemption conditions and enforcement	The Law should provide that an exemption may be subject to conditions, which are to be subject to monitoring and enforcement by the AER in the same way as if they were obligations under the Rules. In the case of a general exemption, it would 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.	Agree.
46.	Revocation	The Law should authorise the AER to revoke a business authorisation or exemption if the AER determines that the holder ceases to satisfy the entry requirements or, in the case of an exemption, ceases to satisfy the conditions of the exemption. The Law should set out the process for revocation, including requirements for the AER to disclose the basis on which it considers the entry requirements have ceased to be satisfied and to have regard to any submissions made by the holder of the business authorisation in determining whether to revoke the authorisation.	Agree – however revocation of business authorisation should not be for regulatory breaches, and this should be expressly stated in the Rules.

No.	Subject	Recommendation	Comments
47.	Register of authorised persons	The Law should require the AER to maintain a public register of authorised persons and exempt persons and include details of the information to be included in the register.	Agree.
48.	Ancillary rights and powers	Ancillary rights and powers (such as those relating to compulsory acquisition and works on public and private land) should continue to be dealt with in jurisdictional legislation. The national framework business authorisation can be used as a basis for defining the entities that have the benefit of such rights and powers.	Agree.

No.	Subject	Recommendation	Comments
Ring-fencing			
49.	Provisions to be included in the NEL	Electricity ring-fencing requirements should be included primarily in the NEL, modelled on the equivalent requirements included in the exposure draft of the NGL (but incorporating changes proposed to be made by the SCO in response to submissions on the NGL). This would include requirements relating to:	<p>Ergon Energy believes that the NEL ought to include a clear statement about the purpose and objective of ring-fencing – and it is our view that it ought to be limited to separation of market segments: monopoly transmission and distribution from generation (producing) and retailing (purchasing and selling) with a specific exemption provision for distributors to carry out network support generation.</p> <p>Ergon Energy is also in the unique situation in that its related business retailer is a ‘non-competing’ retailer i.e. it is prohibited by law from competing for customers, can only offer the mandated safety-net tariff, and any customers who leave cannot return. Therefore provision should be made to exempt or waive ring-fencing obligations between Ergon Energy’s companies with respect to retailing.</p> <p>Furthermore, Ergon Energy considers that it is timely to re-think the use of ring-fencing (particularly for electricity) in view of the proposed new suite of Rules and guidelines and the emerging policy position to better facilitate the use of network support generation.</p> <p>Ergon Energy’s view (outlined above) has only crystallised recently as it has become clearer about the content and intended usage of the Law, Rules and Guidelines – which is why we have not previously proposed a departure from the NGL approach. It is prudent to revisit first principles and review what it is ring-fencing is intended to achieve,</p>

No.	Subject	Recommendation	Comments
		<ul style="list-style-type: none"> • legal separation of the entity conducting distribution network services 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 	<p>and how it fits with the 'new' national arrangements.</p> <p>-----</p> <p>Historically regulators have used ring-fencing, and in particular ring-fencing determinations and guidelines, as a mechanism to require information and control entities' operations. This may well have been appropriate given the void with respect to guideline making powers that existed under the previous National Electricity Code/Rules. However, it is Ergon Energy's view that several of the matters that have historically been regulated under the ring-fencing regime, ought now to be excised and managed under other regulatory instruments that the AER will have explicit power to prepare.</p> <p>The requirement to be a separate legal entity ought now to be included in the AER's business authorisation process.</p> <p>The requirement to prepare separate accounts for distribution services and the consolidate business ought now to be set out as part of the Reporting Guidelines and Method.</p> <p>The requirement to separate costs and allocated shared costs ought now to be set out as part of the Cost Allocation Guidelines and Method.</p> <p>Partly agree. In Ergon Energy's situation, shared staff should be permissible, because the retailer is a non-competing retailer and there is no purpose for restricting staff arrangements, so, as mentioned above, there should be provision for exemptions/waivers from this obligation.</p>

No.	Subject	Recommendation	Comments
		<ul style="list-style-type: none"> <li data-bbox="651 555 1382 616">• measures to ensure the network service provider's dealings with related parties are not on preferential terms. <p data-bbox="651 1134 1382 1233">Requirements relating to the use and disclosure of confidential information obtained by the network service provider should be dealt with in the NER.</p>	<p data-bbox="1406 360 2029 528">Furthermore, arrangements relating to staff that are in place prior to commencement of the 'new' Law, Rules and guidelines may need to be grandfathered to ensure an orderly transition with minimal impact on individual businesses.</p> <p data-bbox="1406 555 1480 579">Agree.</p> <p data-bbox="1406 603 2029 847">Ergon Energy notes that over the last several years the move to standardise B2B systems has, to a very large extent, overcome the need for "preferential dealings" ring-fencing rules. This is because a function of the B2B Procedure is to order service requests and timelines for actioning – thus minimising any distributor discretion about preferencing any particular retailer.</p> <p data-bbox="1406 871 2029 1115">In addition, Ergon Energy reiterates that its 'related business' retailer, Ergon Energy Queensland Pty Ltd, is prohibited by law from competing for customers. Therefore there should be scope for Ergon Energy (the distributor) to be exempted from this provision on the basis that there is no purpose for preferential dealings given that EEQ cannot compete for customers.</p> <p data-bbox="1406 1139 2029 1410">The requirements about keeping customer information confidential is now well dealt with under the Commonwealth Privacy Act (where information is only to be used for the purpose for which it was provided). Ergon Energy suggests that alternative obligations on distributors arising from legislative instruments should firstly be relied upon for protection of confidential information, and only to the extent there is an electricity/gas gap should further</p>

No.	Subject	Recommendation	Comments
			<p>obligations be enshrined in ring-fencing rules.</p> <p>Also, as stated above, in Ergon Energy's situation where it's related business retailer is a 'non-competing' retailer – there should be an exemption or waiver from restrictions on information flows.</p>
50.	Additional ring-fencing requirements	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.	Agree.
51.	Waiver of ring-fencing requirements	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>Agree.</p> <p>Ergon Energy further suggests that the RPWG and AAR should consider grandfathering or transitional arrangements for distributors' that may already hold waivers from their respective Jurisdictional Regulators.</p>
52.	Regulatory information instruments	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.	Agree.
53.	Alternative approach to legal separation	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.	No comment.

No.	Subject	Recommendation	Comments
Retailer failure arrangements			
54.	Statutory framework for RoLR scheme	<p>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 (RoLR scheme) and set out the objectives of the scheme. The objectives could be expressed as being, as far as practicable:</p> <ul style="list-style-type: none"> • to ensure that customers of the failed retailer continue to be supplied with energy; • to manage the risks and costs of retailer failure for the benefit of customers and of the designated RoLR; and • to ensure the integrity of the wholesale market settlements and network balancing arrangements in the relevant market. 	Agree.
55.	Description of matters to be included in the Rules	<p>The Law should set out the matters to be addressed in the Rules by way of general description along the following lines:</p> <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; 	<p>In considering the matters to be addressed in the Rules the RPWG and AAR should contemplate whether “appointing” is the only path available in deciding who will be the RoLR. Ergon Energy’s suggestion is that the RoLR could, for example, be decided through other means such as a tender process.</p> <p>In the event that the AER has discretion to appoint a RoLR, it ought to be obliged to firstly be satisfied that the proposed appointee has the necessary capacity to perform the role.</p> <p>For example, it is Ergon Energy’s view that our distribution</p>

No.	Subject	Recommendation	Comments
		<ul style="list-style-type: none"> • provisions specifying the process for and method of appointment; • provisions defining the events that trigger the RoLR's supply obligations; • 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; • provisions establishing the basis for determining the prices and terms and conditions of supply, and defining the duration of the RoLR's supply obligation. 	<p>business does not, and will not, have the capacity to be a RoLR.</p> <p>Agree.</p> <p>Agree.</p> <p>Agree.</p> <p>Agree.</p>
56.	Consequences of a RoLR event	<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. 	Agree.
57.	Obligations on other market participants	<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>	<p>The RPWG and AAR should consider the distinction between “market participants” and “registered participants”. Distributors are “registered participants”; therefore the obligation will only apply to “market participants”.</p>

No.	Subject	Recommendation	Comments
58.	Insolvency issues	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.	Agree.
59.	Process for making initial Rules	<p>No Rules should be made by Ministerial order as part of the 2007 legislative package. The Law should direct the AEMC to make Rules for a RoLR scheme by a date specified in the Law. The direction to the AEMC 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>An expert review could be used to develop and consult on a RoLR scheme, with the outcome to be implemented by Rule changes made by Ministerial order, if the MCE considers that timing and resource issues are such that the task should not be undertaken by the AEMC.</p>	<p>Agree that no Rules should be made by Ministerial order as part of the 2007 legislative package.</p> <p>However Ergon Energy disagrees that an expert review be used to develop and consult on a RoLR scheme. It is Ergon Energy's view that this is the responsibility of the AEMC as policy maker given that the ultimate RoLR scheme will have a material impact on whichever parties are obliged to take on the role.</p>

No.	Subject	Recommendation	Comments
Customer registration and transfer			
60.	Electricity registration and transfer framework	<p>The NEL should 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 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, <p>for the purposes of facilitating the efficient and effective billing of retail and network tariffs and charges and wholesale market settlement.</p>	<p>Ergon Energy is currently operating under the Minimalist Transitioning Approach outlined in the Queensland <i>Electricity Industry Code</i>. It is important that this arrangement be grandfathered as part of the legislative package, to allow this approach to continue as currently anticipated. Note that the Minimalist Transitioning Approach is an arrangement with the Queensland Shareholder - it is not the AER, but the Shareholder who ought to ultimately make the decision about when, and if, the Minimalist Transitioning Arrangement should end.</p>
61.	MSATS Procedures	<p>The NER should require the MSATS procedures 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.</p> <p>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.</p>	<p>Agree - So long as the MSATS procedures are those developed and published by <i>NEMMCO</i>.</p> <p>Partly Agree.</p> <p>See Ergon Energy's comments to Working Paper 4 (including CATS). The current jurisdictional differences are there because they have been difficult to harmonise. As part of FRC development, Queensland reviewed the CATS procedures in an attempt to harmonise nationally, but a number of sections could not be harmonised. We agree with comments on page 193 of paper that meter reading requirements for transfer, debt objection codes and our Minimalist Transitioning Approach should be exceptions to harmonisation process.</p>

No.	Subject	Recommendation	Comments
62.	<p>Electricity connection point registration</p> <p>NMI standing data</p>	<p>The NER should include provisions:</p> <ul style="list-style-type: none"> • defining NMI standing data, and requiring distributors to maintain and provide NMI standing data to NEMMCO and notify changes to that data; • limiting disclosure of NMI standing data by NEMMCO to retailers (Market Customers) who specify the NMI or supply address; • specifying the purposes for which a retailer may 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>Agree that NER should contain such provisions.</p> <p>However, note that the LNSP is not responsible for all standing data. The MDP and MP “B” are also required to provide standing data. This role is not always undertaken by the LNSP.</p> <p>Not all standing data should be disclosed as part of NMI discovery, only those fields currently provided during a Stage 2 search. Only the FRMP should have access to complete standing data for a NMI.</p> <p>While 1 day is fine for businesses that have all NMIs in MSATS, it is not appropriate for Ergon Energy, as we are operating under the Minimalist Transitioning Approach. Therefore an exemption from this requirement would be expected for as long as Ergon Energy operates under the Minimalist Transitioning Approach.</p>
63.	<p>Electricity consumer transfers</p> <p>Initiation of transfers</p>	<p>The NER should include provisions:</p> <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>Agree.</p>

No.	Subject	Recommendation	Comments
	Transfer requests and process	<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; 	Agree.
		<ul style="list-style-type: none"> • prohibiting a retailer from submitting a transfer request unless: <ul style="list-style-type: none"> ➢ it has obtained any applicable consents from the customer 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 transfer process to take into account applicable cooling-off periods by not enabling transfers to be completed before expiry of the cooling-off period; • permitting a retailer to withdraw a transfer request submitted by it at any time before the transfer has been registered by NEMMCO; 	<p>Agree.</p> <p>Agree.</p> <p>Agree.</p>

No.	Subject	Recommendation	Comments
	Notice to customer	<ul style="list-style-type: none"> requiring notice to the customer on completion of the transfer. 	<p>accredited party therefore it is an estimate, not an actual and should not be used for transfer purposes.</p> <ul style="list-style-type: none"> Reading type should reflect the stage of FRC i.e. in an experienced market, special reads are reasonable, but in Queensland we do not allow transfers on special read for at least the first 6 months of FRC, and possibly for up to a year. It will require a Queensland Electricity Industry Code Change to set the timeframe. This is a matter that ought to be the subject of transitional arrangements. <p>Agree.</p>
64.	Gas registration and transfer framework	<p>The NGL should 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>	N/A

No.	Subject	Recommendation	Comments
65.	Grandfathering of retail market rules	<p>The NGL should 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 should 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>	N/A
66.	Process for review of grandfathered instruments	<p>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 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.</p>	N/A
67.	Gas retail market rule changes	<p>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 should 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).</p>	N/A

No.	Subject	Recommendation	Comments
Metering – electricity			
68.	Principal regulation of electricity metering	<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 should be contained in the NER / NEM Metrology Procedure regime.</p>	Agree.
69.	Provisions to be included in the NER	<p>The amendments to the NER and NEM Metrology Procedure currently being developed by NEMMCO as part of its NEM Metrology Programme should be implemented. In addition, these amendments should include certain provisions which are currently omitted from the NEMMCO process but which could be adequately addressed within the NER / NEM Metrology Procedure framework (as set out in Part B of Attachment 9 to Working Paper 4).</p>	Agree.
70.	Process	<p>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 2007 legislative package. The appropriate option should be determined based on an</p>	Agree - However Ergon Energy has a strong preference for the NEMMCO process, as it will ensure appropriate industry consultation occurs.

No.	Subject	Recommendation	Comments
		assessment of the relative timing of each process, but a mechanism which avoids the need for complex transitional arrangements is preferred.	
71.	<p>Supplementary regulation of electricity metering</p> <p>Contractual/regulatory interface provisions</p> <p>Transfer code provisions</p> <p>Incidental jurisdictional legislative provisions</p>	<p>Provisions relevant to metering are included in retail contracts (see Part 2 of this document), connection contracts, deemed distribution contracts, electricity UoS agreements and gas interface 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 should be reviewed as part of this exercise to avoid unnecessary overlap.</p> <p>Transfer code provisions relevant to metering should 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 should 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</p>	<p>Agree.</p> <p>However note: it is useful to have all customer obligations in one document, which is accessible to the customer (i.e. contract), even if the head of power is another document (i.e. metrology procedure). The customer should only need to look at one place to see all the obligations they have. This should be considered as part of any review of overlap.</p> <p>Agree – subject to Ergon Energy’s Minimalist Transitioning Approach being preserved.</p> <p>Meter reading for transfer purposes should retain jurisdictional differences to reflect stage of FRC in that State. That is, in an experienced market, special reads are reasonable, but in Queensland we do not allow transfers on special read for at least the first 6 months of FRC, and possibly for up to a year. It will require a Queensland Electricity Industry Code Change to set the timeframe. This is a matter that ought to be the subject of transitional arrangements.</p> <p>See comments above about harmonisation of MSATS procedures.</p> <p>Agree.</p>

No.	Subject	Recommendation	Comments
		legislative regimes.	
72.	Regulation of metering in non NEM jurisdictions	The non-NEM jurisdictions should continue to regulate metering under their current instruments.	Agree.
Metering - Gas			
73.	Principal regulation of gas metering	<p>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:</p> <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. 	N/A
74.	<p>Grandfathering</p> <p>Gas retail market rules</p> <p>Other jurisdictional metering instruments</p>	<p>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.</p> <p>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.</p> <p>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</p>	N/A

No.	Subject	Recommendation	Comments
		<p>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 part of the 2007 legislative package.</p>	
75.	Process for review of grandfathered instruments	<p>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.</p>	N/A
76.	<p>Supplementary regulation of gas metering</p> <p>Contractual/regulatory interface provisions</p> <p>Incidental jurisdictional legislative provisions</p>	<p>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.</p> <p>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.</p> <p>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.</p>	N/A

No.	Subject	Recommendation	Comments
Prepayment meters			
77.	Prepayment meter systems	<p>The Law should authorise the Rules to regulate the use of prepayment meter systems for small customers.</p> <p>The Rules should 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 contract); ➤ prohibition on knowingly 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); ➤ variation of prepayment meter tariffs, undercharging, overcharging and recovery for illegal energy use; and ➤ termination of the prepayment meter contract by the customer, including a request to revert to normal 	<p>In Ergon Energy's area, prepayment meters are used for entire remote communities i.e. all premises in that community – we do not install them for individual premises.</p> <p>Non-Grid Connected: Ergon Energy seeks that it be clear that rules pertaining to prepayment meters are relevant only to grid-connected sites i.e. not to Ergon Energy's other 'isolated' non-grid networks as it is not possible to comply with the technical requirements, including the communications capability.</p> <p>Grid Connected: In Ergon Energy's area, there are 418 grid-connected prepayment meter sites that would need to be 'grandfathered' such that they are deemed to comply until they fail.</p> <p>Note: In Queensland, prepayment meters are currently expressly excluded from the 'new and replacement' smart meter policy.</p> <p>Ergon Energy has no issues with the concept of prepayment meter premises having to provide explicit informed consent.</p> <p>Re life support customers – because Ergon Energy has whole communities currently on prepayment meters, we have no method to know who the individual customers are, when they move premises, nor whether they are on life support. Such an arrangement would need to be provided for or grandfathered.</p>

No.	Subject	Recommendation	Comments
		<p style="text-align: center;">metering or as a result of a transfer to another retailer.</p> <ul style="list-style-type: none"> • 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 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. 	<p>Provision of additional information such as operating information is reasonable.</p> <p>Regarding trial periods – Ergon Energy, in the role of MPB (meter installer) would incur costs to install meters, and if there was an obligation to remove them, there would be additional costs. The Rules need to provide for who funds this cost such that the MPB is adequately compensated.</p> <p>Agree contracts need to provide information on varying tariffs, undercharging, overcharging etc.</p> <p>Agree contract needs to include termination information. Again, if the customer wishes to change to a standard meter, need adequate cost recovery for the MPB (note this is different to the retailer).</p> <p>From a national perspective, agree there needs to be system requirements included.</p> <p>Ergon Energy does not believe there needs to be a separate telephone service for prepayment meters: they should be able to be handled through standard call centre processes as we do now.</p> <p>Re Hardship – this approach implies remote communication with the meter. Queensland cannot do this for existing sites at the moment, that is why these sites are excluded from the ‘new and replacement’ meter policy.</p> <p>Ergon Energy agrees that records need to be kept where possible, but note that where customers change residence without notifying a retailer this makes it very difficult. We have checked our billing system and note that whilst we</p>

No.	Subject	Recommendation	Comments
			<p>have a customer account with our retailer, EEQ, there is a name and an address (usually post office or community council contact) and that is all.</p> <p>In summary, it is Ergon Energy's view that, for existing sites with prepayment meters, there will need to be grandfathered arrangements. The Rules ought to allow for exclusions from obligations relating to prepayment meters in certain situations, including where the cost/benefit for regulated distributors is not in favour of them.</p>

No.	Subject	Recommendation	Comments
Enforcement mechanisms			
78.	Compliance monitoring and enforcement functions of the AER	<p>The NEL and NGL should include provisions to support the AER's compliance monitoring and enforcement functions as follows:</p> <ul style="list-style-type: none"> • a requirement for regulated entities¹ to establish systems and procedures to monitor regulatory compliance, in accordance with guidelines 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. 	<p>Ergon Energy sees no issue with this recommendation.</p> <p>However Ergon Energy requests that the RPWG and AAR consider drafting into the Rules a procedural guideline that the AER must abide by when investigating an alleged 'material' breach. The second point (right) should also refer to a "material breach". We refer the RPWG and AAR to ESCOSA's Compliance Systems and Reporting Guidelines.</p> <p>It is important that a "materiality test" is identified. Distributors and retailers should be in a position to be able to identify whether an alleged breach is material or not. When considering this, the AER should be required to adopt a "mandatory" guideline.</p> <p>Most importantly, it is Ergon Energy's view that the AER should not be able to revoke licenses as an enforcement mechanism.</p>
79.	Court based enforcement mechanisms	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 non-economic distribution and retail regulatory obligations to be included in the national framework. Compliance with these requirements should be designated as civil penalty provisions.	Agree.
80.	Additional orders	Consideration should be given to expanding the description of orders	Agree.

¹ References to 'regulated entities' in the paper are to distributors and retailers required to hold a national businesses authorisation as proposed in Working Paper 3.

No.	Subject	Recommendation	Comments
		<p>available to the Court to include:</p> <ul style="list-style-type: none"> • an order directing the participant to pay to the Commonwealth an amount up to the amount of any financial benefit attributable to the breach; • an order directing the participant to compensate any other person who has suffered loss or damage as a result of the breach; and • any other order that the Court considers appropriate. 	
81.	Infringement notices	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 should apply to the non-economic distribution and retail regulatory obligations to be included in the national framework.	Agree.
82.	Administrative remedies	The NEL and NGL should include provisions that enable the AER to accept enforceable undertakings modeled on section 87B of the <i>Trade Practices Act 1974</i> (C'th).	Ergon Energy supports this recommendation however we ask the RPWG and AAR to make it clear that another option available to the AER is that of "informal" enforcement action.
83.	Revocation of business authorisation	The AER's power to revoke a business authorisation should be limited to circumstances where a distributor or retailer ceases to satisfy the entry tests and not be available as an enforcement mechanism to address one-off breaches.	<p>Ergon Energy asks the RPWG and AAR to clarify how the AER will deal with revocations in terms of the procedural detail. The types of breaches and circumstances that will result in a revocation should be highlighted to Distributors and Retailers.</p> <p>We again reiterate that business authorisations should not be able to be revoked for regulatory breaches (even material breaches).</p>
84.	Additional enforcement issues	Consideration should be given to the following additional enforcement issues when the substantive regulatory obligations are	Ergon Energy is of the view that the NER Dispute Process should operate within the non-economic framework, but

No.	Subject	Recommendation	Comments
		<p>settled and the drafting of the Law and Rules is further progressed:</p> <ul style="list-style-type: none"> • whether obligations arising from the distribution and retail regulatory functions should be enforceable as between the affected parties or only by the AER; • whether the dispute resolution provisions in Chapter 8 of the NER should apply in respect of the distribution and retail rules; and • where court based remedies are to be used, whether there is a case for allowing enforcement in the lower courts rather than (as at present) only in the Federal Court and Supreme Courts. 	<p>only to the extent that it relates to Registered Participants.</p>

No.	Subject	Recommendation	Comments
Statutory objectives			
85.	Objectives of the NEL and NGL	There is no need to amend the statutory objectives to be included in the NEL and NGL to accommodate the transfer of the non-economic distribution and retail regulatory functions to the national framework.	Agree.
86.	Supplementary objectives	To the extent that the contrary view is taken and it is considered that the general objectives are not adequate to provide guidance for the non-economic distribution and retail regulatory functions, this will be better addressed by more specific direction targeted at the particular regulatory functions concerned rather than at the level of the general objective. This could be achieved by the inclusion of supplementary objectives to which the AEMC and AER must have regard in giving effect to the primary statutory objective.	Agree.

Part 2 – Regulation of standing offer and market contract terms

The recommended requirements would apply to both standing offer and market contracts. Market contracts would be capable of variation with the customer's informed consent where indicated by a 'Market Contract Annotation' in the table. The concept of 'informed consent' would be defined in the Rules.

No.	Subject	Recommendation	Comments
Calculation of Charges			
	Tariffs and charges	<p>Charges are to be made on the basis of tariffs and charges specified in the contract or published in accordance with prescribed, uniform publication requirements (such as in the Gazette and/or a general circulation newspaper and/or on the retailer's internet site). [Note: the level of tariffs and charges remains subject to jurisdictional regulation.]</p> <p>Any variation to standing offer tariffs and charges must be published in advance of the variation taking effect.</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 Contract Annotation</p> <p>Publication requirements do not apply to market contracts. Market contract tariffs must be included in the contract and variations must be notified to the customer in accordance with requirements set out in the contract.</p>	<p>Agree, noting that:</p> <ul style="list-style-type: none"> in circumstances where the customer is charged under a 'bundled' tariff, information regarding the network component of the customer's bill will not be readily available; and care should be taken to align this requirement with the information provision and referral obligations under the UoS agreement. For example, in some circumstances, the UoS agreement will require the retailer to refer the customer to the distributor for a response. <p>It should be clarified that "publication":</p> <ul style="list-style-type: none"> by a pricing entity provides a retailer with adequate advance notice for system and billing changes; and by a retailer does not extend to publication in newspapers. For example, publication on the retailer's website would be sufficient to satisfy this requirement.

No.	Subject	Recommendation	Comments
	Use of meter data	<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 Contract Annotation</p> <p>May be varied by agreement in market contracts.</p>	<p>Agree - but note that metering data includes substituted meter data where a distributor or RP could not obtain a reading. This substitution is undertaken in accordance with the NEM Metrology Procedure. A retailer should be able to base an estimated bill on a substitution provided by a distributor or RP. Note that for "permanent substitutions" these should be treated as an actual, as they will not be replaced by an actual meter reading.</p> <p>The only circumstance where a distributor or RP will not provide metering data is where there is a failure of systems or communications.</p> <p>Ergon Energy also suggests clarifying that "meter reading" in this context refers to an "actual meter read" (i.e. a scheduled meter reading or a special meter reading) or on a permanent substitution. This would avoid confusion with others forms of meter reading that will only constitute an estimate, e.g. customer self read.</p>
	Meter reads	A retailer must use its best endeavours to ensure that a meter reading takes place at least once in each 12 month period.	Agree - but suggest clarifying that "meter reading" in this context refers to an "actual meter read".
	Estimations	<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 	<p>Agree. A retailer should be able to base a bill on customer self read.</p> <p>Customer self reads should only be accepted as an estimation with the retailer's agreement.</p> <p>As above, the retailer should be able to base a bill on the substitution provided by the RP or distributor.</p>

No.	Subject	Recommendation	Comments
		<ul style="list-style-type: none"> 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>The retailer should be able to base a bill on the substitution provided by the Responsible Person or distributor.</p>
	<p>Bill smoothing</p>	<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 six months; and 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 Contract Annotation</p> <p>May be varied by agreement in market contracts.</p>	<p>Agree - The retailer should have a discretion as to whether it offers a bill smoothing product.</p> <p>Note: While the amount payable each month is the same, there should be allowance for a "correction" at the end of the period to reflect actual consumption.</p>
	<p>Meter access</p>	<p>A customer must allow the retailer or its representative (ordinarily the distributor) 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 an estimation and the customer subsequently requests an actual read, the retailer may charge the customer its reasonable costs of complying with the request.</p>	<p>Agree.</p> <p>Ergon Energy would interpret "reasonable costs" as permitting, at a minimum, the pass through of a distributor's charges related to the meter reading.</p>
Termination			
	<p>Retailer termination</p>	<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 	<p>Agree, but suggest that:</p> <ul style="list-style-type: none"> this should be expanded to include circumstances

No.	Subject	Recommendation	Comments
		<p>has occurred and there is no contractual right to reconnection;</p> <ul style="list-style-type: none"> • the small customer and the retailer have entered into a new customer contract; or • the small customer has transferred to another retailer. <p>Market Contract Annotation</p> <p>Market contracts may provide for additional termination events, but must not vary the provisions relating to disconnection.</p>	<p>where the retailer is otherwise entitled to disconnect the customer under law; and</p> <ul style="list-style-type: none"> • transfer to another retailer should be described in terms of the transfer of financial responsibility.
	Customer termination	<p>A small customer may terminate a standing offer contract upon five business days notice to the retailer.</p> <p>Market Contract Annotation</p> <p>A small customer is required to give no more than 28 days notice to terminate a market contract.</p>	<p>Note that while 5 business days notice may be the proposed 'standard', in Queensland notice aligns with the timeframe for disconnection, which varies by feeder type. Therefore, for some customers it is 5 days and for some customers it is 10 days.</p> <p>Given that the termination notice is likely to trigger service activity (e.g. disconnection or a special meter read), it will be necessary for the notice period to vary depending on the physical location of the customer and the timeframes under which the distributor is required by the B2B Procedures: Service Order Process, to undertake the service order activity. In Queensland, this can be 10 business days for customers in rural and remote areas.</p> <p>A failure to align the notice period with the timeframes for the service order activity may leave the retailer exposed to energy and network charges which it is subsequently unable to recover.</p>
Security			
	Provision of security	A retailer may require a small customer to provide a security deposit	Agree but consider also including:

No.	Subject	Recommendation	Comments
		<p>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 and the customer has refused an instalment plan offered by the retailer. <p>Market Contract Annotation</p> <p>May be varied by agreement in market contracts.</p>	<p>- the customer has not provided credit history information; and</p> <p>- the retailer has reasonably formed the view that the small customer has an unsatisfactory or no credit history i.e. it should not be linked to the refusal of the customer to enter into an instalment plan.</p>
	Information about credit history	<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 raise a complaint; and • that the customer has the right to obtain details in relation to the information on which the retailer's decision was based. 	Ergon Energy disagrees that a retailer is required to provide a reason.
	Amount of security	<p>The amount of security may not exceed 1.5 times the average quarterly bill (for customers on a quarterly billing cycle) or 2.5 times the average monthly bill (for customers on a monthly billing cycle).</p> <p>Average quarterly and monthly bills should be determined by the</p>	<p>Agree with the concept of 1.5 and 2.5 times the average bill for the amount of security.</p> <p>However Ergon Energy does not support the proposal for the AER to determine the "average quarterly and monthly</p>

No.	Subject	Recommendation	Comments
		<p>AER.</p> <p>Market Contract Annotation</p> <p>May be varied by agreement in market contracts.</p>	<p>bills". Average consumption will vary significantly across the 'small' customer class (for example, small residential, large residential, small business and commercial customers) with the inevitable consequence that some customers will pay more, and some customers will pay less, than an amount that is representative of their own average consumption. These adverse consequences are most likely to be felt by small residential users, customers in single person dwellings and small businesses.</p> <p>From the retailer's perspective, it will mean that the security deposit obtained is unlikely to be sufficient for those customers falling above the average of their customer category.</p> <p>Rather than the AER establishing a series of customer categories within the small customer class, Ergon Energy believes that the retailer should be permitted to base the average on:</p> <ul style="list-style-type: none"> • the customer's previous billing history; • the previous billing history at the premises; or • typical electricity usage of customers of the same type as the customer. <p>This would be a more equitable approach and provide a more accurate correlation between customer's consumption and the amount of the security deposit that is requested.</p> <p>In this context, it is noted that the customer will have the ability to raise any concern that it may have regarding the</p>

No.	Subject	Recommendation	Comments
			imposition of a security deposit through both the retailer's internal dispute management process and to an external ombudsman / dispute resolution body.
	Interest	The retailer must pay interest on a security deposit to the customer in accordance with an interest rate specified initially in the Rules and subject to periodic review by the AER.	Agree. In the interim jurisdictional arrangements should apply, until a proper consultation has occurred.
	Application of security	<p>The retailer may only apply a security deposit to off-set amounts owed to it where the customer:</p> <ul style="list-style-type: none"> • has failed to pay a bill which results in disconnection by the retailer and there is no contractual right to reconnection; • vacates the property; • requests disconnection; or • transfers to another retailer. <p>The retailer must account to the customer within 14 days after application of the security deposit.</p>	Agree. The retailer should also have the ability to apply the security deposit to offset other goods and services that the customer has acquired in circumstances where the customer's explicit informed consent has been obtained.
	Repayment of security	The retailer must repay a security deposit to the customer after the customer has completed 12 months of on-time payment of energy charges or where the customer ceases to take supply from the retailer at the relevant address.	<p>Agree – on the basis that the 12 month period relates only to small customers.</p> <p>Also, return of security deposits should be by way of a credit on the customer's next bill or final bill in circumstances where the customer ceases to take supply.</p>
Billing, apportionment of payment, disputes			
	Frequency of bills	<p>Energy bills must be issued by the retailer at least every three months.</p> <p>Market Contract Annotation</p>	Agree. Ergon Energy suggests that the obligation should be phrased as a "best endeavours obligation to bill quarterly". This would align to existing industry practice

No.	Subject	Recommendation	Comments
		<p>May be varied by agreement in market contracts.</p>	<p>and recognise that the scheduling of meter reads will naturally result in the meter read period being slightly more or less than three months or 90 days.</p>
	<p>Content of bills</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; <ul style="list-style-type: none"> • details of consumption or estimated consumption; • pro rata billing information (if applicable); 	<p>Ergon Energy believes that the following should be clarified:</p> <ul style="list-style-type: none"> • the amount of the network charges will not be provided for customers who are billed on the basis of a 'bundled' tariff; • details of concessions and rebates should only be provided high level – i.e. a reference to the availability of concessions and rebates and a contact number for enquiries; • account and fault enquiry numbers will be separate. The fault number will be provided by the distributor for publication on the retailer's bill; and • it is not appropriate to mandate that a "complaint" number should be printed on the bill. Initial contact should be through the customer enquiries number to provide the retailer with an opportunity to resolve the matter prior to escalation.
		<ul style="list-style-type: none"> • any amount deducted, credited or received under a Government rebate or concession scheme or under an instalment plan; • the amount of any security deposit; 	

No.	Subject	Recommendation	Comments
		<ul style="list-style-type: none"> • the network charge and details of any other miscellaneous charges; • details of the available payment methods; • details of any available government funded concessions or rebates; • telephone number for account and fault enquiries; • 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>	
	Payment terms	<p>The due date for payment of a bill may not be less than a prescribed period after the date on which the bill is sent out.</p> <p>Market Contract Annotation</p> <p>May be varied by agreement in market contracts.</p>	<p>Agree. However Ergon energy queries whether the “prescribed period” will be set by the AER. Ergon Energy supports the pay-by date being not less than 12 business days after the date the retailer sends the bill.</p>
	Apportionment	<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 by the customer or agreed by the customer.</p> <p>Market Contract Annotation</p> <p>May be varied by agreement in market contracts.</p>	<p>Agree.</p>
	Historical billing information	<p>A retailer must 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</p>	<p>Agree.</p>

No.	Subject	Recommendation	Comments
		month period may be subject to a reasonable charge.	
	Billing disputes	<p>A retailer must review a bill upon the request of a small customer in accordance with the retailer's standard complaints and dispute resolution procedures and in accordance with any time limits applicable under those procedures.</p> <p>The customer may require the retailer to undertake a meter test, with the cost of the test to be borne according to the outcome of the test.</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>Agree. Ergon Energy considers that responsibility for initial payment of the fee should be addressed. It should be clarified that the customer is required to pay any meter test fee and that, in circumstances where the meter is found to be faulty, the meter test fee will be refunded.</p> <p>Agree.</p>
Undercharging and overcharging			
	Undercharging	<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). 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</p>	<p>Agree.</p> <p>Ergon Energy considers that time to pay and the waiver of interest should not apply in circumstances where the undercharging results from the fault or unlawful action of the customer.</p>

No.	Subject	Recommendation	Comments
		on a separate bill.	
	Overcharging	A retailer must promptly inform the customer upon becoming aware of an overcharge and must repay any amount overcharged. If the amount overcharged is less than a threshold amount, the retailer must credit that amount to the next bill. If the amount overcharged exceeds the relevant threshold, the retailer must repay the amount as directed by the customer or, where there is no such direction, credit the customer's next bill.	Ergon Energy seeks clarification from the RPWG and AAR as to what is "a threshold amount" and who determines this amount. We consider that the Rules should specify that no interest should accrue.
Payment methods and difficulties			
	Payment methods	<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; • 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>Market Contract Annotation</p> <p>May be varied by agreement in market contracts. If direct debit is provided for in the market contract, the last paragraph must be complied with.</p>	Agree.
	Payment difficulties	A retailer must offer a small customer an instalment plan where 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]. Where customers are	<p>Agree.</p> <p>Ergon Energy considers that the bracketed words will need further debate and may be considered during the drafting stages.</p>

No.	Subject	Recommendation	Comments
		<p>experiencing payment difficulties, retailers must provide information to those customers in relation to available concessions or Government assistance, independent financial counselling services and their ability to have the bill redirected to a consenting third party.</p> <p>A retailer is not required to offer an instalment plan if the customer has had two instalment plans cancelled due to non-payment in the previous 12 months.</p>	<p>It is Ergon Energy's view that the obligation to offer an instalment plan should be limited to residential customers.</p>
	Shortened collection period	<p>Conditions under which a customer may be placed on a shortened collection period and under which the customer must be returned to the normal collection period.</p>	<p>Agree but Ergon Energy would seek to review the conditions during the Rules drafting.</p>
Disconnection			
	Grounds for disconnection	<p>A retailer may disconnect or discontinue supply where:</p> <ul style="list-style-type: none"> • a small customer has not paid a bill; • access to a meter has been denied by a small customer for three consecutive scheduled readings without reasonable excuse; • the customer has refused to provide acceptable identification or security; • a customer has acquired energy illegally; • a customer has obstructed an authorised person in relation to acts to be done under the contract; or • a market contract has been terminated in accordance with the terms of the contract. 	<p>Agree.</p> <p>Ergon Energy suggests this section should be expanded to include:</p> <ul style="list-style-type: none"> • a failure to comply with terms of an agreed instalment plan or payment option; and • refusal to pay a security deposit.
	Limitations on disconnection	<p>Other limitations will apply to the right to discontinue supply in circumstances where a small customer has not paid a bill on account of having insufficient income. In these circumstances, the retailer is required to comply with its obligations in respect of customer</p>	<p>Agree.</p>

No.	Subject	Recommendation	Comments
		<p>payment difficulties (eg to offer instalment plans or special payment arrangements and to make referrals to counselling services, etc) before proceeding to disconnect a customer. Retailers are not entitled to disconnect while an application for Government assistance or a payment plan is pending. In addition, premises registered as containing life support or other medical equipment may not be disconnected and retailers may only carry out disconnections before specified times of the day and on specified days.</p>	
	<p>Notice</p>	<p>Disconnection may not be effected until the retailer has provided the customer with:</p> <ul style="list-style-type: none"> • a reminder notice; and • a disconnection notice, <p>containing prescribed information and at prescribed minimum intervals.</p> <p>In addition, where the customer is experiencing payment difficulties the retailer must make a reasonable attempt to contact the customer by telephone or other specified means.</p>	<p>Agree. However Ergon Energy seeks more detail as to the nature of the “prescribed information” and the intervals at which the notices will be issued.</p>
	<p>Reconnection</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>	<p>Agree.</p> <p>Ergon Energy believes that the retailer should be permitted to require the payment of any charge levied by the distribution entity for reconnection, prior to reconnection occurring.</p>

No.	Subject	Recommendation	Comments
Liability and warranties			
	Liability and warranties	<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 • 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 (ie 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>	Agree.
Miscellaneous			
	Prepayment meters	A customer may agree but cannot be required to use a prepayment meter.	<p>Agree.</p> <p>Ergon Energy draws attention to our comments above about prepayment meters.</p> <p>It should equally be stated in the Rules that a retailer is not obliged to offer a prepayment meter or similar arrangement to a customer. For example, the Notified Prices in Queensland govern the circumstances in which a customer, retailer and distributor may agree to the installation of a card operated meter. Such arrangements</p>

No.	Subject	Recommendation	Comments
			should be considered when drafting this section of the Rules.
	Dispute resolution and complaints	A retailer must handle a complaint made by a small customer in accordance with the relevant jurisdictional dispute resolution process.	Agree. Ergon Energy would also support an obligation on the retailer to handle small customer complaints in accordance with the Australian Standard.
Additional provisions required in market contracts			
	Cooling-off period	<p>Market Contract Annotation</p> <p>A retailer must ensure that each market 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>	No comment is provided.
	Dual fuel contracts	<p>Market 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>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>	No comment is provided.
	Early termination charges	<p>Market Contract Annotation</p> <p>The retailer may only impose an early termination charge under a small customer market contract if:</p>	No comment is provided.

No.	Subject	Recommendation	Comments
		<ul style="list-style-type: none"> the market contract includes details of the amount or manner of calculation of the early termination charge; and the early termination charge is a reasonable estimate of the cost to the retailer resulting from the early termination. 	
Provisions included for consideration in Working Paper 1 but not proposed to be included in standing offer or market contract terms			
	Assessing credit risk (limiting assessment to utility related debt)	In deciding whether a small customer has an unsatisfactory credit history, a retailer may only have regard to any relevant utility related default by that small customer.	Disagree. The customer may not have an established utility record upon which the retailer can reasonably base its decision.
	Customer consultative groups	A retailer must establish a customer consultative group.	Disagree. This is a matter for individual retailer discretion and should not be mandated.
	Discrimination based on customer supply or use of alternative energy sources	A retailer must not refuse to supply or supply on inferior terms on the basis that the customer supplies or uses alternative forms or sources of energy or services that reduce the demand for energy.	Clarification would be required as to the meaning of "inferior terms" for comment to be provided.
	Fees for late payment	Prohibition on fees for late payment.	No comment is provided.
	Compensation for wrongful disconnection	Retailers must pay compensation to customers who are wrongfully disconnected.	Agree. Ergon Energy comments that this appears to be more in the nature of a retail GSL, than a provision of a standing offer contract.
Provisions to be included in the Rules (and not as standing offer or market contract terms)			
	Communications with customers	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.	Agree. Whilst Ergon Energy agrees with the intended provision but does not see the necessity of elevating this obligation to the Rules and believes this would be more appropriately contained within the standing offer.
	Customer information	A retailer must make available on request and without charge	Agree.

No.	Subject	Recommendation	Comments
		standardised information to a small customer concerning his or her rights, entitlements and obligations.	Agree. Ergon Energy believes that this should take the form of a Customer Charter.
	Competitive pricing information	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.	Agree. Some flexibility will be required to permit the non-price component of offers to be captured and compared.
Provisions subject to separate policy review			
	Consumption graphs	Bills to include comparative consumption data.	Ergon Energy considers that this should be the subject of separate review.
	Provision of energy efficiency advice	On request, a retailer must provide energy efficiency advice to a small customer.	Ergon Energy considers that this should be the subject of separate review.
	Greenhouse gas emissions information on bills	Bills must include information concerning greenhouse gas emissions in accordance with guidelines.	Ergon Energy considers that this should be the subject of separate review.
	CSOs	Retailers may be required to deliver government funded CSOs.	Ergon Energy considers that this should be the subject of separate review.
	Service standards	Retailers must comply with specified service standards.	Ergon Energy considers that this should be the subject of separate review.

Part 3 – Regulation of marketing conduct

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

No.	Subject	Recommendation	Comments
	Pre-contractual disclosures - timing/form	<p>A retailer must provide a small customer with certain prescribed information as follows:</p> <p>(a) prior to formation of a market contract: where the prescribed matters may be disclosed in writing, electronically or verbally; and</p> <p>(b) as soon as practicable after formation of a market contract: pursuant to a single written disclosure statement (unless such disclosure statement has already been provided).</p>	<p>No comment is provided other than to state that it is Ergon Energy's view that 'marketing' rules should not apply to Ergon Energy Queensland because it is prohibited by law from entering into market contracts with customers, and competing or winning customers. EEQ currently has an exemption from complying with the Marketing Code contained in the QLD Electricity Industry Code, this should be grandfathered in the national framework.</p>
	Pre-contractual disclosures - required disclosures	<p>The information which a retailer must provide in the manner described above is information in relation to:</p> <p>(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;</p> <p>(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;</p> <p>(c) cooling-off period: any rights to rescind the contract, including how to exercise these rights;</p>	<p>See comments above re marketing rules.</p>

No.	Subject	Recommendation	Comments
		<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 supply contracts: the availability of standing offer supply contracts and the relevant regulator's contact details.</p>	
	Cooling-off period	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 contract, including information about how to exercise this right, at least 10 business days prior to the expiry of the cooling-off period.	See comments above re marketing rules.
	Dispute resolution and complaints	A retailer must advise a small customer of its 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.	See comments above re marketing rules.
	General conduct standards	<p>Marketers must, and retailers must ensure that marketers, comply with all applicable Commonwealth and State and Territory laws in relation to:</p> <p>(a) misleading, deceptive or unconscionable conduct;</p> <p>(b) undue pressure, harassment or coercion; and</p> <p>(c) the quality, form and content of marketing information.</p> <p>Marketers should have, and retailers should ensure that marketers have, adequate product knowledge. Adequate product knowledge covers knowledge of matters such as tariffs, billing procedures and</p>	See comments above re marketing rules.

No.	Subject	Recommendation	Comments
		the availability of rebates and concessions.	
	Duties of marketers	<p>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:</p> <ul style="list-style-type: none"> (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. <p>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 behalf the marketing contact is being made.</p>	See comments above re marketing rules.
	Training	Retailers must ensure that marketers are appropriately trained in relation to compliance with marketing obligations.	See comments above re marketing rules.
	Record keeping	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 two years after such consent is obtained.	See comments above re marketing rules.
	Compliance audits	A retailer may be required by the AER to conduct a compliance audit in respect of the compliance by marketers with their marketing obligations.	See comments above re marketing rules.

No.	Subject	Recommendation	Comments
	Contact times	Not included.	See comments above re marketing rules.
	Contact records	Not included.	See comments above re marketing rules.

Part 4 – Regulation of distributor-customer contract terms

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

No.	Subject	Recommendation	Comments
	Commencement of contract (as between the distributor and the customer at particular premises)	<p>When the deemed contract commences in relation to a particular customer and premises, being:</p> <ul style="list-style-type: none"> the date specified in the contract (not earlier than the date of publication of the contract by the distributor); or if later, the date the premises were connected to the network or the customer moved in to the premises. 	<p>Partly agree – the date specified in the contract is appropriate.</p> <p>However, regarding the 2nd dot point – if no date is specified then commencement should be from the date on which customer connection services are first provided to the customer at the premises.</p>
	Collection of charges	<p>An explanatory term may be included noting that charges for distribution services 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.</p>	<p>Agree.</p> <p>Ergon Energy considers that direct billing the customer for distribution services should be at the absolute discretion of the distributor. The distributor should be permitted to request a security deposit in circumstances where it is directly billing a customer. Direct billing the customer ought to be permissible for both small and large customers, whether residential customers or not.</p>
	Termination of services	<p>When the deemed contract ends in relation to a particular customer and premises, being the earlier of:</p> <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 	<p>Agree.</p>

No.	Subject	Recommendation	Comments
		<p>of notice to its retailer;</p> <ul style="list-style-type: none"> • the effective date of a negotiated distribution contract for the premises; or • the date otherwise agreed between the customer and the distributor. 	
	Interruptions to supply	The contract should adopt the provisions of the Rules in relation to interruptions and curtailments to supply.	Agree, provided that the Rules adequately recognise the distributor's rights to interrupt or curtail load, including via routine ripple-control signal control.
	Service standards/Guaranteed service levels	<p>The setting of service standards and any associated GSL payment levels may be a matter to be determined individually as part of the AER's approval of the default contract. This is not addressed in this paper. However, following is an indicative list of potential requirements:</p> <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. 	<p>Agree.</p> <p>While the contract should recognise the customer's right to claim a GSL in specified circumstances, it is suggested that the GSL regime itself should not be contained in the connection contract (another distributor publication would suffice).</p>
	Liability and warranties	<p>The following limitations of liability may be included:</p> <ul style="list-style-type: none"> • implied terms and warranties may be excluded to the extent permitted by law; 	Agree. It should also be clarified that, in making a GSL payment, the distributor is not making any admission of legal liability or breach of the Rules.

No.	Subject	Recommendation	Comments
		<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>	
	Provision of information	May include an obligation on the distributor to provide information to a customer or its retailer on request about that customer's consumption, applicable network tariff or connection.	Agree, provided that the information relates to billing information and data that a retailer reasonably requests to comply with its obligations.
	Disconnections and reconnections (excluding temporary supply interruptions)	<p>The contract should adopt the provisions of the Rules in relation to the circumstances in which a distributor may, or must, disconnect. The contract should also specify when a distributor must not disconnect. These circumstances may include (subject to emergencies):</p> <ul style="list-style-type: none"> • time of day and weekend/holiday restrictions for small customers; • for electricity, if the address has a registered life support system; • where required notices have not been given; • where a complaint remains unresolved; or • if a distributor reasonably considers that distribution would 	<p>Agree.</p> <p>In addition, it should be clarified that, in accepting a request by the customer's retailer for disconnection, the distributor is not required to ascertain whether the retailer has satisfied the preconditions to disconnection.</p>

No.	Subject	Recommendation	Comments
		<p>immediately endanger health or safety.</p> <p>Reconnection should be effected:</p> <ul style="list-style-type: none"> • as soon as practical and within one business day after the reason for disconnection has been removed and the customer requests; and • if a retailer requested disconnection, as soon as practical and within one business day after the retailer requests reconnection, <p>subject to payment of the reconnection fee.</p> <p>A time limit for reconnection should be included, after which a request for connection would be treated as a new connection.</p>	<p>Partly agree.</p> <p>It should be recognised that the timeframe for reconnection will be impacted by the physical location of the customer and the timeframes under which the distributor is required by the B2B Procedures: Service Order Process, to undertake the service order activity. In Queensland, this can be 10 business days for customers in rural and remote areas.</p>
	Fault reporting and correction	Provision of 24-hour fault information and reporting line.	Agree.
	Dispute resolution	The contract should include details of the applicable complaints/dispute resolution process and require the distributor to comply with the relevant rules or procedures.	Agree. Ergon Energy would also support an obligation on the retailer to handle small customer complaints in accordance with the Australian Standard.
	Customer obligations	<p>To be clearly expressed in the 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. 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; 	<p>Agree and further consideration should be given during drafting stages.</p> <p>It is Ergon Energy's view that the provision of notice of non-compliance and the opportunity to remedy the non-compliance should not apply in circumstances of wrongful use.</p>

No.	Subject	Recommendation	Comments
		<ul style="list-style-type: none"><li data-bbox="651 360 1070 384">• safety of customer installation;<li data-bbox="651 408 1361 472">• compliance with any restrictions on consumption or use of energy; and<li data-bbox="651 496 1312 560">• requirements to notify certain events (eg faults, leaks, change of use, safety requirements).	

Part 5 – Regulation of distributor-retailer contract terms

The following terms would be included in the model terms for UoS agreements/interface contracts to be included in the Rules. In general, the same terms and conditions apply to electricity UoS agreements and gas interface contracts. Clauses marked with an asterisk would not apply in gas interface contracts as these provisions would already be dealt with in the access terms and conditions. Note that negotiated contracts may be entered into where the parties agree.

No.	Subject	Recommendation	Comments
	Connections at request of retailer or end customer	The UoS agreement/interface contract would be limited to requiring the retailer to pass on connection requests in a timely manner.	Agree. Ergon Energy further recommends that the parties must comply with any obligations under the <i>B2B Procedures</i> related to the initiation and completion of <i>Service Order Requests</i> .
	Obligation to supply*	The UoS agreement would provide for the distributor to provide distributor services to the retailer (who then provides a bundled service to its customers).	Disagree. Ergon Energy seeks clarification from the RPWG and the AAR what it means by “distributor services” and “bundled service”. Ergon Energy supports a model for the provision of retail and distribution services that reflects what actually happens in practice – which is that the distributor provides distribution services to customers – and the retailer provides retail services. In these circumstances, the retailer is billed DUOS and TUOS by the distributor (for the distribution services that have been provided to customers). The retailer will then provide a bill to the customer which will include charges

No.	Subject	Recommendation	Comments
			<p>associated with the provision of distribution services together with retail services charges (energy + costs and margins).</p> <p>Ergon Energy's view is that it is the billing and collection of moneys practices that need to be reflected in the UoS agreement.</p>
	<p>Customers covered by the agreement</p>	<p>The UoS agreement/interface contract would define mutual customers of the distributor and retailer by reference to:</p> <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 in the wholesale market (ie. the FRMP in electricity and equivalent in gas). 	<p>Agree.</p>
	<p>Collection and on payment of network charges by retailer*</p>	<p>The UoS agreement would provide for the retailer to pay the distributor for distribution services as principal, ie. the retailer is required to pay the distributor regardless of whether it receives payment from its customers (and therefore bears the customer credit risk). This would not include payment for non-standard connections negotiated between the customer and the distributor, which would be paid directly by the customer.</p>	<p>Agree.</p> <p>Further clarification is required as to the meaning of "non-standard connection". Ergon Energy would support the exclusion from the billing/collection practice of those amounts payable by the customer to the distributor for extensions or augmentations (i.e. capital contributions and other pre-connection arrangements). However a 'negotiated' connection contract ought not to be considered 'non-standard' (and thus excluded from the regime where the distributor bills retailer, and retailer bills customer). This is because the 'negotiated' elements of the contract are usually technical and physical in nature, and have no bearing on the billing/collection processes.</p>

No.	Subject	Recommendation	Comments
		<p>Payment provisions would cover matters such as invoicing, use of meter data/estimates, adjustment of accounts for changes to meter data or correction of errors, over/under charging, interest on late payments and disputes. Provisions concerning over/under charging should be consistent with the requirements applying between the retailer and customer (see Part 2 of this document).</p> <p>These provisions may also cover the pass through of GSL payments owed by distributors to customers or provide for the direct payment of GSL payments by distributors to customers.</p>	<p>The UoS agreement should only address these issues at a high level, in recognition of the fact that agreed protocols for network billing exist in the NEM jurisdictions.</p> <p>Ergon Energy supports the direct payment of distribution GSLs by the distributor to the customer. The UoS agreement should provide for the retailer to reimburse the distributor in circumstances where the GSL payment was made as a consequence of a delay, failure or wrongful action by the retailer.</p>
	<p>Changes in network tariffs or distribution services</p>	<p>The UoS agreement/interface contract would 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. 	<p>Agree.</p>
	<p>Information sharing to facilitate single billing, billing disputes</p>	<p>The UoS agreement/interface contract would require:</p> <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. 	<p>Agree.</p> <p>Ergon Energy believes that this would only need to be described as a general obligation to provide sufficient information, in recognition of the fact that agreed protocols for network billing exist in the NEM jurisdictions. These</p>

No.	Subject	Recommendation	Comments
			protocols address both the detailed content of the statement of charges and the processes by which disputes are to be raised and resolved.
	Credit support*	The UoS agreement would require the retailer to provide credit support in certain circumstances and set out the approach to determining the amount and nature of the credit support, when it may be drawn and other matters.	Agree.
	Termination	<p>The UoS agreement/interface contract would provide for termination rights for the distributor and retailer respectively.</p> <p>However, to protect customers in these circumstances, the relevant provisions should require a distributor to continue to provide services until the UoS agreement/interface contract has ceased to apply to all of the retailer's customers (for example, because they have transferred to a retailer of last resort).</p>	<p>Agree.</p> <p>Any provisions regarding the ongoing application of the UoS agreement should only be a reflection of the legislative obligation to connect and supply – i.e. it is not appropriate for the UoS agreement to attempt to establish the distributor's rights or obligations in this regard.</p> <p>Therefore, the UoS agreement should only provide for:</p> <ul style="list-style-type: none"> • an acknowledgement by the retailer that the distributor may continue to provide customer connection services to a customer, notwithstanding that the UoS agreement has been terminated; and • the UoS agreement to continue to apply to such customers until the connection arrangements with the distributor or the financial responsibility of the retailer, for that customer, ceases.
	Interruptions to supply*	The UoS agreement would contain an acknowledgement of the distributor's right to interrupt supply in accordance with the Law and the Rules.	Agree.
	Allocation of liability between retailer, distributor	The UoS agreement/interface contract would provide for the liability of the distributor and the retailer and, in particular, for:	Agree.

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	and customer	<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. 	Limitations in liability should also be addressed in the UoS agreement, including monetary thresholds per claim where appropriate.
	Disconnections at request of retailer, distributor or end customer	<p>The UoS agreement/interface contract would provide for:</p> <ul style="list-style-type: none"> • disconnections at the request of the retailer (subject to certification by the retailer that the disconnection is permitted 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 (parties obliged to inform each other if they receive such a request); • acknowledgement by the retailer of other circumstances where the distributor is entitled to disconnect; • requirements for reconnection. 	<p>Agree.</p> <p>Ergon Energy believes that obligations in the UoS agreement regarding disconnection should be limited to notification or the liability of parties in certain circumstances that exist in the customer-retailer and customer-distributor contracts.</p> <p>Pre-conditions for customer reconnection should be addressed in the Rules or in the customer contracts, not in the UoS agreement.</p>
	Enforcement of distributor's rights	<p>The UoS agreement/interface contract 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>Agree.</p> <p>Any obligation on the distributor with respect to prior notification:</p>

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			<ul style="list-style-type: none"> should be limited to disconnection - it would be onerous to extend this obligation to matters beyond disconnection and may also expose the distributor to a breach of privacy obligations; and should contain a 'carve out' for emergencies or where the disconnection occurs at the direction of State or Federal police. <p>The circumstances in which a retailer may require indemnification are unclear and should be clarified to enable comment.</p>
	Information sharing to facilitate connection, disconnection	See comments in relation to connection and disconnection above.	Disagree. The nature of the information intended to be covered by this clause is unclear.
	Handling of fault complaints	<p>The UoS agreement/interface contract would provide for:</p> <ul style="list-style-type: none"> the retailer to transfer or refer to the distributor customer calls in relation to faults or emergencies; the information to be provided by the distributor to the retailer in this regard, and what information the retailer may provide to the customer. 	<p>Partly agree.</p> <p>Ergon Energy supports an obligation for a customer's call to be transferred, rather than referred, in circumstances where the communication systems are technically capable. A transfer should occur in all circumstances where the fault relates to an emergency.</p>
	Handling of complaints (including re billing)	The UoS agreement/interface contract would provide for each party to otherwise transfer or refer to the other any customer complaints received that relate to the other party, and may also include provisions requiring the parties to cooperate in addressing such complaints.	Agree.
	Other customer inquiries and claims	The UoS agreement/interface contract would similarly provide for the transfer or referral of customer inquiries and may also include	<p>Agree.</p> <p>Ergon Energy considers that a distinction should be drawn</p>

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		<p>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.</p> <p>See also above in relation to allocation of liability.</p>	<p>between:</p> <ul style="list-style-type: none"> • customer claims – which should be addressed in the same manner as the receipt of a customer complaint (see above); and • customer inquiries or requests for documentation or information (e.g. contracts, charters or tariffs) – which should simply be referred to the other party to address and should not be accompanied by obligations regarding assistance or participation.
	<p>Metering</p>	<p>See comments above in relation to billing. Other relevant provisions in relation to metering would be:</p> <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. 	<p>Disagree. Ergon Energy believes that:</p> <ul style="list-style-type: none"> • obligations regarding the frequency of meter reads and the provision of metering data should be addressed through regulation and metrology procedures, not the UoS agreement; and • notification of changes to access conditions is already addressed through the B2B Procedures: Customer and Site Details Notification Process.
	<p>Information sharing in relation to customer information and planned and unplanned outages</p>	<p>The UoS agreement/interface contract would include additional obligations for the parties to share information:</p> <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 life support systems) to the retailer; • the provision of information in relation to planned and unplanned outages by the distributor to the retailer (and associated referral provisions, similar to faults, as 	<p>Partly agree.</p> <p>Ergon Energy suggests that to avoid the imposition of significant system and resource costs, it should be explicitly recognised that the distributor's obligation regarding the provision of information in relation to planned and unplanned outages to retailers:</p> <ul style="list-style-type: none"> • only requires the information to be made available within the same timeframes as the information is provided to the customer; and

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		<p>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 agreement. 	<ul style="list-style-type: none"> is not required to be provided on a 'customer-specific' basis – i.e. will not distinguish between interruptions affecting a customer and the customers of other retailers.
	Information to be provided to the customer	The UoS agreement/interface contract 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>Disagree. This nature of the information intended to be covered by this clause is unclear.</p> <p>As noted above, customer inquiries or requests for documentation or information (e.g. contracts, charters or tariffs) should simply be referred to the other party to address.</p> <p>Ergon Energy does not support the provision of information by the retail on the distributor's behalf unless this has been expressly agreed between the parties as a variation to the standard UoS agreement.</p>
	Information sharing to facilitate churn	See comments above in relation to sharing customer information.	Disagree. The nature of the information intended to be covered by this clause is unclear.
	Communications generally	The UoS agreement/interface contract may provide for the parties to develop communications protocols.	<p>Partly agree.</p> <p>Given that the UoS agreement itself is intended to represent a communication protocol between the distributor and the retailer, the nature of the additional protocols that may be developed is unclear.</p> <p>Ergon Energy queries whether this should more appropriately be phrased as the ability for the parties to</p>

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			agree to variations in the communication protocols that apply.
	Cooperation generally	The UoS agreement/interface contract 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 under its agreements with customers.	<p>Agree however this should be qualified to the extent that:</p> <ul style="list-style-type: none"> • the request for information or cooperation is reasonable; and • the disclosure is permitted by law and is subject to obligations of confidentiality.
	Dispute resolution	Dispute resolution procedure to be included.	<p>Agree and suggest that this should between:</p> <ul style="list-style-type: none"> • disputes with respect to the NER. In these circumstances, the dispute resolution procedure under clause 8.2 of the NER should apply; and • other disputes. A process with clear triggers for escalation, including the appointment of an independent expert if required.