

No.	Subject	Recommendation	SP AusNet's 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>A key issue for Distributors in attempting to carry out their obligations is the relatively large number of premises to which the Distributor cannot get access. Although this issue will be significantly reduced by the ultimate rollout of smart meters with remote reading and switching, the problems and impacts of no access will continue for some time (6 years in Victoria and probably longer elsewhere).</p> <p>The lack of access is felt by the networks in increased costs of operation and in reduced service measures. The impact felt by retailers is reduced actual read data for billing and hence increased customer dissatisfaction and higher operational costs. However, Retailers may have a disincentive to act against a customer as the customer may be "driven" to another retailer.</p> <p>SP AusNet's view is that consideration should be given to placing obligations on Retailers to provide defined assistance to Distributors in obtaining access to</p>

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			customers' premises. Notionally, Retailers currently have obligation to provide assistance, but in SP AusNet's view it is not sufficiently specific.
2.	Designating retailers and supply remits	<p>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 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>	
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</p>	

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		<p>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 aggregated.</p>	
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.	SP AusNet considers this is appropriate but it should be emphasised that the "small customer" definition directly or indirectly is used for a number of purposes other than setting thresholds for retailer relationships and tariffs. A number of these impacts are on the services and obligations provided by Distributors and hence the impacts of the small customer threshold on these matters should be an essential part of any review.
6.	Tariffs	The Law should provide that standing offer tariffs are those published by designated retailers from time to time.	
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.	
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.	

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		Part 2 of this document sets out summary terms and conditions for development of the initial Rules.	
9.	Deemed supply arrangements	<p>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:</p> <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>	
11.	Tariffs, terms and conditions of deemed supply arrangements	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	

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		<p>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 tariff that would apply if the premises were being supplied by the designated retailer.</p>	
12.	Duration of deemed supply arrangements	<p>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.</p>	
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). 	

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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. 	

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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>	
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>	

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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>	
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>	
19.	Entities subject to regulation	<p>The Law will need to include a definition of persons engaged in marketing activities. This should include:</p>	

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		<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. 	
20.	Definition of small customers	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.	

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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.	SP AusNet considers that it is appropriate to have a default model, for this to be common across the two sectors, and for this model to involve contracts between Distributors, Retailers and Customers.
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>SP AusNet's view is that:</p> <ul style="list-style-type: none"> • the network business should be able to propose changes to the default model as part of the price review process • following the price review, the relevant parties should be afforded reasonable scope to negotiate mutually acceptable changes to the relevant agreement • Although the Distributor should consider any request from a Customer or Retailer for other than the Distributor's default contact there is no obligation on the Distributor to offer other than the default and conversely no provision to "force" other than the default on a customer or a Retailer <p>SP AusNet's comments on the Recommendations below are based on this broad view of the relationships.</p>
<p>There is some important discussion in Section 5.3 on page 35 of the Paper re the view of Customer Credit Risk however the outcomes of this discussion has not been specifically recorded in a Recommendation. SP AusNet considers that it is important that the model "in which the Retailer is responsible as principal to the Distributor for</p>			

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<p>network charges" is recorded as an important part of the national framework and recommend that a Recommendation #21A be added before it goes to the RPWG and the MCE for their endorsement.</p> <p>SP AusNet's view is that this "financial" model should also extend to the Retailer having an obligation (if the Distributor so elects) for the Retailer to pass Distributor GSL payments to the Customer. SP AusNet considers that generally this will be the most overall cost effective way of this Distributor obligation being implemented. Again a specific Recommendation to this effect is required to make this clear.</p>			
23.	Small embedded generators	Consideration should be given to including contractual arrangements dealing with small embedded generators in the framework for the hybrid contractual model.	

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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>	
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>SP AusNet has not explicitly identified terminology issues in the Paper. However it is important that as these Recommendations are drafted as Law, Rules, Procedures and Guidelines that consistent and appropriate terminology is used. SP AusNet looks forward to working with the RPWG to ensure that appropriate terminology is adopted.</p>
<p>SP AusNet considers that an important part of the definition of the Distributor's obligation to connect is the concept of a "standard customer connection" as discussed in the Paper in Section 6.2, page 38. SP AusNet supports the concept that "connections requiring any augmentation or extension to the network or other capital contribution from the customer are outside the scope of the obligation (to connect)".</p>			

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			that the T&Cs should be comprehensive enough to provide the Customer with the details of their relationship with the Distributor and the Customer's obligations.

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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>As we have discussed above under Recommendation # 26, whilst SP AusNet supports this broad right for large customers, small customers should not be given this ability as it is counter to maintaining effective and efficient automated process for the mass of customers. The customer should be required to request their connection through their Retailer.</p>

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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 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).	If these are specified in the Law then SP AusNet assumes that they would be the minimum set required by Law; i.e. rather than the Schedule in the Law stating what "may" be included it would be what "must" be included. If not, then the Rules are overwriting the Law. Further if the Schedule is <u>not</u> mandatory then what purpose would it serve in the Law.
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: 	<p>It would seem to be difficult to write wording for the Rules to be directly usable as the basis of another Contract between the Distributor and the Customer. It is likely to make the drafting of both difficult.</p> <p>SP AusNet is concerned that these specifics under which the AER can approve variations are too restricting and the guidance to the AER needs to be defined in broader terms.</p> <p>SP AusNet considers that the checks and balances on the relationship are likely to be provided by the revenue</p>

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		<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>determination/access arrangement approval process, and the details in the actual contract would then be consistent with the agreed approved access and pricing arrangement.</p> <p>Hence the AER's measure should be to determine if the Standard deemed distribution contracts:</p> <ul style="list-style-type: none"> • are consistent with the agreed approved access and pricing arrangement, • support the object of the Law, • are fair and reasonable, and • allow for all the services covered by the Schedule in the Law.
	<p>Variations during regulatory period</p> <p>Deemed distribution contracts for large customers</p>	<ul style="list-style-type: none"> • Distributors should be permitted to apply to vary the terms of an approved deemed distribution contract 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. • Distributors may also prepare, and submit for the AER's approval, a standard deemed distribution contract applicable to one or more classes of customers, other than small customers, on terms which are fair and reasonable. 	<p>The term adopted above is "<u>standard</u> deemed distribution contract".</p>
30.	Regulatory obligations - Law	The Law should authorise or oblige distributors to disconnect, reconnect and interrupt supply in the circumstances prescribed in the Rules.	
31.	Regulatory obligations - Rules	The Rules should include the following provisions in relation to the distributor – customer relationship:	

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	<p>Service standards</p> <p>Grounds for disconnection</p>	<ul style="list-style-type: none"> • A requirement that distributors must comply with any applicable service standards. • The circumstances in which a distributor is entitled or required to disconnect customer premises, including: <ul style="list-style-type: none"> ➤ in an emergency, including at the direction of a relevant authority; ➤ for health and safety reasons; ➤ at the request of the customer or its retailer (subject to certification by the retailer that the disconnection is permitted under the Rules); ➤ for non-compliance by the customer with 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>There are circumstances where a relevant authority may require disconnection and in which circumstances it is not necessary for the authority to evidence that it is an emergency. We suggest the following alternative wording for the recommendation:</p> <ul style="list-style-type: none"> • The circumstances in which a distributor is entitled or required to disconnect customer premises, including: <ul style="list-style-type: none"> ➤ in an emergency; ➤ at the direction of a relevant authority; or ➤ for health and safety reasons. <p>As commented with respect to Recommendation #1 above, SP AusNet considers that the fundamental obligation to monitor and take action re customer no access situations should rest with the Retailer. If the Distributor is to be given the primary role then the framework (the Rules) should provide mandatory obligations on the Distributor rather than leave it to the Distributor's discretion. However any "program" involving</p>

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	Restrictions on disconnection	<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). 	<p>customer contact and follow-up is best left to the Retailer to manage as the prime customer interface is with the Retailer.</p> <p>There are a number of situations where a Distributor cannot carry out a disconnection and it is important that these be recognised at the same level in the suite of documents as the details of the obligation to disconnect i.e. in the Rules. This detail does not appear to be covered specifically in any recommendation.</p> <p>This is important as it affects the ability of a Distributor to carry out a key service. The Victorian UoSA states situations where the Distributor cannot and would not disconnect and SP AusNet considers that these are generally OK. The item in the UoSA re health and safety reasons however needs to be expanded to provide more specific coverage for the situation where the Distributor personnel on site has fears for their own safety and/or that of the customer where violence is threatened.</p>
	Interruptions and curtailments	<ul style="list-style-type: none"> • The circumstances in which a distributor is entitled or required to interrupt or curtail the supply of energy to customer premises, including: <ul style="list-style-type: none"> ➤ planned interruptions subject to prescribed advance notice periods; ➤ unplanned interruptions (faults etc) and circumstances beyond the distributor's control, subject to information requirements and obligations to minimise the duration and extent of interruptions; and 	

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	<p>Reconnection</p> <p>Dispute resolution</p> <p>Information provision</p>	<ul style="list-style-type: none"> ➤ for health and safety reasons or in an emergency, including at the direction of a relevant authority. • A requirement that distributors reconnect a disconnected customer if the reason for the disconnection has been removed. • A requirement that distributors 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>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. 	

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Distributor interface with retailers			
<p>SP AusNet considers that there are many similarities between the Distributor –Customer interface arrangements and the Distributor to Retailer interface- SP AusNet hence assess that the terminology should wherever possible be similar at each level of the documentation suite to simplify the understanding of the two interfaces by Distributor and Retailer personnel.</p> <p>This is currently not the case across the Recommendations re the two interfaces.</p> <p>As SP AusNet stated with respect to Recommendations # 21 and #22</p> <p>SP AusNet considers that it is appropriate to have a default model, for this to be common across the two sectors, and for this model to involve contracts between Distributors, Retailers and Customers. SP AusNet's view is that:</p> <ul style="list-style-type: none"> • the network business should be able to propose changes to the default model as part of the price review process • following the price review, the relevant parties should be afforded reasonable scope to negotiate mutually acceptable changes to the relevant agreement • although the Distributor should consider any request from a Customer or Retailer for other than the Distributor's default contract there is no obligation on the Distributor to offer other than the default and conversely no provision to "force" other than the default on a customer or a Retailer <p>SP AusNet's comments on the following Recommendations is based on this broad view of the relationships.</p>			
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>	

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		<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>	

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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>Similar to the Distributor-Customer Contract this would be the <u>Standard</u> Deemed Contract agreed with the AER as part of the cost/price review.</p> <p>Again similar to the Deemed Distributor-Customer Contract this would apply until another contract was specifically negotiated and agreed between the Distributor and the Retailer (this is a little different to the default UoS in Victoria which is not deemed but rather (at least notionally) must be signed to have effect between the two parties. SP AusNet considers that this should be made clearer in this Recommendation and the next as it is different to the current Victorian regime.</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).	

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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>Standard UoS agreements/interface contracts</p> <p>AER approval</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. 	<p>SP AusNet considers that the comments we made in relation to Recommendation # 29 are also very applicable to this Recommendation:</p> <p>SP AusNet is concerned that these specifics under which the AER can approve variations are too restricting and the guidance to the AER needs to be defined in broader terms.</p> <p>SP AusNet considers that the checks and balances on the relationship are likely to be provided by the revenue determination/access arrangement approval process, and the details in the actual contract would then be consistent with the agreed approved access and pricing arrangement.</p> <p>Hence the AER's measure should be to determine if the Standard deemed UoS/Interface contracts:</p> <ul style="list-style-type: none"> • are consistent with the agreed approved access and

No.	Subject	Recommendation	SP AusNet's Comments
	Variations during regulatory period	<ul style="list-style-type: none"> 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. 	pricing arrangement, <ul style="list-style-type: none"> support the object of the Law, are fair and reasonable, and allow for all the services covered by the Schedule in the Law.
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 not be subject to variation as an outcome of an access dispute.</p>	

No.	Subject	Recommendation	SP AusNet's Comments
Distributor interface with embedded generators			
37.	Process for new Rules for embedded generation	<p>To the extent the policy position adopted by the MCE as an outcome of its further work on renewable and distributed generation is to supplement the existing Rules to more fully prescribe the position of embedded generation, there is no existing mechanism in the NEL for this to be done otherwise than by a Rule change submitted to the AEMC, and following the normal Rule change process.</p> <p>Having regard to the policy process adopted in relation to this issue, policy outcomes should be capable of being implemented by a Ministerial order or, where appropriate, by the normal Rule change process. Accordingly, the 2007 legislative package should authorise Rules relating to the connection and operation of embedded generation to be made by Ministerial order.</p>	

No.	Subject	Recommendation	SP AusNet's Comments
Business authorisation			
38.	Substantive obligations as licence conditions	Substantive regulatory obligations should be contained in the Law and Rules rather than in licence conditions.	
39.	Regulation of entry requirements	<p>The Law should contain a general prohibition on a person:</p> <ul style="list-style-type: none"> • engaging in the retail sale of energy; and • (in the case of electricity) owning, controlling or operating an electricity distribution system; and • (in the case of gas) owning, controlling or operating a distribution pipeline, <p>unless the person has obtained an energy business authorisation from the AER in relation to the carrying out of that activity.</p>	
40.	<p>Entry tests</p> <p>Financial viability</p> <p>Organisational and compliance capacity</p>	<p>The Law should set out the entry requirements to be satisfied by persons wishing to obtain energy business authorisations as retailers or distributors, and enable the AER to issue guidelines in relation to the authorisation procedures and its approach to assessing the criteria for authorisation.</p> <p>The criteria for business authorisation should include:</p> <ul style="list-style-type: none"> • financial viability – that the applicant has the financial resources required to undertake the relevant activity; • organisational and compliance capacity – that the applicant has the organisational capacity to carry on the activity for which it is seeking authorisation and to comply with its regulatory obligations; 	<p>If a party (generally Retailers) granted a License (or in the future a Business Authorisation) does not have the capacity to work within existing Procedures (particularly the B2B Procedures) then there are significant costs for the relevant Distributor. SP AusNet considers that the details of the “organisational and compliance capacity” which is tested before a Business Authorisation is granted</p>

No.	Subject	Recommendation	SP AusNet's Comments
	Suitable person	<ul style="list-style-type: none"> suitable person – that the applicant is a suitable person to hold the authorisation; 	should be reasonably rigorous to ensure costs are not passed to other businesses.
	Jurisdictional licensing Market operator registration	<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. 	
41.	Removal of overlap with NEMMCO registration	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: <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). 	
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.	Subject	Recommendation	SP AusNet's 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.	
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.	
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.	
46.	Revocation	<p>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.</p> <p>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.</p>	
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	

No.	Subject	Recommendation	SP AusNet's Comments
		information to be included in the register.	
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.	

No.	Subject	Recommendation	SP AusNet's Comments
Ring-fencing			
49.	Provisions to be included in the NEL	<p>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> <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 • measures to ensure the network service provider's dealings with related parties are not on preferential terms. <p>Requirements relating to the use and disclosure of confidential information obtained by the network service provider should be dealt with in the NER.</p>	
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.	
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	

No.	Subject	Recommendation	SP AusNet's Comments
		exposure draft of the NGL (but incorporating criteria to be applied by the AER in granting waivers).	
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.	
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.	Subject	Recommendation	SP AusNet's 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. 	<p>An additional objective should be added:</p> <ul style="list-style-type: none"> • to ensure that all parties involved in a ROLR event (ROLRs and Distributors) have clear documented obligations re their role in a ROLR event including timeframes etc necessary to establish required processes and systems. <p>There is some concern that the present arrangements operate in an ad-hoc manner, and hence confidence that the process will provide satisfactory outcomes in response to particular situations arising is not high.</p>
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; • provisions specifying the process for and method of 	

No.	Subject	Recommendation	SP AusNet's Comments
		<p>appointment;</p> <ul style="list-style-type: none"> • 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 	
		<p>conditions to the AER;</p> <ul style="list-style-type: none"> • provisions establishing the basis for determining the prices and terms and conditions of supply, and defining the duration of the RoLR's supply obligation. 	
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. 	
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>	
58.	Insolvency issues	<p>Further consideration should be given to provisions imposing obligations on insolvency administrators or dealing with the use and application of funds of the failed retailer. Such provisions would</p>	

No.	Subject	Recommendation	SP AusNet's Comments
		<p>need to be included in the Law rather than the Rules and may require complementary Commonwealth legislation.</p>	
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>	

No.	Subject	Recommendation	SP AusNet's 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>	
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>	

No.	Subject	Recommendation	SP AusNet's Comments
	Transfer requests and process	<p>incoming retailer submitting a request in accordance with the MSATS procedures;</p> <ul style="list-style-type: none"> • requiring a transfer request to be accepted as valid if: <ul style="list-style-type: none"> ➢ it contains all the prescribed information; ➢ the connection point details in the request are consistent with the NMI standing data; ➢ there is no outstanding transfer request in relation to the same connection point; ➢ the metering installation complies with applicable requirements for contestability; and ➢ the incoming retailer is registered with NEMMCO as a market participant; 	
		<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; 	

No.	Subject	Recommendation	SP AusNet's Comments
	Objections	<ul style="list-style-type: none"> • requiring the provision of notice of a valid transfer request within one business day to prescribed persons (likely to be the distributor, existing retailer and any other person registered as a metering provider or metering data provider for the connection point); • permitting a transfer objection to be lodged within a prescribed time (eg 5 business days from the date of the transfer request) in accordance with the MSATS procedures; • requiring the incoming retailer and the objecting party to use best endeavours to resolve the objection, within a prescribed time, or the transfer request is deemed to have been withdrawn; 	
	Transfer period Meter reading Notice to customer	<ul style="list-style-type: none"> • specifying the period within which a transfer must be completed (being within 65 business days after a transfer request), the circumstances in which transfers may be made retrospectively effective and the applicable retrospective periods; • requiring a transfer to be based on an actual meter reading (with the Rules to specify whether this should be based on a scheduled, special or customer's own reading), obtained within a timeframe prescribed in the MSATS procedures; • requiring notice to the customer on completion of the transfer. 	
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 	

No.	Subject	Recommendation	SP AusNet's Comments
		<p>information relating to each gas supply point that is eligible for contestability, and for access to and disclosure of that information; and</p> <ul style="list-style-type: none"> 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>	
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>	
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>	
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</p>	

No.	Subject	Recommendation	SP AusNet's Comments
		<p>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>	

No.	Subject	Recommendation	SP AusNet's 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>	
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>	
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>	

No.	Subject	Recommendation	SP AusNet's 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 legislative regimes.</p>	<p>SP AusNet does not consider that this is consistent with the broad move to national regulation of metrology. The vast majority of "incidental jurisdictional legislative provisions" as defined by the examples in the recommendation are common throughout the NEM (and common to electricity and gas sectors). SP AusNet considers that there would be significant advantage to having a national approach in this area and suggests that the recommendation should be redrafted to reflect this.</p>
72.	Regulation of metering in non NEM jurisdictions	The non-NEM jurisdictions should continue to regulate metering under their current instruments.	

No.	Subject	Recommendation	SP AusNet's Comments
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. 	
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 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</p>	<p>SP AusNet recognises that grandfathering the Gas Retail Market Rules will not create the full national regime for gas metering.</p> <p>However it must be recognised that establishing new stand alone metrology documents in the time frames required will be a significant challenge for the MSOs,</p>

No.	Subject	Recommendation	SP AusNet's Comments
		jurisdictional instruments (New South Wales and Western Australia). This process would be undertaken by Ministerial order as part of the 2007 legislative package.	AEMC and the industry. This work will need to be programmed for early action if it is to be in place as part of the new regime.
75.	Process for review of grandfathered instruments	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.	
76.	Supplementary regulation of gas metering Contractual/regulatory interface provisions Incidental jurisdictional legislative provisions	As for electricity, relevant metering provisions considered in relation to retail contracts (Part 2 of this document) and in relation to the distributor - retailer and distributor - customer interfaces (Parts 4 and 5 of this document) should apply. Potential overlap with the grandfathered metering regulation will need to be considered in respect of the specific provisions adopted for the retail contracts and interface arrangements, with unnecessary duplication being removed. 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.	
Prepayment meters			
77.	Prepayment meter systems	The Law should authorise the Rules to regulate the use of prepayment meter systems for small customers. The Rules should cover the following matters in relation to the use of	

No.	Subject	Recommendation	SP AusNet's Comments
		<p>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 metering or as a result of a transfer to another retailer. • 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 	

No.	Subject	Recommendation	SP AusNet's Comments
		<p>credit, provision of energy concessions, access to meter data; and</p> <ul style="list-style-type: none"> ➤ requirements in relation to payment facilities. <p>• Other matters:</p> <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. 	

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. 	
79.	Court based enforcement mechanisms	<p>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.</p>	
80.	Additional orders	<p>Consideration should be given to expanding the description of orders available to the Court to include:</p> <ul style="list-style-type: none"> • an order directing the participant to pay to the 	

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>Commonwealth an amount up to the amount of any financial benefit attributable to the breach;</p> <ul style="list-style-type: none"> • 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.	
82.	Administrative remedies	The NEL and NGL should include provisions that enable the AER to accept enforceable undertakings modelled on section 87B of the <i>Trade Practices Act 1974</i> (C'th).	
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.	
84.	Additional enforcement issues	<p>Consideration should be given to the following additional enforcement issues when the substantive regulatory obligations are 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 	

No.	Subject	Recommendation	Comments
		<ul style="list-style-type: none"> 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. 	

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.	
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.	

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.

Please note SP AusNet has no further detailed comments on recommendations in this part or subsequent parts of the paper.