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Customer Protections and Smart Meters

Issues for Queensland

November 2009

May Mauseth Johnston

Customer Protections and Smart Meters – Issues for Queensland
May Mauseth Johnston
St Vincent de Paul Society National Council, November 2009

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List of Abbreviations

ABS	Australian Bureau of Statistics
ACOSS	Australian Council of Social Service
ACT	Australian Capital Territory
AEMA	Australian Energy Market Agreement
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
ATA	Alternative Technology Association
BRCI	Benchmark Retail Cost Index
CLCV	Consumer Law Centre Victoria
CPI	Consumer Price Index
CPP	Critical Peak Pricing
CPRS	Carbon Pollution Reduction Scheme
CSO	Community Service Obligation
CUAC	Consumer Utilities Advocacy Centre
DLC	Direct Load Control
DLCC	Direct Load Control Contract
DME	Department of Mines and Energy
DPC	Dynamic Pricing Contracts
DPP	Dynamic Peak Pricing
EMCa	Energy Market Consulting Associates
EOQ	Energy Ombudsman Queensland
ESCOSA	Essential Services Commission of South Australia
ETF	Early Termination Fee
EWON	Energy and Water Ombudsman Victoria
EWOV	Energy and Water Ombudsman NSW
GSL	Guaranteed Service Level
GST	Goods and Services Tax
GWh	Giga Watt hour
HAN	Home Area Network
IHD	In-home display
kWh	Kilo Watt hour
LPF	Late Payment fee
MCE	Ministerial Council on Energy
MJ	Megajoule
MRC	Market Retail Contract
MWh	Mega Watt hour
MS	Multiple sclerosis
NECF	National Energy Customer Framework
NEL	National Electricity Law
NEM	National Electricity Market
NEMR	National Energy Marketing Rules
NER	National Electricity Rules
NERL	National Energy Retail Law
NERR	National Energy Retail Rules
NSMP	National Smart Meter Project
NSW	New South Wales
QCA	Queensland Competition Authority
QCOSS	Queensland Council of Social Service
RPWG	Retail Policy Working Group
SCO	Standing Committee of Officials

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SMI	Smart Meter Infrastructure
SMWG	Smart Meter Working Group
SRC	Standard Retail Contract
SVDP	St Vincent de Paul
TOU	Time of Use
WDP	Wrongful disconnection payment

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May Mauseth Johnston
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Introduction

This report, *Customer Protections and Smart Meters – Issues for Queensland*, is the third of a series of five reports investigating jurisdictional and National Energy Market (NEM) issues pertaining to customer protections, Community Service Obligations and regulation in light of smart meter infrastructure.

Attached to this report is an extensive **Background Paper** discussing smart meters and associated consumer issues more broadly. Throughout the report references are made to issues outlined in the Background Paper. This Background Paper was also attached and referenced in the two first reports of this project, looking at issues pertaining to Victoria and NSW (*Customer Protections and Smart Meters – Issues for Victoria*, August 2009 and *Customer Protections and Smart Meters – Issues for NSW*, October 2009). The fourth report will discuss issues for South Australia – focusing on Direct Load Control solutions. The project will produce a fifth and final report aimed to inform the MCE, Federal Government and regulators about smart meter related consumer issues. This final report will collate recommendations and advocacy positions as they arise from consultations on the jurisdictional reports.

Structure of the report

Section 1 provides a brief outline of Queensland smart meter trials and key energy market characteristics, ranging from consumption levels to price trends to disconnection levels.

Section 2 examines the current Queensland customer protections in comparison to the proposed National Energy Customer Framework (NECF) in light of smart meters. This section contains 41 recommendations, most of them proposing amendments and additions to the NECF.

Section 3 discusses some of the economic regulation aspects of smart meters. It focuses on cost allocation issues and the pass through of benefits to consumers in particular. This section produces 6 recommendations, mostly directed at the Ministerial Council on Energy (MCE) and the Australian Energy Regulator (AER).

As the recommendations made in section 2 and 3 are directed at the NECF and federal agencies such as the AER, AEMC and the MCE, most remain unchanged from the Victoria and NSW reports.

Section 4 analyses the impact moving from a single rate tariff to a Time of Use (TOU) tariff would have on the electricity bill for five hypothetical households. The analysis shows that three of the households would be worse off on a TOU tariff with annual bill increases of 4-5% (between \$59 and \$86) and two household would be better off on a TOU tariff with annual bill decreases of 6-7%. The ‘TOU winners’ being a working couple with no children and a high consumption family with teenagers. As well as the price impacts, this section highlights issues such as lifecycle changes (and the impact that may have on consumption level/pattern), and TOU tariffs and choice. The analysis also demonstrates the difference in bill impact a TOU tariff can have depending on whether the customer continues to have access to controlled load for the hot water service after a smart meter has been installed.

Finally, this section looks at the relationship between quarterly electricity bills and fortnightly household income.

Section 5 discusses Queensland specific matters and customer assistance measures such as the electricity rebate and Guaranteed Service Level (GSL) payments. It also discusses the use of non-tariff charges (e.g. late payment fees) and matters relevant to the current tariff and pricing structure review. This section produces 11 recommendations: seven directed at the Queensland Government and four proposing amendments to the NECF.

Section 6 provides concluding remarks in relation to the Queensland framework versus the NECF and the adequateness of the proposed protections for future energy markets.

Appendix 1 presents a summary table of the 57 recommendations made in this report.

1. The Queensland Market

1.1 Smart meters in Queensland

The Queensland Government has not yet committed to roll out smart meters to Queensland households through the National Smart Meter Program (NSMP).¹ In response to the National Cost-benefit analysis, the Ministerial Council on Energy (MCE) stated:

Ministers committed to development of a consistent national framework for smart meters in the National Electricity Market, supporting distributors to be responsible for the roll-out of smart meters. Ministers noted there continue to be some uncertainties about the costs and benefits of smart meters in some jurisdictions and that different staged approaches are being taken to support the further development of smart meters. Smart meters are to be rolled-out in Victoria and NSW, with over 5 million smart meters expected to be deployed before 2017. Queensland and some other states and territories will undertake extensive pilots and business cases prior to a further national review of deployment timelines in 2012.²

The Queensland Government will therefore wait for and assess the findings of an extensive trial currently being developed by Energex and Ergon Energy, Queensland's two electricity distribution businesses, before making a decision on whether or not to rollout smart meters in 2012.

Energex / Ergon trials

Energex and Ergon Energy are currently in the process of developing a substantial smart meter trial for Queensland. The trial will include the installation of 18,000 smart meters and approximately 7500 customers will participate in smart meter enabled time varying tariffs. The tariff trial will be based on voluntary participation and customers will be able to opt out and return to a single rate tariff at any time during the length of the trial. The pricing trial is likely to include both time of use (TOU) tariffs and Critical Peak Pricing (CPP). The main aim of the tariff trial is to test the demand management benefits assumed in the National Cost-benefit Study.

The Queensland distribution businesses have sophisticated ripple control systems in place (Ergon in particular) and it is unclear whether the National Cost-benefit Study properly accounted for the cost associated with removing an already built and efficient Direct Load Control (ripple control) system for off-peak hot water. As raised by Ergon in their submission to the Regulatory Impact Statement relating to the National Cost-benefit analysis: “the reports failed to recognise that the Ergon Energy DLC (ripple) system is a relatively modern system at or approaching world's best practice”.³

¹ See *Background Paper – Customer Protections and Smart Meters* for information about what smart meters are and the National Smart Meter Program.

² Ministerial Council on Energy, *Communiqué*, Canberra, June 2008.

³ Ergon Energy, *Submission to the Ministerial Council on Energy Regulatory Impact Statement on Smart Meter Rollout*, Phase 2, 13 May 2008, p. 11.

Queensland's peak demand is getting 'peakier' and poor utilisation of the network assets is the key driver for the network's demand management strategies. In Energex's supply area in South East Queensland, the top 13% of load occurs for less than 1% of the year but drives approximately 50% of the capital network investment program.

1.2 Key market characteristics

1.2.1 Recent energy market reform

- The restructuring of the Queensland electricity industry began in 1997 by splitting the then Government owned Generation Corporation into three competing generators, and by separating retail and distribution activities.
- The Queensland Government owns significant assets in generation, transmission and distribution.
- In early 2007 the Government finalised the sale of electricity and gas retailing businesses.
- Full retail competition for electricity was introduced 1 July 2007.

1.2.2 Load and consumption issues

- Domestic electricity accounts for approximately 27% of the state's total annual electricity consumption.⁴
- The state's record electricity demand to date (8699 MW) occurred in February 2009.⁵
- Approximately 65% of households have air conditioning.⁶

1.2.3 Domestic consumers

- There are approximately 1.6 million residential electricity connections.⁷
- Average electricity consumption per household is approximately 7767 kWh per annum.⁸
- In South East Queensland the average household used 11,503 kWh from December 2005 to November 2006, which is significantly higher than both the state and the national average consumption.⁹
- Household access to reticulated gas is relatively low. Only 1% of households use natural gas for heating purposes and 11.7% use gas for hot water services.¹⁰

⁴ NERA Economic Consulting, *Cost Benefit Analysis of Smart Metering and Direct Load Control*, Report for the Ministerial Council on Energy Smart Meter Working Group (Phase 2, Stream 4), February 2008, p 74.

⁵ See The Queensland department Employment, Economic Development and Innovation (DEEDI) for information provided by Queensland Mines and Energy at www.dme.qld.gov.au/Energy/electricity_in_queensland.cfm

⁶ Energy Market Consulting Associates (EMCa) report to the Ministerial Council on Energy Standing Committee of Officials, *Smart Meter Consumer Impact: Initial Analysis*, Consultation Draft, February 2009.

⁷ NERA Economic Consulting, *Cost Benefit Analysis of Smart Metering and Direct Load Control*, Report for the Ministerial Council on Energy Smart Meter Working Group (Phase 2, Stream 4), February 2008.

⁸ Ibid.

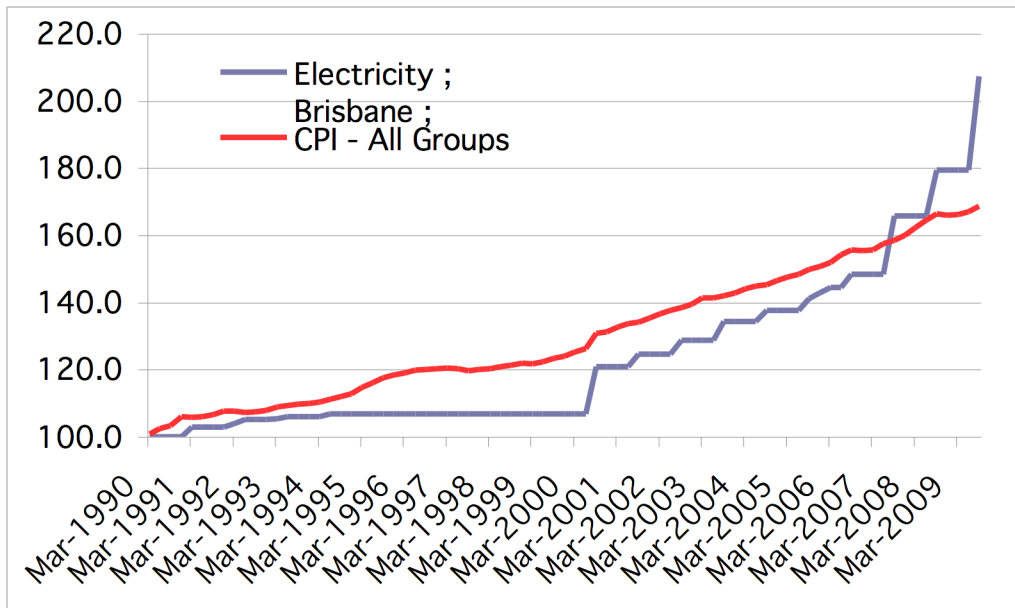
⁹ Energex, About Energex, Lift-out in the Sunday Mail, February 2008 see www.energex.com.au/pdf/about_energex/SundayMailLiftoutFeb08.pdf

¹⁰ Energy Market Consulting Associates (EMCa) report to the Ministerial Council on Energy Standing Committee of Officials, *Smart Meter Consumer Impact: Initial Analysis*, Consultation Draft, February 2009.

- A household consuming 9360 kWh during the 2009-10 financial year will pay \$1852 in electricity costs (regulated tariff).¹¹
- In June 2009, 48% of Queensland’s small customers were on a market contract.¹²
- The various cost components of a customer’s bill are approximately:
 - 47% regulated network tariffs (transmission and distribution)
 - 44% generation costs
 - 9% retail costs (including margins)¹³

1.2.4 Price trends

Chart 1
Cost of electricity and CPI, Brisbane March 1990-March 2009¹⁴



The above chart shows that:

- Domestic electricity prices were relatively flat from 1992 to 2001.
- From 2001 to 2008 there were steady increases in electricity prices but prices did not surpass the CPI.
- Significant price increases, relative to the CPI, have occurred since 2008.

1.2.5 Energy affordability and disconnections

- In 2007-08 electricity retailers disconnected 29,000 customers due to non-payment of bills.¹⁵

¹¹ Department of Mines and Energy (DME), *The new electricity tariffs and your bill, Estimated impact of 2009–10 Benchmark Retail Cost Index (BRCI) on household electricity bills*. Available at www.dme.qld.gov.au/zone_files/Electricity/new_electricity_pricing_table.pdf.

¹² QCA, *Market Customer Statistics for the June Quarter 2009*, September 2009.

¹³ Department of Mines and Energy (DME), *The facts bout electricity costs and pricing* available at www.qca.org.au/files/ER-EIC-Ver4-AnnexB-0808.pdf

¹⁴ ABS Ref 6401.0 - Consumer Price Index, Australia, March 2009 updated version of graph presented in Dufty G, *Winners and losers - the Relative Price Index. The CPI and the implications of changing cost pressures on various households types and income groups*, December 2008.

¹⁵ QCOSS, *Energy Affordability and Hardship Conference, Summary of outcomes*, Brisbane 30 April 2009. This is the revised number QCA advised of after the conference had taken place.

- The Queensland Government Electricity Rebate provides an annual discount worth \$190 to eligible pensioners and seniors' electricity bills.
- 50% of customer complaints to retailers in 2007-08 related to billing or account issues.¹⁶

Table 1 - Comparison of Domestic Electricity Disconnections across Jurisdictions, per 100 Domestic Electricity Customers¹⁷

Jurisdiction	2003-04	2004-05	2005-06	2006-07	2007-08
Victoria	0.84	0.54	0.22	0.33	0.29
NSW	0.80	1.00	0.90	0.70	n/a
ACT	0.32	0.36	0.40	0.30	0.43
South Australia	2.12	1.20	1.14	0.76	0.85
Queensland	1.30	1.57	n/a	n/a	1.13
Tasmania	0.55	0.53	0.59	0.47	0.39
Western Australia	n/a	n/a	1.16	0.97	0.77

1.2.6 Dispute resolution

- The Queensland Energy Ombudsman scheme (EOQ) was established in July 2007 (replacing the Energy Consumer Protection Office) and is the external dispute resolution scheme for energy consumers.
- In 2007-08, its first year of operations, EOQ registered 6741 cases and in 2008-09 the scheme closed 13,456 cases, which means that the number of cases almost doubled in their second year of operations.¹⁸

1.2.7 Market participants and regulators

- In June 2009 there were 11 retailers selling electricity to small customers in Queensland.¹⁹
- Queensland has 2 distribution businesses:
 - ENERGEX (South-East Queensland)
 - Ergon Energy (rural and regional Queensland)
- The Queensland Competition Authority (QCA) determines the regulated electricity retail prices, which is called the notified price but also referred to as the Statewide uniform tariffs.
- The QCA is responsible for calculating the Benchmark Retail Cost Index (BRCI) and the BRCI is used for the annual adjustment of notified electricity prices.
- In its last determination the QCA estimated that the BRCI would increase by 11.82% in 2009-10 and this increase was applied to the gazetted notified price for 2009-10.
- The notified retail electricity prices for 2009-10 were gazetted in June 2009.²⁰
- On 1 January 2009 the AER assumed responsibility for the economic regulation of the Queensland electricity distributors.

¹⁶ Queensland Competition Authority, *Small Electricity Customer Disconnection and Complaints Data*, Year ended 30 June 2008.

¹⁷ Source: Essential Services Commission, *Energy Retailers Comparative Performance Report – Customer Service 2007-08*, December 2008, Table 12, p 24. Note: Data unavailable for WA prior to 2005-06. WA combined residential and business data for 2005-06 only.

¹⁸ Energy Ombudsman Queensland, *2008-09 Annual Report*.

¹⁹ QCA, *Market Customer Statistics for the June Quarter 2009*, September 2009.

²⁰ The Government gazette for notified prices is available at www.qca.org.au/files/ER-NEP0910-Final-GazetteNotice-0609.PDF

- By 30 April 2010 the AER must make a price determination for the 2010-2015 regulatory period, which will take effect from 1 July 2010.
- The AER's functions and powers are set out in the National Electricity Law (NEL) and the National Electricity Rules (NER).

2. The Regulatory Framework in light of Smart Meters

2.1 Regulation of the sale and supply of energy to retail customers

The **Queensland Electricity Act** (1994) was amended for the introduction of Full Retail Competition in 2007.²¹

Under the Act there are two types of retail customer contracts that can apply in Queensland: ‘Standard Retail Contracts’ which apply by default in certain circumstances and ‘Market Retail Contracts’ which are agreed by negotiation between a retailer and a customer. A customer using less than 100 MWh per annum is classified as a small customer and a Standard Contract is deemed to apply to this customer group under the following two scenarios:

1. Where a small customer has never signed a negotiated retail contract, or moves into a new premises and starts using electricity without contacting a retailer.
2. Where a small customer’s negotiated retail contract has expired and a new contract has not been agreed (unless the expired negotiated contract provides otherwise).²²

Importantly, small customers have the right to revert to Standard Contracts when their Market Contract expires. There is no limitation in terms of the number of times a small customer can switch between standard and market contracts.

Under the Act the Queensland Competition Authority (QCA) became responsible for a number of tasks, including:

- enforcing and proposing amendments to the Electricity Industry Code;
- monitoring and enforcing the Electricity Billing Code; and
- calculating the Benchmark Retail Cost Index (BRCI) on an annual basis.

The **Electricity Industry Code** contains rules for electricity retailers and distributors.²³ The Code includes rules relating to:

- Management of distribution businesses
- Customer Retail Services (this section includes minimum terms and conditions for negotiated/market contracts)
- Services between distribution and retail entities
- Customer transfer and consent
- Retail marketing conduct
- Retail market information
- Metering

The Code also includes rules on the management of distribution businesses, metering practices and the services between retailers and distributors. Furthermore, the Code

²¹ The latest version of the Act (as in force on 1 July 2009) is available at www.legislation.qld.gov.au/LEGISLTN/CURRENT/E/ElectricA94.pdf

²² Department of Mines and Energy, *Electricity Retail Contracts and Prices*, Factsheet.

²³ The current version of the Electricity Industry Code (version 4) is available at www.qca.org.au/files/ER-EIC-Ver4-0808.pdf

includes three annexures; the Standard Connection Contract (Annexure A), the Standard Retail Contract (Annexure B) and a default Co-ordination Agreement between distributors and retailers in providing services to retail customers (Annexure C).²⁴ The Standard Retail Contract, as set out in annexure B, applies to all retail contracts where a small customer has not entered into a market contract.²⁵

The relatively new **Electricity Billing Code** came into effect in September 2008 and it imposes an obligation for retailers to pay customers a rebate if the customer receives and pays for a bill containing a ‘material error’.²⁶ This is referred to as a guaranteed service level (GSL) rebate and it was introduced to provide retailers with an incentive to improve their billing systems as well as compensating customers for the inconvenience of being overcharged.

Prior to the introduction of full retail competition the Queensland Government set the regulated electricity tariffs. Since 2007 however, the QCA has been tasked with calculating the **Benchmark Retail Cost Index** (BRCI) on an annual basis to ensure that the regulated prices reflect the costs of producing, transporting and retailing electricity. The QCA is required to adjust the regulated (notified) prices according to the BRCI and the most recent adjustment was gazetted on 9 June 2009.

If a retailer is the financially responsible retailer for the premises, the retailer is obliged to offer a small customer a Standard Retail Contract at notified (regulated) prices.²⁷

2.2 The National Energy Customer Framework

The Ministerial Council on Energy (MCE) has been tasked with creating a national framework for the regulation of sale and supply of energy to retail customers. This framework is known as the National Energy Customer Framework (NECF).²⁸ In April 2008, the MCE Standing Committee of Officials (SCO) released a First Exposure Draft for the NECF, comprising National Energy Retail Law (NERL), National Energy Retail Regulations (the Regulations) and National Energy Retail Rules (NERR).

The MCE has also committed to review consumer protection arrangements and ensure appropriate protections exist for customers with smart meters. The Smart Meter Working Group (SMWG) is currently examining the proposed NECF to assess its

²⁴ Annexure B, the Standard Retail Contract is available at www.qca.org.au/files/ER-EIC-Ver4-AnnexB-0808.pdf

²⁵ A small customer is defined as a customer who uses less than 100 MWh per annum. See Department of Mines and Energy, Classification of Electricity Customers available at www.dme.qld.gov.au/zone_files/Electricity/customer_classification_factsheet.pdf

²⁶ The full name of the Code is the Electricity (Retail Billing Guaranteed Service Level Scheme) Code and is available at www.qca.org.au/files/ER-billingcode-DME-ElecRetBillingCode-1008.pdf. A ‘material error’ is defined as an error of at least \$0.40 and the retailer must pay the customer \$15 for an error of less than \$10 and for errors of more than \$10 the GSL rebate amounts to \$40.

²⁷ See Electricity Industry Code Clause 4.2.10 for identifying who is obliged to offer a standard retail contract.

²⁸ The NECF forms part of ongoing national energy market reforms set out in the Australian Energy Market Agreement (AEMA), as amended in 2006. Note that under the AEMA, the States and Territories maintain responsibility for certain regulatory functions including: community service obligations and measures to maintain distribution tariff equalisation schemes.

ability to accommodate the pricing and operational implications of smart metering.²⁹ The SMWG will propose additional or alternative arrangements where appropriate to ensure that the NECF is flexible enough to apply in both jurisdictions with smart meters and those without.³⁰

The majority of the recommendations set out below are therefore recommendations for the MCE, through its Retail Policy Working Group (RPWG), tasked with drafting the NECF, and its SMWG, which advises the RPWG on smart meter related NECF issues.

2.3 Approach

This section analyses customer protections embedded in regulation and guidelines in light of Smart Meter Infrastructure (SMI) and its associated functionalities and impact on tariffs. A comparative framework has been applied to this analysis, discussing particular clauses or rules from both the current Queensland framework and the proposed NECF in relation to smart meters.

This approach has been chosen in order to identify gaps and discrepancies between the Queensland consumer protection framework and the NECF. As the jurisdictional regulations have developed over time, and in many instances compliment or address other jurisdictional protections embedded in legislation or Community Service Obligations (CSOs), a comparative framework can more easily highlight any interdependencies.

2.3.1 Draft NECF and smart meters

The First Exposure Draft of the NECF does not address SMI related issues in regards to the retailer-customer relationship, the distributor-customer relationship nor the distributor-retailer relationship. Section 2 of this report identifies numerous SMI related issues for the NECF and therefore recommends changes to the National Energy Retail Law (NERL), the National Energy Retail Rules (NERR) and some of the NERR Schedules. As customers connected to SMI will require specific provisions in the Rules (as with customers connected to prepayment meter systems) a new and separate SMI Part of the NERR is required.

Recommendation 1:

That the Retail Policy Working Group develops a separate SMI Part to be inserted into the NERR and incorporate the many SMI provisions recommended below.

The analysis below produces recommendations for amendments to the current Draft NER Laws and NER Rules, as well as proposing new rules that should apply to customers connected to Smart Meter Infrastructure (SMI). These additional rules are referred to as the ‘SMI Part of the NERR’.³¹

²⁹ The first draft policy paper of the Smart Meter Customer Protection and Safety Review was released by MCE SCO in August 2009 and is available at

www.ret.gov.au/Documents/mce/_documents/smart_meters/Smart%20meter%20customer%20protection%20and%20safety%20issues%20-%20draft%20policy%20paper%201.pdf

³⁰ MCE SCO, *Explanatory Material, First Exposure Draft*, April 2009.

³¹ Our focus is on the NERR rather than the NERL as we aim to discuss the specific arrangements. However, a new Part ‘X’ of the NERR would require a corresponding new Division ‘X’ in the NERL.

2.4 Definitions

2.4.1 Smart meter infrastructure

The NECF should use a consistent and nationally recognised definition of this metering infrastructure. Smart Meter Infrastructure (SMI) is an appropriate term as it refers to both the smart meter and the communications technology that enables many of the functionalities associated with the meters.

Recommendation 2:

The NERL and the NERR must contain a Smart Meter Infrastructure (SMI) definition.

2.4.2 Time of Use tariffs and retail contracts

It appears to be an assumption in the NECF that time varying prices, such as time of use tariffs, will only be applied to Market Retail Contracts (MRC). However, as retail tariffs tend to reflect the shape of network tariffs, time of use pricing will most likely apply to Standard Retail Contracts (SRC) as well. If a network reassigns domestic customers to a three part time of use tariff with seasonal variations, many retailers would reassign their customers from a single rate or a two-rate (peak/off-peak) tariff to this new time of use tariff. Such tariff reassignments would have implications for numerous NECF laws and rules. The SRC requirement to only vary prices every 6 months, for example, could prove difficult if a network reassigns customers to a new time of use tariff.

Furthermore, as time varying prices can be tied to controlled load and therefore occur independently from SMI, the NECF cannot define all time of use contracts as market contracts.

Recommendation 3:

The NECF must clarify what tariff shapes are expected to be available on a Standard Retail Contract.

2.4.3 Customers with SMI vs. customers on SMI enabled retail contracts

Retail contracts offering dynamic pricing structures based on interval data could be defined as Dynamic Pricing Contracts (DPC) and retail contracts offering direct load control of appliances utilising smart meter technology could be defined as Direct Load Control Contracts (DLCC). These definitions should be incorporated into NERL 103. However, as not all customers connected to SMI will be on smart meter enabled retail contracts, such as DPC or DLCC, it is important that the NERL definitions properly distinguish between these two scenarios.

Recommendation 4:

Definitions in NERL 103 must reflect that a Smart Meter Infrastructure (SMI) connection is where a customer has a smart meter that is connected to smart meter functionalities as defined by metering type installations under the National Electricity Rules and AEMO's Metrology Procedures.

In relation to contract types, a SMI connection is necessary in order to be on a Dynamic Pricing Contract or a Direct Load Control Contract:

- A Dynamic Pricing Contract (DPC) means a customer retail contract where the tariffs are based on smart meter enabled time of use pricing. This would also include contracts using Critical Peak Pricing (CPP).
- A Direct Load Control Contract (DLCC) means a customer retail contract where the contract includes load control of appliances by the retailer enabled through SMI and as agreed between the customer and the retailer.

As such, all customers on a DPC or DLCC will automatically be regarded as SMI connections but not all SMI customers will be on DPC or DLCC.

2.4.4 The Standing Offer

The purpose of the standing offer is to ensure that all small customers have access to at least one offer and that this offer is linked to an obligation to supply and minimum contract terms and conditions. Furthermore, the standing offer is regarded as the basic (no-frills) offer available to consumers not actively participating in the market.

As Queensland currently has retail price regulation for Standard Contracts (i.e. the standing offer) ensuring that customers have a reference point and the ability to compare standing offers to negotiated/market contracts is not yet a critical issue in Queensland. However, the Australian Energy Market Agreement (AEMA) requires the Australian Energy Market Commission (AEMC) to review the effectiveness of competition in the retail supply of electricity and gas in each NEM jurisdiction and under the current schedule, the effectiveness of competition in Queensland is due to be assessed in 2012. Where competition is found to be effective, the jurisdictions agree to phase out retail price regulation.³²

In 2008 the AEMC completed its effectiveness of competition review for Victoria and the Victorian Government removed retail price regulation of the standing offer on 1 January 2009. The Victorian Government also implemented other recommendations produced by the AEMC review, such as the monitoring of prices and the publishing of all standing offers on the regulator's website. In its final decision the AEMC argued that:

Publication of standing offer prices and terms and conditions by all retailers will

³² The timelines for the AEMC's effectiveness of competition reviews, as set out by the MCE, have been delayed. At the MCE meeting in May 2007 the Ministers agreed to the following timeline: "Ministers directed the AEMC to commence its review on the effectiveness of retail competition. The AEMC will conduct sequential assessments commencing with Victoria in 2007, followed by South Australian in 2008, NSW in 2009 and ACT (if required) in 2010. Other jurisdictions are expected to be assessed once full retail competition is established." MCE, Communiqué, Melbourne, May 2007.

provide points of comparison against which consumers can assess market offers and facilitate an appropriate level of price transparency in the absence of a regulated price.³³

Similarly the AEMC recommended in their review of effectiveness of competition in South Australia that the South Australian regulator ESCOSA publish standing offers on their website to facilitate easy comparison of standing and market offers.

The Commission also recommends that ESCOSA be required to maintain and update a central database on its website of the current standing contract prices of all retailers trading in South Australia for ease of access by South Australian energy consumers...This would have the added advantage of facilitating comparisons between the relevant standing contract prices and available market contract prices.³⁴

In a Policy Response Paper on the NECF, the MCE SCO echoes the AEMC as it takes the view that simply publishing the standing offer tariff will facilitate comparison:

The SCO supports the publication of the tariff associated with the standard retail contract. This assists customers to understand the terms and conditions of the service with minimal costs and facilitates comparisons of the tariffs available. It also makes it irrelevant whether the tariff is regulated because the published tariff could be either the jurisdictionally regulated tariff or the retailer determined tariff for the standard retail contract. The SCO notes its recommendation is consistent with the AEMC's recommendation in its Final Report on its review of competition in energy retail markets in Victoria... The standard energy contract also provides a benchmark against which customers can compare alternative retail offers, ensuring consumers are sufficiently well-informed to benefit from and stimulate effective competition.³⁵

Smart Meters and Standing Offers

In order for the standing offer to serve as a reference point for comparison with other market offers, as recommended by the AEMC and the MCE SCO, there must be some consistency to the standing offer.

The shape of the standing offers are currently constrained by the metering types but with the rollout of smart meters there is no basic tariff shape inherent to the meter type connected to the customer's premises. As such, the standing offer could be an inclining block, ten-part time of use tariff, with seasonal variance, to use an extreme example.

This is obviously not the intention of the standing offer as explained by the AEMC and MCE SCO.

³³ Australian Energy Market Commission, *Review of the Effectiveness of Competition in Gas and Electricity Retail Markets Victoria*, Second Final Report, February 2008, p 17.

³⁴ Australian Energy Market Commission, *Review of the Effectiveness of competition in Electricity and Gas Retail Markets in South Australia*, Second Final Report, December 2008 p. 39.

³⁵ MCE SCO, *A National Framework for Regulating Electricity and Gas (Energy) Distribution and Retail Services to Customers*, Policy Response Paper, June 2008, p 32.

The AEMC made these recommendations to the Victorian and South Australian governments without assessing the impact of a smart meter rollout. As in Victoria, there is nothing in the current Queensland framework or the NECF that ensures that the standing offer is a basic, comparable offer in a smart meter environment.

The NERL and the Standing Offer

The NERL (205) includes the following rules in relation to publication of standing offer prices (NERL 205 (1), (5) and (6)):

(1) A designated retailer must publish its standing offer prices on the retailer’s website, and the standing offer prices so published remain in force until varied in accordance with this section.

Note—

A standing offer price may be a regulated price under jurisdictional energy legislation.

(5) The designated retailer must, as soon as practicable, notify the AER of details of the standing offer prices and any variation of the standing offer prices.

(6) Publication by AER

The AER must, as soon as practicable after being notified by the designated retailer, publish the standing offer prices or any variation of the standing offer prices on the AER’s website, but failure to do so does not affect the operation or effect of the standing offer prices or any variation.

Possible solutions

A mandated state-wide rollout of smart meters means that every domestic customer in Queensland will have the same meter type. Furthermore, the new, universal meter type means that a single rate tariff may no longer be the basic network tariff underlying standing and market offers. As such, it is necessary to identify a new approach to standardising the standing offer tariff shape. Tariff shape is separate from price setting and contract terms and conditions. However, a standardised shape is essential to ensure that the standing offer is the basic, standard, comparable offer as intended.

To date, the MCE SCO, the AEMC and the RPWG (tasked with drafting the NECF) have all overlooked the issue of the standing offer’s tariff shape. This is most likely because this challenge only arises with a rollout of smart meters. Prior to smart meters, the meter types have dictated the tariff shapes.

There are two possible ways to achieve standardisation of the standing offer’s tariff shape.

- 1)The NECF could mandate the AER to prescribe a tariff shape that all standing offers must adhere to. For example, the AER may decide that all standing offers to consumers with smart meters in Queensland must be a three-part time of use tariff where peak rates are applied to weekdays from 2 to 8pm, shoulder rates are applied to consumption that occurs between 7am to 2pm and 8pm to 10pm on weekdays and from 7am to 10pm on weekends and off-peak rates are

applied to all other times.³⁶ The problem with this approach is that the networks will construct their own tariff shape based on times of high demand on the network and times with spare capacity. It would therefore be dangerous to mandate a retail tariff shape as any variance between the network and the retail tariff shape may create significant risk for (some) retailers. At the same time, it would be inefficient to dictate a single tariff shape for standing offer contracts across all network businesses.

2)The NECF could stipulate that all standing offers must adhere to the underlying network tariff shape. That way the networks would be able to ensure that the tariff shape works in relation to network management and the retailers would not be exposed to additional risk as they would use the underlying network tariff shape to construct the standing offer. For example, a distribution business determines that the most efficient use of their network is to allocate customers to a three-part time of use tariff with a summer/winter variance. Peak-rate applies to weekdays from 8am-7pm, a shoulder rate applies to weekdays from 7pm-10pm as well as all weekends and public holidays, and an off-peak rate applies to all other times. The retailer would then be obliged to construct all standing offers within that network area the same way and QCA would determine the price.³⁷ At the same time, customers will become familiar with a standard tariff shape for their network area and have a reference point for comparing the standing offer to other market offers. Clearly, this approach will only provide a solution as long as the distribution businesses mostly apply postage stamp pricing. However, as there appears to be little appetite for complex nodal pricing regimes amongst the network businesses, this would be a suitable starting point to ensure that the standing offer arrangement can prevail in a smart meter environment.

Recommendation 5:

The NERL must clearly stipulate the intention of the Standing Offer and specify how the shape of the standing offer is determined and, subject to the nature of this clarification:

- The NERR should stipulate that all standing offers must adhere to the underlying network tariff shape; or
- The SMI Part of the NERR should include a provision stipulating that the tariff shape of the standing offer must adhere to the underlying network tariff shape.

2.4.5 Load control

There are two distinct approaches that can be utilised in regards to limiting a customer's load. One approach is incentive based, where customers' contracts would include a Direct Load Control component that the customer would be financially rewarded for. Direct Load Control is hence about providing a service. The second

³⁶ This tariff example is based on Energy Australia's PowerSmart tariff which is discussed in more detail in Section 4 below.

³⁷ If the Government in the future decides to remove retail price regulation in Queensland, the requirement on retailers to reflect the underlying network tariff shape for standing offers would continue but the retailers would of course be able to determine each tariff rate themselves.

approach is punitive, where customers' contracts stipulate that a customer's supply will be limited to a certain threshold – effectively putting a choker on a household's energy supply. If retailers are allowed to utilise the supply capacity control functionality for small customers, they could potentially use load limiting as a credit or debt management tool. This approach is about denying a service and households with payment difficulties would be the obvious target group for such a product.

As the supply capacity control and load management via the meter are functionalities that do enable load limiting options, the NERL and the NERR should specify that supply capacity control and load limiting via the meter can only be used by the distribution businesses for the purpose of system management.³⁸ Retailers, on the other hand, should have access to the load control via the Home Area Network (HAN) in order to develop new retail products that utilise the direct load control of appliances.

Recommendation 6:

To ensure that domestic customers are protected from the introduction of punitive, demand limiting tariffs, the following clarifications and arrangements need to be inserted into the SMI Part of the NERR and reflected in the NERL:

Appliance management, utilising the HAN to restrict and control load of specific appliances, is a product that can be offered by retailers. The Rules should further obligate retailers to ensure that the HAN enabled appliance management contracts do not cause detriment to appliances, and that health and safety standards are met. This would include issues such as careful consideration prior to placing customers with medical cooling needs on contracts with DLC of air conditioners.

Supply capacity control and load management via the meter are system management tools and only distributors should be able to load restrict households in order to manage demand on their system for the purpose of ensuring security of supply. System management and load management via the meter are thus not retail products.

2.5 Billing

2.5.1 Frequency

There should be a minimum three month billing cycle for customers on dynamic pricing contracts (DPC). Furthermore, billing cycles longer than three months may increase the occurrence of payment difficulties due to the bill volatility to which customers on dynamic pricing contracts will be exposed. However, both the Queensland Electricity Code (Clause 4.9.1) and the draft NER Rule 213 allow for variation in regards to billing cycles for retail market contracts.³⁹

³⁸ Exemptions may be made for negotiated retail contracts between large users and retailers.

³⁹ Clause 4.9.1 of the Electricity Code stipulates the obligation to bill quarterly. However, this clause is marked with an asterix meaning that Market Contracts do not have to observe this obligation (Clause 4.2.3 (d) sets out which clauses may be varied).

Recommendation 7:

That the SMI Part of the NERR includes a *frequency of bill provision* that stipulates that retailers must issue bills to a customer on a dynamic pricing contract at least once every 3 months.

2.5.2 Bill smoothing and dynamic pricing contracts

As a dynamic retail tariff implies that the customer is charged according to energy consumed at specific times, bill smoothing arrangements should not be applied to dynamic pricing contracts. Bill smoothing arrangements are distinctly different from payment arrangements, such as Easyway plans (fortnightly payment plans), which should be available to all types of retail contracts. The purpose of bill smoothing is to reduce price volatility, and hence the price signals sent to consumers. Payment plans, on the other hand, are just a tool for consumers to better manage their bill paying process and the price signals are still passed through to the customer.

Recommendation 8:

That the SMI Part of the NERR includes a *bill smoothing provision* that stipulates that bill smoothing arrangements cannot be applied to dynamic pricing contracts.

2.5.3 Bill smoothing and undercharging

The popularity of bill smoothing contracts may increase as more complex dynamic pricing contracts become available to domestic consumers. It is therefore important to ensure that those customers choosing not to enter into more complex and volatile tariffs do not experience unnecessary over- or undercharging, which often results in temporary financial hardship. The remote daily reads functionality inherent to SMI is a tool that should be utilised to reduce the risk of over- and undercharging. The Queensland Electricity Industry Code does not require retailers to reassess the accuracy of the estimated consumption and billing amount for bill smoothing products. The proposed NER Rule 212, on the other hand, requires retailers to reassess the accuracy of the estimated billing amount after 6 months.

Recommendation 9:

The SMI Part of the NERR should include a *bill smoothing provision* that requires retailers to re-estimate the consumption of a customer on a bill smoothing arrangement after 3 months and issue the customer with a new billing amount if there is a difference between the initial estimate and the re-estimate of greater than 10% (taking relevant seasonal factors into account).

2.5.4 Payment of bills – Standard Retail Contracts

Currently in Queensland a customer on a Standard Contract must be allowed 12 business days to pay an initial bill from the day of dispatch (Clause 4.13.1). The NER Rule 215 proposes the same timeframe for Standard Retail Contracts (SRCs). This timeline should be extended to 15 business days to ensure that delays in postage/delivery do not negatively impact on the time a customer has to pay a bill.⁴⁰ It is important that customers have a minimum of 12 business days upon *receiving* a bill as it ensures that people on fortnightly incomes, including pensioners and people receiving social security payments, always have one pay cycle plus two days to arrange for payment to be made between receiving a bill and the due date. This

measure is crucial to ensure that consumers have access to funds to pay for an essential service.

Recommendation 10:

That the NER Rule 215 (1) is amended to state that: ‘The pay-by date for a bill must not be less than 15 business days from the date on which the retailer sends the bill’.

2.5.5 Payment of bills - Market Retail Contracts

The Electricity Industry Code (Clause 4.13.1 in combination with variation Clause 4.2.3 (d)) stipulates that the minimum 12 business days payment timeline does not apply to Market Contracts. As in Queensland, the proposed NERR allows retailers to apply a shorter payment timeline to market contracts.

The due date timelines should apply to all contracts and this is particularly important as dynamic pricing contracts will increase bill volatility.⁴¹ By guaranteeing that customers on market offers (including dynamic pricing contracts) have a minimum timeline to pay their initial bill, the risk of an (unnecessary) increase in hardship cases will be reduced. Furthermore, it means that customers on low and/or fixed income, who believe they would be financially better off on a dynamic pricing contract, take up these offers without risking the implications of shorter pay timelines.

Recommendation 11:

That the NER Rule 215 (3) is amended to state that: ‘This rule applies in relation to market retail contracts’.

2.5.6 Form and content of bill

The Electricity Industry Code (Clause 4.9.6) sets out the particulars a retailer must include on each bill. Furthermore, Clause 4.9.9 stipulates that a retailer ‘must issue a bill in a format which permits a small customer to easily verify that the bill conforms with its retail contract’.

The draft NER Rule 214 stipulates the minimum requirements for the contents of SRC and MRC bills, including information about the basis on which tariffs and charges are calculated. However, as dynamic and/or time varying tariffs will increase the complexity of bills significantly, the AER should develop a separate guideline for bills, and information on bills, to be applied to smart meter enabled dynamic pricing contracts.

Recommendation 12:

That section 239 of the NEL is amended to require the AER to develop guidelines for information on bills for dynamic pricing contracts in addition to the development of ‘AER Pricing Information Guidelines’ as outlined in the Law. These separate ‘AER Bill Information Guidelines’ should address and specify requirements for dynamic pricing contracts in relation to NER Rule 214:

- (f) tariff and charges applicable to the customer;
- (g) the basis on which tariffs and charges are calculated; and
- (d) details of consumption or estimated consumption of energy.

⁴¹ See analysis in Section 4 below, which assesses potential bill impacts from TOU tariffs and compare the quarterly bill amount to fortnightly median income.

Furthermore, the NER Rule 214(o) requires bills to have ‘reference to any government funded energy charge rebate, concession or relief scheme’ which is a more detailed requirement than the wording in the Electricity Industry Code (Clause 4.9.6 (0)) which only refers to concessions. However, this NER sub-rule would benefit from adding a reference to ‘relevant consumer information tools’. This addition means that the regulator can more easily require retailers to include references on their bills to important consumer information tools funded by the government. An example is an AER website containing important consumer information about tariffs and energy offers deemed important to increase consumer awareness in a deregulated retail market.

Recommendation 13:

That NER Rule 214(o) is amended to state: ‘reference to any available government funded or provided energy charge rebate, concession, relief scheme or relevant consumer information tools’.

2.5.7 Billing for other goods and services

Retailers may find new opportunities to supply customers with other goods and services in relation to SMI. In-home displays and appliances that can be linked to DLC are some obvious examples.

Recommendation 14:

That the SMI Part of the NERR include a *billing provision* similar to Rule 818 in relation to prepayment systems, requiring retailers to separately bill for other goods and services and recover those payments separately from the cost of supplying energy.

2.5.8 Lost data

The NERR should include a rule addressing situations where meter data is lost (for whatever reason) and the premises are connected to SMI. As smart meter/interval data will be collected several times a day, there is very low risk to industry if the rule states that in the unlikely event that data is lost the retailer must not include consumption from the time period for which data was lost. The inclusion of such a rule will ensure consumer confidence in the meter-reading arrangements.

Recommendation 15:

That the SMI Part of the NERR should include a *billing provision* stipulating that a retailer issuing a bill must not include any consumption from a time period for which data was lost for that customer.

2.6 Payment difficulties

Clause 4.13.10 of the Electricity Industry Code pertains to payment difficulties. This clause includes four key components: universal access to payment plans, information about the right to have bills redirected to a third person, information about independent counselling services, advice about any customer assistance schemes and energy audits available.

- (a) Where a residential customer informs the retail entity in writing or by telephone that the customer is experiencing payment difficulties, or the retail entity’s credit management processes indicate or ought to indicate to the retail

entity that a residential customer is experiencing payment difficulties, the retail entity must offer the residential customer, as soon as is reasonably practicable, an instalment plan which complies with clause 4.14 and, where appropriate:

- (i) information about the right to have a bill redirected to a third person, as long as that third person consents in writing to that redirection;
 - (ii) information on independent financial and other relevant counselling services;
 - (iii) advise the residential customer of any concessions, rebates or grants that may be available to the residential customer to assist with financial hardship; and
 - (iv) to the extent available, advice on how a residential customer may arrange for an electricity audit of the residential customer's premises.
- (b) Where a residential customer requests information or a redirection of its bills under this clause, the retail entity must provide that information or redirection free of charge.

However, while Clause 4.13.10 guarantees universal access to payment plans (i.e. customers on Standard and Market Contracts can self identify and request an instalment plan), Clause 4.14.1 sets out the particulars for minimum instalment payment options but this clause may be varied in a Market Contract. Due to the important role instalment plans can play in preventing debt spiralling activity and/or disconnection, the Electricity Industry Code should be amended to ensure that the 'minimum instalment payment options' clause covers customers on both Market and Standard Contracts.

For residential Standard Contract customers experiencing payment difficulties, at least, the retailer must as a minimum offer the following payment options (Clause 4.14.1):

- (a) a system or arrangement under which a residential customer may make payments in advance towards future bills; and
- (b) an interest and fee free instalment plan under which the residential customer is given more time to pay a bill or to pay arrears (including any disconnection or reconnection charges).

Furthermore Clause 4.14.4 stipulates obligations for retailers when offering instalment plans and these include:

- Take into account information from the customer about the customer's usage needs and capacity to pay when determining the period of the plan and calculating the amount of the instalments.
- Specify the number of instalments, which may not be less than four (unless the customer has agreed to less).
- State how the instalment amounts are calculated.
- Explain how seasonal variations in consumption may impact on the plan.

- Monitor the customer’s compliance with the plan.
- Have in place fair and reasonable procedures to address payment difficulties a customer may face while on the plan.

Part 3 of the NERR contains the rules in regards to the ‘Customer Hardship Regime’ and unlike the Queensland Electricity Industry Code the NERR contains this notion that a customer has to be classified as a hardship customer by the retailer in order to receive basic assistance such as a payment plan. The concept that a customer has to be classified as a hardship customer by the retailer in order to receive basic assistance such as a payment plan is ill conceived and may increase the occurrence of temporary hardship cases significantly. Payment plans must be universally available to all customers in need of one. Payment plans provide customers with a tool to manage price shocks and as discussed in Section 4 below, SMI enabled dynamic pricing structures have the potential to bring about substantial price shocks to Queensland households.

Recommendation 16:

That NER Rule 302 and Rule 222 (1) and (3) are amended to ensure that all customers have easy access to affordable payment plans.

2.7 Meter reads and data

2.7.1 Meter readings

When a meter can be read remotely a retailer should always base a customer’s bill on a reading of the meter. Currently the Electricity Industry Code (Clause 4.10.1 (b)) and the NER Rule 210 only require retailers to use the best endeavour to read the meter at least once every 12 months. The remote read functionality delivers one of the most significant customer service improvements associated with SMI as it abolishes the need for estimates and associated problems with over- and undercharging. It is therefore essential that the practice of issuing bills based on estimates be abolished in a SMI environment.

Recommendation 17:

That the SMI Part of the NERR includes a *meter reading provision* stipulating that a bill cannot be based on estimates.

2.7.2 Substituted data

The SMI Part of the NERR should also address the use of substituted data. Smart meter systems will create some new challenges in regards to the use of substituted data, as the use of small amounts of substituted data may occur more frequently. The basic principle that should apply is that the customer is informed about the use of substituted data. However, there is legitimate concern about the number of customers that will contact their retailer to query the use of substituted data. Simultaneously, where substituted data applies to Critical Peak Pricing (CPP) times they may make a material difference to the energy costs and therefore become more detectable amongst customers. In order to ensure that customers can be confident that they pay for the right amount of energy consumed, it would be ill advised to not inform customers about data substitution.

Recommendation 18:

That the AER reviews the guidelines in relation to substituted data in the AEMO Metrology Procedure, and that the SMI Part of the NERR reflects the outcomes of this review.

Furthermore, the AER should develop a system wide reporting framework on the use of substituted data. Collecting and reporting on the use of substituted data by each of the retailer and distribution businesses.

2.8 Product requirements

Retailers offering direct load control contracts (DLCC) should be subject to specific requirements. These requirements should specify maximum thresholds in relation to duration, frequency and scope.

- The duration threshold would specify a limit for how long a retailer can cycle or control an appliance at the time.
- The frequency threshold would specify a limit for how often a retailer can cycle or control an appliance.
- The scope threshold would specify a limit for how much load the retailer can control within a household (e.g. maximum number of appliances that can be controlled).

Recommendation 19:

The AER should be requested to review DLC product requirements and its decision should be reflected in the SMI Part of the NERR *product requirement provisions*.

2.9 System testing

Smart meter enabled dynamic pricing contracts will make customers' bills more complex and thus more difficult to understand. It is therefore crucial that processes are in place to allow customers to query and review bills in a transparent, affordable, accurate and efficient manner.⁴² Furthermore, it is important that these processes are in place before these tariffs are offered, as the number of queries is likely to be highest in the beginning. When meter reads involve new communications technology as well as new smart meters, customers will not only want to be able to test the accuracy of their meters but also the whole data transfer process from meter to retailer.

Both the NSW and Victorian Ombudsman schemes have registered customer queries in relation to the accuracy of smart meters and/or meters that enable TOU pricing.

The Electricity and Water Ombudsman Victoria (EWOV) has reported that substituted data and customers wanting reads on their bills are common issues for smart meter related cases. Customers expect to be able to double check the 'read' figures on their bills and that they can find the billing from a smart meter confusing in the absence of other information about their usage.⁴³ In a submission to the MCE, the

⁴² The Victorian Energy and Water Ombudsman (EWOV) has reported that data substitution, and the absence of start and end reads on bills, has caused customer confusion and dissatisfaction. Energy and Water Ombudsman Victoria, *2007-08 Annual Report*, p 24.

⁴³ Energy and Water Ombudsman Victoria (EWOV), *2007-08 Annual Report*, p 33.

NSW Energy and Water Ombudsman stated that:

In EWON's experience even the distributor/retailers responsible for installing Type 5 meters at their customers' premises sometimes encounter difficulties collecting, interpreting and issuing bills based on the data from such meters. This indicates that the back end systems of distributors and retailers are required to exercise a higher level of analysis and data integrity checking than was the case with manually-read Type 6 cumulative meters. Both technical factors and human error may continue to cause occasional billing problems for customers with smart metering unless adequate resources are invested in this area of operations by retailers and distributors.⁴⁴

The Electricity Industry Code (Clause 4.15.4) and the proposed NER Rule 218 both stipulate a customer's right to have the meter tested but that the customer must pay for the cost of the check or test (and the retailer may request payment in advance). If the test shows that the meter is faulty or incorrect, the retailer must reimburse the customer the cost of the meter test.

These arrangements are inadequate and unaffordable for customers with genuine concerns about the accuracy of their new smart meter and the data transfer process. The AER should therefore review the issue of customers' access to transparent, affordable, accurate and efficient testing of the meters and associated infrastructure to ascertain whether transitional and/or new permanent arrangements need to be in place.

Recommendation 20:

That the AER undertakes a review into customer access to data processing checks and meter tests under SMI with the aim of developing guidelines for transitional and ongoing arrangements. And that the SMI Part of the NERR should include *system testing provisions* with reference to separate AER guidelines.

2.10 Undercharging

Large and unexpected bills often cause significant financial hardship for customers on low or fixed income. It is therefore crucial that the retailers have solid billing systems in place to avoid the occurrence of undercharging. Smart meter enabled dynamic pricing structures will cause more bill volatility, and undercharging of customers on dynamic pricing contracts (DPC) can therefore result in even larger amounts to be recovered if billing errors occur. However, SMI will provide retailers with daily reads of every customer's consumption and retailers should therefore be significantly better equipped to avoid undercharging scenarios than they are with today's manual meter reads.

The Electricity Industry Code (Clause 4.11.2 (a)) and the proposed NER Rule 219 allow retailers to recover undercharged amounts for 12 months before the date on which the retailer notifies the customer. As SMI has the potential to significantly reduce undercharging due to retailer billing errors, and as this is a key customer service improvement that SMI can deliver, retailers should only be allowed to recover

⁴⁴ Energy and Water Ombudsman NSW (EWON), *Submission to MCE discussion papers on Smart Meters Cost Benefit Analysis, Phase 1 – National Minimum Functionality*, November 2007, p 6.

undercharged amounts for up to 3 months prior to notifying the customer about the occurrence where smart meter systems are in place.

In addition to improving the customer service and reducing the number of hardship cases created due to billing errors and undercharging, a 3 month limit will provide the retailers with an incentive to ensure that reliable and accurate billing processes are in place.

Recommendation 21:

That the SMI Part of the NERR includes an *undercharging provision* stating that a retailer cannot recover undercharged amounts for longer than 3 months prior to notifying the customer.

2.11 Disconnection and reconnection

SMI and associated functionalities create new possibilities in terms of limiting customers' electricity supply. The NERL and NERR therefore need new definitions and clarification in relation to what disconnection (or de-energisation) entail. The current definition of de-energisation (disconnection) in the NERL Clause 103 needs to be redefined to separately address both de-energisation and disconnection activities.⁴⁵

Recommendation 22:

NERL Clause 103 must be redefined to separately address both de-energisation and disconnection activities.

2.11.1 Remote disconnection

SMI allows for remote disconnection and reconnection of properties. Remote disconnection means that the timeframe between a retailer requesting a disconnection and a distribution business performing one will be significantly shorter. It is expected that distribution businesses will disconnect no later than the day after receiving the request but often on the same day. This expediency means that retailers must have robust processes in place to ensure that the disconnection is lawful.

Similarly, as a house visit will not occur, there is no possibility of detecting last minute mistakes or raising health and safety concerns by the distribution company's representative. Improved processes should therefore be in place to minimise the risk of consumer detriment. Firstly, a wrongful disconnection payment should be in place to ensure that retailers have an incentive to improve their processes and minimise disconnection errors. The Electricity Industry Code (Clause 2.5.3) requires both

⁴⁵ Note that as per SVDP Society's submission to the NECF First Exposure Draft, the term de-energisation in the NERL should not be used to describe retail disconnection. The terms de-energisation and disconnection are distinct terms used to describe different activities undertaken by distinct parts of the energy industry.

De-energisation is an activity that is undertaken by a distributor in enclosing a connection when there is a planned outage (meter replacement, line upgrade, safety reason etc). It is related to the maintenance of the distribution/transmission system. Similarly the term energisation is an activity that is undertaken by a distributor in opening a connection when a consumer is connected to the distribution or transmission system (ie they meet all the technical standards and can be energised).

Disconnection is a term that is applied to the withdrawal of energy due to non-payment or breach of other contract terms and the finalisation of a contract through move in/move outs and it is a term applicable to retailers where their contracts have been breached and disconnection is warranted (at this time however, the connection continues to meet all the technical standards required by the networks to remain energised).

distribution businesses and retailers to issue guaranteed service level (GSL) payments if they wrongfully disconnect a customer. However, the obligation on retailers should be strengthened as they are currently only obliged to make a GSL payment if they fail to give customers a disconnection warning. The wrongful disconnection provision would provide a greater incentive for retailers to improve their processes if the GSL payment applied to all of the disconnection procedures set out in the code (Clause 4.18). Secondly, retailers should be required to make two notification attempts during the 24 hours leading up to a disconnection (using two different notification processes). Thirdly, the idea of a life support register should be broadened to include households with medical and health issues that increase their dependency on energy, as a way of minimising health and safety risks associated with remote disconnection.

Recommendation 23:

That Part 6, Division 2 of the NERR in regards to *retailer-initiated de-energisation of premises* includes a *wrongful disconnection payment provision* in order to provide the retailers with an incentive to undertake all the steps necessary, and as required by the Rules, prior to disconnecting a customer.

Recommendation 24:

That the SMI Part of the NERR includes a *disconnection provision* stipulating that a retailer must make two notification attempts during the 24 hour period prior to requesting the distributor to remotely disconnect the customer's premises.

Recommendation 25:

That the relevant definitions and rules in the NERR (Rule 103 and Part 7) are amended to broaden the definition of households with life support equipment to households with special needs (due to health and medical conditions).

2.11.2 Disconnection/reconnection charges

The Electricity Industry Code (Clause 4.13.6) states that a retailer may bill their customers for distribution non-network charges (such as connection, reconnection and meter testing charges). Similarly, NER Rule 616 refers to charges that may apply to reconnection services. However, as the remote connection/disconnection functionality will remove the cost of disconnecting and reconnecting customers, these charges should not apply to customers connected to SMI.

Clearly an exemption would have to be made if a jurisdiction decides to roll out SMI but jurisdiction's electricity safety regulator does not allow for remote disconnection/reconnection. Although such regulation would clearly have an impact on the business case for rolling out SMI in the first place, the National Cost-benefit study noted: "Current safety regulations in Queensland may inhibit the realisation of some potential benefits from smart metering, in particular remote connect/disconnect, as a representative from the distributor needs to be present when a premise is connected".⁴⁶

⁴⁶ NERA Economic Consulting, *Cost Benefit Analysis of Smart Metering and Direct Load Control*, Report for the Ministerial Council on Energy Smart Meter Working Group (Phase 1 Overview Report), September 2007, p 59.

Recommendation 26:

That the SMI Part of the NERR should include a *disconnection provision* stating that SMI customers cannot incur an additional charge for disconnections and reconnections.

2.12 Termination

Both the Electricity Industry Code (Clause 4.4.2) and the NER Rule 235 require a customer to give the retailer 20 business days notice in order to terminate a Market Contract. From a customer perspective, the termination notice requirements should be linked to the notice period retailers give customers about a change to their tariff rate and/or shape. As discussed below, the Electricity Industry Code (Clause 4.4.4) currently stipulates that retailers must give a minimum of 20 business days notice prior to a new tariff (fixed term contract) taking effect. As such, the Queensland regulation ensures that the customers' termination notice requirement is aligned with the retailers' notice period for tariff variation for fixed term contracts. However, if it is not a fixed term contract and the retailer, under the contract, is able to change prices, charges, tariffs or service levels, the requirement is simply that the contract stipulates the manner in which any such change may be effected.

The cooling-off period is a second timeline that the termination notice timeline should have regard to as a retailer should not be able to transfer a customer before the cooling-off period has expired. As such, the termination notice must not be less than 10 business days. From a transfer process perspective the customer notification requirements also have to be aligned with the requirements stipulated in the transfer codes and procedures and the national CATS Retail Transfer Procedures (which operates under the NER) stipulate that 'a proposed transfer date may be up to 20 national business days after a customer's request to transfer is made to the proposed new retailer'. However, with remotely read meters the transfer process will be more efficient and there are no reasons for requiring the customer to give more than 12 business days notice before a transfer must occur (10 days for the cooling-off period and 2 days for processing).

Recommendation 27:

That the SMI Part of NERR should include a *termination notice provision* stipulating that a term or condition of a market contract has no effect to the extent that it requires a customer to give more than *12 business days* notice to terminate the contract.

The retail transfer codes and procedures should be amended to reflect this timeline when the relevant customer is connected to SMI.

2.12.1 Cooling-off

The Electricity Industry Code (Clause 4.2.4) and NER Rule 236 both stipulate that customers have 10 business days to cancel their energy contracts under the cooling off provisions. As smart meter enabled dynamic pricing structures are likely to increase the complexity of market offers, the right to cancel contracts and the importance of assessing the offer in detail within 10 business days should be made more obvious to customers signing on to market offers. The contracts should advise the customer of their right to cancel in an apparent and clear manner, as well as providing the customer with an AER web address that contains detailed information on the various tariff options and gazetted retail offers.

Recommendation 28:

That NER Rule 236 is amended to state that the 10 day cooling off period should not commence until the customer has received the contract and that customers should be given a prescribed form explaining their cooling off rights before the cooling off period starts.

2.12.2 Vacating a supply address

NER Rule 234 (1) proposes that a customer vacating premises should be obliged to continue to pay for energy consumed at the premises, as well as the fixed charge, for 5 business days commencing upon receipt of a termination notice of a SRC. This timeframe is applied to allow the retailer sufficient time to organise a final meter read of the premises. Similarly the Electricity Industry Code (Clause 4.4.5) states that a customer must give a minimum of 5 business days notice to terminate a Standard Contract.⁴⁷

As SMI will allow retailers to conduct remote special reads of a customer's meter the timeline should be reduced to 1 business day after receiving termination notice where SMI capable of remote reads are in place.

Recommendation 29:

That the SMI Part of the NERR should include a *termination provision* stipulating that a SRC terminates on the earliest 1 business day commencing upon receipt by the retailer of a termination notice (even if the customer has vacated the premises earlier).

2.13 Early termination fees

Market Contracts in Queensland may attract early termination fees (ETFs). The Electricity Industry Code (Clause 4.4.2) stipulates that retailers must specify the fee, or manner of calculating the fee, in the contract. Furthermore, Clause 4.13.5(b) states that for Market Contracts “the amount of any such fee or charge must be fair and reasonable having regard to related costs incurred by the retail entity”.

ETFs can create significant barriers to customer switching and effectively limits tenants' access to energy offers. ETFs should be banned, but if it is deemed necessary to allow retailers to recover customer acquisition costs they should be replaced with a sign-up fee. In a competitive market, a sign-up fee is more likely to reflect the actual cost to retailers than an ETF.

It is therefore of great concern that some of the current Market Contracts available in Queensland contain both a termination and a sign-up fee (account establishment fee). This existence of ‘fee double dipping’ could arguably indicate that the Queensland retail electricity market lacks effective competition and/or retailers are able to slam consumers with additional fees due to inadequate consumer information and awareness. This is an issue the Queensland Competition Authority (QCA) should investigate.⁴⁸

⁴⁷ 5 days is the shortest notice period applied as it depends on the distribution area the premises are located within and the location or feeder type of the premises. Customers on premises in excluded locations and or supplied through a long rural feeder (isolated feeder) are required to give a 10 business days notice.

⁴⁸ This issue is discussed further in section 5.3 below, which also recommends that the QCA investigate the matter.

The NER Rule 235 states that the ETF must be a reasonable estimate of the administrative costs to the retailer resulting from the early termination and cannot include costs based on lost supply or lost profits.

The intention to limit the ETF to administrative costs only is sensible but, as ETFs are notoriously difficult and cumbersome to regulate, the use of a sign-up fee would provide retailers with an incentive to limit this to actual costs.

Whether ETFs in general are banned, replaced by sign-up fees or not, they should be banned from dynamic pricing contracts. As discussed below in relation to hardship, life cycle changes and unforeseen circumstances (such as illness) can significantly change a household's consumption pattern. The idea behind dynamic pricing is that customers assess their load profile and understand their consumption needs before signing on to a suitable offer. It is therefore crucial that customers can exit a contract if their circumstances change. A customer would not be able to give explicit informed consent for any longer than the immediate future and dynamic pricing contracts should therefore be evergreen contracts that the customer can assess the suitability of on an on-going basis. An ETF on these contracts would effectively create a barrier to the take up of dynamic pricing contracts and customers' ability to respond to price signals.

Recommendation 30:

That the SMI Part of the NERR includes an *early termination fee provision* stating that a retailer cannot apply an early termination fee to dynamic pricing contracts.

2.14 Tariff variations and reassignments

The Queensland Electricity Industry Code does not require a written notice to the account holder about a tariff variation for Standard Retail Contracts prior to the variation taking effect. Section 8.3 of the Standard Retail Contract (annexure B to the Electricity Industry Code) states: "If there is a variation in the notified prices, we must include details of the variation with your first bill that includes the variations".

In regards to market contracts, the Electricity Industry Code (Clause 4.4.4) stipulates that a retailer must give a minimum of 20 business days notice prior to a fixed term contract ending and a new tariff taking effect. However, if it is not a fixed term contract the retailer can vary tariffs and charges as set out in the market contract's terms and conditions.

For a customer to terminate a market contract however, a retailer may require 20 business days notice from the customer (Clause 4.4.2).

The NER Law 205 in regards to standing offer prices, states the following limitations on commencement of variation (205 (4)):

A variation of the standing offer prices takes effect—

- (a) if the date specified in the variation is before or within the period of 6 months starting with the date the last variation took effect (or, if the standing offer prices have not previously been varied, the period of 6 months since the

date of publication of the standing offer prices)—on the date that immediately follows the 6-month period; or
(b) if the date specified in the variation is before or within the period of 10 business days starting with the first business day after the date on which the variation was published—on the date that immediately follows the 10-day period.

Schedule 1 of the NERR – Model terms and conditions for Standard Retail Contracts, Clause 8.2 regarding variations to tariff and charges, reflects these laws:

(a) If there is a variation in the standing offer prices, we must publish on our website any variations 10 business days ahead of them taking effect, and include details of the variation with your first bill that includes the variations.
(b) We may not vary the standing offer prices more frequently than at 6 monthly intervals.

In terms of Market Retail Contracts (MRCs), the NER Law 239, which relates to the presentation of prices, states that:

(2) Market offer prices

A retailer must—

(a) present the details of its market offer prices (including any variation of the prices) in the manner and form required by the AER Pricing Information Guidelines; and
(b) without limitation, present them in that way when publishing or advertising those prices or any variation.

(3) AER Pricing Information Guidelines

The AER may, in accordance with the Rules, make and amend guidelines (*AER Pricing Information Guidelines*) specifying the manner and form in which details of standing offer prices and market offer prices are to be presented.

(4) The purpose of the AER Pricing Information Guidelines is to assist customers to consider and compare standing offer prices and market offer prices offered by retailers.

The AER Pricing Information Guidelines are yet to be developed but according to 239 (4) above, the purpose of the guidelines is *not* to ensure that the obligation on retailers to notify customers of a price variation reflects the notification period customers are obliged to give retailers prior to terminating a contract.

The NER Rule 235 states that a retailer cannot require a customer on a Market Retail Contract (MRC) to give more than 20 business days notice in order to terminate a contract. A Standard Retail Contract customer, on the other hand is required to give a 5 business days notice in order to terminate a contract (NER Rule 234).

It is crucial that the obligation for customers in regards to termination notices reflect the notice requirements placed on retailers in regards to tariff variations. The 5 business day termination notice for the Standard Retail Contract in the draft NECF does, in theory, provide customers with an opportunity to terminate a contract prior to a tariff variation taking effect. However, as retailers are only obliged to post the tariff

variation on their website 10 days prior to taking effect, many customers will not become aware of the tariff variation before they receive their next bill.

The MCE SCO considered this issue in a 2008 policy response paper:

Another issue considered was whether there should be a requirement to notify standard retail contract customers of a change to the standard retail contract in advance of the change taking effect. Advance notification may precipitate customers on a standard retail contract to change their behaviour or seek supply from another retailer for the period leading up to the time of commencement of the change. However, the SCO considers this benefit was likely to be less than the costs to retailers of providing the advance notice to individual customers.⁴⁹

Clearly there are costs associated with requiring retailers to notify all customers directly, however as the proportion of customers on a Standard Retail Contract reduces it may become crucial that these customers are notified of tariff changes. Assuming that the customers on Standard Retail Contracts are those with the least knowledge of energy offers and market based tariff rates in the first place, it will be crucial that these customers are properly informed of tariff variations and that they are directed towards information sources that help them compare and assess electricity offers. If the vast majority of customers are on market contracts it will be more difficult to inform Standard Retail Contract customers of significant price increases or tariff changes through the media, and this group could become a forgotten and significantly disadvantaged customer group. Furthermore, the cost associated with requiring retailers to inform customers directly will contract if the number of customers on Standard Retail Contracts continues to diminish.

Recommendation 31:

That the AER monitors the developments with the aim to amend NERL 205 to require retailers to inform customers on Standard Retail Contracts directly about any tariff variations if the number of customers on this contract type is significantly reduced.

In order to create a dynamic and competitive retail market it is crucial that customers are notified prior to a tariff variation taking effect, and that the tariff variation notice period reflects the notice period customers have to adhere to in order to terminate a contract. As such the NERL should specify the tariff variation notification period for Market Retail Contracts.

Recommendation 32:

That the NERL is amended to require retailers to notify Market Retail Contract customers directly about any price or tariff variation prior to the variation taking effect, and that the number of days notice cannot be less than the number of days notice required by the customer to terminate the contract.

⁴⁹ MCE SCO, *A National Framework for Regulating Electricity and Gas (Energy) Distribution and Retail Services to Customers*, Policy Response Paper, June 2008.

In regards to a mandatory rollout in particular, there is an issue in relation to who is responsible for informing the customer about tariff reassignments and tariff variations. The NECF should address the interface between distribution businesses and retailers to ensure that the customer is notified in a timely manner. A mandatory rollout could mean that the networks reassign all customers to TOU network tariffs and the customer should be informed about this undertaking as early as possible. It is difficult to regulate these information provisions as the retailers have the contractual relationship with the customer and they are not obliged to pass through a network tariff shape to their customers. However, the potential bill impact on customers from tariff reassignments is significant (discussed in detail in Section 4 below), and it is clear that the NERL and the NERR need to be amended to address the network versus retail information issue to create fair outcomes for consumers.

Recommendation 33:

That the NERR Schedule 3 – Retail Support Terms and Conditions (Clause 4.7) should address the responsibilities of retailers and distributors in relation to notifying each other, as well as the customer, of any tariff reassignment.

2.15 Hardship

As dynamic pricing contracts increase volatility and the customer's consumption pattern will have significant impact on the bill, any customer deemed to experience payment difficulties should have the opportunity to immediately terminate a dynamic pricing contract without incurring an early termination fee (or other additional charges) and enter into a new contract with a non-dynamic tariff structure. If a retailer only offers dynamic tariff structure it could be exempt from offering a non-dynamic pricing contract to customers facing payment difficulties.

The right to initiate an immediate contract change for customers experiencing payment difficulties would be an important tool to ensure that hardship cases do not increase significantly with dynamic pricing contracts (DPCs). Life-cycle changes such as having children and retirement can change a household's consumption pattern significantly and financially penalise customers on a time of use tariff who suddenly find themselves at home during the day. Other changes to a customer's circumstances, such as job loss, different working hours and illness could have a similar impact. As dynamic pricing contracts require customers to understand their consumption pattern and assess tariff offers with this in mind, there should be an opportunity to promptly exit such arrangements without incurring penalty fees for hardship customers.

Dynamic pricing contracts provide customers with price signals that require them to manage their demand (or be financially penalised). A customer's ability to manage demand and therefore respond to price signals is highly dependent on their life situation and hence consumption pattern/needs. It can therefore be argued that a customer would be unable to give explicit informed consent for any longer than the immediate future and dynamic pricing contracts should therefore be evergreen contracts that the customer can assess on an on-going basis.

Sections 4.4 and 4.6 discuss the issue of being able to switch from a TOU tariff to a single rate tariff in more detail, but as unforeseen circumstances, such as redundancy and illness, can significantly impact on a household's energy consumption and turn a

TOU winner household into a TOU loser household overnight, it is crucial that customers are able to switch from TOU to single rate if their retailer offers both products. Furthermore, this again highlights why Early Termination Fees must not apply to TOU contracts (as argued in section 2.12 above).

Recommendation 34:

That the SMI Part of the NERR includes *hardship provisions* that stipulate that hardship customers on dynamic pricing contracts must be offered the opportunity to immediately change to a non-dynamic pricing contract without incurring any penalty fees.

2.16 Special needs

The Electricity Industry Code (Clause 4.20.1) and NER Rules 703 and 704 stipulate actions retailers and distributors must take when notified about customers using life support equipment. By using the term ‘life support equipment’ to define which households should be included in the special register the framework uses a narrow, appliance oriented definition. The term ‘special needs’, on the other hand, is less narrowly defined as it is linked to the household’s circumstances. Customers with specific reliance on electricity for health and medical purposes can be included in the register based on criteria such as medical certificates and/or access to particular concessions (e.g. the medical cooling rebates).

By using a broader definition than ‘life support equipment’ a special needs register can ensure that households with health issues which make them especially dependent on energy supply are included in the register. Such a register would be valuable in terms of distribution businesses and retailers’ ability to deliver duty of care in relation to suitability of energy products (such as DLC and CPP) and prior to conducting remote disconnections for non-payment. This approach would hence mitigate some of the health and safety risks associated with remote disconnection (discussed above).

Recommendation 35:

That the relevant definitions and rules in the NERR are amended to broaden the definition of households with ‘life support equipment’ to households with ‘special needs’ (due to health and medical conditions).

2.17 Information provision

2.17.1 Disclosure of variations in tariff shape⁵⁰

Because dynamic pricing contracts (DPC) and direct load control contracts (DLCC) are new and complex retail products, retailers offering these products should be required to provide the prospective customer with additional information in order to ensure that explicit informed consent is obtained.

One particular variation that needs to be disclosed at marketing stage is an offer with variance between network and retail tariff shape.⁵¹ Retailers can seek to maximise their profits by ensuring that a significant proportion of the household consumption does not attract off-peak rates. One approach the retailers can utilise is to extend the

⁵⁰ Tariff shape variations should include deviations both in terms of ‘blocks’ (i.e. two-part vs. three-part tariffs) and time zones (i.e. peak time starting at different times).

⁵¹ This issue is discussed in more detail in the Background Paper, Section 5.3.5.

peak times (or shoulder period if a three-rate tariff is applied) beyond the network times and wholesale market peak. By pushing the peak/shoulder tariff to last as late as possible (say 9pm), households' ability and willingness to shift load would be reduced and significant consumption deriving from washing machines, dryers, dishwashers and television sets would attract a higher rate.⁵²

A competitive market with informed consumers should in theory make such gaming by retailers more difficult and an obligation to disclose of any variance between network and retail tariff shape, at marketing stage, will improve transparency and increase customer awareness.

Recommendation 36:

The SMI Part of the NERR should include an *information provision* stipulating that a retailer must disclose, at marketing stage, any variance between the network and the retailer's tariff shape.

2.17.2 Information to be provided by distributor to customer

NER Rule 404 stipulates the nature of the information a distributor must provide a customer upon request. As long as the distribution businesses own the meters, the distributors should be required to inform customers about the meter type connected to a customer's premises and its associated infrastructure and functionalities.

Recommendation 37:

That the NER Rules 404 and 410 are amended to include an obligation for distribution businesses to inform customers about the customer's meter type, metering infrastructure and associated functionalities on request and at no cost to the customer.

2.17.3 Information about choice of retailer

The Electricity Industry Code (4.2.10 (b)) requires the distribution businesses to inform customers seeking to connect the premises to the supply network that they may be able to choose their retailer and that they "may benefit from exercising this choice". The NER Rule 206 similarly states that the distributor must inform 'move-in' customers that they may have the ability to choose their retailer and that a list of retailers is available from the AER's website. The reference to an AER website could prove to be an important step to ensure that consumers are better informed about not just retail choice but also tariffs available and retailers' standing and market offers.

In consultation with stakeholders, the AER should develop a comprehensive one-stop shop for consumer information on energy, and the NECF must ensure that retailers and distributors inform customers about the website as appropriate. As discussed in the cooling-off section above, this website should contain detailed information about the various tariff options, standing offers, and a selection of market offers, as well as listing active retailers.

⁵² See Gavin Dufty, Lessons learnt from Energy Australia's Pricing Trials and issues for Victorian Consumers, October 2008, p 7-8 for a more detailed analysis. Available at <http://vinnies.org.au/files/VIC/SocialJustice/Reports/2009/2009%20January%20-%20SVdP%20Pricing%20Trials%20report.pdf>

Recommendation 38:

That the AER develops a comprehensive one-stop shop for consumer information on energy and that the NERR ensures that retailers and distributors inform customers about the website as appropriate.

2.18 Customer enquiries and complaints

Due to the complexity of dynamic pricing and the technical aspects of DLC, retailers offering dynamic pricing contracts (DPC) and/or direct load control contracts (DLCC) should have a specialist customer support team that handle enquiries and complaints relating to these smart meter enabled products.

Recommendation 39:

That the SMI Part of the NERR should include *an enquiries and complaints* provision stipulating that retailers offering DPC and/or DLCC are required to establish a specialist customer support team to handle customer queries and complaints.

2.19 Customer consultation

SMI will enable a range of new retail products and dynamic pricing contracts but as only a few customer response trials have been conducted, there is limited knowledge about the customer impacts these products will have.

The Draft NERR requires retailers offering prepayment contracts to establish a Prepayment Meter Customer Consultation Group (Rule 821) and a similar requirement on retailers offering smart meter enabled products, such as DPC and DLCC, would ensure that information about the customer impacts of smart meter enabled retail products are collected, assessed and publicly available.

Recommendation 40:

That the SMI Part of the NERR includes a *customer consultation provision* similar to that of Rule 821 for prepayment systems, stipulating that:

A retailer that offers smart meter enabled retail products, including dynamic pricing contracts, must establish a Smart Meter Customer Consultation Group with membership drawn from customers that have entered such contracts and consumer groups operating within the jurisdiction in which the retailer carries on business.

The retailer must provide on its website detailed information about the meetings and activities of the retailer's Smart Meter Customer Consultation Group.

The retailer must ensure that the Smart Meter Consultation Group continues in existence for a minimum of 3 years.

2.20 Marketing

It is important that customers are protected from misleading and predatory marketing practices in order for a competitive energy market to work. As consumers have limited experience in and understanding energy contracts and tariff offers, it is crucial that the marketing provisions allow them the right to assess the offer in a timely manner and that they have the ability to change their mind if they find the offer unsuitable. With increased tariff complexity due to smart meter enabled pricing

products, it will continue to be of high importance that effective marketing provisions are in place and that non-compliance is acted upon by the appropriate regulatory authority.

The National Energy Marketing Rules (NEMR) should apply to all energy retailers and include marketing of products, tariffs and services to both existing and new customers. As smart meters will enable significant tariff innovation it is important that the NEMR covers marketing activities to a retailer's existing customers.

2.20.1 Record keeping

The Electricity Industry Code (Clause 7.5.7) addresses marketing activity via electronic means and Clause 7.5.8 requires marketers to keep records of all marketing contacts for at least one year.

As the HAN functionality in the SMI enables the retailers to communicate to customers via an in-home display (IHD) or a web based account, the record keeping requirements should be extended to cover all electronic and HAN based communications.

Rule 7 in the proposed NEMR covers the issue of record keeping but it does not mention HAN enabled or electronic communications.

Recommendation 41:

That a sub-rule addressing the issue of HAN enabled and electronic communications should be added to Rule 7 of the NEMR addressing record keeping requirements.

3. Economic Regulation

3.1 Cost allocation

Based on the findings in the National Cost-benefit analysis, the MCE has decided that the regulated distribution businesses should be made the ‘responsible party’ for rolling out smart meters. The AER, as the economic regulator, will therefore be responsible for determining costs and charges to consumers as part of the cost recovery process. The National Electricity Rules stipulate the regulatory approach the AER must apply to such a determination.⁵³ The AER will also have the mandate to ensure that benefits accrued are passed through to consumers.

The AER is currently in the process of determining the cost of the Victorian rollout for the 2010-2011 period and its draft determination proposes charges that involve an average increase of \$53 in 2010 and \$77 in 2011. However, the rollout schedule stipulates that only 10% of the meters will be rolled out by the end of 2010 and only an additional 15% are due to be rolled out by 30 June 2011. The schedule does not stipulate the proportion of meters that must be installed by the end of 2011 (which is the end of the initial cost-recovery period) but by mid 2012, 60% of meters must be installed. This protracted rollout schedule means that customers will commence paying for the metering infrastructure well in advance of any real benefits being delivered.

The MCE will soon formally request the AEMC to undertake a review in relation to cost recovery issues associated with rolling out smart meters.⁵⁴ The issues discussed and the recommendations directed at the AER in this section of the report are therefore relevant recommendations for the AEMC and the MCE as well.

3.1.1 Pricing principles

The price impact of a rollout on households is discussed in more detail in Section 4 below, but the Victorian rollout indicates that it will cost households approximately \$80 per annum.⁵⁵ That is a stand-alone increase of \$20 on every quarterly bill.

Households will experience a significant cost increase as a result of the smart meter rollout and low-volume energy consumers will encounter a proportionally higher increase. In addition to proportionally higher price increases, low-volume energy consumers will also have the least ability to respond to price signals (due to low discretionary consumption), which may allow them to offset these costs. This raises important equity issues as low-income households represent a large proportion of low-volume consumption households.

One approach to address these equity issues is to apply pricing principles that allocate the cost of the smart meter rollout (or a higher proportion thereof) to higher consumption households. This can be achieved by only allowing the pass through of

⁵³ Chapter 6 of the National Electricity Rules covers ‘economic regulation of distribution service’ and Chapter 7 covers ‘metering’.

⁵⁴ AEMC, Consumer Briefing, Melbourne 26 August 2009.

⁵⁵ See AER’s determination on metering charges for the two first years of the Victorian rollout. AER, *Victorian Advanced Metering Infrastructure Review - 2009-11 AMI budget and charges applications*, Final Determination, October 2009.

these costs once a certain consumption threshold has been reached and hence ensure that costs are more equitably allocated.⁵⁶

Recommendation 42:

That the MCE directs the AER to investigate the potential for using pricing principles to allocate SMI costs in an equitable manner – meaning that those most likely to benefit from the rollout pay a proportionately higher cost.

Furthermore, the distribution businesses may be allowed to allocate the smart meter rollout costs to the prescribed metering charge. If so, the retailers are likely to argue that they can pass through the cost to consumers in whatever way they wish. This could have significant equity implications and result in the obfuscation of the cost of SMI to consumers.

Recommendation 43:

The AER should undertake a review of the impacts of how and where SMI costs are allocated with the aim of identifying an equitable, fair and transparent approach for allocating SMI costs to consumers.

3.1.2 Itemised bills

If pricing principles are not applied and the cost of SMI is incorporated into the fixed charge, the cost of SMI should be itemised on the bills for the following four reasons:

First, as a rollout will be based on a decision by the Queensland Government, and such a decision will result in a significant cost to consumers, it is important these costs are transparent, the SMI project has set timelines and consumers should expect the additional line item to change or be removed upon completion. Second, it is important that this cost item provide a benchmark for consumers if metering services become competitive post the rollout. Third, because a key objective of rolling out SMI is to improve price signals and elicit demand response - ‘hiding’ further costs under the fixed charge component would be counter-intuitive. Finally, it is important that consumers become aware of the rollout to increase interest and understanding of what SMI enabled tariffs will mean for their consumption patterns and bills. Itemising the SMI costs on electricity bills could be an effective way to ensure interest in a public education campaign.

Recommendation 44:

SMI project/rollout costs should be a line item on customers’ electricity bills.

3.2 Pass through of benefits

The majority of the cost of rolling out smart meters will occur up-front which imposes some risk to consumers in relation to the pass through of benefits.

There is no guarantee that all the estimated benefits will be accrued and therefore produce the savings anticipated. As households pay for the infrastructure up-front they could end up short changed if the benefits do not materialise. If the Queensland Government makes the decision to mandate the rollout based on a cost-benefit study it

⁵⁶ See Dufty G, *Electricity pricing – delivering social justice and environmental equity*, in CUAC Expert Forum on Electricity Pricing, Forum Papers, August 2007.

must commit to monitor benefits accrued and utilise complementary policy measures to maximise benefits and ensure that savings are passed on to consumers.

Recommendation 45:

To mitigate this risk the AER should monitor the benefits as they accrue (i.e. on an annual basis) and provide a public assessment report to the Government on the benefit status. The Government, in co-operation with the AER, should seek to actively ensure that maximum benefits are achieved.

There is also a risk that benefits are not accurately and/or timely passed through to consumers. The distribution businesses have an incentive to maximise return to their shareholders and this raises challenges for the regulatory framework as the networks may seek to underestimate the benefits accrued from a smart meter rollout in order to retain as much of the savings as possible – arguing that it is a result of business efficiencies rather than the smart meter rollout. To mitigate this risk, the regulatory framework can be restructured to ensure that operational benefits are accounted for and passed through on an annual basis. The typical 5 year regulatory period would not deliver satisfactory outcomes and most likely allow the network businesses to gather windfall gains.

Recommendation 46:

That the regulatory framework for SMI be adjusted to ensure that the operational benefits are accounted for and passed through to consumers on an annual basis.

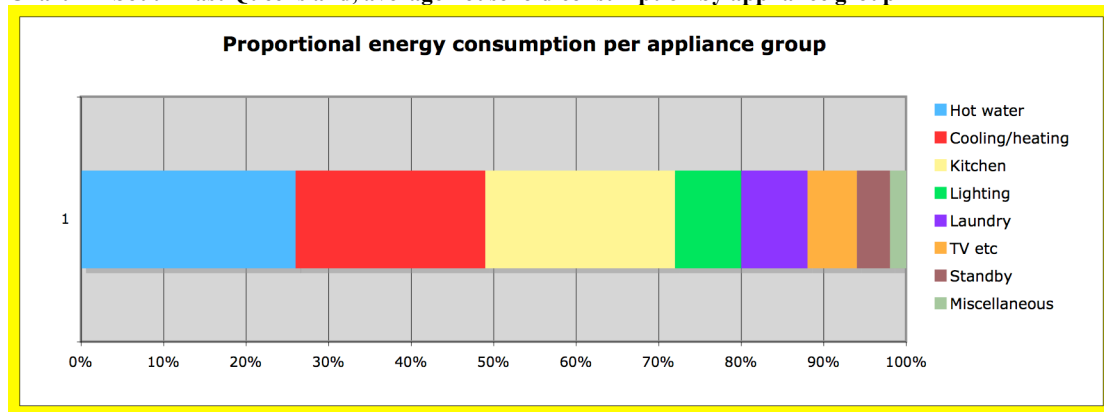
4. Potential price impacts

The price analysis presented in this section comprises five hypothetical households and an estimation of the price impact on households in moving from single rate to time of use (TOU) tariffs. There are many factors that can influence the outcome and relatively minor changes to the assumed tariff rates, the duration of a tariff and the times they are applied would result in a material change to the calculated bill impacts. In essence, the purpose of this analysis is to highlight the factors that may result in price changes and thus inform an assessment of the robustness of current energy rebates, and other assistance provided to Queensland energy consumers. Finally, this analysis does not purport to calculate and assess the impact of any demand response to price signals. As individual households will have varied ability to reduce or shift demand in response to price signals, it is important to be aware of price impacts if no demand response occurs in order to ensure that government assistance is sufficient to keep low-income households connected to supply.

4.1 Residential electricity consumption in Queensland

The average household in rural Queensland (Ergon’s supply area) uses approximately 8000kWh per annum.⁵⁷ Households in South East Queensland (Energex’ supply area) have the highest average consumption of electricity in the NEM. The average annual consumption for residential Energex customers is 11,500 kWh per annum.⁵⁸ Of that, the average household uses 26% on the hot water system, 23% on cooling/heating and 23% on kitchen related appliances. The penetration of reticulated gas for domestic consumption is low in Queensland compared to NSW and, in particular, Victoria. An important feature of Queensland’s electricity system is the use of controlled load for hot water services.

Chart 2 - South East Queensland, average household consumption by appliance group⁵⁹



Based on the consumption by appliance as shown in chart 2 above, an average consumption household in South East Queensland (11,500 kWh) would use an estimated number of kWh for the various appliances as documented in table 2 below.

⁵⁷ 8000 kWh is an approximate figure. See see <http://evolve.ergon.com.au/CleanEnergy.aspx>

⁵⁸ The percentages in this chart are based on figures presented in Energex, About Energex, Lift-out in the Sunday Mail, February 2008 see

www.energex.com.au/pdf/about_energex/SundayMailLiftoutFeb08.pdf

⁵⁹ Ibid.

Table 2 – Estimated annual consumption (kWh) by appliance group for household using 11500 kWh per annum.

Appliance group	Annual consumption	Proportion of total annual consumption
Hot water	2990 kWh	26%
Cooling/heating	2645 kWh	23%
Kitchen	2645 kWh	23%
Lighting	920 kWh	8%
Laundry	920 kWh	8%
TV, standby, misc	1380 kWh	12%

Queensland households have recently experienced a significant increase in electricity prices. The increase to the standard uniform tariff that took effect on 1 July 2009 means that an average consumption household in South East Queensland will pay approximately \$300 more per annum for electricity. This brings their annual electricity bill to approximately \$2200. An average consumption household in rural Queensland will pay an additional \$200 per annum in 2009-10. This means their annual electricity costs will be approximately \$1600.⁶⁰

These price increases combined with the fact that households' energy consumption typically varies by 25% between summer and winter, means many Queensland households will experience difficulty paying for their electricity, particularly when the bills arrive after the summer season.⁶¹

4.1.1 Current electricity tariffs in Queensland

There are currently three main regulated tariffs available to domestic electricity customers:

- Tariff 11 – For all general domestic consumption.
- Tariff 33 – Controlled supply for appliances such as hot water (18 hours a day access).
- Tariff 31 – Controlled supply, nighttime consumption only.

Tariffs 33 and 31 can offer significant savings to households using appliances that can be connected to a controlled load. While most households have a hot water system installed, households with low capacity systems (i.e. less than 125 litres) will not be able to allocate their hot water consumption to a controlled load tariff. Furthermore, to access the most economical tariff, the nighttime controlled load tariff (tariff 31), a household's water storage system must be 250 litres or more.

⁶⁰ These price increases are based on Tariff 11, see DME, New electricity tariffs and your bill, Estimated impact of 2009-10 Benchmark Retail Cost Index (BRCI) on household electricity bills available at www.dme.qld.gov.au/zone_files/Electricity/new_electricity_pricing_table.pdf

⁶¹ Energex states that energy consumption varies by up to 25% between summer and winter for South East Queensland household see www.energex.com.au/pdf/about_energex/SundayMailliftoutFeb08.pdf

Table 3 - Current Queensland electricity prices for non-market customers (GST inclusive)⁶²

Tariff 11 (all general domestic consumption)	18.843 cents per kWh
Service fee	\$7.25 per month
Tariff 33 (controlled load for up to 18 hours per day)	11.319 cents per kWh
Minimum monthly payment	\$5.05 per month
Tariff 31 (controlled load, night time consumption only)	7.689 cents per kWh
Minimum monthly payment	\$5.05 per month

4.1.2 Hypothetical domestic TOU tariff for Queensland

As this section aims to investigate the impact a reassignment from a single rate to a TOU tariff may have on five hypothetical households' electricity bills, a hypothetical smart meter enabled TOU tariff must be applied. The assumed three-part TOU tariff presented in table 4 below is based on the shape (times) and rates currently being offered by Energy Australia in NSW.⁶³ The fixed charge service fees, however, are the same as those currently applied in Queensland. The Tariff 11 monthly service fee of \$7.25 is substantially lower than the fixed Service Availability Charge that is currently being applied to Energy Australia's TOU offer.⁶⁴

Table 4 - Hypothetical TOU tariff rates, GST inclusive

Off-peak (10pm to 7am every day)	8.14 cents per kWh
Shoulder (7am – 2pm and 8pm – 10pm on weekdays + 7am to 10pm on weekends)	14.08 cents per kWh
Peak (2pm-8pm on weekdays)	35.64 cents per kWh
Service fee	\$7.25 per month

The shape of this TOU tariff means that the off-peak rate applies to 37% of the time (63 hours per week), the shoulder rate 45% of the time (75 hours per week) and the peak rate 18% (30 hours per week).

4.1.3 Single element vs. multi element smart meters

Concern has been expressed about the impact a smart meter rollout may have on households with dedicated off-peak circuits.⁶⁵ There may be major price increases for households currently using dedicated off-peak circuits (with and without boost options) if they are transferred to a TOU pricing arrangement. This is a particular

⁶² See Queensland Government Gazette, No. 41 Vol. 351, 9 June 2009 at www.dme.qld.gov.au/zone_files/Electricity/09.06.09_-_5B41%5D_extra_gazette.pdf

⁶³ See Energy Australia's website at www.energyaustralia.com.au/energy/ea.nsf/Content/NSW+TOU+Res+Rates

⁶⁴ Energy Australia's Service Availability Charge for TOU offers is \$168 per annum. The fixed service fee in Queensland for tariff 11 is currently \$87 per annum.

⁶⁵ See CUAC/SVDP/ATA *Submission to the Cost Benefit Analysis of Smart Metering and Direct Load Control: Phase 1 Reports for the Ministerial Council on Energy's Smart Meter Working Group*, November 2007.

concern for households currently taking power through a two-element or a separate meter, which may not be available as a result of a smart meter rollout.⁶⁶

The bill impact analysis of five hypothetical households presented below therefore includes two TOU scenarios for the households currently accessing tariffs 31 or 33:

- TOU tariff combined with controlled load for hot water systems
- TOU tariff on a single element meter without access to controlled load

4.2 Households reassigned to a TOU tariff

4.2.1 The sole parent - Household 1

Hypothetical ‘Household 1’ comprises of a stay at home single parent with two young children (one non-school age). The dwelling is not connected to reticulated gas so it is an all-electric household. They live in Brisbane and use 11,500 kWh per annum. Their 160 litre hot water system uses 2990 kWh per annum and is currently allocated to controlled load tariff 33.

Table 5 - Household 1, Current annual bill (tariff 11 and 33)

Household 1 – Annual bill	
8510 kWh @ 18.843 cents (tariff 11) = \$1603	
\$7.25 a month service fee = \$87	
2990 kWh @ 11.319 cents for hot water (tariff 33) = \$338	
Total annual bill = \$2028	

‘Household 1’ has a smart meter installed and is reassigned to the TOU tariff. It is assumed that the smart meter installed has two elements so they continue to have access to a controlled load tariff for their hot water service, and the 2990 kWh they use per annum to heat water will continue to attract controlled load rates (tariff 33). For the purpose of illustrating the impact of the tariff reassignment, it is assumed that the remaining annual consumption of 8510 kWh occurs at the following times:

Consumption + tariff	Type of appliances
30% off-peak	<ul style="list-style-type: none"> • refrigeration • dishwasher over night • washing machine over night • some lighting • some appliances on stand-by
35% peak	<ul style="list-style-type: none"> • refrigeration • appliances such as the television and computers • stove for cooking • kitchen fan • lighting • some appliances on stand-by • air-conditioner
35% shoulder	<p>The shoulder time consumption would be similar to peak consumption.</p> <ul style="list-style-type: none"> • refrigeration • appliances such as the television and computers • stove for cooking • kitchen fan • lighting

⁶⁶ For a more detailed discussion on the impacts of single element smart meters, see Section 5.3.4 of *Background Paper – Customer Protections and Smart Meters, August 2009*.

	<ul style="list-style-type: none"> • some appliances on stand-by • air conditioner • washing machine on weekends
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The table below demonstrates that ‘Household 1’ would experience an estimated bill increase of \$86 per annum on the TOU tariff.

Table 6 - Household 1, Annual bill on a TOU tariff

Household 1 – Reassigned to a TOU tariff
2553 kWh off-peak @ 8.14 = \$208
2978.5 kWh peak @ 35.64 = \$1062
2978.5 kWh shoulder @ 14.08 = \$419
\$7.25 a month service fee = \$87
2990 kWh @ 11.319 cents for hot water (tariff 33) = \$338
Total annual bill = \$2114
Annual bill change: + \$86

The potential for ‘Household 1’ to reduce this price increase through demand response measures is very limited. The family spends a lot of time at home during the day on weekdays and the analysis has already assumed that the household is doing ‘the right thing’ by allocating most consumption deriving from running the dishwasher and the washing machine to off-peak consumption. If this family was not able to do laundry at off-peak and shoulder times, the annual bill increase would be even higher.

If a single element smart meter was installed the 2990 kWh used on the hot water service per annum would attract the TOU off-peak, shoulder and peak rate. Assuming that the hot water service is heating throughout the day the 2990 kWh can be proportionally allocated to the three tariff rates. That is 37% off-peak (1106.5 kWh), 45% shoulder (1345 kWh) and 18% peak (538 kWh). ‘Household 1’ would then experience significant price increases on a TOU tariff, the annual bill being \$219 more than it was on a flat rate.

Table 7 - Household 1, Annual TOU bill with single element smart meter

Household 1 – TOU without controlled load
3659.5 kWh off-peak @ 8.14 = \$298
3516.5 kWh peak @ 35.64 = \$1253
4323.5 kWh shoulder @ 14.08 = \$609
\$7.25 a month service fee = \$87
Total annual bill = \$2247
Annual bill change: + \$219

4.2.2 The Pensioner - Household 2

Hypothetical ‘Household 2’ comprises of an aged pensioner residing in a public housing unit in Brisbane. The dwelling is not connected to reticulated gas so it is an all-electric household. The unit has a 80 litres hot water system which does not take controlled load. The household uses 7500 kWh per annum. The customer receives an annual energy rebate from the Queensland Government of \$190 that is not included in the amounts presented below.

Table 8 - Household 2, Current annual bill (tariff 11)

Household 2 – Annual bill
7500 kWh @ 18.843 cents (tariff 11) = \$1413
\$7.25 a month service fee = \$87
Total annual bill = \$1500

‘Household 2’ has a smart meter installed and is reassigned to a TOU tariff. For the purpose of illustrating the impact of the tariff reassignment, it is assumed that the annual consumption of 7500 kWh occurs at the following times:

Consumption + tariff	Type of appliances
30% off-peak	<ul style="list-style-type: none"> • refrigeration • some lighting • some television • some appliances on stand-by • hot water service
35% peak	<ul style="list-style-type: none"> • refrigeration • air-conditioner • television • stove for cooking • some lighting • some appliances on stand-by • hot water service
35% shoulder	<ul style="list-style-type: none"> • refrigeration • air-conditioner • television • stove for cooking • lighting • washing machine • some appliances on stand-by • hot water service

The table below demonstrates that ‘Household 2’ would experience an estimated bill increase of \$62 per annum on the TOU tariff.

Table 9 - Household 2, Annual bill on a TOU tariff

Household 2 – Reassigned to a TOU tariff
2250 kWh off-peak @ 8.14 = \$183
2625 kWh peak @ 35.64 = \$936
2625 kWh shoulder @ 14.08 = \$369
\$7.25 a month service fee = \$87
Total annual bill = \$1575
Annual bill change: + \$75

4.2.3 The DINKs - Household 3⁶⁷

Hypothetical ‘Household 3’ comprises of a couple in their 30s without children. Both of them are employed in full time, day jobs. The dwelling is not connected to reticulated gas so it is an all-electric household. Their 250 litres hot water system uses 3650 kWh per annum and is allocated to off-peak controlled load tariff 31. They live in Townsville and use 8000 kWh per annum.

Table 10 - Household 3, Current annual bill (tariff 11 and 31)

Household 3 – Annual bill	
4350 kWh @ 18.843 cents (tariff 11) = \$820	
\$7.25 a month service fee = \$87	
3650 kWh @ 7.689 cents for off-peak water (tariff 31) = \$281	
Total annual bill = \$1188	

‘Household 3’ has a smart meter installed and is reassigned to a TOU tariff. It is assumed that the smart meter installed has two elements so they continue to have access to a controlled load tariff for their hot water service, and the 3650 kWh they use per annum to heat water will continue to attract off-peak rates (tariff 31). For the purpose of illustrating the impact of the tariff reassignment, it is assumed that the remaining annual consumption of 4350 kWh occurs at the following times:

Consumption + tariff	Type of appliances
20% off-peak	<ul style="list-style-type: none"> • refrigeration • occasional use of a dishwasher over night • some lighting • some appliances on stand-by
20% peak	<ul style="list-style-type: none"> • refrigeration • appliances such as the television and computers • stove for cooking dinner • some lighting • occasional use of washing machine • occasional use of air conditioner in the early evening • some appliances on stand-by
60% shoulder	<p>As they spend much more time at home on weekends compared to weekdays, most of their consumption attracts shoulder rates. This would include consumption for purposes listed above but with a much higher usage.</p> <ul style="list-style-type: none"> • refrigeration • appliances such as the television and computers • stove for cooking • lighting • washing machine • occasional use of a dishwasher • some appliances on stand-by • air conditioner

The table below demonstrates that ‘Household 3’ would experience an estimated bill decrease of \$72 per annum on the TOU tariff.

⁶⁷ DINK is an acronym that stands for ‘double income, no kids’.

Table 11 - Household 3, Annual bill on a TOU tariff

Household 3 – Reassigned to a TOU tariff
870 kWh off-peak @ 8.14 = \$71
870 kWh peak @ 35.64 = \$310
2610 kWh shoulder @ 14.08 = \$367
\$7.25 a month service fee = \$87
3650 kWh @ 7.689 cents for off-peak water (tariff 31) = \$281
Total annual bill = \$1116
Annual bill change: - \$72

‘Household 3’ has limited demand response potential as they are barely home during peak rate periods (and most of their peak time electricity needs are therefore paid by their employers). Controlled load for the hot water service, combined with the household occupants not being home during the day, means that the majority of this households’ consumption attracts shoulder rates.

If a single element smart meter was installed the 3650 kWh used on the hot water service per annum would attract off-peak TOU rate (assuming they would use a timer on their hot water system) and their annual bill would be \$1132.

Table 12 - Household 3, Annual TOU bill with single element smart meter

Household 3 – TOU tariff without controlled load
4520 kWh off-peak @ 8.14 = \$368
870 kWh peak @ 35.64 = \$310
2610 kWh shoulder @ 14.08 = \$367
\$7.25 a month service fee = \$87
Total annual bill = \$1132
Annual bill change: - \$56

4.3 Lifecycle changes

As discussed in section 2 above in relation to Early Termination Fees, the idea behind dynamic pricing is that customers assess their load profile and understand their consumption needs before signing on to a suitable offer. It is therefore crucial that customers can exit a contract if their circumstances change.⁶⁸ A customer would not be able to give explicit informed consent for any longer than the immediate future, and dynamic pricing contracts should therefore be evergreen contracts that the customer can assess the suitability of on an on-going basis.

‘Household 3’, for example, was assessed to be better off on a TOU tariff than a single rate tariff (by \$72 per annum) but as demonstrated by ‘Household 4’ below, this outcome could change significantly if they had a child. The overall increase in consumption would have a noticeable impact on both a single rate and a TOU tariff bill, but the increase in daytime (peak) consumption means that ‘Household 4’ is

⁶⁸ This is assuming that retailers will offer both TOU tariffs and single/flat rate tariffs. However, as discussed in section 4.6 below, there is no guarantee that retailers will generally offer flat rate tariffs post a mandated smart meter rollout. If the underlying network tariff is a TOU tariff, retailers may not want the risk associated with deviating from the underlying tariff shape.

worse off on a TOU tariff than a single rate.

Lifecycle changes such as children and retirement have major impacts on a household's energy consumption levels and patterns. Furthermore, unforeseen circumstances such as redundancy and illness may equally impact on a household's energy consumption and turn a TOU winner household into a TOU loser household overnight. It is therefore crucial that customers are able to switch from TOU to single rate just as easily as they can switch from single rate to TOU.

4.3.1 The young family - Household 4

'Household 3' had a baby and their assumed annual consumption increases by 1500 kWh, from 8000 kWh to 9500 kWh. The additional 1500 kWh in consumption is because the mother is now staying at home with her child during the day and they use the air conditioner in the afternoon when required. They have also purchased a dryer to make the large washing load more manageable. It has been assumed that their 250l hot water system is sufficient for all three so there is no increase to their controlled load.

Before the baby, their annual cost on a single rate tariff was \$1188. As illustrated in table 13 below, the single rate bill would be \$1470 with a baby in the house. That is an annual increase of \$282.

Table 13 - Household 4, Annual bill (tariff 11 and 31)

Household 4 – Annual bill
5850 kWh @ 18.843 cents (tariff 11) = \$1102
\$7.25 a month service fee = \$87
3650 kWh @ 7.689 cents for off-peak water (tariff 31) = \$281
Total annual bill = \$1470

If the household was on a TOU tariff however, their annual bill would have been \$1116 prior to the baby arriving. Of the annual consumption increase of 1500 kWh most of this has been allocated to peak times (1000 kWh) as the mother is now home with the baby on weekdays. Much of this increase is due to the use of air conditioning in the afternoon and early evening. They still try to make sure that most appliances, such as the washing machine and the dryer, are used at shoulder or off-peak times, so they now use 250 kWh per annum more at both off-peak and the shoulder times. Table 14 below shows that with a baby in the house their annual bill on a TOU tariff would be \$1529.

As demonstrated in section 4.2.3 above, 'Household 3' was \$72 better off on a TOU tariff compared to a single rate tariff. However, with a baby they would pay \$1529 per annum on a TOU tariff compared to \$1470 on a single rate tariff. That is an annual difference of \$59 and 'Household 4' would be looking to return to a single rate tariff if possible.

Table 14 - Household 4, Annual bill on a TOU tariff

Household 4 – Reassigned to a TOU tariff
1120 kWh off-peak @ 8.14 = \$92
1870 kWh peak @ 35.64 = \$666
2860 kWh shoulder @ 14.08 = \$403
\$7.25 a month service fee = \$87
3650 kWh @ 7.689 cents for off-peak water (tariff 31) = \$281
Total annual bill = \$1529
Annual bill change: + \$59

If a single element smart meter was installed the 3650 kWh used on the hot water service per annum would attract off-peak TOU rate (assuming they would use a timer on their hot water system) and their annual bill would be \$1544.

Table 15 - Household 4, Annual TOU bill with single element smart meter

Household 4 – TOU tariff without controlled load
4770 kWh off-peak @ 8.14 = \$388
1870 kWh peak @ 35.64 = \$666
2860 kWh shoulder @ 14.08 = \$403
\$7.25 a month service fee = \$87
Total annual bill = \$1544
Annual bill change: + \$74

4.4 Exclusion from market offers due to meter type

Because the network businesses own the meters and TOU tariff structures are linked to certain meter types, smart meter rollouts (both accelerated rollouts and rollouts based on a ‘new and replacement’ policy) can potentially create a barrier to retail competition.

In NSW, for example, where there is currently no mandated statewide rollout of smart meters, retailers’ have demonstrated an unwillingness to offer contracts to customers with a smart meter installed. This can create negative outcomes both for customers individually and the competitiveness of the retail market more broadly. Energy Australia is one of the largest electricity networks in Australia and its area includes considerable parts of Sydney and the Central Coast. Energy Australia also has a retail arm that is one of the three Standard Retail Suppliers operating in NSW. Understandably, Energy Australia retail is a business that offers customers TOU contracts as the Energy Australia network is the distribution business installing smart meters. While there is nothing stopping other retailers from offering TOU retail contracts and thus competing for Energy Australia’s retail customers within Energy Australia’s network, retailers choose not to because of the costs associated with new billing systems and other factors.

This could change if a critical mass of smart meters were installed but there is no guarantee such numbers will ever be reached. Regardless, it does reduce choice for households with smart meters, whether this is a temporary or permanent situation, and customers may be locked-in to retail contracts that are protected from normal competitive pressures.

In a submission to the MCE, the NSW Energy and Water Ombudsman (EWON) raised this issue:

Some customers have complained to EWON that following the installation by their distributor of a Type 5 meter at their premises, they have either been unable to transfer to a retailer of their choice, or their retailer of choice has cancelled their contract and transferred them back to their standard retailer. In both scenarios, the reasons appear to be that 2nd tier retailers do not have the capability in their billing systems to be able to bill the customer using TOU pricing.

One distributor has advised EWON that although their Type 5 meters are programmed to collect usage data across differently-priced time periods and they charge the retailer for such supply addresses network charges that align with these periods, the retailer is still able to charge the customer a flat tariff if they wish. However, EWON's experience is that 2nd tier retailers are not prepared to do this, as the retail tariffs they would need to offer the customer in order to make even a modest profit margin would not be competitive or attractive to the customer.⁶⁹

This situation may not be unique to NSW and Energy Australia's smart meter installations. If the Queensland Government decides to mandate a smart meter rollout, as is currently the case in Victoria, similar issues may arise. It is impossible to install smart meters in all households 'overnight', and a protracted rollout schedule may cause a temporary barrier to retail competition and thus disadvantage households receiving a smart meter in the early stage of a rollout. The Victorian rollout schedule, for example, stipulates that only 10% of meters must be installed by December 2010, and just 60% of the meters must be installed by June 2012. Nonetheless, there is a clear expectation that the distribution businesses will start reassigning households with smart meters installed to TOU network tariffs in 2010. Retailers, however, may want to wait until a critical mass of meters are rolled out before they offer TOU retail tariffs to avoid losing customers who prefer flat rates. Clearly a customer with an underlying TOU network tariff will pose greater risk to a retailer deciding not to pass the price signal through to the customer, and retailers are unlikely to actively compete for the households who have had smart meters installed. As the networks are rolling out meters area by area, the rollout schedule itself may temporarily stifle competition.

Unlike Victoria, the Queensland Government still regulates the tariffs for non-market offers. This could be a critical tool for the Government if they find that retailers are unwilling to upgrade billing systems and offer tariffs in line with the distribution businesses' tariff reassignments. As long as the QCA has the powers to determine both the price and the shape of the regulated tariffs, the Queensland Government will not have to merely rely on the market to ensure that suitable retail tariffs are offered, which is the situation the Victorian Government is currently finding itself in. The QCA is currently reviewing tariff structures and TOU pricing is one of the options they have sought stakeholder comments on. Section 5.1 below discusses the review

⁶⁹ EWON, *Submission to MCE discussion papers on Smart Meters Cost Benefit Analysis, Phase 1 – National Minimum Functionality*, November 2007

and the issue of consumer choice and TOU tariffs in more detail.

4.5 Potential TOU winners

Broadly speaking, the households most likely to financially benefit from a TOU pricing arrangement are those: with a higher overall consumption, with frequent use of appliances such as dishwashers and dryers (and willing and able to use these appliances over night), and whose members spend most weekdays at work or in educational institutions.

4.5.1 The high consumption family - Household 5

This is a family of four with two teenage children. Both parents are in full time employment (day time jobs). They live in Brisbane and the property has a 315 litre hot water service which uses 4000 kWh per annum. The hot water service attracts off-peak rate as it is allocated to tariff 31. The household consumes 16,000 kWh per annum.

Table 16 - Household 5, Current annual bill (tariff 11 and 31)

Household 5 – Annual bill	
12000 kWh @ 18.843 cents (tariff 11) =	\$2261
\$7.25 a month service fee =	\$87
4000 kWh @ 7.689 cents for off-peak water (tariff 31) =	\$308
Total annual bill =	\$2656

‘Household 5’ has a smart meter installed and is reassigned to a TOU tariff. It is assumed that the smart meter installed has two elements so they continue to have access to a controlled load tariff for their hot water service, the 4000 kWh they use per annum to heat water will continue to attract off-peak rates (tariff 31). For the purpose of illustrating the impact of the tariff reassignment, it is assumed that the remaining annual consumption of 12,000 kWh occurs at the following times:

Consumption + tariff	Type of appliances
20% off-peak	<ul style="list-style-type: none"> • refrigeration • daily use dishwasher over night • lighting • appliances on stand-by
20% peak	<ul style="list-style-type: none"> • refrigeration • some use of appliances such as the television and computers • stove for cooking dinner • lighting • some appliances on stand-by • air conditioner
60% shoulder	<p>The shoulder time consumption would be similar to peak consumption.</p> <ul style="list-style-type: none"> • refrigeration • all laundry (washing machine and dryer) • appliances such as the television and computers • stove for cooking most weekend meals • lighting • some appliances on stand-by • air-conditioner on weekends and in the evenings

Table 17 below demonstrates that the annual electricity bill for ‘Household 5’ on a TOU tariff is \$2459, that is \$197 less than the annual bill on a single rate tariff.

Table 17 - Household 5, Annual bill on a TOU tariff

Household 5 – Reassigned to a TOU tariff
2400 kWh off-peak @ 8.14 = \$195
2400 kWh peak @ 35.64 = \$855
7200 kWh shoulder @ 14.08 = \$1014
\$7.25 a month service fee = \$87
4000 kWh @ 7.689 cents for off-peak water (tariff 31) = \$308
Total annual electricity bill = \$2459
Annual bill change: - \$197

If a single element smart meter was installed the 4000 kWh used on the hot water service per annum would attract off-peak TOU rate (assuming they would use a timer on their hot water system). Now their annual bill would be only \$92 less on a TOU tariff.

Table 18 - Household 5, Annual TOU bill with single element smart meter

Household 5 – TOU tariff without controlled load
6400 kWh off-peak @ 8.14 = \$521
2400 kWh peak @ 35.64 = \$855
7200 kWh shoulder @ 14.08 = \$1014
\$7.25 a month service fee = \$87
Total annual electricity bill = \$2564
Annual bill change: - \$92

4.6 TOU tariffs and choice

A mandated rollout will in all likelihood result in distribution businesses reassigning their customers from single rate tariffs to TOU tariffs, and customers may not have a choice between a single rate and a TOU tariff. A recent submission by the SVDP to the MCE Standing Committee of Officials (SCO) argued:

In the case of a mandated roll-out of smart meters, distribution businesses will reassign households to TOU network tariffs (which is a fundamental reason for rolling out smart meters) and as the network component makes up approximately 50% of customers' bills, most retailers will reflect the shape of the network tariff in their retail offers. Hence, TOU offers may be something customers can opt out of in areas where there is sufficient competition, but it must not be regarded simply as an opt-in offer available to those who believe they can respond to price signal.⁷⁰

The average price impacts on households from a mandated rollout of smart meters would therefore be significantly different from an optional, targeted rollout such as the one currently taking place in NSW. An article in the Daily Telegraph in September 2009 quoted an Energy Australia spokesperson stating that the majority of customers on TOU tariffs pay less than they would on a single rate contract:

⁷⁰ St Vincent de Paul Society (SVDP) National Council, *Submission to the MCE SCO's Smart Meter Customer Protection and Safety Review – Draft Policy Paper One*, September 2009.

About 70 per cent of EA customers pay less than they would on traditional tariffs - an average of \$64 a year, offsetting the statewide price increase of up 22 per cent on July 1.⁷¹

It is crucial that government and policy makers are not ‘blinded’ by the positive numbers reported by Energy Australia. As most NSW households currently on TOU contracts have made a decision to take up an offer, it must be assumed that the TOU winners discussed above heavily skew the Energy Australia average figures. Currently less than 10% of NSW’s 2.7 million residential connections are on smart meter enabled TOU tariffs, and the vast majority of those households have accepted a TOU tariff because they believe it suits their consumption pattern and they will benefit financially.⁷²

If households with electricity consumption patterns similar to hypothetical ‘Household 5’ above already had smart meters installed they would be reaping the benefits from being on a TOU tariff to offset the significant price increases that took place on 1 July 2009. However, many households have consumption patterns similar to hypothetical households 1, 2 and 4 which means that a rollout of smart meters would create yet another price shock.

If the Queensland Government is contemplating a rollout of smart meters, it must ensure they have robust customer protections in place to mitigate the impact of price shocks (such as an increase in energy related financial hardship and disconnections due to an inability to pay) when a critical mass of residential connections has had smart meters installed.

4.7 Energy costs, price shock and household financial impact

4.7.1 Underlying increases in energy costs

There is little doubt that energy cost will continue to increase over the next few years. If the Queensland Government decides to mandate a rollout of smart meters, two significant cost components and their impact on households’ energy affordability must be taken into account:

First, the costs associated with the rollout of smart meters are envisaged to increase the average domestic electricity bill by \$80 per annum.⁷³ Such a price increase will disproportionately impact upon low-consumption households, within which low-income and other disadvantaged groups are over represented.

Second, households will have to contend with the cost associated with the introduction of the Carbon Pollution Reduction Scheme (CPRS). This is a major issue for Queensland households due to their base load electricity generation being

⁷¹ The Daily Telegraph, *Peak-hour power price hikes*, 19 September 2009 at

www.dailytelegraph.com.au/news/peak-hour-power-price-hikes/story-e6freuy9-1225776834499

⁷² Some NSW households have also had meters installed because it is a new dwelling or the old meter needed to be replaced (new and replacement) and some customers have of course inherited the meter because they have move to a dwelling where it has been installed. As above, the term smart meter is here used as a generic term for meters capable of measuring consumption in half hourly intervals and thus enabling TOU pricing.

⁷³ This estimate is based on the Victorian rollout. See *Background Paper – Customer Protections and Smart Meters*, Section 1.4

coal, combined with having a relatively high electricity consumption level due to a low penetration of natural gas. While it is difficult to predict the actual impact this will have on domestic energy accounts, some estimates suggest that this scheme will increase Queensland electricity bills in the order of \$230 per annum.⁷⁴

Considering both these factors, it is reasonable to suggest that if the Government decides to mandate a rollout of smart meters in Queensland, annual electricity bills for households may rise in the order of \$310 per annum (not including any increases due to tariff re-assignments).

4.7.2 Price shock

As discussed above, in addition to increases in underlying electricity costs the allocation of households from single rate tariffs to smart meter enabled TOU tariffs may also result in an overall increase in household electricity bills. The actual amount will of course vary depending upon the tariff structure, consumption patterns and the tariff the household is being reallocated from.

⁷⁴ This estimate is based on a carbon price of \$30 per tonne. Australian Conservation Foundation, ACOSS and Choice, *Energy and Equity – Preparing households for climate change: efficiency, equity, immediacy*, p 10.

Table 19 – All Hypothetical Households, Annual bill impact from tariff reassignment

Household No. 1 - 5	Annual bill - single rate tariff	Annual bill - TOU tariff	Difference in annual bill (\$)	Annual bill change (%)
1) The Sole Parent A stay at home single parent with two young children (one non-school age). All-electric household with hot water service using controlled load (tariff 33). Usage: 11,500 kWh per annum.	\$2028	\$2114	+ \$86	Up by 4%
2) The Pensioner Single pensioner and public housing tenant. Hot water system not suitable for controlled load. Usage 7500 kWh per annum.	\$1500	\$1562	+ \$75	Up by 5%
3) The DINKs A couple without children. Both are employed in full time, day jobs. All-electric household with hot water service attracting off-peak rate (tariff 31). Usage 8000 kWh per annum.	\$1188	\$1116	- \$72	Down by 6%
4) The young family A couple with one child. One parent is staying at home with the baby. All-electric household with hot water service attracting off-peak rate (tariff 31). Usage 9500 kWh per annum.	\$1470	\$1529	+ \$59	Up by 4%
5) The high consumption family A family of four with two teenage children. Both parents are employed in full time, day jobs. All-electric household with hot water service attracting off-peak rate (tariff 31). Usage 16,000 kWh per annum.	\$2656	\$2459	- \$197	Down by 7%

If the Queensland Government decides to mandate a rollout of smart meters to all domestic consumers, households can expect to pay \$80 per annum over a ten year period (based on the cost to consumers in Victoria). Revisiting the hypothetical households discussed above, that would effectively reduce the annual saving in electricity costs for ‘Household 5’ from \$197 to \$117 and, of more concern, it would increase the annual cost for ‘Household 1’ from \$86 to \$166, and ‘Household 2’ from \$75 to \$155.

Table 20 - Hypothetical ‘Households 1 – 5’, annual bill impact from tariff reassignment and rollout costs

Household No.	Impact of tariff reassignment only		Impact of tariff reassignment + rollout costs (\$80)	
	Difference in annual bill	Annual bill change (%)	Difference in annual bill	Total annual bill change(%)
1	+ \$86	4% increase	+ \$166	8% increase
2	+ \$75	5% increase	+ \$155	10% increase
3	- \$72	6% decrease	+ \$8	1% increase
4	+ \$59	4% increase	+ \$139	9% increase
5	- \$197	7% decrease	- \$117	4% decrease

4.8 Who are the losers and who are the winners?

The above analysis indicates that two factors may increase a household’s likelihood to benefit from TOU pricing:

- 1) *Households with above average electricity consumption.* As higher consumption households are more likely to have load that naturally attracts off-peak or shoulder rates as well as higher discretionary load. Low-volume households on the other hand have little discretionary load that they can shift to take advantage of low off-peak rates and they will therefore simply be hit by the price applied at the time of usage. Queensland does not currently have inclining block tariffs but if, however, consumers had the choice between an inclining block tariff (as opposed to a flat rate) and a TOU tariff, high consumption households may benefit further from a TOU tariff (because all consumption above a certain threshold attracts a significantly higher rate).
- 2) *Households without anyone at home during the day on weekdays.* People in full time employment during normal business hours can naturally avoid domestic consumption during a significant proportion of peak times. Their savings may not be great solely due to this, but they do avoid the higher rates many other households cannot.

Clearly the more of these characteristics a household has the more likely it is to benefit from TOU pricing, as illustrated with ‘Household 5’ above.

Pensioners, people with disabilities, and the unemployed are generally low-income households (and therefore likely to have lower consumption) but they do have a greater need to use electricity during the day. Furthermore, low-consumption households have less discretionary load and thus less ability to shift load to off-peak times. These households will simply ‘cop’ the higher daytime charge without being able to offset the increases by shifting usage to off-peak times. The high consumption (and generally higher income) households, however, will be severely penalised if they have high day time consumption but as high-income usually reflects employment, this can indicate that these households have a significant discretionary load and can make substantial savings if they are willing to shift load to off-peak times.

4.9 Energy costs and household income

Table 21 - Income per week by various household income types⁷⁵

	Mean income per week	Median income per week
Principal source of household income	\$	\$
ESTIMATES		
Wages and salaries	735	665
Own unincorporated business income	684	562
Government pensions and allowances	307	298
Other income	770	544
Total	644	563

Hypothetical ‘Household 2’ discussed in section 4.2.2 above comprises of an aged pensioner. Assuming that the household’s income reflects the median fortnightly income of \$596 for people receiving government pensions and allowances (as per table 21 above), it becomes clear that an annual electricity bill increase of 10% (due to rollout costs and impact of tariff reassignment) would have significant impact on the household budget.

Table 22 - Fortnightly income compared to quarterly bills for hypothetical ‘Household 2’

Hypothetical ‘Household 2’	Fortnightly income	Approx Quarterly Bill (TOU only)*	Approx Quarterly Bill (inc TOU + SM)**	Approx Quarterly Bill (inc TOU + SM + CPRS)***
	\$596	\$394	\$414	\$472
Quarterly bill TOU as % of fortnightly income		66%	69%	79%

*Estimated bills based on above analysis of ‘Household 2’ reassigned from single rate tariff to TOU tariff.

**TOU plus costs includes estimated additional annual costs of smart meter rollout (\$80).

*** TOU plus costs includes estimated additional annual costs of smart meter rollout (\$80) and estimated additional annual CPRS costs (\$230)

When a household is on a tight budget and a single electricity bill equates to 66 - 79% of fortnightly income, it is obvious that access to flexible payment arrangements is important. Extensions and payment plans are critical measures that can prevent households from spiraling into debt or being disconnected from supply. Furthermore, as TOU pricing will increase bill volatility, it will become increasingly important that households have access to this form of assistance. It is therefore crucial to recognise that payment plans must be available to everyone that needs one, and therefore not restricted to certain contracts or customers, such as those registered with a hardship program.

In addition, the Community Service Obligations (CSOs), such as concessions, would need to be adjusted to ensure that low-income and vulnerable households receive assistance to cope with rising base energy costs, as well as ensuring that the discounts

⁷⁵ ABS, Household Income and Income Distribution, Australia 2005-06, Table 5, *Income and Income distribution household characteristics of person*, 2 August 2007. Note that these income figures are equivalised disposable household income.

available are tailored to the new tariffs and new types of assistance requirements. Applying the current energy rebate worth approximately \$48 per quarterly bill to ‘Household 2’ brings this pensioner’s quarterly electricity bill on a TOU tariff down to \$346 from \$394. However, that still means that a single electricity bill equates to 58% of the pensioner’s fortnightly income.

Although some customers may not be on TOU contracts themselves, smart metering technology is likely to impact on all retail offers as the interval data provides retailers with an opportunity to introduce more cost reflective pricing. If ‘user pays’ is the basic principle applied to cost reflective pricing, we can assume that contracts *without* a TOU price component will be regarded as higher risk to retailers and subsequently more expensive for the customer.

5. Queensland specific matters and customer assistance measures

5.1 Queensland review of electricity pricing and tariff structures

In June 2009, the Queensland Government directed the Queensland Competition Authority (QCA) to review electricity pricing and tariff structures with the aim of having a new retail electricity pricing framework in place by the commencement of the 2010-11 tariff year. The review will conclude with a report from the QCA to the Government on 30 November 2009.⁷⁶

Stage 2 of this review focuses on an assessment of alternative tariff structures that:

- Support cost reflective tariffs
- Encourage more efficient use of electricity

In undertaking this assessment the QCA is, amongst other issues, required to consider the impact new tariff structures will have on various classes of consumers, and the merits of, and issues associated with, time of use pricing.

In its Draft Report the QCA stated:

With the wider availability of interval (or smart) meters, customers who can shift their consumption from peak periods to off-peak periods, and who are sensitive to price, are likely to benefit most from a time-of-use pricing structure.⁷⁷

Whilst this is generally speaking correct, this brief statement fails to consider that many of the most price sensitive customers are also those who are not able to shift demand. This was an issue raised by several stakeholders in submissions to the QCA leading up to the Draft Report.

Ergon Energy pointed out that customers unlikely to benefit from TOU pricing should have the option to access flat tariff structures.

Ergon Energy also recognises customers who have no (or limited) discretionary loads, or have no ability to take advantage of a controlled load tariff (for example customers in class 2 dwellings) who only have access to single (and shared) metering at the premises) could be adversely impacted by time-of-use tariffs. Therefore, Ergon Energy considers such customer should have the option of accessing other tariff structures, which still provide for appropriate signals as to the costs of their electricity usage.⁷⁸

Some of the retailer submissions however, argued that allowing customers who are disadvantaged by TOU pricing to opt-out and access a flat tariff arrangement would defeat the purpose of TOU pricing in the first place.

⁷⁶ The QCA released a Draft Report in November 2009 after considering submissions to their Request for Comments Paper.

⁷⁷ QCA, *Review of Electricity Pricing and Tariff Structures - Stage 2*, Draft Report, November 2009, p 17.

⁷⁸ Ergon Energy, *Review of Electricity Pricing and Tariff Structures - Stage 2, Request for Comments Paper - Submission*, October 2009, p 19.

Origin was one of the retailers strongly opposing consumer choice in regards to TOU tariffs.

Importantly, the introduction of time-of-use metering and pricing has to be accompanied by reform in the overall regulatory framework if it is to achieve its objectives. What must be avoided are regulatory arrangements that allow, for instance, a customer who has a high peak demand (and therefore imposes high costs), to remain on a flat tariff because that is cheaper to them. To do so, defeats the whole purpose of the exercise. However, in the alternative, these same customers are likely to face significant price changes.⁷⁹

AGL expressed a similar view, stating that flat network tariffs should be closed to customers with an interval/smart meter installed.

TOU pricing is a more effective signal than inclining block structures to encourage customers (who are price sensitive) to shift the timing of their consumption. A residential TOU tariff can only be introduced if there is a corresponding network tariff. Consideration should be given to closing the flat residential and business tariffs to new customers who have TOU meters and to existing customers who move to premises that have a TOU meter.⁸⁰

Consumer representatives argued for a cautious approach to TOU pricing. The view of the Queensland Council of Social Service (QCOSS) is that it is premature for the QCA to consider introducing TOU tariffs at this stage as there is a shortage of reliable evidence in terms of the costs and benefits TOU tariff structures bring to the market and households. Similarly the Queensland Consumer Association stated:

We do not support the provision of time of use metering until all trials have been completed and we have been able to study an independent benefit cost assessment of time of use metering and associated changes to tariffs.⁸¹

Furthermore, QCOSS expressed a strong view that a notified TOU tariff would have to be voluntary and that customers must be able to return to a flat tariff without facing penalty fees.

If a TOU tariff is provided for in the notified tariffs, the voluntary nature of this tariff must be ensured by imposing an obligation on retailers to offer a flat rate tariff if requested regardless of whether the customer has an interval meter.⁸²

As discussed in section 4.4 above, consumer issues pertaining to tariff choice are applicable to both accelerated mandated rollouts, as currently taking place in Victoria, and rollouts based on a ‘new and replacement’ approach.

⁷⁹ Origin *Submission to the Queensland Competition Authority on its Request for Comments Paper: Review of Electricity Pricing and Tariff Structures - Stage 2*, October 2009, p 13.

⁸⁰ AGL *Submission to the Queensland Competition Authority: Review of Electricity Pricing and Tariff Structures, Stage 2 - Request for Comments Paper*, October 2009, p 16.

⁸¹ Queensland Consumer Association, *Submission on QCA's Request for Comments Paper - Review of Electricity Pricing and Tariff Structures – Stage 2*, September 2009.

⁸² QCOSS *Submission, Request for Comments: Review of Electricity Pricing and Tariff Structures – Stage 2*, October 2009.

Presently, Ergon only has a few meters with TOU capability installed while Energex has approximately 200,000 installed in South East Queensland (equivalent to 10% of small customer meters) that can easily be programmed to read TOU data instead of the accumulation data they currently collect.⁸³

Key issues for the QCA, and ultimately the Queensland Government, to consider are: Should all small customers have a choice in terms of tariff structures? And, if so, what is the likely cost impact on the flat tariff structure likely to be?

Regulatory arrangements could ensure that customers have access to both flat and TOU regulated tariffs (both network and retail). By doing so, Queensland would avoid issues currently affecting NSW electricity consumers, where the meter type simply dictates the network tariff structure and the existence of alternative retail tariff offers is left to the market to sort out. Consequently, customers who either choose to have a TOU meter installed, move in to a new property or inherit a TOU meter when moving homes, are unable to access a flat retail tariff because competing retailers choose not to offer market offers where the underlying network tariff is based on a TOU structure.

5.1.1 Scenario 1: Consumers choose tariff structure

Assuming that the Queensland Government decided that TOU tariffs should be introduced but that small customers must be able to choose between tariff structures:

- ⇒ The Queensland Competition Authority would determine a regulated flat tariff (i.e. tariff 11) as well as a regulated three-part TOU tariff at the commencement of each tariff year.
- ⇒ A household of the view that they benefit from TOU pricing would request a TOU retail tariff from its financially responsible retailer.
- ⇒ The retailer would inform the relevant network business about the tariff requested by the customer and hence the type of meter data (accumulation or TOU) required for that customer.
- ⇒ The network would be required to place the customer on the corresponding network tariff structure (flat or TOU).
- ⇒ If the customer initially chose a TOU tariff but changes his/her mind (due to changes in consumption patterns or just because they made the wrong decision in the first place) they can switch from a TOU tariff to a flat tariff by notifying the retailer.⁸⁴

This scenario would ensure customer choice but it may also pose some broader challenges, which ultimately impact on customers and electricity prices.

⁸³ Energex, *Response to Queensland Competition Authority: Review of Electricity Pricing and Tariff Structures, Stage 2 - Request for Comments Paper*, October 2009, p 16.

⁸⁴ The customer would still be required to follow the notification processes as stipulated in the Standard Retail Contract.

First, as tariff choice overrides meter type installed at the premises, it could be difficult to ensure widespread access to TOU tariffs. Currently in NSW, Energy Australia installs a meter with TOU capabilities at premises where the customer requests a TOU tariff. However, if the regulatory arrangements stipulated that Energy Australia had to offer a flat network tariff to customers with a TOU meter if they requested so, Energy Australia may not have the business case to install these meters to households free of charge. Clearly, tariff choice would be less real if the customer has to pay for having a meter with TOU capabilities installed in order to access the regulated TOU tariff offer.

If, however, widespread access to various regulated tariff structures is not regarded as essential, the choice between flat and TOU tariffs could apply only to households where a meter with TOU capabilities is already installed (as part of a ‘new and replacement’ policy). If so, approximately 10% of customers in the Energex network area would immediately be able to choose between the two tariff structures. However 200,000 customers is a relatively low number and it is questionable whether the benefits would outweigh the costs of introducing such an arrangement at this stage. Furthermore, if the Queensland Government decided to mandate a smart meter rollout it would be important to assess the likely take-up rates of TOU tariffs, as well as the relationship between the take-up rate and mandating a rollout in terms of costs and benefits.

Second, if only customers who can reduce their overall bill are on a TOU tariff and everyone else is on a flat rate tariff, the flat rate may increase to off-set the reduction in revenue made from TOU customers. Although TOU pricing is supposed to be cost reflective pricing, it would be difficult to achieve enough demand response from a voluntary TOU tariff to defer network augmentation. Hence the networks would need to recuperate the loss in revenue from other customers (e.g. those on a flat tariff rate).

5.1.2 Scenario 2: Meter type determines tariff structure

Assuming that the Queensland Government decided that the demand response benefits of TOU pricing justify the introduction of a regulated TOU tariff:

- ⇒ The networks would be allowed to reassign customers to a TOU network tariff where meters with TOU capability are installed. Under this scenario the meter type dictates the network tariff and the uniform/regulated retail tariff.
- ⇒ The customer would not be able to request a flat regulated tariff if he/she is on a TOU network tariff.
- ⇒ In theory, retailers could continue to offer flat rate market contracts and market them to customers who do not want to be on TOU contracts. However, as the underlying network tariff would be a TOU tariff, retailers may be reluctant to take on the additional risk associated with offering a flat rate to a TOU customer.
- ⇒ If a retailer decided to take on the additional risk it is reasonable to presume that they would price the market contracts accordingly and customers would therefore have the choice between a TOU contract and a flat rate contract with a risk premium.

⇒ Either way, households using a large proportion of their total electricity consumption at peak times, and who can ill-afford additional price increases, would see the cost of electricity go up.

This scenario would make TOU tariffs mainstream, as it would be the only regulated tariff available to households with TOU meters installed. However, by introducing arrangements that only allow customers to opt-out from TOU offers where (and if) competitive offers are available, the Queensland Government would also have to be prepared to assist and compensate low-income households as TOU tariffs will make electricity more unaffordable for many.

From an energy affordability point of view, TOU pricing will penalise many households that can ill-afford price increases. If the Government decides to introduce such pricing structures due to broader market benefits, it must be clear about the impact it will have on households and develop and introduce policies and regulation to mitigate against these impacts before the new tariffs take effect.

5.2 Queensland Electricity Concessions

Eligible pensioners and seniors receive a rebate on their electricity bill valued at \$190 per annum.⁸⁵ Healthcare card holders currently do not receive any discounts on their electricity bills in Queensland.

On the basis of recent price increases and the expectation that electricity prices will continue to rise due to underlying cost pressures and climate change policies, the Queensland Government needs to immediately review and expand its concessions. Furthermore, if the Government decides to rollout smart meters and introduce TOU pricing, an extensive restructuring of the concession program would be necessary to ensure energy affordability. As demonstrated in section 4 above: TOU pricing, additional meter costs and the CPRS may make electricity unaffordable for most government benefit recipients.

Firstly, the Queensland Government should introduce a percentage based discount rather than a fixed daily amount. A percentage-based rebate ensures that the rebate is proportional to a household's electricity expenses, while automatically ensuring that the rebate increases when prices go up. Furthermore, as percentage-based rebates mean that the jurisdictional government's expenditure increases as costs go up, the arrangement can provide an incentive for governments to implement other policies that can help reduce households' electricity bills. The Queensland Government should conduct a thorough consultation on what percentage discount should be provided to eligible households in order to improve energy affordability.⁸⁶

⁸⁵ The concession is calculated as a daily rebate of 52 cents to a maximum of \$190. For more information on the Electricity Rebate see

<http://www.communityservices.qld.gov.au/community/concessions/brochure/stategovt/electricity.html>

⁸⁶ Victoria currently has a percentage based Winter Energy Concession (WEC) of 17.5% but there are significant differences between Victoria and Queensland in terms of climate (winter vs. summer consumption needs), electricity consumption levels (dual fuel vs. single fuel households), access to other concessions (e.g. gas usage and fixed charge) and it is therefore unlikely that a percentage discount appropriate to one jurisdiction is appropriate for another.

Secondly, eligibility must be extended to all concession and healthcare card holders. Households eligible for a Commonwealth concession or health care card have been assessed to be low-income and in need of government assistance. Increased energy costs to households, combined with the essential nature of the service, means that the Government must utilise a range of tools to ensure that households continue to have access to supply. One critical measure that can improve energy affordability is to offer discounts to those already identified as low-income households by the Commonwealth Government.

Recommendation 47:

That the Queensland Government extends eligibility for the Electricity Rebate to all Health Care Card holders and restructures the rebate model to a percentage based arrangement.

5.2.1 Summer consumption

Unlike many other jurisdictions, the Queensland Government is currently not providing a concession to electricity consumers with a medical condition that causes heat intolerance. Medical conditions such as MS makes households more dependant on air conditioning and these households therefore use air conditioners more frequently and for longer periods than the average household.⁸⁷ The MS Society is currently campaigning for a medical cooling concession based on an extensive survey suggesting that people with MS have their air conditioners on almost 15 times as much as a typical household, and the cost associated with keeping cool is estimated to be 10 times that of the average Australian household.⁸⁸ For Queensland the survey found that respondents use air conditioning for an average total of just under 1700 hours from September to April.⁸⁹ These households are already significantly financially disadvantaged by the necessity to cool their homes due to medical heat intolerance and TOU pricing would increase the cost further for many, mounting the risk of energy related financial hardship and/or under-consumption. The Queensland Government should therefore immediately introduce a meaningful and effective medical cooling concession to low-income households where one of its members has a medical condition that causes heat intolerance.

As the aim of TOU tariffs is to make pricing more cost reflective, the price of daytime summer electricity may increase significantly. It is therefore critical that the Government monitors the impact TOU pricing may have on summer peak-prices for domestic consumers and commit to assist those in need if significant increases occur. As the elderly, and others exposed to health risks on hot days, must be able to cool their homes during these times, the Queensland Government should commit to monitoring summer prices and extend access to a medical cooling concession to those at risk of health implications if unable to cool their homes appropriately during the summer months.

⁸⁷ Other medical conditions that can cause a significant heat problem include cerebral palsy, chronic fatigue, fibromyalgia, lymph oedema, motor neurone disease, muscular dystrophy, parkinson's disease, poliomyelitis and post polio syndrome, quadriplegia, scleroderma, systemic lupus and erythematosus.

⁸⁸ Summers, M and R Simmons, *Keeping Cool Survey: Air Conditioner Use by Australians with MS, Public Policy Related Results and Recommendations*, MS Australia, 2009.

⁸⁹ Ibid, Figure 11, p 18.

Recommendation 48:

The Queensland Government introduces a Medical Cooling Concession available to all concession card holders with a medical condition that causes significant heat intolerance.

Recommendation 49:

The Queensland Government should commit to monitoring summer prices and extend access to cooling concessions to those at risk of health implications if unable to cool their homes appropriately during the summer months.

5.3 Non-tariff charges (retail)

In relation to additional retail fees and charges for standard contracts and market contracts, the Electricity Industry Code states:

- (a) In addition to charges for electricity consumption, a *retail entity* may impose other fees and charges on a *small customer* relating to the provision of *customer retail services*:
- (i) under a *negotiated retail contract*, whether or not the imposition of that fee or charge is expressly provided for in this *Code*; and
 - (ii) under a *standard retail contract*, only where the imposition of that fee or charge is expressly provided for in the *notified prices*.
- (b) In a *negotiated retail contract*, the amount of any such fee or charge must be fair and reasonable having regard to related costs incurred by the *retail entity*.⁹⁰

As such, the Electricity Industry Code does not prevent retailers from applying Late Payment Fees (LPFs) to Standard Retail Contracts. However, retailers are only allowed to apply a LPF if permitted in the notified prices. Currently the notified prices do not allow for LPFs.

At present, retailers are allowed to impose the following three maximum retail fees and charges to Standard Retail Contracts:⁹¹

- \$30 for providing historical billing data that is more than two years old.
- \$10 in retailer administration fee for dishonoured payments.
- A financial institution fee for dishonoured payments (at no more than the fee incurred by the retailer).

Queensland market contracts can include fees for early termination (ETFs) of contract and late payment (LPFs). While the Electricity Industry Code requires fees to be fair and reasonable, and to have regard to related costs incurred by the retailer, the LPFs and ETFs can vary significantly. For example, AGL's LPF is \$14 while Origin charges \$8.80. AGL's ETF is \$75 in the first 12 months while Origin's is \$44.⁹²

Other fees and charges applied to market contracts include payment processing fees (for customers paying by credit card), dishonoured payment fees (for cheques and direct debit), debt collection fees, interest on late payments and, maybe most

⁹⁰ The Electricity Industry Code, Clause 4.13.5.

⁹¹ Queensland Government Gazette, No. 41Vol. 351, 9 June 2009 at

www.dme.qld.gov.au/zone_files/Electricity/09.06.09_-_5B41%5D_extra_gazette.pdf

⁹² These are just examples of fees attached to current market offers. Both AGL and Origin may have other offers that do not attract these fees or the fee amounts are different to the examples used here.

surprisingly, account establishment fees. According to Origin energy's website:

An account establishment fee may apply per fuel if you transfer to us from another retailer or if you are signing up to take a fuel for the first time. If you are required to pay such a fee, that obligation and the amount of the fee will be set out in your Agreement Schedule or will be advised to you in writing prior to the time you become liable for the fee.

As argued in section 2.13 above, an account establishment fee is preferred to an Early Termination Fee as it is in theory more difficult to market an offer that includes an up front fee compared to a fee applied to customers wishing to exit a contract down the track. It is therefore quite astonishing that Market Contracts in Queensland can include both sign-up fees and exit fees. This existence of 'fee double dipping' could arguably indicate that the Queensland retail electricity market lacks effective competition and/or that retailers are able to slam consumers with additional fees due to the inadequate consumer information and awareness. This is an issue the QCA should investigate.

The use of late payment fees (LPFs) as a penalty for customers not paying their bills by the due date is an unnecessary and immoral practice when applied to essential services. The Consumer Action Law Centre investigated the practice of late payment fees in detail in their 2005 report titled 'Do the poor pay more?' The report stated that:

The usual justification for the inclusion in a telecommunications consumer contract of a term imposing late payment fees is that such fees encourage those customers who choose to pay late to instead pay on time. For example, Telstra's National Credit Manager told the Victorian Essential Services Commission that 'the imposition of [late payment] fees since 2000 has been partially responsible for more customers paying on time.'⁹³

The report, however, argued that there is no unequivocal evidence for this claim and there are no studies available to support the claim that late payment fees act as an incentive for customers to pay on time. The report explained:⁹⁴

Low-income households do not choose to pay late, rather they pay late because they do not always have the capacity to pay on time. For example, a single mother in rural Victoria told the CLCV Survey: "If you can't afford the bill, how do you afford the late fee? I'd sacrifice the weekly grocery budget, but electricity is more important than the phone".

In 2004 the Victorian Government introduced legislation that prohibited the use of late payment fees for standing offer contracts. By banning late payment fees (as well as incentive based discounts) on standing offer contracts, the Victorian Government basically developed an incentive based, as opposed to penalty based, framework for

⁹³ Reference to Essential Services Commission, Final Decision: Review of Electricity and Gas Retail Codes – Energy Retail Code, May 2004, p 13 in Consumer Law Centre Victoria (now Consumer Action Law Centre), *Do the poor pay more?* January 2005, p 46.

⁹⁴ Consumer Law Centre Victoria (now Consumer Action Law Centre), *Do the poor pay more?* January 2005, p 46.

Victorian retail contracts.⁹⁵ Retailers have not introduced late payment fees for market offers as it would be difficult to ‘market’ an offer with penalties attached to its contract terms and conditions when other offers do not contain them. Rather, many retailers operating in Victoria offer discounts for customers on market offers who pay their bills by the due date as an incentive and marketing tool.

Recommendation 50:

That the Queensland Government requests the QCA to investigate the use of account establishment fees in combination with early termination fees for Market Contracts to establish whether improved consumer information and awareness about contract fees and charges (i.e. disclosure of contract terms and conditions) could be used to curtail the current practice of ‘fee double dipping’.

Recommendation 51:

That the Queensland Government introduces a ban on the use of late payment fees on Standard Retail Contracts and increases the transparency and information about other fees applied to market offers.

Recommendation 52:

The NERL should prohibit the use of late payment fees for standard retail contracts (SRCs).

5.4 Wrongful disconnection payment

The Electricity Industry Code (Clause 2.5.3) stipulates the requirements for when a distributor must make a wrongful disconnection payment (WDP) to a small customer. The obligation focuses on the Guaranteed Service Level (GSL) payment of \$100 that wrongfully disconnected customers are eligible for due to distributor error but it also includes a provision for retailer error where the retailer did not provide a disconnection notice in accordance with the Code (Clause 4.18 stipulates the requirements for retailers’ disconnection procedures).⁹⁶

- (a) If a distribution entity wrongfully disconnects a small customer, then that customer is eligible for a GSL payment of \$100 from the distribution entity.
- (b) A distribution entity wrongfully disconnects a small customer when:
 - (i) it was not entitled to do so under electricity legislation or the connection contract with that customer;
 - (ii) it fails to comply with the procedures for disconnection required of the distribution entity under the connection contract with that customer; or
 - (iii) it disconnects the customer at the request of a retail entity and:
 - (A) the wrong premises is disconnected due to an error in the retail entity’s request; or
 - (B) the retail entity does not give the customer a disconnection warning (where required under clause 4.18) at least five business days before the disconnection occurs.

⁹⁵ The prohibition on fees for late payment is stipulated in the Section 40C of the Electricity Industry Act 2000 and 48B of the Gas Industry Act 2001.

⁹⁶ A co-ordination agreement stipulates the distributor’s right to recover the payment from the retailer when the error was the fault of the retailer.

To avoid doubt, a GSL payment is not payable where a retail entity does not comply with any other disconnection procedures under clause 4.18.⁹⁷

In order to ensure that the WDP acts as an effective incentive for industry to implement adequate disconnection procedures, two changes should be made to the Queensland WDP arrangements. Firstly, a capped amount of \$100 for each wrongful disconnection is unlikely to provide sufficient incentive for retailers to improve their procedures. It also fails to reflect the degree of inconvenience experienced by the affected customers. A GSL payment for each day the customer remains disconnected however would provide retailers with an incentive to discover and rectify a disconnection error as well as improving their procedures to avoid wrongful disconnections in the first place. Secondly, the WDP should apply to all disconnection cases where the retailer has not complied with Clause 4.18 rather than the current arrangement that only applies to the disconnection warning. Clause 4.18 includes many important provisions for retailers' disconnection procedures and the WDP should apply to all instances where a retailer disconnects a customer without complying with the Code.

Recommendation 53:

That the Queensland Government change the Wrongful Disconnection Payment by:

- Replacing the capped amount with an amount for each day the customer remains disconnected.
- Extending the wrongful disconnection definition to all of the provisions for the retailers' disconnection procedures set out in the Electricity Industry Code (Clause 4.18).

Recommendation 54:

Part 6, Division 2 of the NERR should include a Wrongful Disconnection Payment in order to provide the retailers with an incentive to undertake all the steps necessary, and as required by the NERR, prior to disconnecting a customer.

5.5 Electricity Billing Code

Since September 2008, electricity retailers have been required to make GSL payments to customers that have paid for a bill containing a 'material error'. The Electricity (Retail Billing Guaranteed Service Level Scheme) Code defines a bill error of \$0.40 or more as a material error. If a customer has paid a bill that contains an error of less than \$10, the retailer must apply a \$15 GSL rebate to the customer's next bill. If the error is \$10 or more the customer is entitled to a \$40 rebate.

The Queensland Government introduced the Billing Code to promote consumer confidence in the billing processes and thus confidence in the competitive electricity market.

⁹⁷ Queensland Electricity Industry Code, Clause 2.5.3.

Performance data published by the QCA shows a significant reduction in billing error claims since the Code took effect on 19 September 2008.

Table 23 - GSL payments for billing errors⁹⁸

Reporting period	Number of claims	Total value of paid rebates
19 Sept – 31 Dec 2008	1780	\$63,270
1 Jan – 31 March 2009	854	\$30,965
1 April – 30 June 2009	347	\$12,260

These results demonstrate the effective role GSL payments can play in providing industry with an incentive to improve their business processes. The Victorian wrongful disconnection payment (WDP) proved to be equally effective in improving regulatory compliance with disconnection procedures in Victoria. As argued in section 5.4 above, the NECF should include a WDP provision but it is also important that the NECF provides the AER with a mandate to introduce GSL payments if needed. GSL payments are effective tools to rectify industry performance and/or compliance issues, and the AER should have the ability to introduce them.

Recommendation 55:

That the NECF stipulates that the AER has a mandate to assess the need for GSLs and to introduce new GSL payments as a tool to rectify industry performance and/or compliance issues with detrimental consumer impact.

5.6 Hardship policies

There is currently no obligation for retailers to develop hardship policies or programmes to assist customers facing payment difficulties in Queensland. Retailer hardship policies approved by the Minister or the relevant regulator can play a crucial role in ensuring that important principles, standards and community expectations for the supply of an essential service are delivered on by industry. Hardship policies should be built on the principle that disconnection from supply only occurs as a last resort and not solely due to an inability to pay, and the understanding that retailers have a responsibility to work with their customers and assist them in managing their present and future energy costs. It is also important that customers' ability to access hardship policies is transparent and equitable. The Queensland Government is lagging behind other states when it comes to realising the importance of hardship policies as well as articulating an industry responsibility to assist households for the purpose of having a continuous access to an essential service.

Furthermore, it is vital to be aware of the important distinction between universally available consumer protections and hardship policy provisions. The 1st Exposure Draft of the NECF distinctly lacks universal protections and has instead sought to make many basic protections into provisions available to customers registered under retailers' hardship programs. Such an approach creates a significant barrier to households with temporary payment difficulties and may result in a completely unnecessary increase in disconnections and debt spiralling activity. Basic protections such as the right to access a payment plan must be available to all energy consumers requesting one.

⁹⁸ Sources: Queensland Competition Authority, *Billing Code – Retailers' Performance 19 September – December 2008*, *Billing Code – Retailers' Performance March Quarter 2009* and *Billing Code – Retailers' Performance June Quarter 2009*.

The Queensland Government, through its role on the MCE, must seek to strengthen the customer protections in the NECF to ensure that Queensland households receive the protections and the assistance they need in order to stay connected to supply when price increases occur in the future.

Recommendation 56:

Division 9 of the NERL should include a requirement on the AER to develop national hardship policy guidelines and empower the AER to approve retailers' hardship policies according to these guidelines.

Recommendation 57:

That the Queensland Government does not sign off on the NECF before universal customer protections are incorporated into the framework. This entails an obligation on retailers to provide universal access to payment plans and information on energy conservation and energy consumption.

6. Concluding remarks: Queensland framework vs. NECF

The Queensland Government knows the impact of poor industry practises and energy price increases on households, and this is why the Government has introduced several new measures over the last few years to improve industry behaviour and outcomes for domestic consumers. The aim of initiatives such as the Wrongful Disconnection Payment and the Billing Code have been to provide industry with an incentive to improve their processes, and to provide a payment to customers as a way of recognising the inconvenience caused by their poor performance.

The current Queensland Government has frequently expressed strong support for energy consumers. It has stated that electricity must be affordable to all, and actively encouraged customers to switch supplier if the company's service performance is poor or prices go up (for market contracts). A fairly typical example of statements provided by the Minister for Energy is:

“The bottom line is that we're on the side of the consumer and we will continue to look after the interests of everyday Queenslanders, especially people who are doing it tough”.⁹⁹

Queensland is committed to the National Energy Market (NEM) reform and it is assumed that the Queensland Government will adopt the National Energy Customer Framework (NECF) at an early stage, meaning that the NECF replaces all (or at least most) of the customer protections currently embedded in the Queensland regulation. It is therefore crucial that the Queensland Government, if it aims to continue to be on the consumers' side, ensures that the protections embedded in the NECF are adequate to guarantee that Queenslanders continue to have access to affordable energy, and that the industry will perform in line with what the Government and households expects from companies supplying an essential service.

The customer protections currently embedded in Queensland's regulatory framework are quite different to those proposed in the 1st Exposure Draft of the NECF. A particular concern to the Queensland Minister for Energy ought to be the shift from universal access to protections (such as access to payment plans) currently embedded in the Electricity Industry Code, to a model that limits access and assistance to those the retailers deem are in financial hardship. Such arrangements place a lot of trust in the companies' processes. The recent experience in Queensland has been that retailers struggle to perform adequately even in relation to core business processes such as billing, and it would therefore be unwise to trust retailers to adequately identify all customers in need of flexible payment arrangements and/or instalment plans. Limiting access to these types of basic consumer protections can have a detrimental impact on energy related hardship and disconnection levels.

Queensland has already experienced significant increases in electricity costs and the Government has sought to mitigate the impact on households through increases to the Electricity Rebate for eligible pensioners and seniors. However, as there is general agreement that prices will continue to rise due to a CPRS and other cost pressures, the

⁹⁹ Queensland Minister for Energy, *Minister outraged by retailer's actions*, Media Statement, 22 January 2009.

Queensland Minister for Energy would be ill advised to support a national customer protection framework such as the one presented in the 1st Exposure Draft. The Queensland Government is committed to further trials of smart meters and has requested the QCA to investigate potential new tariff structures – including TOU pricing. Furthermore, the MCE has agreed to a process for assessing the effectiveness of competition for the purpose of phasing out retail price regulation in jurisdictions where effective retail competition is demonstrated.¹⁰⁰ In July 2009 Ministers directed the AEMC to continue its reviews of the effectiveness of competition in jurisdictions and to consider the Queensland energy retail market in 2012.¹⁰¹

Retail market changes such as removing the notified tariff and the introduction of TOU pricing would make a solid customer protection framework crucial for Queensland households. The NECF Exposure Draft is out of sync with Queensland energy reform policies and NEM developments. As it stands, it is a customer protection framework for ‘yesterday’s energy markets’, but the Queensland Minister for Energy has the opportunity to ensure that households have access to the assistance and the protections they need when the MCE next meets in December 2009.

¹⁰⁰ Australian Energy Market Agreement’s (AEMA) Clause 14.11.

¹⁰¹ Ministerial Council on Energy, Communiqué, Darwin, 10 July 2009.

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**Appendix 1: Summary of recommendations
National Energy Customer Framework (Section 2)**

#	Where?	Issue	Recommendations	Action/ Change
Framework				
1	N/A	<u>Smart metering provisions in the NECF</u> The 1 st Exposure Draft of the NECF does not address SMI related issues in regards to the retailer-customer relationship, the distributor-customer relationship nor the distributor-retailer relationship. This report has identified numerous issues SMI creates for these three relationships and therefore recommend changes to the NERL, NERR and some of the NERR Schedules. As customers connected to SMI will require specific provisions in the Rules (as with customers connected to prepayment meter systems) a new and separate SMI Part of the NERR is required.	<u>Recommendation # 1</u> That the Retail Policy Working Group develops a separate SMI Part to be inserted into the NERR and incorporate the many SMI provisions recommended below.	RPWG/ NERR
Definitions				
2	N/A	<u>Smart Meter Infrastructure (SMI)</u> The national program is currently known as National Smart Meter Project (NSMP) and the Victorian smart metering program is known as the Advanced Metering Infrastructure (AMI) Program, the NECF needs to use a consistent and nationally recognised definition of this metering infrastructure. Smart Meter Infrastructure (SMI) is an appropriate term as it refers to both the smart meter and the communications technology - which enables many of the functionalities associated with the meters.	<u>Recommendation # 2</u> The NERL and the NERR must contain Smart Meter Infrastructure (SMI) definitions.	NERL/ NERR
3	N/A	<u>Time of Use tariffs and retail contracts</u> It appears to be an assumption in the NECF that time varying prices, such as time of use tariffs, will only be applied to Market Retail Contracts (MRC). However, as retail tariffs tend to reflect the shape of network tariffs, time of use pricing will most likely apply to Standard Retail Contracts (SRC) as well.	<u>Recommendation # 3</u> The NECF must clarify what tariff shapes are expected to be available on a Standard Retail Contract.	NECF
4	N/A	<u>Customers with SMI vs. customers on SMI enabled retail contracts</u> A Dynamic Pricing Contract (DPC) means a customer retail contract where the tariffs are based on smart meter enabled time of use pricing. This would also include contracts using Critical Peak Pricing (CPP). A Direct Load Control Contract (DLCC) means a customer retail contract where the contract includes load control of appliances by the retailer enabled through SMI and as agreed between the customer and the retailer. As such, all customers on a DPC or DLCC will automatically be regarded as SMI	<u>Recommendation # 4</u> Definitions in NERL 103 must reflect that a Smart Meter Infrastructure (SMI) connection is where a customer has a smart meter that is connected to smart meter functionalities as defined by metering type installations under the National Electricity Rules and AEMO's Metrology Procedures. In relation to contract types, a SMI connection is necessary in order to be on a Dynamic Pricing Contract or a Direct Load Control Contract: A Dynamic Pricing Contract (DPC) means a customer retail contract where the tariffs are based on smart	NERL 103

		connections but not all SMI customers will be on DPC or DLCC.	meter enabled time of use pricing. This would also include contracts using Critical Peak Pricing (CPP). A Direct Load Control Contract (DLCC) means a customer retail contract where the contract includes load control of appliances by the retailer enabled through SMI and as agreed between the customer and the retailer. As such, all customers on a DPC or DLCC will automatically be regarded as SMI connections but not all SMI customers will be on DPC or DLCC.	
5	NERL Division 3 & 4	<u>The Standing Offer & tariff shape</u> A mandated rollout of smart meters means that every domestic customer will have the same meter type. Furthermore, the new, universal meter type means that single rate and two-rate tariffs may no longer be the basic network tariff underlying standing and market offers. As such, it is necessary to identify a new approach to standardising the standing offer tariff shape. Tariff shape is separate from price setting and contract terms and conditions. However, a standardised shape is essential to ensure that the standing offer is the basic, standard, comparable offer as intended.	<u>Recommendation # 5</u> The NERL must clearly stipulate the intention of the Standing Offer and specify how the shape of the standing offer is determined and, subject to the nature of this clarification: -The NERR should stipulate that all standing offers must adhere to the underlying network tariff shape; or -The SMI Part of the NERR should include a provision stipulating that the tariff shape of the standing offer must adhere to the underlying network tariff shape.	NERL Division 3 & 4 & NERR or SMI Part of NERR
6	N/A	<u>Load control (HAN and supply capacity control)</u> The NERL/NERR must address who can use the load control functionalities associated with SMI and for what purpose. Supply capacity control and load limiting via the meter are system management tools and therefore only to be used by the distribution businesses to manage their networks. Retailers should not have access to this functionality as they do not have a business case to restrict supply except for using supply limiting as a credit or debt management tool to the detriment of consumers. Retailers should have access to load control via the HAN in order to develop new retail products that utilise the direct load control of appliances.	<u>Recommendation # 6</u> To ensure that domestic customers are protected from the introduction of punitive, demand limiting tariffs, the following clarifications and arrangements need to be inserted into the SMI Part of the NERR and reflected in the NERL: Appliance management, utilising the HAN to restrict and control load of specific appliances, is a product that can be offered by retailers. The Rules should further obligate retailers to ensure that the HAN enabled appliance management contracts do not cause detriment to appliances, and that health and safety standards are met. This would include issues such as careful consideration prior to placing customers with medical cooling needs on contracts with DLC of air conditioners. Supply capacity control and load management via the meter are system management tools and only distributors should be able to load restrict households in order to manage demand on their system for the purpose of ensuring security of supply. System management and load management via the meter are thus not	NERL & SMI Part of NERR

			retail products.	
		Billing		
7	NERR 213	<u>Billing cycle - frequency</u> There should be a minimum three months billing cycle for customers on dynamic pricing contracts. Furthermore, billing cycles longer than three months may increase the occurrence of payment difficulties due to the bill volatility customers on dynamic pricing contracts will be exposed to.	<u>Recommendation # 7</u> That the SMI Part of the NERR includes a <i>frequency of bill provision</i> that stipulates that retailers must issue bills to a customer on a dynamic pricing contract at least once every 3 months.	SMI Part of NERR
8	N/A	<u>Dynamic pricing & bill smoothing</u> As a dynamic retail tariff implies that the customer is charged according to energy consumed at specific times, bill smoothing arrangements should not be applied to dynamic tariffs.	<u>Recommendation # 8</u> That the SMI Part of the NERR includes a <i>bill smoothing provision</i> that stipulates that bill smoothing arrangements cannot be applied to dynamic pricing contracts.	SMI Part of NERR
9	NERR 212	<u>Bill smoothing and undercharging</u> As SMI provides retailers with daily meter reads, retailers should be required to assess the amount of energy a customer on a bill smoothing contract consumes every three months (rather than the six month requirement proposed for customers not connected to SMI).	<u>Recommendation # 9</u> The SMI Part of the NERR should include a <i>bill smoothing provision</i> that requires retailers to re-estimate the consumption of a customer on a bill smoothing arrangement after 3 months and issue the customer with a new billing amount if there is a difference between the initial estimate and the re-estimate of greater than 10% (taking relevant seasonal factors into account).	SMI Part of NERR
10	NERR 215(1)	<u>Payment of bill – SRC</u> It is important that customers have a minimum of 12 business days to pay a bill upon <i>receiving</i> it. This ensures that people on fortnightly incomes, including pensioners and people receiving social security payments, always have one pay cycle plus two days to arrange payment.	<u>Recommendation # 10</u> That the NER Rule 215 (1) is amended to state that: ‘The pay-by date for a bill must not be less than 15 business days from the date on which the retailer sends the bill’.	NERR 215(1)
11	NERR 215(3)	<u>Payment of bill – MRC</u> Customers on dynamic pricing contracts should have the same minimum timeline to pay their initial bill – this will reduce the risk of an increase in hardship cases. Furthermore, it means that customers on low and/or fixed income who believe they would be financially better off on a dynamic pricing contract are able to take up these offers without risking the implications of shorter pay timelines.	<u>Recommendation # 11</u> That the NER Rule 215 (3) is amended to state that: ‘This rule applies in relation to market retail contracts’.	NERR 215(3)
12	NERR 214	<u>Form and content of bill</u> Due to the increased complexity of bills made up of dynamic or time varying tariffs, we believe the AER needs to develop a separate guideline for bills and information on bills to be applied to smart meter enabled dynamic pricing contracts.	<u>Recommendation # 12</u> That section 239 of the NEL is amended to require the AER to develop guidelines for information on bills for dynamic pricing contracts in addition to the development of ‘AER Pricing Information Guidelines’ as outlined in the Law. These separate ‘AER Bill Information Guidelines’ should address and specify requirements for dynamic pricing contracts in relation to NER Rule 214: (f) tariff and charges applicable to the	NEL 239 & NERR 214

12	NERR 214	<p><u>Form and content of bill</u> Due to the increased complexity of bills made up of dynamic or time varying tariffs, we believe the AER needs to develop a separate guideline for bills and information on bills to be applied to smart meter enabled dynamic pricing contracts.</p>	<p><u>Recommendation # 12</u> That section 239 of the NEL is amended to require the AER to develop guidelines for information on bills for dynamic pricing contracts in addition to the development of 'AER Pricing Information Guidelines' as outlined in the Law. These separate 'AER Bill Information Guidelines' should address and specify requirements for dynamic pricing contracts in relation to NER Rule 214: (f) tariff and charges applicable to the customer; (g) the basis on which tariffs and charges are calculated; and (d) details of consumption or estimated consumption of energy.</p>	NEL 239 & NERR 214
13	NERR 214(o)	<p><u>Bill reference to information tools</u> The Rule requires bills to have 'reference to any government funded energy charge rebate, concession or relief scheme'. This sub-rule would benefit from including 'relevant consumer information tools'. This addition means that the regulator can more easily require retailers to include references on their bills to important consumer information tools funded by the government. An example is an AER website containing important consumer information about tariffs and energy offers deemed important to increase consumer awareness in a deregulated retail market.</p>	<p><u>Recommendation # 13</u> That NER Rule 214(o) is amended to state: 'reference to any available government funded or provided energy charge rebate, concession, relief scheme or relevant consumer information tools'.</p>	NERR 214(o)
14	N/A	<p><u>Billing for other goods and services</u> Retailers may find new opportunities to supply customers with other goods and services in relation to SMI. In-home displays and appliances that can be linked to DLC are some obvious examples.</p>	<p><u>Recommendation #14</u> That the SMI Part of the NERR include a <i>billing provision</i> similar to Rule 818 in relation to prepayment systems, requiring retailers to separately bill for other goods and services and recover those payments separately from the cost of supplying energy.</p>	SMI Part of NERR
15	N/A	<p><u>Lost data</u> The NERR should address situations where meter data is lost (for whatever reason). As meter data will be collected several times a day there is very low risk to industry if the rule prevents them from including consumption data from a time period when data was lost for a customer. The inclusion of such a rule will ensure consumer confidence in the meter reading arrangements.</p>	<p><u>Recommendation # 15</u> That the SMI Part of the NERR should include a <i>billing provision</i> stipulating that a retailer issuing a bill must not include any consumption from a time period for which data was lost for that customer.</p>	SMI Part of NERR
Payment difficulties				
16	Part 3 of NERR	<p><u>Access to payment plans</u> The notion that a customer has to be classified as a hardship customer by the retailer in order to receive basic assistance such as a payment plan is ill conceived and may increase the occurrence of temporary hardship cases significantly. Payment plans must be universally available to all customers in need of one.</p>	<p><u>Recommendation # 16</u> That NER Rule 302 and Rule 222 (1) and (3) are amended to ensure that all customers have easy access to affordable payment plans.</p>	NERR 302 & 222

18	N/A	<p><u>Substituted data</u> Smart meter systems will create some new challenges in regards to the use of substituted data, as the use of small amounts of substituted data may occur more frequently. The basic principle that should apply is that the customer is informed about the use of substituted data. However, there is legitimate concern about the potential volume of customer enquiries such an arrangement could produce.</p>	<p><u>Recommendation # 18</u> That the AER reviews the guidelines in relation to substituted data in the AEMO Metrology Procedure, and that the SMI Part of the NERR reflects the outcomes of this review.</p> <p>Furthermore, the AER should develop a system wide reporting framework on the use of substituted data. Collecting and reporting on the use of substituted data by each of the retailer and distribution businesses.</p>	AER & SMI Part of NERR
Product requirements				
19	N/A	<p><u>Guidelines for DLC products</u> Retailers offering direct load control contracts (DLCC) should be subject to specific product requirements. These requirements should specify maximum thresholds in relation to duration, frequency and scope.</p> <p>-The duration threshold would specify a limit for how long a retailer can cycle or control an appliance at the time.</p> <p>-The frequency threshold would specify a limit for how often a retailer can cycle or control an appliance.</p> <p>-The scope threshold would specify a limit for how much load the retailer can control within a household (e.g. maximum number of appliances that can be controlled).</p>	<p><u>Recommendation # 19</u> The AER should be requested to review DLC product requirements and its decision should be reflected in the SMI Part of the NERR <i>product requirement provisions</i>.</p>	AER & SMI Part of NERR
System testing				
20	NERR 218	<p><u>Bill enquiries & system testing</u> SMI enabled dynamic pricing contracts will make customers' bills more complex and thus more difficult to understand. It is therefore crucial that processes are in place to allow customers to query and review bills in a transparent, affordable, accurate and efficient manner.</p>	<p><u>Recommendation # 20</u> That the AER undertakes a review into customer access to data processing checks and meter tests under SMI with the aim of developing guidelines for transitional and ongoing arrangements. And that the SMI Part of the NERR should include <i>system testing provisions</i> with reference to separate AER guidelines.</p>	AER & SMI Part of NERR
Undercharging				
21	NERR 219	<p><u>Remote reads and undercharging</u> SMI will provide retailers with daily reads of every customer's consumption and retailers should therefore be significantly better equipped to avoid undercharging scenarios than they are with today's manual meter reads.</p>	<p><u>Recommendation # 21</u> That the SMI Part of the NERR includes an <i>undercharging provision</i> stating that a retailer cannot recover undercharged amounts for longer than 3 months prior to notifying the customer.</p>	SMI Part of NERR
Disconnection and reconnection				
22	NERL 103	<p><u>De-energisation Vs. disconnection</u> SMI and associated functionalities create new possibilities in terms of limiting customers' electricity supply. The NERL and NERR therefore need new definitions and clarification in relation to what disconnection (de-energisation) entails.</p>	<p><u>Recommendation # 22</u> NERL Clause 103 must be redefined to separately address both de-energisation and disconnection activities.</p>	NERL 103

23	N/A	<u>Wrongful disconnection payment</u> As remote disconnections make the process more expedient and impersonal, and thus create a health and safety risk to customers, a Wrongful Disconnection Payment (WDP) should be in place to ensure that retailers have an incentive to improve their processes and minimise disconnection errors.	<u>Recommendation # 23</u> That Part 6, Division 2 of the NERR in regards to <i>retailer-initiated de-energisation of premises</i> includes a <i>wrongful disconnection payment provision</i> in order to provide the retailers with an incentive to undertake all the steps necessary, and as required by the Rules, prior to disconnecting a customer.	Part 6 of NERR
24	N/A	<u>Two notification attempts</u> As remote disconnections make the process more expedient and impersonal, and thus create a health and safety risk to customers, retailers should be required to make two notification attempts during the 24 hours leading up to a disconnection (using two different notification processes).	<u>Recommendation # 24</u> That the SMI Part of the NERR includes a <i>disconnection provision</i> stipulating that a retailer must make two notification attempts during the 24 hour period prior to requesting the distributor to remotely disconnect the customer's premises.	SMI Part of NERR
25	N/A	<u>Special needs register</u> The life support equipment register should be broadened to include households with medical and health issues ('special needs') that increase their dependency on energy as a way of minimising the health and safety risk associated with remote disconnection.	<u>Recommendation # 25</u> That the relevant definitions and rules in the NERR (Rule 103 and Part 7) are amended to broaden the definition of households with life support equipment to households with special needs (due to health and medical conditions).	NERR 103 and NERR Part 7
26	NERR 616	<u>Connect/disconnect charges</u> As the remote connection/ disconnection functionality will remove the cost of disconnecting and reconnecting customers, those connected to SMI should not have to pay additional charges for these distribution services.	<u>Recommendation # 26</u> That the SMI Part of the NERR should include a <i>disconnection provision</i> stating that SMI customers cannot incur an additional charge for disconnections and reconnections.	SMI Part of NERR
Termination				
27	NERR 235	<u>Customer notice</u> The NERR requires a customer to give the retailer 20 business days notice prior to termination taking effect. Remotely read meters will make the transfer process more efficient and the termination notice requirement should therefore reflect: - The notice requirement on retailers to inform customers about a tariff/price change. - The cooling-off period.	<u>Recommendation # 27</u> That the SMI Part of NERR should include a <i>termination notice provision</i> stipulating that a term or condition of a market contract has no effect to the extent that it requires a customer to give more than <i>12 business days</i> notice to terminate the contract. The retail transfer codes and procedures should be amended to reflect this timeline when the relevant customer is connected to SMI.	SMI Part of NERR
28	NERR 236	<u>Cooling-off period</u> As SMI enabled dynamic pricing structures are likely to increase the complexity of market offers, the right to cancel contracts and the importance of assessing the offer in detail within 10 business days should be made more obvious to customers signing on to market offers.	<u>Recommendation # 28</u> That NER Rule 236 is amended to state that the 10 day cooling off period should not commence until the customer has received the contract and that customers should be given a prescribed form explaining their cooling off rights before the cooling off period starts.	NERR 236
29	NERR 234 (1)	<u>Vacating a supply address</u> The obligation of SRC customers vacating their premises to continue to pay for energy consumed at the premises (as well as the fixed charge) for a	<u>Recommendation # 29</u> That the SMI Part of the NERR should include a <i>termination provision</i> stipulating that a SRC terminates on the earliest 1 business day	SMI Part of NERR

29	NERR 234 (1)	<p><u>Vacating a supply address</u> The obligation of SRC customers vacating their premises to continue to pay for energy consumed at the premises (as well as the fixed charge) for a minimum of 5 business days after giving the retailer notice is unjustified in an SMI environment where retailers can order a special read.</p>	<p><u>Recommendation # 29</u> That the SMI Part of the NERR should include a <i>termination provision</i> stipulating that a SRC terminates on the earliest 1 business day commencing upon receipt by the retailer of a termination notice (even if the customer has vacated the premises earlier).</p>	SMI Part of NERR
Additional retail charges				
30	NERR 235	<p><u>Early termination fees</u> Early termination fees create an additional challenge for dynamic pricing contracts. The idea behind dynamic pricing is that customers assess their load profile and understand their consumption needs before signing on to a suitable offer. Life cycle changes and unforeseen circumstances (such as illness) can significantly change a household's consumption pattern and it is therefore crucial that customers can exit a contract if their circumstances change.</p> <p>A customer would not be able to give explicit informed consent for any longer than the immediate future and dynamic pricing contracts should therefore be evergreen contracts that the customer can assess the suitability of on an on-going basis.</p>	<p><u>Recommendation # 30</u> That the SMI Part of the NERR includes an <i>early termination fee provision</i> stating that a retailer cannot apply an early termination fee to dynamic pricing contracts.</p>	SMI Part of NERR
Tariff variations & re-assignments				
31	N/A	<p><u>Notification to customers (SRC)</u> The MCE SCO did consider whether 'there should be a requirement to notify standard retail contract customers of a change to the standard retail contract in advance of the change taking effect' but came to the conclusion that the 'benefit was likely to be less than the costs to retailers of providing the advance notice to individual customers'.</p> <p>Assuming that the customers on Standard Retail Contracts are those with the least knowledge of energy offers and tariff rates in the first place, it will be crucial that these customers are properly informed of tariff variations and that they are directed towards information sources that help them compare and assess electricity offers. If the vast majority of customers are on market contracts it will be more difficult to inform Standard Retail Contract customers of significant price increases or tariff changes through the media, and this group could become a forgotten and significantly disadvantaged customer group. Furthermore, the cost associated with</p>	<p><u>Recommendation # 31</u> That the AER monitors the developments with the aim to amend NERL 205 to require retailers to inform customers on Standard Retail Contracts directly about any tariff variations if the number of customers on this contract type is significantly reduced.</p>	AER

32	N/A	<p><u>Notification to customers (MRC)</u> In a competitive market, retailers should be required to notify their customers about any tariff/price change before it takes effect. Moreover, the notification period for tariff variation should reflect the notification period customers are required to provide retailers in order to terminate a contract.</p>	<p><u>Recommendation # 32</u> That the NERL is amended to require retailers to notify Market Retail Contract customers directly about any price or tariff variation prior to the variation taking effect, and that the number of days notice cannot be less than the number of days notice required by the customer to terminate the contract.</p>	NERL 239
33	N/A	<p><u>Notification about network tariff re-assignment</u> In relation to network tariff re-assignment, the customer notification process is somewhat more challenging. The retailer has the contractual relationship with the customer while the distribution business determines the network tariff. Ultimately however, the retailer decides whether to pass through the network tariff to the customers or not. That said, the network tariff shape usually dictates the retail tariff shape as it creates too much risk for the retailer to deviate from the network's tariff shape.</p> <p>Nonetheless, arrangements must be in place to ensure that the customer is notified of any tariff change (resulting from network re-assignment or retail tariff change) in advance.</p>	<p><u>Recommendation # 33</u> That the NERR Schedule 3 – Retail Support Terms and Conditions (Clause 4.7) should address the responsibilities of retailers and distributors in relation to notifying each other, as well as the customer, of any tariff reassignment.</p>	NERR Schedule 3
Hardship				
34	N/A	<p><u>Hardship & contract termination</u> As dynamic pricing contracts increase volatility, and the customer's consumption pattern will have significant impact on the bill, any customer deemed to experience payment difficulties should have the opportunity to immediately terminate a dynamic pricing contract without incurring an early termination fee (or other additional charges) and enter into a new contract with a non-dynamic tariff structure.</p>	<p><u>Recommendation # 34</u> That the SMI Part of the NERR includes <i>hardship provisions</i> that stipulate that hardship customers on dynamic pricing contracts must be offered the opportunity to immediately change to a non-dynamic pricing contract without incurring any penalty fees.</p>	SMI Part of NERR
Special needs				
35	NERR 703 & 704	<p><u>Dynamic pricing contracts & special needs</u> By using a broader definition such as 'special needs' rather than 'life support equipment', a special needs register can ensure that households with health issues which make them especially dependent on energy supply are included in the register. Such a register would be valuable to distribution businesses and retailers' ability to deliver duty of care in relation to suitability of energy products (such as DLC and CPP) and prior to conducting remote disconnections for non-payment.</p> <p>Customers with specific reliance on electricity for health and medical purposes can be included in the register based on criteria such as medical certificates and/or access to particular concessions (i.e. the Medical Cooling Concession).</p>	<p><u>Recommendation # 35</u> That the relevant definitions and rules in the NERR are amended to broaden the definition of households with 'life support equipment' to households with 'special needs' (due to health and medical conditions).</p>	NERR 103 and NERR Part 7

35	NERR 703 & 704	<p><u>Dynamic pricing contracts & special needs</u> By using a broader definition such as ‘special needs’ rather than ‘life support equipment’, a special needs register can ensure that households with health issues which make them especially dependent on energy supply are included in the register. Such a register would be valuable to distribution businesses and retailers’ ability to deliver duty of care in relation to suitability of energy products (such as DLC and CPP) and prior to conducting remote disconnections for non-payment.</p> <p>Customers with specific reliance on electricity for health and medical purposes can be included in the register based on criteria such as medical certificates and/or access to particular concessions (i.e. the Medical Cooling Concession).</p>	<p><u>Recommendation # 35</u> That the relevant definitions and rules in the NERR are amended to broaden the definition of households with ‘life support equipment’ to households with ‘special needs’ (due to health and medical conditions).</p>	NERR 103 and NERR Part 7
Information provision				
36	N/A	<p><u>Variance between network and retailer tariff shapes</u> Because DPC and DLCC are new and complex retail products to customers, retailers offering these products should be required to provide the prospective customer with additional information in order to ensure that explicit informed consent is obtained.</p> <p>One particular issue that needs to be disclosed at marketing stage is offers with variance between network and retail tariff shape. Retailers can seek to maximise their profits by ensuring that a significant proportion of the household consumption does not attract off-peak rates.</p> <p>A competitive market with informed consumers should in theory make such gaming by retailers more difficult and an obligation to disclose of any variance between network and retail tariff shape, at marketing stage, will improve transparency and increase customer awareness.</p>	<p><u>Recommendation # 36</u> The SMI Part of the NERR should include an <i>information provision</i> stipulating that a retailer must disclose, at marketing stage, any variance between the network and the retailer’s tariff shape.</p>	SMI Part of NERR
37	NERR 404	<p><u>Meter & infrastructure information</u> As the distribution businesses own the meters and have been made the responsible party for the rollout of SMI by the MCE, the distributors should be required to inform customers about the meter type connected to a customer’s premises and its associated infrastructure and functionalities.</p>	<p><u>Recommendation # 37</u> That the NER Rules 404 and 410 are amended to include an obligation for distribution businesses to inform customers about the customer’s meter type, metering infrastructure and associated functionalities on request and at no cost to the customer.</p>	NERR 404 & 410
38	NERR 206	<p><u>Website reference to move-in customers</u> The NERR states that the distributor must inform ‘move-in’ customers that they may have the ability to choose their retailer and that a list of retailers is available from the AER’s website.</p> <p>The reference to an AER website could prove to be an important step to ensure that</p>	<p><u>Recommendation # 38</u> That the AER develops a comprehensive one-stop shop for consumer information on energy and that the NERR ensures that retailers and distributors inform customers about the website as appropriate.</p>	AER & NERR

Customer consultation				
40	N/A	<p><u>SMI Customer Consultation Group</u> SMI will enable a range of new retail products and dynamic pricing contracts however, as only a few customer response trials have been conducted, there is limited knowledge about the customer impacts these products will have.</p> <p>The Draft NERR requires retailers offering prepayment contracts to establish a Prepayment Meter Customer Consultation Group (Rule 821) and a similar requirement of retailers offering smart meter enabled products, such as DPC and DLCC, would ensure that information about the customer impacts of smart meter enabled retail products are collected, assessed and publicly available.</p>	<p><u>Recommendation # 40</u> That the SMI Part of the NERR includes a <i>customer consultation provision</i> similar to that of Rule 821 for prepayment systems, stipulating that:</p> <p>A retailer that offers smart meter enabled retail products, including dynamic pricing contracts, must establish a Smart Meter Customer Consultation Group with membership drawn from customers that have entered such contracts and consumer groups operating within the jurisdiction in which the retailer carries on business.</p> <p>The retailer must provide on its website detailed information about the meetings and activities of the retailer's Smart Meter Customer Consultation Group.</p> <p>The retailer must ensure that the Smart Meter Consultation Group continues in existence for a minimum of 3 years.</p>	SMI Part of NERR
Marketing				
41	NEM R 7	<p><u>Record keeping</u> As the HAN functionality in the SMI enables the retailers to communicate to customers via an IHD or a web based account, the record keeping requirements for marketing activities should be extended to cover all electronic and HAN based communications.</p>	<p><u>Recommendation # 41</u> That a sub-rule addressing the issue of HAN enabled and electronic communications should be added to Rule 7 of the NEMR addressing record keeping requirements.</p>	NEMR 7

Economic Regulation (Section 3)

Cost allocation	
<p>If the government wishes to reduce the price impact of a mandated rollout on low-income households, it should direct the AER to utilise pricing principles. That would enable the AER to request networks to allocate the costs associated with the rollout (or a proportion thereof) to consumption above a certain threshold only. On average, low-income households use 10-15% less energy than the rest of the population, so a cost allocation threshold would be an effective way to quarantine many low-income households from the cost of the rollout (or parts thereof).</p>	<p><u>Recommendation # 42</u> That the MCE directs the AER to investigate the potential for using pricing principles to allocate SMI costs in an equitable manner – meaning that those most likely to benefit from the rollout pay a proportionately higher cost.</p>
<p>If the distribution businesses are allowed to allocate the SMI costs to the prescribed metering charge the retailers may argue that they can pass through the cost to consumers in whatever way they wish. This could have significant equity implications and result in the obfuscation of the cost of SMI to consumers.</p>	<p><u>Recommendation # 43</u> The AER should undertake a review of the impacts of how and where SMI costs are allocated with the aim of identifying an equitable, fair and transparent approach for allocating SMI costs to consumers.</p>
Bills and cost allocation	
<p>If pricing principles are not applied and the cost of SMI can be incorporated into the fixed charge, the cost of SMI should be itemised on the bills for four reasons:</p> <ul style="list-style-type: none"> - As a mandated rollout is a government initiative and a significant cost to consumers, it is important that the costs to consumers are made transparent. - The SMI project has set timelines and consumers should expect the additional line item to change or be removed upon completion. It is also important that this cost item provide a benchmark for consumers if metering services become competitive post the rollout. - Because a key objective of rolling out SMI is to improve price signals and elicit demand response - ‘hiding’ further costs under the fixed charge component would be counter-intuitive. - It is important that consumers become aware of the rollout to increase interest and understanding of what SMI enabled tariffs will mean for their consumption patterns and bills. Itemising the SMI costs on electricity bills could be an effective way to ensure interest in a public education campaign. 	<p><u>Recommendation # 44</u> SMI project/rollout costs should be a line item on customers’ electricity bills.</p>
Pass through of benefits	
<p>The majority of the cost of rolling out SMI will occur up-front and this poses some risks in relation to the pass through of benefits to consumers. If not all the available benefits are accrued, it will result in less avoided costs than assumed and subsequently less savings to be passed on to consumers who already have paid for the infrastructure.</p>	<p><u>Recommendation # 45</u> To mitigate this risk the AER should monitor the benefits as they accrue (i.e. on an annual basis) and provide a public assessment report to the NSW Government on the benefit status. The Government, in co-operation with the AER, should seek to actively ensure that maximum benefits are achieved.</p>
<p>There is significant risk that the benefits are not accurately and/or promptly passed through to consumers. The typical 5 year regulatory period is unlikely to deliver satisfactory outcomes and will most likely allow the distribution businesses to gather windfall gains.</p>	<p><u>Recommendation # 46</u> That the regulatory framework for SMI be adjusted to ensure that the operational benefits are accounted for and passed through to consumers on an annual basis.</p>

Queensland specific matters and customer assistance measures (Section 5)

Issue	Recommendation
Energy concessions	
<p>The analysis undertaken in Section 4 of this report shows that the re-assignment of households from single rate tariffs to TOU tariffs may result in a significant increase in household electricity bills (not factoring in any demand response).</p> <p>The magnitude of the increase will depend on the TOU tariff structure, the household's consumption pattern and the type of tariff the household was on prior to reallocation to TOU. However, for people home during the day (using peak rate electricity) the cost increases are likely to be significant. As discussed in section 4 of this report, in addition to increases caused by tariff re-assignment, the cost of the rollout itself and other Government initiatives, such as the CPRS, may add another \$310 to an average Queensland electricity bill.</p>	<p><u>Recommendation # 47</u> That the Queensland Government extends eligibility for the Electricity Rebate to all Healthcare Card holders and restructures the rebate model to a percentage based arrangement.</p>
Summer consumption & prices	
<p>Medical conditions such as MS makes households more dependant on air conditioning and these households therefore use air conditioners more frequently and for longer periods than the average household. A survey conducted by the MS Society suggests that people with MS have their air conditioners on almost 15 times as much as a typical household, and the cost associated with keeping cool is estimated to be 10 times that of the average Australian household.</p>	<p><u>Recommendation # 48</u> The Queensland Government introduces a Medical Cooling Concession available to all concession card holders with a medical condition that causes significant heat intolerance.</p>
<p>As the aim of TOU tariffs is to make the pricing more cost reflective, we can expect to see the price of daytime summer electricity (times of peak demand) increase significantly.</p>	<p><u>Recommendation # 49</u> The Queensland Government should commit to monitoring summer prices and extend access to cooling concessions to those at risk of health implications if unable to cool their homes appropriately during the summer months.</p>
Non-tariff charges (retail)	
<p>Some Queensland Market Contracts contain both sign-up fees (account establishment fees) and exit fees. This existence of 'fee double dipping' could arguably indicate that the Queensland retail electricity market lacks effective competition and/or that retailers are able to slam consumers with additional fees due to the inadequate consumer information and awareness.</p>	<p><u>Recommendation # 50</u> That the Queensland Government requests the QCA to investigate the use of account establishment fees in combination with early termination fees for Market Contracts to establish whether improved consumer information and awareness about contract fees and charges (i.e. disclosure of contract terms and conditions) could be used to curtail the current practice of 'fee double dipping'.</p>
<p>The use of late payment fees as a penalty for customers not paying their bills by the due date is an unnecessary and immoral practice when applied to essential services.</p> <p>By banning late payment fees (as well as incentive based discounts) on standing offer contracts in 2004, the Victorian Government basically developed an incentive based, as opposed to penalty based, framework for retail contracts. Although allowed, retailers have not introduced late payment fees for market offers as it would be difficult to 'market' an offer with penalties attached to its contract terms and conditions when other offers do not contain them. Rather, many retailers operating in Victoria offer discounts for customers on market offers who pay their bills by the due date as an incentive and marketing tool.</p>	<p><u>Recommendation # 51</u> That the Queensland Government introduces a ban on the use of late payment fees on Standard Retail Contracts and increases the transparency and information about other fees applied to market offers.</p>

The same issues outlined for recommendation number 51 above.	<u>Recommendation # 52</u> The NERL should prohibit the use of late payment fees for standard retail contracts (SRCs).
Wrongful disconnection payment	
In order to ensure that the WDP acts as an effective incentive for industry to implement adequate disconnection procedures, two changes should be made to the Queensland WDP arrangements. Firstly, a capped amount of \$100 for each wrongful disconnection is unlikely to provide sufficient incentive for retailers to improve their procedures. It also fails to reflect the degree of inconvenience experienced by the affected customers. A GSL payment for each day the customer remains disconnected however would provide retailers with an incentive to discover and rectify a disconnection error as well as improving their procedures to avoid wrongful disconnections in the first place. Secondly, the WDP should apply to all disconnection cases where the retailer has not complied with Clause 4.18 rather than the current arrangement that only applies to the disconnection warning. Clause 4.18 includes many important provisions for retailers' disconnection procedures and the WDP should apply to all instances where a retailer disconnects a customer without complying with the Code.	<u>Recommendation # 53</u> That the Queensland Government considers change the Wrongful Disconnection Payment by: <ul style="list-style-type: none"> • Replacing the capped amount with an amount for each day the customer remains disconnected. • Extending the wrongful disconnection definition to all of the provisions for the retailers' disconnection procedures set out in the Electricity Industry Code (Clause 4.18).
A well-designed and properly implemented Wrongful Disconnection Payment (WDP) can have a significant impact on disconnection levels. The WDP sends an important signal to retailers about the seriousness of disconnecting customers from supply due to non-payment, and the size of the penalties act as an incentive for retailers to ensure that they have processes and policies in place to deliver all the protections as stipulated by the regulation. This mechanism is particularly important in a competitive, deregulated market with many active retailers (some both quite new and small), and in an environment where prices are expected to increase and impact on the number of customers facing payment difficulties.	<u>Recommendation # 54</u> Part 6, Division 2 of the NERR should include a Wrongful Disconnection Payment in order to provide the retailers with an incentive to undertake all the steps necessary, and as required by the NERR, prior to disconnecting a customer.
Guaranteed Service Level (GSL) payments	
Figures provided by the Queensland Competition Authority on GSL payments made under the Queensland Billing Code demonstrates the effective role GSL payments can play in providing industry with an incentive to improve their business processes.	<u>Recommendation # 55</u> That the NECF stipulates that the AER has a mandate to assess the need for GSLs and to introduce new GSL payments as a tool to rectify industry performance and/or compliance issues with detrimental consumer impact.
Hardship policies	
The NECF clearly stipulates that the AER will not be responsible for approving hardship policies. The AER will merely be tasked to ensure that the retailers have hardship policies in place.	<u>Recommendation # 56</u> Division 9 of the NERL should include a requirement on the AER to develop national hardship policy guidelines and empower the AER to approve retailers' hardship policies according to these guidelines.
The 1 st Exposure Draft of the NECF distinctly lacks universal protections and has instead sought to make many basic protections into provisions available to customers registered under retailers' hardship programs. Such an approach creates a significant barrier to household with temporary payment difficulties and may result in a completely unnecessary increase in disconnections and debt spiralling activity. Basic protections such as the right to access a payment plan must be available to all energy consumers requesting one.	<u>Recommendation # 57</u> That the Queensland Government does not sign off on the NECF before universal customer protections are incorporated into the framework. This entails an obligation on retailers to provide universal access to payment plans and information on energy conservation and energy consumption.

Customer Protections and Smart Meters – Issues for Queensland
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