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***CUAC Submission to SCO Policy Response Paper: A National Framework for
Regulating Electricity and Gas (Energy) Distribution and Retail Services to Customers***

Thank you for the opportunity to comment on the Standing Committee of Officials (SCO) Policy Response Paper: *A National Framework for Regulating Electricity and Gas (Energy) Distribution and Retail Services to Customers* (the SCO paper).

Attached is a table containing our detailed comments to the recommendations contained in the SCO paper, in the format requested by the Retail Policy Working Group (RPWG).

In addition to that table, however, we would like to highlight the following issues.

Obligation to supply small customers

Small customer threshold

CUAC welcomes the recognition that energy is an essential service, and therefore requires a legislative mechanism that ensures consumers' access to supply.

We are concerned at the proposal to limit access to a regulated standing offer for customers using less than 40MWh per annum, as there are small businesses, particularly in rural areas, and not for profit organisations who may rely on a standing offer to secure a fair and reasonable price for energy. Given the varying levels of maturity of competitiveness across the National Energy Market (NEM), particularly between rural and metropolitan areas, we strongly encourage the members of the RPWG to seek further advice on the impact of that change from farmers, local government and small businesses, especially in rural and regional areas in each jurisdiction.

We also note the difficulties inherent in enforcing that threshold – how will the Australian Energy Regulator (AER) treat businesses whose consumption varies from year to year around that threshold (a very likely scenario for farmers)? What arrangements take precedence?

Conditions to supply

We also remain concerned at the imposition of more restrictive conditions precedent to connection that diminish the protection currently afforded Victorian consumers. While we welcome the decision to define 'acceptable' along the lines used by Victoria, we would again note that this industry is one without retail outlets and relies heavily on the telephone to arrange connection – there is no shopfront to which a customer who does not have a credit card, passport or drivers licence (e.g. young people or

newly arrived migrants) can demonstrate their identity in alternate ways within the timelines. Refusal to supply on these grounds is rare in Victoria, and so we fail to see the need to impose a more stringent precondition to supply.

The SCO sought comments about the regulation of security deposits. In Victoria, a retailer may request that a customer pay a security deposit, but it is not a condition precedent to connection. Rather, Victorian Energy Retail Code (VERC) clause 13.4 outlines the conditions under which supply may be disconnected if the security deposit is not paid, providing assurance that the customer is given every opportunity to meet that obligation. Overriding this condition should in any case be an obligation on the retailer to offer the customer an instalment plan if the customer is unable to pay.

Such a requirement should be based on clause 11.2 of the VERC so that the retailer is required to assess a consumer's capacity to pay in offering an instalment plan. This is a much more practical solution than requiring a security deposit to be a condition precedent to supply and should solve the problem raised by the SCO of customers being disconnected for failure to provide a security deposit and then being granted access through the obligation to offer. If a customer is disconnected because they cannot afford to pay a security deposit, we fail to see how a more punitive requirement around a deposit will help either the customer or the retailer.

We would also note that this solution does not restrict itself to hardship customers only – a customer on an instalment plan may not be registered as a hardship customer.

The condition relating to failure to provide access to the premises should be “unreasonable failure to provide access to the meter”. Tenants may not be able to secure access to the meter, and should not be penalized for the recalcitrance of a landlord or body corporate.

Hardship

While we applaud the SCO for their decision to strengthen the provisions relating to hardship, we would encourage officials to reconsider the decision not to mandate that retailers' hardship programs be subject to regulatory oversight.

Victoria - the only jurisdiction that has introduced such a requirement – is only now auditing those programs for the first time, and anecdotal evidence from financial counselors and welfare relief organisations is that there is inconsistent treatment of consumers in hardship across the sector. We therefore do not share the SCO's confidence that retailers' programs are sufficiently well-developed – or the belief that retailers are all equally motivated – to develop substantive programs for consumers in hardship without oversight by the regulator. Reporting on performance is insufficient to drive improvements in those programs.

Related to the above should be some acknowledgement that programs should be regularly reviewed to ensure they are continuing to address their objective, of assisting consumers in financial hardship retain access to supply at an affordable level. Victoria has used the term 'best practice' to convey to retailers that these programs should continue to improve. Given that the current economic outlook and rising prices means that in the short-term demand for hardship programs is going to rise, not decrease, we strongly recommend that the SCO mandate that hardship programs should be 'best practice' (or a term conveying an equivalent aspirational objective).

Enforcement mechanisms

We strongly support the approach adopted in the Paper, and, for the most part, the range of mechanisms identified. We do have concerns however about the lack of clarity in relation to performance monitoring and reporting.

The AER must be able to report regularly and publicly on consumers' experience in the market, to inform advocacy and policy development. The annual retail performance report and distribution

performance reports published annually by the Essential Services Commission in Victoria (ESCV) provide a useful template for the AER of the range of indicators that should be included.

It is also unclear what instruments the AER can use to gather and publish this information, and we seek assurance that the AER's existing powers can be used to produce a level of public reporting comparable to the ESCV.

We also strongly support the enforcement mechanisms outlined in the paper, particularly welcoming the decision to enable the AER to obtain enforceable undertakings and use the lower courts.

However, we are disappointed that the SCO has not extended the AER's power to enable it to obtain compensation on behalf of consumers, a decision which sits oddly with the recent findings of the Productivity Commission's review of Australia's consumer policy framework, which recommended that regulators be able to take representative actions for consumers. We recommend that SCO revisit that decision in light of the Productivity Commission findings.

Facilitating objectives for the National Energy Customer Framework

We remain of the opinion that the NEL and NGL objectives as they currently stand do not provide the AEMC or AER with sufficient guidance and authority to ensure effective and equitable outcomes in retail and distribution.

By providing similar facilitating objectives for the Framework to those in the Victorian Essential Services Commission Act, the regulators can pay particular attention to the needs of low-income and disadvantaged consumers, not only to collect data to monitor their experience in the market, but also to tailor information to those classes of consumers. Examples of such activity could range from providing information to newly arrived migrants on how to choose a retailer, to setting in place performance indicators for distribution businesses to elicit which areas have poor reliability of supply.

The ESC Act has a facilitating objective, to ensure that 'users and consumers, including low-income and vulnerable consumers, benefit from the gains from competition and efficiency'. In its submission to the review of the ESC Act in 2006, the ESC stated that it viewed its current range of objectives as appropriate, and not at odds with its primary role as an economic regulator¹. Given the emphasis laid in the SCO paper on the recommendations of that review, it is somewhat odd that the paper neglects to mention that in outlining the Government's response to the recommendations of the Review, the then Victorian Minister for Finance said in Parliament

The only recommendation that has not been incorporated is the recommendation to change the primary objective of the ESC act to bring it into harmony with the national gas and electricity laws. In not supporting this recommendation, the government considered that the current objective was more inclusive, and that it had served the commission well.

The Productivity Commission recently proposed that the overarching objective of Australian consumer law be supported by operational objectives, to provide guidance in the interpretation and implementation of laws. One of those operational objectives is 'to meet the needs of those who, as consumers, are most vulnerable, or at greatest disadvantage'.

Regulatory decisions should also align with other government policy objectives, particularly in relation to building a sustainable energy market. The policy response to climate change in every jurisdiction is focusing on energy and energy consumers as a priority, and to not provide the regulator with the capacity to incorporate those outcomes into its deliberations within a revenue determination or access

¹ ESC submission to the review of the Essential Services Commission Act 2001, September 2006, p 8, available at [http://www.dtf.vic.gov.au/CA25713E0002EF43/WebObj/5ESCSubmission/\\$File/5%20ESC%20SUBMISSION.PDF](http://www.dtf.vic.gov.au/CA25713E0002EF43/WebObj/5ESCSubmission/$File/5%20ESC%20SUBMISSION.PDF)

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arrangement is an increasingly strange anomaly, and creates some very perverse incentives in relation to network augmentation.

In light of the ESCV's experience, we do not agree that the introduction of facilitating objectives to the National Energy Customer Framework would reduce clarity or promote uncertainty, and would note that the Victorian regulator and Victorian Government adopted a similar position.

We encourage the SCO to reconsider their decision, and to ensure that disadvantaged consumers – by virtue of their income, location or consumption – will be given due consideration in regulating retail and distribution, and that governments' commitment to building a sustainable energy market can be weighed appropriately in regulatory decisions, particularly in relation to network investment.

Regulation of standing offer and market contract terms

The attached table outlines in detail CUAC's concern in relation to the specific recommendations made in the AAR Paper. We reiterate our concern that there is no evidence put forward that supports significant variation in regulation of standing offer and market contract terms. Support for those provisions is also difficult without more information about the detailed Rules themselves.

Please do not hesitate to contact me by phone on 03 9639 7600 or by email kerry.connors@cuac.org.au should you have any questions about the above.

Yours sincerely

Kerry Connors
Executive Officer

National Consumer’s Roundtable on Energy - Joint Response to MCE SCO Table of Recommendations - National Energy Customer Framework

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

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

The Table is divided into the following parts:

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

Part 1 – Principal recommendations

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Retailer obligation to supply small customers			
1.1	Definition of the obligation	<p>The Law will provide that designated retailers must, in accordance with the Rules, offer to sell energy to small customers.</p> <p>The obligation is an obligation to supply for use in a customer's premises on standard terms and conditions and at the standing offer tariff published on the retailer's website.</p> <p>However, if a small non-residential customer consumes (or is expected to consume) more than an amount of electricity specified in the regulations [the initial level for this amount is 40MWh per annum], then the retailer may:</p> <ul style="list-style-type: none"> • Instead elect to offer that customer a market retail contract (that is, based on minimum terms and conditions) at a tariff nominated by the retailer; and • If the retailer has offered a market contract to such customers, then it will be taken to have fulfilled the obligation to offer supply, and would not be required to make an offer to supply under standard retail contract terms and conditions in respect of that customer. <p>As matters of detail, the Rules will set out:</p>	<p>We strongly support the obligation to supply being placed in the Law. The obligation to supply supports the overriding principles that residential consumers should have uninterrupted access to essential services and that they should not be disconnected due to an incapacity to pay alone. Considering this, we believe that all regulations supporting the obligation to supply (ie, those relating to access and disconnection) should be placed in the Law, rather than the Rules.</p> <p>While Roundtable organisations are not all advocates for small business, we would strongly encourage the SCO to ensure it has received the views of those consumers – particularly rural and regional businesses, and those on long SWIR lines – as it is easy to envisage circumstances where those customers might depend on the obligation to supply to receive a <u>reasonable</u> offer. There are also significant numbers of not-for-profit institutions that could fall at around this threshold – how does the SCO envisage they will be treated?</p> <p>We note that differentiating between customers no a threshold involved some fairly arbitrary decisions. We have substantive concerns about how easy it</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	<p>Application procedures</p> <p>Retailer information requirements</p> <p>Connection services</p>	<p>Application procedures – including requirements for customers to provide:</p> <ul style="list-style-type: none"> • acceptable identification (along the lines of the ESCV guideline); and • name and contact details. <p>Retailers will be required to provide to customers:</p> <ul style="list-style-type: none"> • a summary of the standing offer contract formed as a result of the application, and how copies of the contract may be obtained; • a summary of the retailer's and customer's respective rights and obligations concerning the supply under the Law and Rules, including relevant dispute resolution procedures; • particulars of any rebate or relief available under any government funded energy charge rebate or relief scheme; and • information in community languages about the availability of interpreter services for the languages concerned and telephone numbers for the services; <p>The retailer will be responsible to communicate to the relevant distributor within one business day of an application, to</p>	<p>would be to enforce this system – how will customers whose consumption varies around the 40MWh threshold from year to year be treated? If their consumption falls below that threshold, what arrangements will take precedence?</p> <p>We welcome the inclusion of the Victorian definition in the Energy Retail Code.</p> <p>We support these requirements, but recommend that the Rules mandate a timeline for provision of the information.</p> <p>We support this requirement.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	<p>Conditions to the obligation</p>	<p>arrange connection services in respect of the customer's supply point.</p> <p>Conditions to the obligation: the circumstances in which the retailer may refuse to supply, i.e. conditions precedent are failure to provide:</p> <ul style="list-style-type: none"> • acceptable identification (along the lines of the ESCV guideline); and • name and contact details. <p>Conditions subsequent:</p> <ul style="list-style-type: none"> • failure to provide the security the retailer is entitled to require under the standing offer terms; • failure to pay an amount due to the retailer in respect of the new supply (such as connection charges); • failure to provide unreasonable access to the premises meter; and • other circumstances beyond the retailer's control (eg where distributor is not obliged to connect). <p>The Law will provide that the standing offer terms take effect as a standard retail contract between the retailer and customer.</p>	<p>We believe that any conditions on the obligation to supply should operate as conditions subsequent. That is, the retailer should procure connection and has a right to disconnect should the condition not be satisfied within a reasonable time frame.</p> <p>The SCO must remember that energy retailers do not have shopfronts for consumers to easily present their identification - the Rules must be drafted to secure connection without unreasonable delays.</p> <p>Conditions relating to failure to provide payment (<i>ie</i>, security or connection charges) must be subject to a requirement that the retailer offer an instalment plan if the consumer is unable to pay the required charge within the required time frame. We would expect such a requirement to be based on clause 11.2 of the Victorian Energy Retail Code (VERC) so that the retailer is required to assess a consumer's capacity to pay in offering an instalment plan. This is a much more practical solution than requiring a security deposit to be a condition precedent – if a customer is disconnected because they cannot afford to pay a security deposit, we fail to see how a further requirement will help either the customer or the retailer. We would also note that this solution does not restrict itself to hardship customers only – a customer on an instalment plan may not be</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
			<p>registered as a hardship customer.</p> <p>The condition relating to failure to provide access to the premises should be “unreasonable failure to provide access to the meter”. There should not be a requirement for a consumer to provide access to their premises. Further, it should be recognised that tenants may not be able to access the meter – the term “unreasonably” recognises that it may be reasonable for a tenant not to provide access to the meter.</p>
1.2	Designating retailers and supply remits	<p>The Law will provide that, for the purpose of the obligation to supply, a designated retailer is a retailer designated as a local area retailer by a jurisdictional instrument (for new connections) and the Financially Responsible Retailer (FRR) for existing connections.</p> <p>A jurisdiction may designate the supply remit of a local area retailer by reference to:</p> <ul style="list-style-type: none"> • a geographical area; • particular premises or classes of premises; or • particular customers or classes of customers. 	<p>We support this recommendation, noting that it must be complemented by</p> <ol style="list-style-type: none"> 1. clear processes outlining how customers can find out easily who is their FRR; 2. customer education/information campaigns to notify consumers of the change; 3. jurisdictional designation of the supply remit of a local area retailer for new connections.
1.3	MCE principles for obligation to supply	No longer required	We agree.
1.4	Definition of small customers	<p>The Law will provide that, for the purpose of obligating retailers to offer supply, a 'small customer' is:</p> <ul style="list-style-type: none"> • a residential customer; or 	We support this approach, welcoming the recognition that energy is an essential service for households.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<ul style="list-style-type: none"> a non-residential customer whose actual or estimated energy consumption is less than a threshold level specified in the regulations. The initial threshold will be 100MWh of electricity per annum or 1 TJ of gas per year. <p>Small customers will receive equivalent benefits under the national customer framework across electricity and gas except to the extent that a retailer may elect to fulfil its obligation to offer supply in respect of some electricity customers, by making a market offer rather than a standing offer as discussed in recommendation 1.1.</p> <p>The Regulations will set out the mechanics of assessing customer consumption for the purpose of applying the threshold, including whether the threshold applies to individual premises or is aggregated.</p>	
1.5	MCE directed review of small customer definition	<p>The MCE will undertake a review of non-residential small customer thresholds with a view to reducing the thresholds. This review would occur periodically at intervals of no more than five years.</p>	<p>We support this recommendation. The AEMC review should be undertaken with relevant stakeholder consultation.</p>
1.6	Standing offer tariffs	<p>The Law will provide that standing offer tariffs and variations to those tariffs for the standard retail contract are those published by the designated retailers on their website (and on the AER's website) from time to time.</p> <p>Variations to standing offer tariffs may not be made more often than 6 monthly and any variations must be published 20 business days in advance of the variation taking effect.</p>	<p>See comments on price disclosure</p>
1.7	Specification of terms	<p>The Law will provide that the standing offer, incorporating the</p>	<p>We support this recommendation, noting the</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	and conditions	standard retail contract and standing offer tariff is to be published by designated retailers on their website. The terms and conditions of a standard retail contract published by retailers is not subject to prior regulatory approval, but would be lodged with the AER and subject to compliance monitoring and enforcement by the AER.	<p>additional compliance costs in seeking prior regulatory approval for alternate terms and conditions which are not inconsistent with those set out in the Rules.</p> <p>Our support is conditional, however, upon the terms and conditions prescribed in the Rules being adequately and appropriately specified, and that the AER's compliance monitoring and enforcement being sufficiently resourced and robust.</p>
1.8	Standard retail contract terms and conditions in Rules	The Rules will contain (in a separate schedule) the terms and conditions applicable to standard retail contracts, will be expressed as a model terms and conditions. Part 2 of this Table sets out the model terms and conditions for development of the initial Rules.	See our comments in Part 2 of this table
1.9	Deemed supply arrangements	<p>With respect to circumstances where small customers are taking supply without having formally entered into a supply contract (including move-in supply) the Law will establish the existence of a deemed set of arrangements.</p> <p>The circumstances in which a deemed supply arrangement arises are matters of detail best dealt with in the Rules. On that basis it is proposed that the Law will provide that:</p> <ul style="list-style-type: none"> • the Rules may specify the terms and conditions that apply in any circumstance where a small customer is taking a supply of energy from a retailer without the customer and retailer having entered into a standard retail contract or market retail contract; and • the terms and conditions specified in the Rules take 	We support this recommendation.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>effect as a contract between the customer and the retailer in accordance with the Rules.</p>	
1.10	<p>When a deemed supply arrangement arises</p>	<p>The Rules will provide for deemed supply arrangements to arise in the following circumstances:</p> <ul style="list-style-type: none"> • where a small customer occupies premises that are already connected to the distribution system and commences to take a supply of energy; and • where a current standard or market contract terminates without new supply arrangements having been established, subject to any provision in the contract itself concerning the terms and conditions to apply on termination. 	<p>We support this recommendation.</p>
1.11	<p>Tariffs, terms and conditions of deemed supply arrangements</p>	<p>The Rules will provide that:</p> <ul style="list-style-type: none"> • the tariff applicable to deemed supply arrangements is the standing offer tariff unless the retailer has published a deemed supply tariff; and • the terms and conditions applicable to deemed supply arrangements are the relevant designated retailer's standard retail contract terms and conditions. 	<p>We are concerned that a retailer will be able to develop a deemed supply tariff with no regulatory oversight to ensure it is fair and reasonable, and is not punitive.</p> <p>That concern is exacerbated given there remain numerous instances of problems with customer transfers in all jurisdictions.</p>
1.12	<p>Duration of deemed supply arrangements</p>	<p>Deemed supply arrangements for residential and small non-residential customers will continue until the customer enters into another contractual arrangement.</p> <p>Small customers are required to take appropriate steps to enter into a supply contract and thereby exit deemed supply arrangements no later than six months after deemed supply taking effect. If after six months, the customer has not entered</p>	<p>If a customer is meeting his/her obligations, we do not understand why disconnection is permitted. Disconnection must be used only as a last resort. This provision therefore needs to align more clearly with customer protections around connection and disconnection.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>into a contract, the retailer will be entitled to arrange for disconnection of the premises.</p> <p>If the customer has already provided the required deemed supply notice under recommendation 1.13 (name, contact details and acceptable identification), and if not advised to the contrary, the retailer may take the customer to be requesting supply under the standing offer, and may transition the customer to the standard retail contract.</p>	
1.13	Notice requirements for deemed supply arrangements	<p>The Rules will require:</p> <ul style="list-style-type: none"> • small customers to give notice to the retailer equivalent to the application requirements for supply under a standard retail contract (i.e. name, contact details and acceptable identification); • the retailer to give the customer details of the tariffs, terms and conditions applicable to the supply and the customer's options for establishing a new supply arrangement. 	We support this recommendation

No.	SUBJECT	SCO RECOMMENDATION	COMMENT
Retailer – small customer market retail contracts			
1.14	Generic versus energy specific regulation	SCO proposes reliance on national and jurisdictional consumer protection laws where these provide a consistent national approach in dealing with the relevant subject matter.	We support this approach.
1.15	Minimum terms and conditions of market retail contracts	<p>The Law will provide that market retail contracts with small customers, or categories of small customers, must comply with any requirements in relation to such contracts contained in the Rules.</p> <p>The Law will require a retailer to include minimum terms and conditions in a market retail contract to be offered to small customers.</p> <p>The Law will provide authority for the Rules to contain provisions which specify the minimum terms and conditions of market retail contracts.</p> <p>The Rules will contain (in a separate schedule) the minimum terms and conditions that must be included in market retail contracts.</p>	<p>See our comments in Part 2 of this table</p> <p>Part 2 of this Table sets out minimum terms and conditions for market retail contracts in the initial Rules.</p>
1.16	Definition of small customers for purpose of market retail contracts	The Law will provide that a small customer for the purpose of market retail contract regulation has the same meaning as for the purpose of the obligation to offer supply. In addition, there will be scope for the Rules to distinguish between residential and non-residential small customers in the application of market retail contracts to those customers.	We support this recommendation

No.	SUBJECT	SCO RECOMMENDATION	COMMENT
1.16A	Prepayment meter systems	<p>The Law will authorise the Rules to regulate the use of prepayment meter systems for small customers.</p> <p>The Rules will contain (in a separate schedule) the minimum terms and conditions of market retail contracts pertaining to prepayment meter customers.</p> <p>The Rules will cover the following matters in relation to the use of prepayment meter systems for small customers:</p> <ul style="list-style-type: none"> • Prepayment meter contracts: <ul style="list-style-type: none"> • specific disclosure requirements to obtain a small customer's explicit informed consent to enter into a prepayment meter contract (this is a specific form of market retail contract); • prohibition on entering into a prepayment meter contract with a customer with a life support system; • additional requirements to provide information to a small customer who enters into a prepayment meter contract (for example, the operating instructions for the meter, information relating to the payment facilities available, credit retrieval and emergency credit); • minimum terms and conditions of a prepayment meter contract (for example, a mandatory trial period, provisions relating to the fees and charges that may be recovered through the prepayment meter system); and • termination of the prepayment meter contract by the customer, including a request to revert to normal metering or as a result of a transfer to another retailer. 	<p>We support the SCO approach that “Retail contracts where prepayment meters are involved are to form a specific type of <u>market retail contract</u>” (our emphasis).</p> <p>We could not support a situation where a prepayment meter could be used as either a deemed or standing offer, and recommend that the Rules prohibit the use of prepayment meters for deemed or standing offers.</p> <p>Please note our amended text relating to identification of self-disconnection; while there may be meters that are incapable of monitoring self-disconnection, there is no justification for enabling such meters to continue to be installed, and it does not align with the SCO’s approach in other areas of the Framework.</p>

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

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Retailer – small customer marketing			
1.17	Generic versus energy specific regulation	General consumer protection laws with respect to marketing conduct should be relied on where these provide a consistent national approach in dealing with the relevant subject matter, but energy-specific regulation is justified where general consumer protection laws are inconsistent.	We support this approach, and would note that the process to achieve nationally consistent fair trading regulation is only now beginning.
1.18	Marketing requirements	<p>The Law will require retailers engaged in energy marketing (whether directly or indirectly) to comply with energy marketing requirements set out in the Rules.</p> <p>The Rules will contain (in a separate schedule) requirements applicable to the marketing of energy. Part 3 of this Table sets out the marketing requirements for the initial Rules.</p>	We support this recommendation, and the SCO approach in relation to marketing.
1.19	Retailers responsible for marketing activities	<p>The Law will ensure that retailers are ultimately responsible for marketing conduct, whether the marketing is carried out by:</p> <ul style="list-style-type: none"> ▪ the retailer's own staff or officers; ▪ persons acting as agents of retailers; ▪ persons who are otherwise contracted by the retailer; ▪ persons who receive a commission from the retailers, <p>in relation to marketing conduct for the purpose of gaining new or retaining existing customers.</p>	<p>We support this recommendation.</p> <p>We note the entry into the market of internet comparison/switching sites, which should also be treated as an agent of a retailer when in receipt of a commission.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
1.20	Definition of small customers	The Law will provide that a small customer for the purpose of marketing conduct regulation has the same meaning as for the purpose of the obligation to supply.	We support this recommendation

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Hardship			
1.20A	Identifying hardship customers	A "hardship customer" is a residential customer who has been identified by the retailer or by a financial counsellor, or has self-identified as a customer who is experiencing financial payment difficulties by a retailer under and in accordance with, that retailer's Customer Hardship Policy.	<p>We welcome the strengthening of provisions relating to hardship.</p> <p>Note our changes – customers who identify themselves as being in hardship should also be eligible for inclusion in a hardship program, as should those referred through a financial counsellor.</p>
1.20B	Obligation on retailers to have a hardship policy	<p>The Law will provide that retailers must develop, implement and publish a hardship policy for supply of energy to residential customers experiencing hardship. This policy must include the following elements:</p> <ul style="list-style-type: none"> • flexible payment options for payment of energy bills; • processes for the early response by both retailers and residential customers to energy bill payment difficulties; and, • processes for identifying appropriate government concession programs and financial counselling services to assist in hardship mitigation and notifying customers in hardship of their existence. 	<p>We welcome the inclusion of a requirement for retailers to have in place programs to assist consumers in financial hardship.</p> <p>However, we are concerned that there is no explicit requirement that hardship programs must be effective and efficiently meet customer needs. Through the Utility Debt Spiral project, there was agreement reached between retailers and consumer groups (and other stakeholders) on what constituted best practice principles for a hardship program, and we recommend that those principles be incorporated into the Law, to provide impetus for retailers to ensure their hardship programs are addressing need effectively, and to identify areas for improvement.</p> <p>We also strongly recommend that the AER be required to approve retailers' hardship policies. The SCO paper notes that a large percentage of hardship policies have been approved at the jurisdictional level (p54). However this is a very recent</p>

			<p>development and those policies have not been subject as yet to public reporting or assessment. It is too early to assume that retailers' programs are sufficiently well developed to not require improvement, and we do not believe simply reporting on them provides sufficient incentive for improvement.</p>
<p>1.20C</p>	<p>Alternative payment arrangements for hardship customers</p>	<p>The Rules will require retailers to offer hardship customers alternative payment arrangements prior to disconnection. These payment arrangements must include the option of payment by instalments.</p> <p>Such instalment payment plans must:</p> <ul style="list-style-type: none"> • be established having regard to a customer's: <ul style="list-style-type: none"> • capacity to pay; • arrears; and • expected consumption needs over the following twelve month period. • include an offer for the customer to pay their energy consumption in advance or arrears by instalment payments; • inform the customer of: <ul style="list-style-type: none"> • the period or periods of the plan; • the amount of each instalment and the frequency of instalments; • if the customer is in arrears, the number of instalments to pay the arrears; and 	<p>We support this recommendation and, particularly, welcome the decision to incorporate the requirement on retailers to assess 'capacity to pay' into the Framework, as it has proved an integral element in other jurisdictions.</p> <p>We note that the Rules must be drafted to ensure that instalment plans must be offered to customers in chronic or in short-term hardship. Customers in short-term hardship may not necessarily be registered as a hardship customer, but should still be offered access to instalment payment plans.</p>

		<ul style="list-style-type: none"> if the customer is to pay in advance, the basis on which instalments are calculated. <p>The Rules will contain a general obligation for retailers to provide fair and reasonable procedures for dealing with payment difficulties that a hardship customer may experience under the plan.</p>	
1.20D	Disconnection of hardship customers	<p>The Law will state a general principle that disconnection of a hardship customer due to inability to pay should be the last resort.</p> <p>The Law will provide that hardship customers should be disconnected only where that customer has not paid a bill and has not:</p> <ul style="list-style-type: none"> agreed to an instalment payment plan or other payment option to pay a bill offered by the retailer; adhered to the customer's obligations to make payments in accordance with an agreed instalment payment plan or other payment option relating to the payment of bills. 	<p>We strongly support and welcome the decision to include this principle in Law, as it appropriately recognises the essentiality of the service.</p>
1.20E	Hardship indicators	<p>The Rules will provide that the AER must:</p> <ul style="list-style-type: none"> undertake performance reporting on specific hardship indicators as established by the AER; have regard to hardship indicators established in jurisdictional frameworks and the effectiveness of those indicators when developing national hardship indicators. 	<p>We support this recommendation and agree that the AER is the appropriate entity to monitor financial hardship.</p> <p>Please note our comments above that also recommend the AER be given authority to approve hardship programs.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Contractual model for customer distribution services			
1.21	Default model	The Law will provide for a contractual model incorporating deemed contractual arrangements between parties.	We support this recommendation.
1.22	Preferred model	<p>The Rules will describe the obligations to be imposed through the contractual model.</p> <p>A contractual model is proposed as the default model to apply in both the electricity and gas sectors to provide a framework for the development of the distributor-customer interface and the distributor-retailer interface arrangements.</p> <p>This model involves:</p> <ul style="list-style-type: none"> • a "deemed" contract between a distributor and each customer connected to the distributor's infrastructure governing the physical and operational aspects of the provision of customer distribution services to the customer, including liability issues; • a contract between the retailer and each of its customers which includes provisions governing the financial aspects of the provision of customer distribution services to the customer; and • a contract between a distributor and each retailer which sells energy to customers connected to the distributor's infrastructure governing relevant financial and coordination arrangements between the distributor and the retailer. 	We support this recommendation. However, we continue to believe that for domestic customers, there should be very limited (or no) scope to negotiate alternative arrangements. This is because of information asymmetries, and the large discrepancy between the market power of distributors/retailers and small consumers.
1.23	Small embedded	See comment.	While we appreciate that there is other work going

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	generators		<p>on in the Network Policy Working Group, we would stress that it is important that arrangements for small embedded generators be finalised before the transition of the national regulatory regime.</p> <p>It is acknowledged that the regulatory framework has not provided sufficient protection or clarity for customers using small scale embedded generation, and those problems should not migrate to the national regime.</p>

No.	Subject	SCO RECOMMENDATION	COMMENT
Distributor obligation to provide customer distribution services			
1.24	Scope of obligation	<p>The Law will provide that distributors must, in accordance with the Rules, provide customer distribution services in respect of a retail customer's premises.</p> <p>A "distributor" will be defined in Law to mean:</p> <ul style="list-style-type: none"> • a distributor whose network services are subject to access regulation under the Rules; or • any other distributors identified by jurisdictional instruments under and for the purposes of the definition. <p>The reference to a retail customer's premises limits the obligation to customers acquiring (or intending to acquire) energy through a retailer, as distinct from a customer acquiring energy directly from a wholesale market.</p>	We support this recommendation.
1.25	Definition of customer distribution services	<p>Customer distribution services will be defined in the Law, for the purposes of the new national customer framework. These may include:</p> <ul style="list-style-type: none"> • the connection of the premises to the distribution network to allow the flow of energy between the network and the premises; • where a physical connection already exists, activating or opening the connection in order to allow the flow of energy between the network and the premises (this is referred to throughout as '<i>energisation</i>' of the connection); 	We support this recommendation.

No.	Subject	SCO RECOMMENDATION	COMMENT
	<p>Timeframes</p> <p>Distributor information requirements</p>	<ul style="list-style-type: none"> • requiring a customer to provide acceptable identification; name and contact details and prescribed information relevant to the connection of equipment at the customer's premises (eg. life support, special plant and equipment). • for applications by the customer, the customer will be required to provide evidence of a retail contract with a retailer prior to energisation of the connection. <p>The NPWG is currently undertaking work on standard connection types and associated timeframes for electricity and gas. Where appropriate, any changes will be included in the package for the national customer framework.</p> <p>Distributor information requirements, requiring the distributor to provide to a customer:</p> <ul style="list-style-type: none"> • the deemed standard terms and conditions ("deemed customer distribution contract") applicable to that customer; • details of applicable GSL payments and service standards; • details of applicable connection, energisation and re-energisation timeframes; and • notice of the customer's rights in respect of the negotiation of different terms. <p>This information must be provided in circumstances specified in</p>	<p>We strongly support mandated timeframes for standard new connections and energisations. These should be detailed in the Rules, together with consumer rights to guaranteed service level payments should they not be complied with.</p> <p>We support this recommendation.</p>

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

No.	Subject	SCO RECOMMENDATION	COMMENT
Distributor obligation to offer customer distribution services: customer connection			
1.26A	Scope of obligation to offer customer distribution services	<p>The Rules will provide that distributors must, as part of the requirement under the Law to offer customer distribution services, offer to connect a retail customer's premises to its network.</p> <p>This obligation will be expressed to be subject to the requirements of applicable Rules.</p>	We support this recommendation
1.26B	Connection requirements	<p>The Rules will provide that the distributor is not obliged to make a connection until the customer has met any connection requirements that apply, namely:</p> <ul style="list-style-type: none"> • payment for any augmentation, extension or other capital works to the distribution system if required to effect the connection; • completion of any works required for connection which are not part of the distribution system; • compliance with technical and safety requirements in relation to the customer's installation or equipment; and • provision of safe and unhindered access to meters and other equipment of the distributor on the customer's premises. 	<p>We broadly support these conditions, but in relation to rental properties, the RPWG must be cognisant of the appropriate party that has responsibility over these conditions. In many cases, the tenant cannot (and may in fact be in breach of residential tenancies legislation if they try to) comply with technical and safety requirements. Tenants may also not be able to provide access to the meter. These obligations should be on the landlord, not the tenant.</p>
	Right to offer of customer distribution services once physical connection established	<p>For the avoidance of doubt, once a physical connection is established with a customer's premises, that customer will have the benefit of the distributor's obligation to provide customer distribution services to those premises, irrespective of the type of connection or contractual arrangements entered into concerning the initial establishment of that connection.</p>	We support this recommendation.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Distributor interface with customers			
1.27	<p>Establishment of deemed customer distribution contract</p> <p>Duration</p> <p>Negotiated customer distribution contracts</p>	<p>The Law will provide that upon connection of a retail customer's premises to a distribution system, or on the date a customer moves in to premises that are already connected, a contract is deemed to arise between the customer and the distributor on the terms and conditions of the deemed customer distribution contract applicable to that customer, except where a negotiated distribution contract exists.</p> <p>The deemed distribution contract (as amended from time to time where a Rule change occurs) will remain in effect while the customer is responsible to its retailer for the consumption of energy at the relevant premises or until the customer enters into a negotiated distribution contract with the distributor.</p> <p>A distributor and a customer may agree different terms to those contained in the deemed customer distribution contract, subject to:</p> <ul style="list-style-type: none"> • in the case of small customers, the provision of specified information in relation to their right to the application of the deemed customer distribution contract standard terms and conditions and an explanation of the implications of the proposed different terms; • coordination with the customer's retailer; and • any other requirements contained in the Rules. <p>Where a small customer enters into a negotiated customer</p>	<p>We support this recommendation.</p> <p>We support this recommendation.</p> <p>We believe that for domestic customers, there should be very limited (or no) scope to negotiate alternative arrangements. This is because of information asymmetries, and the large discrepancy between the market power of distributors/retailers and small consumers.</p> <p>We believe that for domestic customers, there</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		distribution contract, a retailer's obligation to offer supply in respect of that customer may be modified to the extent that the negotiated customer distribution contract terms and conditions differ from the standard retail contract terms and conditions.	should be very limited (or no) scope to negotiate alternative arrangements. This is because of information asymmetries, and the large discrepancy between the market power of distributors/retailers and small consumers.
	Access regime still applies	The deemed customer distribution contract provisions do not affect the rights of a customer to negotiate for the direct provision of distribution services in accordance with Chapter 5 and 6 of the NER or under an access arrangement in accordance with the NGR.	We support this recommendation.
1.28	Deemed customer distribution contract terms and conditions	The Law will authorise Rules to be made for the model terms and conditions of a deemed customer distribution contract.	We support this recommendation.
1.29	<p>Rules provisions</p> <p>Model terms for deemed customer distribution contracts</p> <p>Small customer definition</p> <p>Publishing of customer distribution contracts</p>	<p>The Rules will include the following provisions in relation to the distributor - customer relationship:</p> <ul style="list-style-type: none"> • Model terms for the deemed customer distribution contract applicable to small customers and all other retail customers (unless approved standard terms apply, or a negotiated contract applies). • The model terms of the deemed customer distribution contract will be in a separate schedule of the Rules so that it can operate for distributors as a contract • Small customers will be defined in the same way as for the retailer obligation to supply. • Distributors must adopt and publish a customer distribution contract. 	<p>We support this recommendation.</p> <p>We support this recommendation.</p> <p>We support this recommendation.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	<p>AER approval</p> <p>Variations during regulatory period</p> <p>Deemed customer distribution contracts for large customers</p>	<p>The AER will not be required to approve deemed customer distribution contracts applicable to small customers.</p> <p>Amendment of the customer distribution contracts will be through a Rule change process</p> <p>Distributors may prepare and submit for the AER's approval, a customer distribution contract that may be deemed to apply to one or more classes of customers (other than small customers) on terms which are fair and reasonable ('AER approved customer distribution contract').</p>	<p>We support this recommendation.</p> <p>We support this recommendation.</p>
1.30	Direct regulatory obligations on distributors - Law	<p>The Law will authorise (and oblige) distributors to disconnect, reconnect and interrupt supply in the circumstances set out in the Rules.</p> <p>The Law will also expressly require that a distributor must comply with the Rules, and the terms and conditions of the relevant deemed customer distribution contract in respect of customers connected to the distributor's network.</p>	We support this recommendation.
1.31	<p>Regulatory obligations - Rules</p> <p>Service standards</p>	<p>The Rules will include the following direct obligations in relation to the distributor – customer relationship:</p> <ul style="list-style-type: none"> • A requirement that distributors must comply with any applicable service standards. 	We support this recommendation.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	Grounds for disconnection	<ul style="list-style-type: none"> • The circumstances in which a distributor is entitled or required to disconnect customer premises, including: <ul style="list-style-type: none"> • in an emergency; • at the direction of a relevant authority; • for health and safety reasons; • at the request of the customer or its retailer; or • for non-compliance by the customer with obligations under the deemed customer distribution contract that are expressed to give rise to an express right of disconnection (eg, failure to provide safe access or meet equipment specifications, or taking unauthorised supply). 	<p>We support this recommendation, but would recommend that deemed distribution contracts impose obligations on consumers that they are unaware of, or that it is not reasonable for them to be aware of (<i>ie</i>, technical obligations).</p> <p>We believe that there should be a provision with the effect that customers are deemed to be in compliance with deemed distribution contracts unless they are otherwise notified. Further, any notice should be provided to the person with the responsibility to carry out the required actions – <i>ie</i>, the landlord or the tenant.</p>
	Restrictions on disconnection	<ul style="list-style-type: none"> • The circumstances in which a distributor must not disconnect customer premises, these being: <ul style="list-style-type: none"> • after 3pm on a weekday, and on weekends and public holidays (for small customers only); • for electricity, if the address has a registered life support system; • where required notices have not been given; • where a complaint remains unresolved; or • if a distributor reasonably considers that disconnection would immediately endanger health or safety. 	<p>We support this recommendation, noting that the decisions on timeframes for disconnection should aspire to best practice, recognising energy is an essential service, and that there must be time allowed for immediate reconnection.</p>
	Interruptions and	<ul style="list-style-type: none"> • The circumstances in which a distributor is entitled or 	<p>We support this recommendation.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	curtailments	<p>required to interrupt or curtail the supply of energy to customer premises, including:</p> <ul style="list-style-type: none"> • planned interruptions subject to prescribed advance notice periods; • unplanned interruptions (faults etc) and circumstances beyond the distributor's control, subject to information requirements and obligations to minimise the duration and extent of interruptions; and • for health and safety reasons or in an emergency, including at the direction of a relevant authority. 	
	Reconnection	<ul style="list-style-type: none"> • A requirement that distributors reconnect a disconnected customer if the reason for the disconnection has been removed. 	<p>We support this recommendation but the deemed contract must specify a required time frame around such reconnection. This would be more appropriately a contractual requirement, as well as a regulatory requirement.</p>
	Dispute resolution	<ul style="list-style-type: none"> • A requirement that distributors must comply with any applicable jurisdictional dispute resolution requirements 	<p>We support this recommendation</p>
	Information provision	<ul style="list-style-type: none"> • Requirements for distributors to provide information to a customer or its retailer on request about the customer's consumption, network tariff or connection. 	<p>We support this recommendation</p>
	Fault reporting and correction	<ul style="list-style-type: none"> • Requirements concerning the maintenance by distributors of a 24-hour fault information and reporting line. 	<p>We support this recommendation</p>
	Small customer	<ul style="list-style-type: none"> • Protections for small customers in relation to 	<p>We support this recommendation</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	<p>negotiated customer distribution contracts</p> <p>Distributor compliance with deemed customer distribution contracts</p>	<p>negotiated customer distribution contracts, including protected terms and cooling-off periods.</p> <p>There is to be an express requirement in Law and Rules that a distributor must comply with the terms of the applicable deemed customer distribution contract in respect of customers connected to the distribution system.</p>	<p>We support this recommendation</p>

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

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

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

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

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

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Retailer business authorisation			
1.38	Substantive obligations as licence conditions	Substantive regulatory obligations will be contained in the Law and Rules rather than in licence conditions.	We support this approach, but note that licensing schemes can be much more responsive to changing market conditions resulting from economic, social or technological changes. We maintain that the Rule change process must be sufficiently flexible to respond to changing conditions – we are not currently convinced that it is.
1.39	Regulation of entry requirements	The Law will contain a general prohibition on a person engaging in the retail sale of energy, unless the person has obtained a retailer authorisation from the AER in relation to the carrying out of that activity, or is exempted from the requirement.	We support this recommendation.
1.40	Entry tests Financial viability Suitable person	The Law will set out the entry requirements to be satisfied by persons wishing to obtain energy business authorisations as retailers, and enable the AER to issue guidelines in relation to the authorisation procedures and its approach to assessing the criteria for authorisation. The criteria for business authorisation will include elements relating to the organisation and technical capacity necessary to meet the obligations of a retailer under the Law and Rules including: <ul style="list-style-type: none"> • financial viability – that the applicant has the financial resources required to undertake the relevant activity; • A broad suitability criterion – that the applicant is a suitable person to hold the authorisation; 	We support this recommendation.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
	Market operator registration	<ul style="list-style-type: none"> Criterion relevant to national energy and financial market participation– that the applicant is registrable by NEMMCO or the relevant gas market operator in accordance with any registration requirements under the NER or NGR. 	
1.41	Removal of overlap with NEMMCO registration	<p>The existing registration requirements administered by NEMMCO under the NER will be modified to ensure there is no overlap with the processes and requirements for the new retailer authorisation administered by the AER. In particular:</p> <ul style="list-style-type: none"> NEMMCO requirements with respect to financial viability will be limited to satisfaction of the market prudential requirements under chapter 3 of the NER; NEMMCO requirements with respect to organisational and compliance capacity will be limited to the relevant entity's safe and reliable interaction with the market and with technical requirements applicable under national framework instruments (including metrology). 	<p>We support this recommendation, but note that removal of any NEMMCO registration requirements should not result in overall lessening of regulatory requirements.</p>
1.42	Corresponding changes to gas market registration requirements		Supported
1.43	Treatment of existing licensees	Retail businesses that hold current jurisdictional licences will transition to the national business authorisation without further processes.	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
1.44	Exemptions	<p>The Law will authorise the AER to exempt a person from the prohibition in accordance with the Law, the Rules and any guidelines issued by the AER. The Rules and AER guidelines will set out the matters to be considered by the AER in considering applications for exemptions, as well as general exemptions, in each case based initially on current arrangements. The making of guidelines and consideration of exemption applications will be subject to a consultation process.</p>	<p>We support this recommendation. The exemption framework should take into consideration the recommendations from the Victorian Essential Services Commission's recent consultation on this issue.</p>
1.45	Exemption conditions and enforcement	<p>The Law will provide that an exemption may be subject to conditions covering similar matters that apply to retailers. Exempt suppliers are to be subject to monitoring and enforcement by the AER in relation to compliance with the conditions of the exemption.</p> <p>In the case of a general exemption, it may be necessary for the AER to establish a framework to ensure it is aware of the persons conducting activities covered by the exemption so that it is able to monitor and enforce compliance by those persons with the conditions of their exemption.</p>	
1.46	Revocation	<p>The national framework will include a regime for the AER to revoke a retailer authorisation. The details of a revocation regime will be developed having regard to the national Retailer of Last Resort project, but the key elements of such a regime would include:</p> <ol style="list-style-type: none"> 1. The relevant matters that must be satisfied before the AER can consider revoking an authorisation such as: <ul style="list-style-type: none"> • There must be a history of demonstrated and 	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>persistent breaches of the Rules with material consequences for third parties.</p> <ul style="list-style-type: none"> • That the AER has reasonable grounds for believing that there is a real likelihood that previous and further enforcement action has not and will not be likely to remedy or prevent the continuation of breaches in the future. • A 'materiality' requirement will take into account both impacts on market participants and customers, and the cost and effort of compliance actions. <p>2. Procedural fairness requirements which would include:</p> <ul style="list-style-type: none"> • Notice and opportunity to rectify and be heard by the retailer. • Consultation with relevant market operators. • Provision of reasons for the decision to revoke. <p>3. Managing the orderly transfer of customers of the retailer and any other obligations.</p>	
1.47	Register of authorised persons	The Law will require the AER to maintain a public register of authorised persons and exempt persons (excluding those exempt under a deemed exemption) and include details of the information to be included in the register.	
1.48	Ancillary rights and powers	Ancillary rights and powers (such as those relating to compulsory acquisition and works on public and private land) will continue to be dealt with in jurisdictional legislation.	The general approach of not duplicating ongoing jurisdictional ancillary rights and powers will be adopted in the national framework.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Enforcement mechanisms			
1.78	Compliance monitoring and enforcement functions of the AER	<p>The NEL and NGL will include provisions to support the AER's compliance monitoring and enforcement functions as follows:</p> <ul style="list-style-type: none"> • a requirement for regulated entities¹ to establish systems and procedures to monitor regulatory compliance, in accordance with reporting requirements issued by the AER; • a requirement for regulated entities to notify the AER of breaches of regulatory obligations, in accordance with guidelines issued by the AER; • a requirement for regulated entities to undertake compliance audits, and to co-operate with such audits being undertaken by the AER or an independent auditor, in accordance with guidelines issued by the AER; and • a requirement for the AER to report on its compliance monitoring and enforcement functions. 	<p>We support this recommendation, but note that the results of AER compliance activities should be made public, so that consumers and other stakeholders are aware of regulatory non-compliance, and can take steps to promote enforcement and seek redress. Public reporting of compliance monitoring also provides important information to markets and promotes 'competition by comparison'. We believe that, to be useful, such reporting must be both regular and timely.</p> <p>The AER should also have specific powers to undertake comprehensive performance reporting about the level of services provided by regulated entities.</p>
1.79	Court based enforcement mechanisms	<p>The court-based enforcement mechanisms provided for in sections 61, 63 and 68 of the NEL (and the equivalent provisions to be included in the NGL) should apply to the obligations to be included in the national customer framework. Compliance with these requirements should be</p>	<p>We support this recommendation.</p>

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

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		designated as civil penalty provisions.	
1.80	Additional powers for courts to make orders	No longer required.	<p>The Productivity Commission recommended that the law be changed so that consumer regulators can take representative actions on behalf of consumers, whether or not they are parties to the proceedings.² The Commission stated that there are strong grounds for regulators to be able to act on behalf of consumers, including that such representative action may be a more efficient way of proceedings to the extent that it reduces the potentially excessive transaction costs of organising a private class action and any third-party financing arrangements.</p> <p>We note that individual consumers will be able to enforce proceedings through independent ombudsman schemes. While this is appropriate, we also believe that collective actions by regulators have not only private benefits to individual consumers, but also public policy benefits to ensure that retailers do not unfairly profit from breaches of the law. Even with rights of individual redress, many consumers might not access the ombudsman scheme meaning that businesses can profit from systemic breaches that affect large numbers of consumers. We strongly believe that such powers for the AER are warranted, and redress need not necessarily be in the form of damages, but could involve refunds and/or an enforceable promise to honour representations that were made.</p>
1.81	Infringement notices	The provisions currently contained in the NEL (and to be included in the NGL) giving the AER the power to issue	We support this recommendation

² Page 218.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>infringement notices where the AER believes that there has been a breach of a civil penalty provision will apply to the new national customer framework.</p>	
1.82	Administrative remedies	<p>The NEL and NGL will include provisions that enable the AER to accept enforceable undertakings modeled on section 87B of the <i>Trade Practices Act 1974</i> (C'th).</p>	<p>We strongly support this recommendation. We strongly support the proposal for the AER to be able to obtain enforceable undertakings against market participants. Enforceable undertakings have a long history in consumer regulation enforcement and are used widely by the Australian Competition and Consumer Commission and the Australian Securities and Investments Commission. They can ensure a regulator can enforce compliance with regulatory obligations quickly without having to go to court. Importantly, they also ensure the regulator can take court action to enforce these undertakings if they are not complied with (at which point the court has broad powers to make orders, including to disgorge any financial benefits reasonably attributable to the breach of the undertaking).³</p> <p>We also support the recommendation that the AER will be able to use lower courts for enforcement purposes. We agree that this will ensure that court resources are used efficiently.</p>
1.83	Revocation of business authorisation	<p>The AER's power to revoke a business authorisation is only to be used as a last resort after all other enforcement mechanisms have been exhausted, and not as an enforcement mechanism to address one-off breaches.</p>	<p>We support this recommendation</p>

³ Section 86D, TPA.

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

NO.	SUBJECT	SCO RECOMMENDATION	COMMENTS
Statutory objectives			
1.85	Statutory Objectives of the NEL and NGL	The current statutory objectives in the NEL and NGL are adequate to accommodate the transfer to the new national customer framework.	Please note comments below.
1.86	Supplementary objectives	No supplementary objectives will be introduced for the new national customer framework.	<p>We strongly believe that with respect to the national energy customer framework, the Law should incorporate facilitating statutory objectives to provide additional guidance to the regulators for the retail and non-economic distribution, to enable them to</p> <ul style="list-style-type: none"> • balance competing interests between classes of consumers • collect and publish information to disadvantaged consumers (recognising that disadvantage could be incurred through a range of factors and affect small or large end-users at times) • enable the regulators to provide information to classes of customers recognised as being disadvantaged. <p>We understand and agree that elected governments should play the primary role in shaping social and environmental policy, not economic regulators. However, we believe there is also a defined role for economic regulators to consider the implications of economic regulation across classes of consumers, and</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENTS
			<p>particularly to consider social and regional equity matters.</p> <p>Such a decision would be firmly in alignment with the Productivity Commission's proposed changes to the objectives of Australian consumer laws.</p>

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

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

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Calculation of Charges			
2.1	Tariffs and charges	<p>Charges under the standard retail contract are to be made on the basis of a published standing offer tariff that must be referred to in the contract.</p> <p>The standing offer tariff must be published by the retailer on its website and provided to the AER for publication on its website.</p> <p>Any variation to standing offer tariffs and charges must be published 20 business days in advance of the variation taking effect.</p> <p>A retailer is limited to varying a standing offer tariff to 6 monthly.</p> <p>Upon request, a retailer must provide a customer with information reasonably available to the retailer on network charges, retail charges and any other charges relating to the sale or supply of energy.</p> <p>Market Retail Contract Annotation</p> <p>Publication requirements do not apply to market retail contracts. Market retail contract tariffs must be included in the contract and variations must be notified to the customer</p>	<p>We do not support the market retail contract annotation that states that publication requirements do not apply to market retail contracts. See later in our submission for comments about product information and contractual disclosure.</p> <p>We also believe that, for all contracts, variations of tariffs or charges (and any other terms and conditions for that matter) should be notified upfront, allowing consumers to cancel the contract without penalty should they not accept the variation. We note that this would be required to comply with the unfair contract term provisions of the <i>Fair Trading Act 1999</i> (Vic). With a view to harmonise regulatory arrangements at 'best practice', we believe that this should be provided for in all market contracts.</p> <p>We acknowledge that the Government has indicated in-principle agreement to a Productivity Commission recommendation around unfair contract term provisions in the general consumer law. We do not think that this should prevent an unfair contract term</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		in accordance with requirements set out in the contract.	prohibition to operate for energy market contracts, especially considering implementation of such a law is some way off.
2.2	Use of meter data	<p>Unless otherwise permitted, a retailer must base the calculation of charges for a small customer's bill on metering data provided by the distributor or other responsible person in accordance with the Rules.</p> <p>A retailer may base the calculation of charges under a bill on an estimation of a small customer's consumption of energy in the following circumstances:</p> <ul style="list-style-type: none"> • where the customer consents to the use of estimates by the retailer; • where the retailer is not able to reasonably or reliably base the bill on a meter reading; or • where metering data is not provided to the retailer by the distributor or other responsible person. <p>Market Retail Contract Annotation May be varied by agreement in market retail contracts.</p>	<p>We do not support the inclusion of the third dot point which appears to be duplication with the second. We note that such a provision does not currently apply in jurisdictional frameworks.</p> <p>We believe that metering data must be included on all bills, including market contracts, irrespective of whether the calculation of charges reflects a consumer's consumption. We are concerned that not providing such information on market contract bills would be at odds with other government policy relating to sustainable consumption.</p> <p>We are additionally concerned that allowing calculation of charges to not reflect consumption, as the market retail contract annotation allows, may reduce the ability of price signals to operate in the market.</p>
2.3	Meter reads	A standard retail contract will inform the customer who is responsible to ensure that a meter reading takes place, and that this must take place at least once in each 12 month period.	<p>We believe that meter reads should be obtained once every 6 months, which is the current best practice (NSW). As it is custom for meters to be read quarterly, this would not result in any additional compliance cost on industry.</p> <p>The benefit to customers is that estimated reads will occur less frequently. Estimated reads result in price shocks and an inability to understand and control</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
			consumption.
2.4	Estimations	<p>Where estimations are permitted to be used as the basis for the calculation of energy charges under a bill for a small customer, the estimations may be based on:</p> <ul style="list-style-type: none"> • the customer's reading of the relevant meter; • historical meter data for the relevant customer reasonably available to the retailer; or • where there is no historical meter data for the relevant customer, the average usage of energy by a comparable customer over the corresponding period. <p>Market Retail Contract Annotation</p> <p>Where estimation is the basis for the calculation of charges under a market retail contract, the above standard requirements in relation to the basis of estimation are to be included as a minimum term for that contract.</p>	We support this recommendation.
2.5	Bill smoothing	<p>Where a retailer is entitled to use estimations as the basis for the calculation of charges under an energy bill, estimated bills may be provided under a smoothing arrangement if:</p> <ul style="list-style-type: none"> • the amount payable each month is initially the same; • the retailer's estimate is based on the customer's historical billing data or, if no such data exists, the average consumption of a similar customer; • the retailer re-estimates consumption after 6 months on the basis of a meter read; and • the difference between the initial estimate and the 	<p>We believe that, for standard contracts, bill smoothing should only occur with the customer's explicit informed consent. Given the proposal to have standard terms and conditions as model terms, we also question whether allowing bill smoothing in standard contracts creates additional complexities that are not warranted. If a consumer wanted a bill smoothing arrangement, they could consider a market contract that offered this product innovation.</p> <p>We also believe that the re-estimation at the six</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>re-estimate is greater than 10%, the retailer resets the amount payable under each of the remaining bills to reflect the difference.</p> <p>Market Retail contract Annotation</p> <p>May be varied by agreement in market retail contracts.</p>	<p>month period must be based on an actual meter read.</p> <p>We strongly believe that the protections outlined for bill smoothing arrangements should apply to market contracts as well. Given that the consumer protections are designed to reduce the impact of price shocks on consumers, there is no justification for them being removed. In fact, it is generally in relation to market contracts that bill smoothing occurs, not standing contracts.</p>
2.6	Meter access	<p>The standard retail contract will state that the customer must allow safe and unhindered access to the supply address for the purposes of reading the meter.</p> <p>If a failure to provide access results in a charge being based on estimation and the customer subsequently requests an actual read, the retailer may charge the customer its reasonable costs of complying with the request.</p>	<p>We support this recommendation. We believe that the regulator should have oversight for any charges by the retailer for additional meter read requests.</p>
Termination			
2.7	Retailer termination	<p>A retailer may terminate a small customer supply contract where:</p> <ul style="list-style-type: none"> • the retailer has a contractual right to disconnect, disconnection has occurred and there is no contractual right to reconnection; • the small customer and the retailer have entered into a new customer contract; or • financial responsibility for the small customer has transferred to another retailer. 	<p>We do not see any value in the retailer being able to terminate a standing contract. It is our view that retailer termination will create additional barriers to supply should a consumer remedy the reasons for disconnection (ie, additional application process). It is our view that the contract should still be on foot, and if the consumer is in breach, this should lead to disconnection, not termination.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>Market Retail Contract Annotation</p> <p>Market retail contracts may provide for additional termination events, but must not vary the provisions relating to disconnection.</p>	
2.8	Customer termination	<p>A small customer may terminate a standard retail contract upon five business days notice to the retailer.</p> <p>Market Retail Contract Annotation</p> <p>A small customer is required to give no more than 28 days notice to terminate a market retail contract.</p>	<p>We believe that the notice period for market contracts should be 20 business days.</p>
Security			
2.9	Provision of security	<p>A retailer may require a small customer to provide a security deposit where:</p> <ul style="list-style-type: none"> • the small customer still owes an amount over a threshold amount to that retailer in relation to the supply of electricity to another address; • the customer has unlawfully acquired energy within the past two years; • the customer has refused to provide acceptable identification to the retailer; or • the retailer reasonably considers that the customer does not have a satisfactory credit history. <p>Payment of a security deposit in instalments will be provided for.</p>	<p>SCO considers that provision for instalment payment for security deposits more appropriately deals with the issue of customer credit risk.</p> <p>We note the above SCO comment and would argue that the provision for instalment payment of <i>ongoing liabilities</i> more accurately deals with the issue of customer credit risk, compared to security deposits (or instalment payment of security deposits). Regular instalments offset any risk to the retailer in relation to debt deferral under regular payment arrangements. Further, use of Centrepay should qualify as an instalment plan.</p> <p>Note our comments in track changes – jurisdictional frameworks currently only require a security deposit should a debt be over a certain threshold amount.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>Market Retail Contract Annotation</p> <p>May be varied by agreement in market retail contracts.</p>	<p>We believe that credit history should only relate to utility debts, not all debts. We consider that in many cases general information held by credit referencing agencies is not fair, accurate or relevant, such that there is currently a review of credit referencing being undertaken by the Australian Law Reform Commission. In particular, there is currently no prohibition against small debts being listed, which could mean that consumers are unfairly being required to pay security deposits, limiting their access to an essential service.</p> <p>Considering our continued concerns with the lack of explicit informed consent in relation to market contracts, we believe that regulation of the provision of security deposits should also apply to market contracts. We are not convinced that the competitive market will ensure that consumers will not be misled into providing security deposits.</p>
2.10	Information about credit history	<p>If a retailer requires a security deposit on the basis that a small customer has an unsatisfactory credit history, the retailer must inform the customer:</p> <ul style="list-style-type: none"> • that the retailer has decided the customer has an unsatisfactory credit history; • the reasons for the retailer's decision; • of the customer's rights to dispute the decision of the retailer; and 	<p>The customer's right to complain should be clarified so that they are advised of their right to complain to internal dispute resolution as well as external dispute resolution schemes (Ombudsman schemes).</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<ul style="list-style-type: none"> that the customer has the right to obtain details in relation to the information on which the retailer's decision was based. 	
2.11	Amount of security	<p>The amount of security may not exceed:</p> <ul style="list-style-type: none"> 1.5 times the average quarterly bill (for customers on a quarterly billing cycle); 2.5 times the average monthly bill (for customers on a monthly billing cycle); or 2 times the average monthly bill (for customers on a two monthly billing cycle). <p>Market Retail Contract Annotation May be varied by agreement in market retail contracts.</p>	<p>We support this recommendation.</p> <p>We believe, however, that this recommendation should also apply to security deposits under market retail contracts. There is no basis for retailers to require a punitive amount above these amounts as a security deposit for market contracts.</p>
2.12	Interest	<p>The retailer must pay interest on a security deposit to the customer in accordance with an interest rate specified initially in the Rules and subject to periodic review by the AER. The rate is to be published on the AER website.</p>	<p>We support this recommendation.</p>
2.13	Application of security	<p>The retailer may only apply a security deposit to off-set amounts owed to it where the customer has failed to pay a final bill and:</p> <ul style="list-style-type: none"> the failure results in disconnection by the retailer and there is no contractual right to reconnection; the customer vacates the property; the customer requests disconnection; or the customer transfers to another retailer. 	<p>We support this recommendation.</p> <p>We believe, however, that this recommendation should also apply to the application of security under market retail contracts. If the retailer was able to apply security deposits unrestricted without notice, this may result in consumer detriment.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>The retailer must account to the customer within 14 days after application of the security deposit.</p> <p>Market Retail Contract Annotation</p> <p>May be varied by agreement in market retail contracts</p>	
2.14	Repayment of security	<p>The retailer must repay a security deposit to the customer:</p> <ul style="list-style-type: none"> • after the customer has completed: <ul style="list-style-type: none"> • in the case of a residential customer – 12 months; • in the case of a non-residential customer – 2 years of continuous connection to energy; or • where the customer ceases to take supply from the retailer at the relevant address and there is no debt outstanding. <p>Market Retail Contract Annotation</p> <p>May be varied by agreement in market retail contracts.</p>	<p>Note our comments in mark-up. We do not believe it is fair for a consumer to be denied repayment of security merely because they were late with a bill, but it did not lead to disconnection.</p> <p>We also believe that there should be an obligation on the retailer to account to the customer within 14 days after the time when the repayment becomes payable.</p> <p>Again, we do not believe that this should be able to be varied in a market contract. We believe it provides for fair terms for repayment of security. If it was not a required term, retailers could refuse to repay security despite a customer being a long-term good payer.</p>
Billing, apportionment of payment, disputes			
2.15	Frequency of bills	<p>Energy bills must be issued by the retailer at least every three months.</p> <p>Market Retail Contract Annotation</p> <p>May be varied by agreement in market retail contracts.</p>	<p>We support this recommendation.</p>
2.16	Content of bills	<p>A bill must include the following content:</p> <ul style="list-style-type: none"> • customer's name, account number and address; • meter identifier; 	<p>Note our track changes – the bill should be required to include this information on bills, not merely “should”.</p> <p>We strongly believe that bills should include consumption graphs. We note that the SCO state that</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<ul style="list-style-type: none"> • bill period; • due date; • amount of arrears or credits; • relevant tariff; • whether the bill was issued as a result of a meter read or an estimation and, if issued as a result of a meter read, the date of the meter reading; • values of meter readings (or, if applicable, estimations) at the start and end of the billing period; • details of consumption or estimated consumption; • pro rata billing information (if applicable); • any amount deducted, credited or received under a Government rebate or concession scheme or under a payment plan; • the amount of any security deposit; • the basis on which charges are calculated, including fixed and variable charges and other miscellaneous fees or charges applicable to the small customer; • details of the available payment methods; • reference to any available government funded concessions or rebates; • telephone number for account and fault enquiries; • contact details for complaints; and • availability of interpreter services in community languages. 	<p>this is being dealt with by the customer information implementation committee. Given the lack of public or forthcoming information about the work program of this committee, we believe that the requirement to provide consumption graphs should be included in the current amendments. Consumption graphs are not only relevant in promoting energy efficiency, but more importantly provide customer information and ensure consumers are able to compare their usage over time. This is an important consumer protection that should be maintained.</p> <p>We believe that details of early dispute resolution schemes should be placed on bills, at least annually.</p> <p>We believe that details of greenhouse gas emissions should be included on the bill. We repeat our comments above about the customer information implementation committee. We note that there needs to be robust oversight by the regulator of the accuracy of this information. This information is currently required in ACT and Victoria, which is best practice.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>Amounts billed for goods and services (other than the supply of energy) must be included in a separate bill or as a separate line item on an energy bill.</p>	
2.17	Payment terms	<p>The due date for payment of a bill may not be less than 12 business days from the date on which the bill is sent out.</p> <p>Market Retail Contract Annotation</p> <p>May be varied by agreement in market retail contracts.</p>	<p>We support this recommendation but note that, for a market contract, we believe that a due date of the bill should not be less than a reasonable date after which the bill is sent out. We are concerned about other industries (ie, telcos) which provide that bills are due within an unreasonable short timeframe. These timeframes can be designed to ensure a late payment penalty is imposed if, for example, a consumer was away from their residence for a period of time.</p>
2.18	Apportionment	<p>If a bill includes amounts payable for other goods and services provided by the retailer (apart from the supply of energy), any payment made in relation to such a bill must be applied firstly to the payment of the energy charge, unless otherwise directed or agreed to by the customer or jurisdictional legislation expressly requires otherwise.</p> <p>Market Retail Contract Annotation</p> <p>May be varied by agreement in market retail contracts.</p>	<p>For example, funds are applied first to the Queensland Community Ambulance Cover Levy, under the <i>Community Ambulance Cover Act 2003</i>.</p> <p>We support this recommendation, but do not believe it should be varied for market contracts. Energy is an essential service and should be paid for first in all circumstances.</p>
2.19	Historical billing information	<p>A retailer must promptly provide historical billing data for the previous 12 months on request and without charge to a small customer. Any information provided prior to that period or more than once in any 12 month period may be subject to a reasonable charge.</p>	<p>We believe that historical billing information should be provided on a bill (in terms of a consumption/cost graph) for the previous 15 months, so as to enable comparison with the same period last year. We note that all jurisdictions currently allow more than 12 months (except ACT). It also must be clear that historical billing information must be provided within a</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
			<p>particular time period (rather than 'promptly') – this will ensure that a regulator and the ombudsman can ensure compliance.</p> <p>We do not support charging for information provided more than once in any 12 month period – customers should have the right to dispute more than one bill in that period. We believe that any such charge should be approved by the regulator.</p>
2.20	Billing disputes	<p>A retailer must review a bill upon the request of a small customer in accordance with the retailer's standard complaints and dispute resolution procedures.</p> <p>The customer may request the retailer to arrange a meter test, with the cost of the test to be borne by the customer, but rebated to the customer if the meter is proved to be faulty.</p> <p>Retailers may require a customer to pay:</p> <ul style="list-style-type: none"> • the portion of the bill under review which is not in dispute; or <p>and any future bills that are properly due.</p> <p>Where, after conducting a review of the bill, a retailer is satisfied that the bill is:</p> <ul style="list-style-type: none"> • correct, the customer must pay the amount outstanding; or • incorrect, the retailer must adjust the bill accordingly and refund any fee paid in carrying out any metering test. 	<p>Note our deletions in mark-up. It is not clear what is the meaning of time limits – what time limits, and where do the obligations lie? Under limitations of actions laws, parties generally have 6 years to dispute something under a contract, including a bill.</p> <p>We think it is reasonable to require the customer to pay amounts which are not in dispute, but not to use some potentially unfair formula to require a greater payment.</p> <p>This clause does not prevent the customer from referring a dispute according to the relevant ombudsman scheme.</p> <p>We believe that customers should not have to pay the costs of a meter test upfront – only if the meter test shows that the read is correct (see last line about refunding amount paid). This would be a barrier to a customer raising a complaint.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Undercharging and overcharging			
2.21	Undercharging	<p>A retailer may recover from a customer any amount undercharged during the previous 12 months (unless the undercharging arises as a result of the fault or unlawful action of the customer, in which case the 12 month limitation does not apply).</p> <p>Interest is not payable on the amount undercharged and the customer must be given a period of time to pay any undercharged amount commensurate with the period of the undercharging. Any amount undercharged must be listed and explained as a separate item on the customer's next bill or on a separate bill.</p>	<p>We believe that a retailer should only recover amounts undercharged during the previous 6 months. We note that best practice is 6 months (Tasmania) and it is the timeframe recommended by the Utility Regulators' Forum.</p> <p>We point the RPWG to a submission by Jindarra Community Programs to the Victorian Essential Services Commission (VESC) about the impacts of high bills, which led the VESC to amend the VERC so as to limit recovery of amounts undercharged where . Problems arose due to retailers not billing consumers, leading to high bills. Such a requirement should encourage retailers to improve their billing systems.</p>
2.22	Overcharging	<p>A retailer must promptly inform the customer within 10 business days of becoming aware of an overcharge that exceeds the relevant threshold amount and must repay any amount overcharged.</p> <p>If the amount overcharged is less than the threshold amount, the retailer must credit that amount to the next bill. If the amount overcharged exceeds the relevant threshold, the retailer must credit the customer's next bill unless otherwise directed by the customer.</p>	<p>The initial overcharge threshold amount is proposed to be \$50.00.</p> <p>We support this recommendation.</p>
Payment methods and difficulties			
2.23	Payment methods	A retailer must accept payment by a small customer by any	Note our comments in mark-up. We believe that

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>of the following payment methods:</p> <ul style="list-style-type: none"> • in person; • by telephone; • by mail; or • by direct debit. <p>Where a direct debit arrangement is entered into, the retailer and the small customer must agree the amount, date and frequency of the direct debits, notification that direct debits may attract significant dishonour fees and the customer's cancellation options.</p> <p>A retailer must offer hardship customers the option to pay by Centrepay. Other customers experiencing financial difficulties, may request Centrepay as a payment option.</p> <p>Market Retail Contract Annotation</p> <p>May be varied by agreement in market retail contracts. If direct debit is provided for in the market retail contract, the last paragraph must be complied with.</p>	<p>direct debit arrangements can impose significant detriment on some consumers, and should be regulated. In particular, consumers should be notified that direct debits can attract significant dishonour fees.</p> <p>We assume that the second sentence under Market Retail Contract Annotation is intended to refer to the second last paragraph, not the last paragraph.</p> <p>We strongly welcome the requirement for retailers to accept Centrepay as a payment method. We believe this should apply to all customers who are eligible for Centrepay, not merely hardship customers. The ability to access Centrepay means that many consumers who receive social security benefits might not need to access a hardship policy.</p>
2.24	Payment difficulties	<p>A customer may be offered a payment plan if:</p> <ul style="list-style-type: none"> • the customer informs the retailer that it is experiencing payment difficulties; or • it becomes apparent to the retailer that the 	<p>The extent of circumstances under which retailers are obliged to offer instalment payment plans and other services to hardship customers are separately covered under recommendations 1.20A-1.20E.</p> <p>It is concerning that this recommendation states a</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>customer is experiencing payment difficulties</p> <p>A customer requesting a payment plan is entitled to reasonable consideration of that request by the retailer.</p> <p>A retailer is not required to offer a payment plan if the customer has had two instalment plans cancelled due to non-payment in the previous 12 months.</p>	<p>customer 'may' be offered a payment plan – this is a significant weakening in protections as currently in Victoria consumers must be offered a payment plan if they are experiencing payment difficulties</p> <p>This recommendation needs to ensure that in arranging a payment plan, the retailer must assess a consumer's <u>capacity to pay</u>. The concept of capacity to pay is crucial, ensuring that retailers set instalment plans at levels which consumers can reasonably afford.</p> <p>We also believe that where customers are experiencing payment difficulties, retailers must provide information to those customers in relation to available concessions or government assistance and independent financial counselling services. This is currently a requirement in a number of jurisdictions and it should continue.</p>
2.25	Shortened collection period	<p>A retailer may only place a customer on a shortened collection cycle if in the case of a residential customer, the retailer:</p> <ul style="list-style-type: none"> • has complied with the requirements as to assessing whether the customer is experiencing payment difficulties; • is satisfied that there are no apparent bill payment difficulties; • has given to the customer: 	<p>SCO seeks comment on the effectiveness of shortened collection periods for managing customer debt.</p> <p>We believe that the use of instalment arrangements is a more effective way to manager customer debt. We are concerned that this recommendation is framed as a penalty for a consumer, rather than as a proposal to assist them to manage debt problems. We believe that use of a payment plan under recommendation</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<ul style="list-style-type: none"> • reminder notices for two consecutive bills or disconnection warnings for two consecutive bills; and • prior to the second reminder notice or second disconnection warning a notice informing the customer that; <ul style="list-style-type: none"> a) receipt of the second reminder notice may result in the customer being placed on a shortened collection cycle b) being on a shortened collection cycle means that the customer will not receive a reminder notice until the customer has paid three consecutive bills in the customers billing cycle by the pay by date c) alternative payment arrangements may be available; and d) the customer may obtain further information from the retailer (on a specified telephone number) <p>A retailer must give a customer notice that the retailer has placed the customer on a shortened collection cycle within 10 business days of doing so.</p>	<p>2.24 is a more appropriate way to manage debt problems.</p>
Disconnection			
2.26	Grounds for disconnection	<p>A retailer may arrange to disconnect or discontinue supply where a small customer:</p> <ul style="list-style-type: none"> • has an overdue debt above a threshold amount; 	<p>Note our comments in mark-up. We believe that there should be a minimum threshold of debt beyond which disconnection can occur – this exists currently in</p>

Deleted: not paid a bill for energy services

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<ul style="list-style-type: none"> • has failed to provide security requested by the retailer (which it is entitled to request); • has denied access to a meter for three consecutive scheduled readings without reasonable excuse; • has refused to provide acceptable identification; • has acquired energy illegally; • has obstructed an authorised person in relation to acts to be done under the contract; and/or • (in the case of a market retail contract) the contract has been terminated in accordance with the terms of the contract, and the customer has not entered into another retail contract. 	<p>jurisdictional frameworks.</p> <p>We also do not support the final dot point. We believe that if a market contract is terminated in accordance with the terms of the contract and the customer has not entered into another retail contract, then they should be placed on a standing or deemed contract so as to maintain supply. We are particularly concerned that a fixed period market contract may terminate following the expiry of the fixed period may lead to disconnection.</p>
2.27	Limitations on disconnection	<p>Other limitations will apply to the right to discontinue supply in circumstances where a small customer has not paid a bill on account of having insufficient income.</p> <p>In these circumstances, the retailer is (where the customer is a hardship customer) required to comply with its obligations under its Customer Hardship Policy before proceeding to disconnect a customer.</p> <p>Retailers are not entitled to disconnect while an application for Government assistance or a payment plan is pending or there is an unresolved complaint relating to the outstanding bill being dealt with by the relevant ombudsman.</p> <p>In addition, premises registered as containing life support or other critical medical equipment may not be disconnected.</p> <p>Retailers may only arrange for disconnections to occur before times of the day and on days as specified in the Rules</p>	<p>We support this recommendation. Note our comments regarding limitations on times of day and days for disconnection in recommendation 1.31.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		(see recommendation 1.31).	
2.28	Notice	<p>Disconnection may not be effected until the retailer has provided the customer with:</p> <ul style="list-style-type: none"> • a reminder notice; and • a combined (second) reminder and disconnection notice, <p>containing minimum information and at minimum specified intervals.</p> <p>In addition, where the reason is non-payment of a bill, the retailer must make a reasonable attempt to contact the customer by telephone or other specified means.</p>	<p>The notice given for disconnection will inform the customer of the due date for payment of any bills or remediation of any other ground for disconnection before disconnection is enacted.</p> <p>We support this recommendation, subject to further details as to timing. We believe that the collection cycle, including when the reminder notice and the disconnections warnings are provided, should ensure that a consumer has two full fortnightly pay periods after the receipt of a bill to make payment before disconnection. For many consumers on low and fixed incomes, such a time period is crucial to ensure they have the opportunity to remain connected.</p>
2.29	Reconnection	<p>A retailer must notify a small customer of the arrangements which the customer will need to make in respect of reconnection, including any costs payable by the customer. Any payment arrangements for reconnection must allow for fair and reasonable payments at fair and reasonable intervals.</p> <p>A retailer must reconnect premises if the breaches described above are remedied within 10 business days. Retailers must make appropriate arrangements with the relevant distributor to ensure that reconnection occurs as soon as possible for the customer.</p>	<p>We cannot support this recommendation without further detail.</p> <p>Regulations around payment arrangements for reconnection should refer to the requirement to offer instalment plans (taking into account capacity to pay, etc) outlined above. "Fair and reasonable" is not sufficient.</p> <p>Consumers should additionally have a right to reconnection without payment should they contest the grounds of disconnection through internal or external dispute resolution, until such time the complaint is resolved.</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
			<p>The recommendation is unclear in relation to reconnecting premises within 10 business days. If the contract is still on foot, a retailer must reconnect premises if breaches are remedied, and there should be no limitation around 10 business days. This time period will leave consumers without connection for too long a period.</p>
Liability and warranties			
2.30	Liability and warranties	<p>A retailer must not include any term or condition in an energy contract that limits the liability of the retailer for breach of the contract or negligence by the retailer, provided that:</p> <ul style="list-style-type: none"> • the retailer's liability may be limited as contemplated by section 68A of the <i>Trade Practices Act</i> or by equivalent State or Territory legislative provisions; and • there is no variation or exclusion of relevant legislative provisions which provide that the retailer is not liable for damages for failure to supply due to circumstances beyond its control (i.e. section 120 of the NEL). <p>A retailer may not include in an energy contract with a small customer a term pursuant to which the customer indemnifies the retailer, so that the retailer may recover from the customer an amount greater than the retailer would otherwise have been able to recover at general law for breach of contract or negligence by the customer in respect of the contract.</p>	<p>The SCO notes that the provision dealing with liabilities as between retailers and customers is a key means for appropriately allocating risks and of critical importance to the overall contractual model.</p> <p>Interested parties may wish to give particular attention to providing feedback to SCO in this area as the detailed provisions are developed during the drafting of the initial Rules for the new national customer framework.</p> <p>This rule should be formulated in a way that prevents retailers from including confusing exclusion clauses, which are common in consumer contracts (ie, "we are not liable for our actions or for breach of contract or negligence, except to the extent provided by law").</p> <p>Also note our comments elsewhere about liability as between a distributor and consumer.</p>
Miscellaneous			
2.31	Prepayment meters	A customer may agree but cannot be required to use a	While SCO agrees prepayment meters should be

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		prepayment meter.	<p>available as part of a market retail contract in the national customer framework, this is only where jurisdictions permit the use of prepayment meters and is not intended to mandate their use nationally.</p> <p>SCO considers that market retail contracts are the appropriate vehicle to contain the further requirements relating to the use of these meters.</p> <p>These requirements are to be based on existing jurisdictional codes for prepayment meters.</p> <p>We support this recommendation that prepayment meters should only be available for market retail contracts, not standing contracts. See our detailed comments regarding prepayment meters in the other relevant section on prepayment meters.</p>
2.32	Dispute resolution and complaints	A retailer must handle a complaint made by a small customer in accordance with the relevant jurisdictional dispute resolution process.	<p>Contractual regulation of dispute resolution and complaints should ensure consumers are informed of their right to complain to an internal dispute resolution scheme that is in accordance with the Australian Standard. Information about IDR processes should be provided to the regulator, as occurs in SA.</p> <p>Data should be kept about complaints and resolutions for 12 months, as occurs in the ACT.</p> <p>Contractual regulation of dispute resolution and complaints should also ensure consumers of their right to complain to external dispute resolution (ie, Ombudsman schemes).</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
Additional provisions required in market retail contracts			
2.33	Cooling-off period	<p>Market Retail Contract Annotation</p> <p>A retailer must ensure that each market retail contract entered into with a small customer enables the customer to rescind the contract within 10 business days after the contract is entered into or, if later, from the time the customer receives the full terms and conditions of the contract including information relating to exercising the cooling-off period.</p>	<p>Note our comments in mark-up. Original drafting was unclear. The cooling-off period should not run until the time the customer receives a copy of the full terms and conditions of the contract as well as information about how to exercise their cooling-off rights.</p>
2.34	Dual fuel contracts	<p>Market Retail Contract Annotation</p> <p>In the case of dual fuel bills, payment is to be made as agreed with or directed by the customer. If there is no such agreement or direction, payment is to be applied in proportion to the relative value of the electricity and gas charges.</p> <p>Where jurisdictional legislation expressly requires otherwise, payment must be allocated accordingly.</p> <p>If disconnection is permitted, a retailer must ensure that a small customer on a dual fuel contract is initially disconnected from gas supply and that disconnection from electricity supply occurs within a certain period after the disconnection notice, unless otherwise directed by the customer or agreed by the customer.</p>	<p>We support this recommendation.</p> <p>We think it should be made clear that, although gas may be disconnected, the retailer cannot terminate the contract while the consumer still has a right to receive electricity. Alternatively, as Victorian framework provides, disconnection from gas should mean that the consumer reverts to a standing contract for both fuels, with reconnection for gas allowed where reason for disconnection is remedied.</p>
2.35	Early termination charges	<p>Market Retail Contract Annotation</p> <p>The retailer may only impose an early termination charge under a small customer market retail contract if:</p>	<p>We strongly believe that the re-formulated provision in the VERC (clause 32) should be inserted in the new Rules. This re-formulation was deemed necessary</p>

Deleted: after the customer receives prescribed information relating to the cooling off period.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<ul style="list-style-type: none"> • the market retail contract includes details of the amount or manner of calculation of the early termination charge; and • the early termination charge is a reasonable estimate of the cost to the retailer resulting from the early termination. 	<p>after the VESC reviewed early termination clauses which showed that retailers were recovering more than a reasonable estimate of the cost resulting from early termination.</p> <p>The VERC states: Any amount of an early termination fee payable by a customer upon the customer breaching their energy contract must be determined by reference to, and must not exceed, the total of the following direct costs incurred by the retailer in relation to that particular customer which remain unamortised at the time of termination:</p> <ul style="list-style-type: none"> i) pro-rata costs of procuring the customer to enter into the contract ii) additional costs of giving effect to the early termination of the contract, final billing and ceasing to be responsible for the supply address; and iii) the value of any imbalance in the retailer's electricity or gas hedging program to the extent that it is directly attributable to that breach of contract.
Other provisions contemplated by AAR			
2.36	Assessing credit risk (limiting assessment to utility related debt)	Retailers may have regard to a customer's general credit history when assessing credit risk rather than being restricted to utility-related debt.	We believe that credit history should only relate to utility debts, not all debts. We consider that in many cases general information held by credit referencing agencies is not fair, accurate or relevant, such that there is currently a review of credit referencing being undertaken by the Australian Law Reform Commission. In particular, there is currently no

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
			prohibition against small debts being listed, which could mean that consumers are unfairly being required to pay security deposits, limiting their access to an essential service.
2.37	Customer consultative groups	The AER must establish a customer consultative group.	To be a direct obligation. We support this recommendation, and would recommend that retailers are also required to establish customer consultative committees.
2.38	Discrimination based on customer supply or use of alternative energy sources	There will not be a specific provision relating to discrimination on grounds of customer supply or use of alternative energy sources.	Small customers irrespective of use of alternative energy sources (such as photovoltaic panels) must be supplied according to the standard retail contract by the designated retailers and this does not permit such discrimination. Consumers who use alternative energy sources continue to have difficulty seeking fair agreements with retailers. While we agree in principle that consumers will still be able to access the standard retail contract, it must be acknowledged that discrimination will continue in relation to market contracts. If retailers view grid feed-in customers as unattractive, they will not receive the benefit of more competitive and attractive offers through market contracts. We do not think this is a fair outcome for a market that should be promoting small-scale renewable generation.
2.39	Fees for late payment	Fees for late payment will be expressly permitted under standard retail contracts, provided that the retailer publishes	The amount of the late payment fee may be set by jurisdictions where retail price regulation continues.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>a late payment fee with the standing offer tariff.</p> <p>Where a customer is a hardship customer (see recommendation 1.20A) (whether that customer is taking supply under a standard or market retail contract, a retailer must waive late payment fees.</p>	<p>We strongly believe that fees for late payment should not be permitted. We note that the standing offer tariff includes allowances for all costs of collection, including late payment. As such, recovery of late payment will allow retailers to over-recover.</p> <p>Fees for late payment also impact disproportionately on consumers suffering financial hardship, which causes them to pay their bills late. As stated by the Treasurer in the second reading speech introducing legislation in Victoria which banned late payment fees: "The government does not believe that people who are unable to pay their bills on time should be penalised further by late payment fees. Accordingly, the bill will prohibit the imposition of late payment fees in respect of small retail customers."</p>
2.40	Compensation for wrongful disconnection	Retailers are not required to pay compensation to customers who are wrongfully disconnected.	We support the inclusion of a regime that allows for compensation for wrongful disconnection, whether this be a contractual term or direct regulatory requirement. Compensation for wrongful disconnection has proved to be useful in Victoria in ensuring retailers have robust programs and procedures to prevent disconnection, and would strongly support its inclusion.
Provisions to be included in the Rules			
2.41	Communications with customers	A retailer must provide access to multi-lingual services (for languages common to the relevant customer base) in order to meet the reasonable needs of its small customers.	We support this recommendation.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
2.42	Customer information	A retailer must make available on request and without charge standardised information to a small customer concerning his or her rights, entitlements and obligations.	We support this recommendation.
2.43	Competitive pricing information	The Rules should permit (but not require) the AER to require pricing information to be presented in a format which enables comparison between competing offers.	<p>SCO invites stakeholder comment on the potential for – and options for – presentation of comparative pricing of market retail tariff offers across electricity and gas in the national market.</p> <p>We strongly believe that the Rules should require pricing information to be presented in a format which enables comparison between competing offers. Easy to understand and standard form pricing information will contribute to effective competition, by promoting effective demand side participation.</p> <p>We believe further targeted consultation should occur about the nature of the presentation of such information.</p>
Provisions subject to separate policy review			
2.44	Consumption graphs	Bills to include bill benchmarking data.	<p>The arrangements for presentation of this information are currently being developed by the Consumer Information Implementation Committee.</p> <p>Note our comments above in relation to this recommendation.</p>
2.45	Provision of energy efficiency advice	On request, a retailer must provide energy efficiency advice to a small customer.	<p>SCO supports this recommendation as it is consistent with broader demand management objectives and most current jurisdictional regimes.</p> <p>We support this recommendation</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
2.46	Greenhouse gas emissions information on bills	Bills must include information concerning greenhouse gas emissions in accordance with guidelines.	<p>The arrangements for presentation of this information are currently being developed by the Consumer Information Implementation Committee.</p> <p>Note our comments above in relation to this recommendation.</p>
2.47	CSOs	Retailers may be required to deliver government funded CSOs.	<p>The MCE is currently reviewing CSOs as requested by the Council of Australian Governments.</p> <p>The national framework should require retailers to deliver government funded CSOs and should require retailers to provide appropriate information about CSOs to consumers, both as part of the contractual information and at appropriate points in the collection cycle (ie. on disconnection warnings).</p>
2.48	Service standards	Retailers must comply with specified service standards.	<p>We require further information about what is contemplated by this recommendation. We believe that the regulator should be required to report on compliance with specified service standards.</p>

Part 3 – Regulation of marketing conduct

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

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
3.1	Pre-contractual disclosures - timing/form	<p>A retailer must provide a small customer with certain specific information as follows:</p> <p>(a) prior to formation of a market retail contract: where the prescribed matters may be disclosed in writing, electronically or verbally; and</p> <p>(b) as soon as practicable after formation of a market retail contract: pursuant to a single written disclosure statement (unless such disclosure statement has already been provided).</p>	<p>We broadly support this recommendation – retailers should be required to provide prescribed information prior to formation of a market contract.</p> <p>However, after formation of market contract, consumers should be provided with full terms and conditions of contract, together with a customer charter (summary of rights and obligations, including information about dispute resolution) as well as information about exercising cooling-off rights.</p> <p>If the contract is formed in a face-to-face situation, as soon as practicable should be at that time, not days after.</p>
3.2	Pre-contractual disclosures - required disclosures	<p>The information which a retailer must provide in the manner described above is information in relation to:</p> <p>(a) prices, charges, penalties, billing and payment arrangements: all applicable prices, charges, early termination payments and penalties, security deposits, service levels, concessions or rebates, billing and payment arrangements and how any of these matters may be changed;</p> <p>(b) contract duration: the commencement date and duration of the contract, the availability of extensions and whether the contract can be transferred to other premises</p>	<p>We strongly support these pre-contractual disclosures, but the following should be made clear:</p> <ul style="list-style-type: none"> • billing information should include frequency of bills; • payment arrangements include all available payment methods; • that all energy market contracts have a cooling-off period; • in the provision of information about the standard supply contract, details of any

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>if the customer moves out during the term of the contract;</p> <p>(c) cooling-off period: details of rights to rescind the contract, including how to exercise these rights;</p> <p>(d) electronic transactions: if any marketing requirement is to be complied with by an electronic transaction, how the transaction is to operate and, as appropriate, that the customer will be bound by the electronic transaction or will be recognised as having received the information contained in the electronic transaction; and</p> <p>(e) standard retail contracts: the availability of standard retail contracts and the AER's contact details.</p>	<p>difference between the market contract's terms and conditions and the basic terms and conditions under a standing offer.</p> <p>Further, where a product sells renewable power of any description, details should be given about the accredited GreenPower scheme and whether the energy sold complies with that scheme.</p>
3.3	Cooling-off period	<p>Unless such information has previously been supplied to the small customer, a retailer must send documentation to the small customer providing details of the customer's right to rescind the market retail contract, including information about how to exercise this right. A 10 business day cooling-off period will be put in place.</p>	<p>We strongly support this recommendation.</p> <p>We would also support a requirement that the retailer provide a prescribed form by which a consumer can exercise their cooling off period. A consumer would not necessarily have to use the prescribed form to cool off. Such a form operates under the Fair Trading Act and has contributed to consumer knowledge and understanding of cooling-off rights.</p>
3.4	Dispute resolution and complaints	<p>A retailer must advise a small customer of the customer's right to complain to the retailer in respect of any marketing activity conducted on behalf of the retailer and, if such complaint is not satisfactorily resolved by the retailer, of the customer's right to complain to the relevant industry ombudsman.</p>	<p>We support this requirement, but note that this information should be provided both before and after the consumer has entered into the contract.</p>
3.5	General conduct standards	<p>Marketers must, and retailers must ensure that marketers, comply with all applicable Commonwealth and State and Territory laws in relation to:</p>	<p>We strongly support this requirement.</p> <p>In relation to product knowledge, it should be clear</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		(a) misleading, deceptive or unconscionable conduct; (b) undue pressure, harassment or coercion; and (c) the quality, form and content of marketing information. Marketers must have, and retailers must ensure that marketers have, adequate product knowledge. Adequate product knowledge covers knowledge of matters such as tariffs, billing procedures and the availability of rebates and concessions.	that this includes knowledge about accredited GreenPower.
3.6	Duties of marketers	At all times in connection with any marketing activity, a marketer must identify his or herself to a small customer. Identification involves the marketer using best endeavours to provide the small customer with: (a) the marketer's first name; (b) any relevant identification number; (c) the name of the retailer on whose behalf the marketing contact is being made and contact details for the retailer; (d) sufficient contact details to enable the customer to contact the marketer; and (e) advice as to the purpose of the marketing contact. Where marketing is conducted in person, a marketer must wear an identification badge showing the marketer's photograph, first name and the name of the retailer on whose behalf the marketing contact is being made.	It should be clear that this information should be provided prior to the presentation of the pre-contractual disclosure requirements, and not after the consumer has entered the contract. We also do not support the use of the words 'best endeavours' – experience in Victoria suggests that such a requirement is difficult to determine compliance. Additionally, a marketer should disclose: <ul style="list-style-type: none"> • whether they will receive a commission or fee for obtaining a sale; • that the consumer may be contacted as part of an audit procedure, to confirm their understanding of and consent to the contract.
3.7	Training	Retailers must ensure that marketers are appropriately trained in relation to compliance with marketing obligations.	We support this recommendation, but submit that retailers must be obliged to provide regular refresher courses to marketers about the laws and regulations pertaining to marketing.

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
3.8	Record keeping	Retailers must keep records of all marketing related activities, including details of marketing visits which have been conducted, and telephone marketing calls which have been placed. Retailers must also retain records of any explicit informed consent obtained by a marketer for a specified period after such consent is obtained.	We strongly support this recommendation.
3.9	Compliance audits	A retailer may be required by the AER to conduct a compliance audit in respect of the compliance by marketers with their marketing obligations.	We support this recommendation, but consider that the AER should be obliged to conduct regular compliance audits.
3.10	Contact records and contact times	The national customer framework will not deal with these matters.	<p>These matters are captured by generic customer marketing regulation.</p> <p>We believe there should be energy specific rules around the use of contact records, as this matter is not dealt with appropriately in generic consumer law.</p> <p>Considering the significant consumer detriment caused by consumers being hassled when at home, we believe consideration should be given to a Do Not Contact register for energy retailers, that would operate in a similar fashion to the recently established Do Not Call register.</p>

Part 4 – Regulation of distributor-customer contract terms

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

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

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<ul style="list-style-type: none"> • the date otherwise agreed between the customer and the distributor. 	
4.4	Interruptions to supply	The contract will refer to the provisions of the Rules in relation to interruptions and curtailments to supply.	We support this recommendation.
4.5	Service standards/Guaranteed service levels	<p>The customer distribution contract will require that the distributor comply with any applicable service standards and guaranteed service level schemes.</p> <p>The following is an indicative list of the types of requirements that are dealt with via GSL/Service Standards:</p> <ul style="list-style-type: none"> • frequency and duration of supply interruptions; • timely notice of planned interruptions; • quality of supply (excluding frequency) for electricity (this could include voltage variations); • wrongful disconnection; • timeframes for reconnection; • being on time for appointments; • response times for fault calls; and • provision of fault information. 	We support this recommendation,.
4.6	Liability and warranties	<p>The following limitations of liability may be included:</p> <ul style="list-style-type: none"> • implied terms and warranties may be excluded to the extent permitted by law; • no liability for supply interruption or disconnection to the extent the distributor is entitled to do so under Law, Rules or contract; 	We strongly believe that a distributor should be liable for reliability or quality of supply issues on a no-fault basis. We note that this is the arrangement that currently operates in Victoria under the VESC's Electricity Industry Guideline No 11 – Voltage Variation Guideline. The Guideline applies to consumers who suffer property damage due to

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<ul style="list-style-type: none"> • no liability for reliability or quality of supply, except to the extent caused or contributed to by the distributor's default or negligence; and • contractual force majeure. <p>The contract should state that none of these limitations will limit any obligation to make a GSL/compensation payment.</p>	<p>unauthorised voltage variation. It provides a procedure for aggrieved consumers to claim compensation for such damage on a no fault basis. We believe that such a regulation achieves efficient allocation of risk, with the payment of compensation also giving effect to good customer service principles.</p> <p>We recommend that the SOC adopt a similar system, which in Victoria has</p> <ul style="list-style-type: none"> • successfully compensated consumers without adding significant costs to the business; and • Successfully driven improved performance.
4.7	Provision of information	<p>The customer distribution contract should include an obligation on the distributor to provide information to a customer or its retailer on request about that customer's consumption, connection or applicable network tariff.</p>	<p>Note our change. Distributors should provide information to consumers about their consumption. This is particularly important for rural and regional areas, where decisions about what is the best energy source (within a limited range of options) necessitate that information being readily available.</p>
4.8	Disconnections and reconnections (excluding temporary supply interruptions)	<p>The customer distribution contract will adopt the provisions of the Rules in relation to the circumstances in which a distributor may, or must, disconnect. The contract will restate when a distributor must not disconnect.</p> <p>The circumstances in which a distributor must not disconnect customer premises are:</p> <ul style="list-style-type: none"> • after 3pm on a weekday, and on weekends and public holidays (for small customers 	<p>We support this recommendation</p>

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>only);</p> <ul style="list-style-type: none"> • for electricity, if the address has a registered life support system; • where required notices have not been given; • where a complaint remains unresolved; or • if a distributor reasonably considers that disconnection would immediately endanger health or safety. <p>Reconnection should be effected:</p> <ul style="list-style-type: none"> • as soon as practical and within one business day after the reason for disconnection has been removed and the customer requests; and • if a retailer requested disconnection, as soon as practical and within one business day* after the retailer requests reconnection, <p>subject to payment of the reconnection fee.</p> <p>A time limit for reconnection will be included (10 business days) If reconnection has not occurred within that time, a request for connection will be treated as a new request for connection.</p>	<p>Reconnection within one business day will be the standard timeframe for metropolitan customers. Arrangements may be put in place by jurisdictions to vary this for designated remote areas.</p> <p>We support this recommendation</p>
4.9	Fault reporting and correction	Provision of 24-hour fault information and reporting line.	We support this recommendation
4.10	Dispute resolution	The customer distribution contract will specify that customers are entitled to make a complaint in writing or by telephone to	SCO will review the requirements of the jurisdictional ombudsman schemes to ensure that they include

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		<p>a representative of the distribution company, to have that complaint addressed-</p> <p>The customer distribution contract will specify that the customer has the right, and will be informed of their right, to take their complaint to the relevant jurisdictional ombudsman scheme if they are dissatisfied with the distributor's response.</p>	<p>obligations for distributors to have robust complaint handling requirements to support the new national customer framework.</p> <p>We support this recommendation, and encourage the SCO to consult consumer organisations in their review.</p>
4.11	Customer obligations	<p>To be clearly expressed in the customer distribution contract, together with the consequences of non-compliance (eg disconnection) and provision for appropriate notice of non-compliance and an opportunity to remedy if applicable.</p> <p>Customer obligations may include matters relating to:</p> <ul style="list-style-type: none"> • theft/unauthorised supply; • provision of safe and unhindered access to meters and other equipment of the distributor; • protection of/tampering with distributor equipment on premises; • safety of customer installation; • compliance with any restrictions on consumption or use of energy; and • requirements to notify certain events (eg faults, leaks, change of use, safety requirements). 	<p>We believe that the distribution contract must make it clear that the customer will be deemed to comply with these obligations, unless they are provided with notice and a relevant rectification period. It should be noted that, for tenanted properties, responsibility for some of these obligations lay with the landlord and are outside control of the tenant. In these circumstances, the consumer should not be seen to be in breach of customer obligations if it is beyond their control.</p>

Part 5 – Regulation of distributor-retailer contract terms

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

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
5.1	Connections at request of retailer or end customer	The RSC will require the retailer to pass on to the distributor connection requests within one business day of receipt.	
5.2	Obligation to provide customer distribution services	The distributor will be required to provide customer distribution services in respect of a connection point for the retailer's customers connected to the distributor's infrastructure.	<p>SCO considers that the obligations and responsibilities of distributors and retailers under the RSC should be aligned as closely as possible with the respective responsibilities of each in the provision of services.</p> <p>Therefore, SCO considers that the RSC should provide that the retailer must pay the distributor all network charges in respect of the provision of customer distribution services to the premises of the retailer's customers.</p> <p>This can achieve greater consistency of approach between both the electricity and gas frameworks, and further detail on implementation will be developed in the drafting stage.</p>
5.3	Customers covered by the RSC	<p>The RSC will define mutual customers of the distributor and retailer by reference to:</p> <ul style="list-style-type: none"> • customers that are connected or seeking to be 	

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

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

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

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

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

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
		Ombudsman. See also above in relation to allocation of liability.	
5.17	Metering	See comments above in relation to billing. Other relevant provisions in relation to metering would be: <ul style="list-style-type: none"> • obligations imposed on the party responsible for metering to use best endeavours to read meters at a particular frequency and to provide metering data to the other party; • obligations on both parties to notify the other if they become aware of any change to access conditions to a customer premises. 	The purpose of these obligations is to ensure that distributors and retailers mutually support each other in the provision of their respective regulatory obligations to customers.
5.18	Information sharing in relation to customer information and planned and unplanned outages	The RSC will include additional obligations for the parties to share information such as: <ul style="list-style-type: none"> • the provision of customer details by the retailer to the distributor and of any customer details held by the distributor (eg. in relation to registered life support systems) to the retailer; • the provision of information in relation to planned and unplanned outages by the distributor to the retailer, consistent with obligations to provide the same information to the customer (and associated referral provisions, similar to faults, as discussed above); and • a general obligation to provide information required by the other party to carry out its obligations under the RSC. 	

NO.	SUBJECT	SCO RECOMMENDATION	COMMENT
5.19	Information to be provided to the customer	The RSC would require each party to refer to the other customer requests for information relating to the other party, but may also provide for the retailer to provide information to customers on behalf of the distributor in some circumstances.	
5.20	Information sharing to facilitate churn	See comments above in relation to sharing customer information.	
5.21	Communications generally	The RSC may provide for the parties to develop communications protocols.	
5.22	Cooperation generally	The RSC would require the parties to provide information to, and generally cooperate with, the other to enable the other party to carry out its obligations under the agreement and under its agreements with customers.	
5.23	Dispute resolution	Dispute resolution procedure to be included.	<p>SCO notes that compliance with the terms of the RSC is a regulatory obligation and thus distributors and retailers as the parties can bring disputes concerning alleged breaches to the regulator's attention. Further, electricity distributors and retailers have recourse to the dispute resolution procedure under Chapter 8 of the National Electricity Rules in the electricity sector.</p> <p>SCO is not intending to introduce any additional dispute resolution procedure to apply between retailers and distributors at this time, but the obligation to comply with the requirements of a RSC will be nominated as a "conduct provision" in both gas and electricity which permits enforcement as between the parties.</p>

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

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

NO.	SUBJECT	AAR RECOMMENDATION	COMMENT
Ring-fencing			
1.49	Provisions to be included in the NEL	<p>Electricity ring-fencing requirements should be included primarily in the NEL, modelled on the equivalent requirements included in the new NGL. This would include requirements relating to:</p> <ul style="list-style-type: none"> • legal separation of the entity conducting a <u>distribution business</u> from other related businesses; • keeping separate and consolidated accounts for distribution services and other services; • cost allocation principles and methodologies in relation to the allocation of costs between distribution services and other services; • limitations on sharing of staff between the network service provider and related businesses; and 	<p>A legislative and rules package is being developed for appropriate ring fencing requirements through the NPWG in a parallel work stream.</p> <p><i>We are of the view that legislation and rules for regulation of electricity ring-fencing must be finalised, whether by NPWG and/or RPWG or otherwise, to commence simultaneously with the Customer Framework.</i></p> <p><i>We are of the view that NPWG and/or RPWG should consult with consumers in the course of developing legislation and rules for ring-fencing.</i></p>

NO.	SUBJECT	AAR RECOMMENDATION	COMMENT
		<ul style="list-style-type: none"> measures to ensure the network service provider's dealings with related parties are not on preferential terms. <p>Requirements relating to the use and disclosure of confidential information obtained by the network service provider should be dealt with in the NER.</p>	<p>These requirements should at least be consistent with Commonwealth and/or jurisdictional privacy and data protection legislation, regulation and practice.</p>
1.50	Additional ring-fencing requirements	<p>The NEL should authorise the AER to impose additional ring-fencing requirements on individual network service providers or their associates in equivalent terms to the AER's power under section 120 of the exposure draft of the NGL.</p>	<p>NGL: Chapter 4, Division 2 Additional ring fencing requirements, s 142 -145</p>
1.51	Waiver of ring-fencing requirements	<p>The NEL should authorise the AER to grant waivers from the ring-fencing requirements in equivalent terms to section 121 of the exposure draft of the NGL (but incorporating criteria to be applied by the AER in granting waivers).</p>	<p>NGL: Chapter 4, Division 4 AER ring fencing exemptions, s 146</p>
1.52	Regulatory information instruments	<p>The NEL should authorise the AER to issue Regulatory Information Instruments in equivalent terms to the AER's powers under Division 4 of Part 2.1 of the exposure draft of NGL.</p>	<p>NGL: Chapter 2, Part 1, Division 4, Subdivision 2, Serving and making of regulatory information instruments, s48 - 52</p>
1.53	Alternative approach to legal separation	<p>The requirement for legal separation would require transitional arrangements in those jurisdictions where operational separation is currently permitted and exists in practice. As an alternative to including a requirement for legal separation in the NEL, the NEL could authorise the making of Rules in respect of the operational separation of the business of providing network services from related businesses conducted by the same entity.</p>	<p>The latter approach seems to affect a 'way out' for businesses currently practicing operational separation. Establishing a requirement for legal separation, with transitional arrangements, would seem to be most consistent with other components of the Framework.</p>

NO.	SUBJECT	AAR RECOMMENDATION	COMMENT
Retailer failure arrangements			
1.54	Statutory framework for RoLR scheme	<p>The NEL and NGL should authorise the AEMC to make Rules in relation to the establishment and operation of a scheme to address the risks and consequences of retailer failure (ROLR scheme) and set out the objectives of the scheme. The objectives could be expressed as being, as far as practicable:</p> <ul style="list-style-type: none"> • to ensure that customers of the failed retailer continue to receive energy services; • to manage the risks and costs of retailer failure; and 	<p>Please see SCO Policy Paper for further information relating to ROLR arrangements.</p> <p>The Policy Paper indicates that SCO “recognises that ROLR arrangements are directly relevant to the implementation of the new customer framework” and that SCO notes a number of options to progress these arrangements, including</p> <p>“[f]or example the RPWG Legal Project Manager may be able to prepare drafting instructions based on the policy framework advice being prepared by NERA and AAR so that ROLR arrangements may be incorporated in the initial Laws and Rules for the national customer framework to provide a more cohesive, integrated framework.”</p> <p>We are of the view that ROLR arrangements are essential to, and must be finalised to commence simultaneously with, other elements of the Customer Framework.</p>

NO.	SUBJECT	AAR RECOMMENDATION	COMMENT
		<ul style="list-style-type: none"> • to ensure the integrity of the wholesale market settlements and network balancing arrangements in the relevant market. 	<p>For example the RPWG Legal Project Manager may be able to prepare drafting instructions based on the policy framework advice being prepared by NERA and AAR so that ROLR arrangements may be incorporated in the initial Laws and Rules for the national customer framework to provide a more cohesive, integrated framework.</p>
1.55	Description of matters to be included in the Rules	<p>The Law should set out the matters to be addressed in the Rules by way of general description along the following lines:</p> <ul style="list-style-type: none"> • provisions authorising the AER to appoint one or more entities to act as ROLR, with such appointments to be made on a basis which the AER considers will contribute to the achievement of the objectives of the scheme; • provisions specifying the process for and method of appointment; • provisions defining the events that trigger the ROLR's supply obligations; • provisions setting out the ROLR's obligations in terms of preparing for the occurrence of a trigger event, including the submission of plans and proposed supply prices, terms and conditions to the AER; and • provisions establishing the basis for determining the prices and terms and conditions of supply, and defining 	

NO.	SUBJECT	AAR RECOMMENDATION	COMMENT
		the duration of the ROLR's supply obligation.	
1.56	Consequences of a RoLR event	<p>The Law should describe the legal consequences that can arise as a result of the occurrence of a trigger event and permit the Rules to define the manner in which those legal consequences occur. This would include provisions to the effect that, in circumstances described in the Rules:</p> <ul style="list-style-type: none"> • a contract may be deemed to exist between the ROLR and the customers of a failed retailer; and • contracts between the failed retailer and its customers may be deemed to be terminated or varied. 	<p>If one of the intended (or permitted) consequences of a ROLR event is the charging of a fee by the ROLR to the customer of the failed retailer, then this should be made clear as a policy position, included as a provision in the Law and defined administratively in the Rules.</p>
1.57	Obligations on other market participants	The Law should also authorise the Rules to impose obligations on other market participants in connection with the operation of the scheme, including the failed retailer, distributors and market operators.	
1.58	Insolvency issues	Further consideration should be given to provisions imposing obligations on insolvency administrators or dealing with the use and application of funds of the failed retailer. Such provisions would need to be included in the Law rather than the Rules and may require complementary Commonwealth legislation.	
1.59	Process for making initial Rules	The Law should allow for the MCE to either make initial Rules for ROLR arrangements or direct the AEMC to make Rules for a ROLR scheme by a date specified in the Law. If a direction to the AEMC is used, it should enable the AEMC to make different Rules as between the electricity and gas sectors, and to assess the need for such Rules as between sectors and jurisdictions. This is intended to enable, as one possible outcome, that a	The SCO has engaged AAR and NERA to examine ROLR arrangements within Australian jurisdictions and overseas and to prepare a document outlining possible national arrangements. This document may then provide the basis of a direction to the AEMC or, preferably, will be capable of being turned into drafting instructions.

NO.	SUBJECT	AAR RECOMMENDATION	COMMENT
		<p>ROLR scheme might not be considered necessary in the gas sector in particular jurisdictions.</p>	<p>AAR and NERA will be conducting public consultation on ROLR arrangements.</p> <p>We note and welcome the promise of public consultation regarding ROLR arrangements. We note also that, at the date of lodging this response (August 2008) with SCO, no work by AAR and NERA has yet been made public and that there has been no advice regarding the form or timing of public consultation.</p>

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

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

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

NO.	SUBJECT	RECOMMENDATION	COMMENT
	Notice to customer	<ul style="list-style-type: none"> requiring notice to be provided by the new retailer to the customer within 10 days after the transfer is completed. 	<p>This change provides further clarity on the responsibility for the notice.</p> <p>We are the view that the notice should be provided within 5 business days of the transfer being affected.</p>
1.64	Gas registration and transfer framework	<p>The NGL will authorise the Rules to provide for:</p> <ul style="list-style-type: none"> the establishment and maintenance of a registry of information relating to each gas supply point that is eligible for contestability, and for access to and disclosure of that information; and procedures for the efficient transfer of consumers between retailers subject to all applicable laws, <p>for the purposes of facilitating the efficient and effective billing of retail and network tariffs and charges, wholesale market settlement and/or gas pipeline balancing.</p>	<p>These issues are currently dealt with under other procedures. The treatment of the content of other gas instruments as rules or procedures, and the process and timing for review, is part of the AEMO establishment work.</p>
1.65	Grandfathering of retail market rules	<p>The NGL will authorise the NGR to provide for those matters by requiring compliance with a retail market instrument (to be defined as an instrument identified in the NGR, or any other instrument approved by the AEMC for that purpose), and deeming the provisions of any such instrument to take effect as Rules, subject to the Rule-change procedures in the NGL.</p> <p>The existing gas retail market rules will be brought within the national framework in their current form by being deemed to take effect as Rules under the NGL authorising provision described above.</p>	<p>As above.</p> <p>The treatment of the clauses of other gas instruments as rules or procedures, and the process and timing for review, is to be clarified in the AEMO establishment work.</p>

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

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

NO.	SUBJECT	RECOMMENDATION	COMMENT
			<p>metering equipment (various)” we suggest that the SCO remain cognisant of developments in smart metering and the potential for added complexity in, for example, defining “standard metering equipment”. Our view is that the provisions must “include an obligation imposed on the retailer to inform the customer of the costs.”</p>
		<p>These remarks relate to Part A of Attachment 9 to Working Paper 4 not highlighted for consideration by SCO.</p>	<p>With regard to the provision in Part A of the Attachment 9 of Working Paper 4 “Access to premises” we reiterate our observation, set out at 1.26B</p> <p>Tenants may also not be able to provide access to the meter. These obligations should be on the landlord, not the tenant.</p> <p>We note that “any consideration that may also be given to including provisions requiring the customer to pay the costs of repeat visits because access has not been provided” must have regard to a tenant’s ability to provide access.</p> <p>With regard to provisions regarding “Ownership...”, “Protection...”, “Damage...”, “Ownership of data” and “metering equipment” and various proposals for dealing with these issues, we suggest that the SCO remain cognisant of developments in smart metering and the potential for added complexity, for example from metering equipment that has more than one</p>

NO.	SUBJECT	RECOMMENDATION	COMMENT
		of electricity) should not be included in the NEL. Rather, these matters should continue to be regulated as part of the ongoing jurisdictional legislative regimes.	to these issues, the responsibility for these issues is to remain with the jurisdictions.
1.72	Regulation of metering in non NEM jurisdictions	The non-NEM jurisdictions should continue to regulate metering under their current instruments.	
Metering - Gas			
1.73	Principal regulation of gas metering	<p>The NGL should authorise the inclusion of Rules in relation to metering in the NGR in similar terms to Schedule 1 of the NEL, for example, that the NGR may contain rules in relation to:</p> <ul style="list-style-type: none"> • the metering of gas to record the production or consumption of gas; • the registration of metering installations used to meter gas; and • the regulation of persons providing metering services relating to the metering of gas. 	
1.74	Grandfathering Gas retail market rules	<p>The NGL should authorise the NGR to provide for those matters by requiring compliance with another instrument (to be defined as an instrument identified in the Rules, or any other instrument approved by the AEMC for that purpose), and deeming the provisions of any such instrument to take effect as Rules, subject to the Rule-change procedures in the Law.</p> <p>The metering provisions contained in the gas retail market rules would be grandfathered as part of those rules, as discussed in the customer registration and transfer</p>	<p>The treatment of the content of existing instruments as rules or procedures, and the process for review, is to be addressed through the AEMO establishment work.</p> <p>As above.</p>

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

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