

NSW Electricity Regulated Retail Tariffs 2004/05 to 2006/07

Final Report and Determination



**INDEPENDENT PRICING AND REGULATORY TRIBUNAL
OF NEW SOUTH WALES**

NSW Electricity Regulated Retail Tariffs 2004/05 to 2006/07

Final Report and Determination

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1 INTRODUCTION

The Independent Pricing and Regulatory Tribunal of NSW (the Tribunal) is responsible for setting the *regulated retail tariffs*¹ that standard retail suppliers can charge their small retail customers.² These regulated tariffs act as 'safety net' or default prices for customers who do not choose to participate in the competitive market. The Tribunal is also responsible for regulating the non-tariff charges (or *regulated retail charges*³) that electricity retailers can charge these customers.

The current retail electricity determination will expire on 30 June 2004. The Minister for Energy and Utilities has asked the Tribunal to review and determine appropriate regulated retail tariffs and charges for a further three years until 30 June 2007. (See Appendix 1 for the terms of reference.)

The Tribunal has completed its review. The process it followed is summarised in Box 1.1. This report sets out and explains the Tribunal's determination, and discusses its considerations in reaching this determination.

1.1 Need for price increases

Currently, average electricity prices for small retail customers in NSW are among the lowest in Australia – only the Australian Capital Territory has lower prices. Since 1992/93, average retail prices for residential customers have decreased in real terms by 10 per cent.⁴ In recent years, these prices have in many cases been *lower* than the full cost of supply. The Tribunal believes that prices must be moved towards the cost of supply in order to remove barriers to efficient competition, and to provide signals for efficient investment in new generation capacity.

At the same time, average electricity consumption has risen, and peak demand has increased sharply. This is placing pressure on existing ageing network infrastructure, and as a consequence, increases in network prices are required.⁵ The Tribunal has recently finalised its network price determination, which provides for real increases in network prices between 1 July 2004 and 30 June 2007. In this regulated retail tariff determination, the Tribunal proposes to allow retailers to pass on these increases to retail customers.

Thus, there is a need for regulated retail tariffs to increase. In making this determination, the Tribunal acknowledges this need. However, it has also considered the impact of price increases on customers. The Tribunal's determination aims to balance the need for prices to increase to ensure retail suppliers' ongoing viability with the need to protect small retail customers from significant price shocks.

¹ Regulated retail tariffs apply to customers supplied under a standard form customer supply contract. Standard retail suppliers must make such a contract available to any small retail customer. Customers consuming 160 MWh per annum or more are not eligible for a regulated retail tariff.

² Under the *Electricity Supply Act 1995*, the Independent Pricing and Regulatory Tribunal of NSW (the Tribunal) may make a determination on regulated retail tariffs following a reference from the Minister for Energy and Utilities.

³ These are a range of miscellaneous charges such as late payment fees, security deposits and dishonoured cheque fees.

⁴ When the impact of the GST is excluded from the analysis, average prices have fallen by 15 per cent.

⁵ The Tribunal has considered the impact of network charges in its determination, *NSW Electricity Distribution Pricing 2004/05 to 2008/09, Report and Determination*, June 2004.

1.2 Overview of determination

The Tribunal's determination will allow average prices for regulated retail customers to increase by between 5.0 per cent and 5.8 per cent per annum (nominal) on average over the determination period. The actual increase for each customer will depend on whether the tariff(s) the customer is on is currently greater or less than the relevant target tariff level set by the Tribunal.

The Tribunal has set target tariff levels, calculated by summing two components: the 'N' component, which represents network charges, and the 'R' component which represents retail costs. The 'N' component has been set in the Tribunal's electricity distribution network determination. The 'R' component is set as part of this determination. These target tariff levels are set at what the Tribunal considers to be cost-reflective levels.

The Tribunal has given standard retailers flexibility in how they transition their tariffs from current levels to target levels, provided that they do so within the following controls:

- retailers may increase their total revenue from the retail (R) component of tariffs (excluding miscellaneous charges⁶) annually by up to $\Delta\text{CPI}+2.5\%$ for EnergyAustralia and Integral Energy, and $\Delta\text{CPI}+3\%$ for Country Energy and Australian Inland (this limit applies to retail revenue from all tariffs)
- retailers must not increase any customer's bill (excluding miscellaneous charges) per year by more than $\Delta\text{CPI}+5\%$ or \$35, whichever is greater⁷
- retailers must move tariffs towards cost reflective (target) levels
- retailers must not increase regulated retail charges (miscellaneous charges)
- retailers must not introduce new regulated tariffs.⁸

The Tribunal has made some changes to the target tariffs since the draft determination to reflect changes in the cost components underlying the 'R' component of regulated retail tariffs. These components are energy purchase costs, retail operating costs, retail margins, network losses and NEM fees.

⁶ Or non-tariff charges.

⁷ This figure is GST exclusive and applies to the bill in any financial year over the bill for the preceding financial year for the same pattern and volume of energy use.

⁸ Except where prior approval has been given as part of this determination (see section 6.1 of this report).

1.3 Structure of the report

This report explains the determination in detail, including the analysis that supports the Tribunal's decisions, and addresses the Minister's terms of reference:

- Chapter 2 discusses the current regulation of retail tariffs and provides a more detailed overview of the determination
- Chapter 3 outlines the costs that make up the 'R' component and describes the structure of target tariffs
- Chapter 4 outlines the Tribunal's method for transitioning tariffs to the target levels, including limits on tariff and bill increases
- Chapter 5 looks at the expected impact of the determination on customers
- Chapter 6 discusses a range of other issues the Tribunal considered in making its determination, including whether to allow new regulated retail tariffs or to regulate 'green' tariffs, whether to allow increases to regulated retail charges, and the effect of its determination on competition.

Box 1.1 Review process

In line with the Minister's request, the Tribunal consulted with interested parties. In October 2003, the Tribunal released an issues paper and sought submissions from retailers and other stakeholders. On 4 March 2004, it held a Roundtable discussion with key stakeholders.

The Tribunal then carefully considered the views expressed in the submissions it received and at the Roundtable discussion, and undertook its own analysis.

The Tribunal sought comment on its draft report and determination released on 30 April 2004. Following consideration of these submissions, the Tribunal has released this final report and determination, which will apply from 1 July 2004 to 30 June 2007.

The Tribunal members who considered this determination were: Mr James Cox (Acting Chairman) and Ms Cristina Cifuentes (Member).

2 REGULATING RETAIL ELECTRICITY PRICES

This chapter provides an overview of the structure of the electricity industry, the retail prices that are regulated by the Tribunal, the regulatory and legislative framework for these prices in NSW, and the form of regulation applied in this determination.

2.1 Which retail electricity prices are regulated?

The Government has asked the Tribunal to continue to set regulated retail prices for certain small customers to facilitate a smooth transition to a competitive market. These regulated retail prices protect customers that do not choose to participate in the competitive market, and encourage customers to test the market by providing a safety net to which they can return.

Regulated retail prices are available to small retail customers using less than 160MWh of electricity per year (equivalent to an annual bill of approximately \$16,000) and who choose not to enter into a negotiated contract. While some small retail customers have chosen to negotiate electricity supply contracts with a retailer of their choice, the majority remain on 'standard form' customer supply contracts, which include regulated retail prices determined by the Tribunal.

Each area in NSW has a nominated standard retail supplier, which is generally the incumbent electricity retailer (see Box 2.1, below). These standard retail suppliers – Australian Inland, Country Energy, EnergyAustralia and Integral Energy – are required under the *Electricity Supply Act 1995* to set tariffs and charges in accordance with the Tribunal's determination.

Box 2.1 Map of standard suppliers of Electricity in NSW by region



Source: Energy and Water Ombudsman NSW.⁹

⁹ This map is to be used for indicative purposes only. It is intended as a guide and may not accurately identify the standard retail supplier in a particular area.

2.2 How will prices be regulated over the next three years?

The form of regulation that will apply for small retail customers over the next three years consists of the following:

- **Firstly, target tariffs have been established. These targets have been calculated from two components – a network 'N' component, and a retail, 'R' component (target = N+R).** The 'N' component of the target is set so that retailers can pass through to customers the charges they have to pay to the distribution network service provider.¹⁰ The 'R' component has been set by the Tribunal as part of this determination at what the Tribunal considers to be a cost-reflective level – that is, the 'R' component is designed to reflect the efficient costs incurred by retailers in supplying electricity to customers – these costs are wholesale energy purchase costs, NEMMCO fees and ancillary service costs, retail operating costs, energy losses, and the retail margin.
- Secondly, the Tribunal has established a process for transitioning existing tariffs towards these targets. At present, some tariffs are below target (under-recovering tariffs), while other tariffs are above target (over-recovering tariffs). The Tribunal has decided that retailers should move their tariffs towards the target levels over the 2004/05 to 2006/07 period, but that this should be done in a controlled way, to avoid excessive price increases for customers, while still allowing retailers some flexibility, so that they can, for example, prioritise the transition of some tariffs where the need is greatest. **The Tribunal has therefore decided on a process that allows retailers to transition tariffs towards their cost reflective target levels in the way that they choose, provided that the total revenue from the 'R' component of the tariffs does not increase annually by more than:**
 - **$\Delta\text{CPI}+2.5\%$ for EnergyAustralia and Integral Energy; and**
 - **$\Delta\text{CPI}+3\%$ for Country Energy and Australian Inland.**

Similarly, for any one tariff, there will generally be some customers *within* that tariff that pay more than the cost of supply (over-recover), and some that pay less than the cost of supply (under-recover).¹¹ In order to allow the retailers to address this, **the Tribunal has decided that retailers should be allowed to increase over-recovering tariffs provided that this is done within the constraints set out above, and provided that, in doing so, they are improving cost reflectivity *within* that tariff.**

- Finally, because the limits on the transitional path described above are based on total tariff revenue, the Tribunal has included a further protective measure at the individual customer level. **The Tribunal decided that the annual bill for any customer must not increase by more than $\Delta\text{CPI}+5\%$ or \$35, whichever is the greater.**¹²

¹⁰ These network charges cover the costs of providing the infrastructure used to deliver electricity to homes and businesses. For example, the wires, poles, and transformers.

¹¹ This may arise, for example, due to the fact that different customers on the same tariff consume different amounts of electricity, so that the contribution of the fixed and variable charges to their bill will differ.

¹² For the same level and pattern of consumption, excluding miscellaneous charges and GST.

2.3 How has the Tribunal's decision changed from the draft determination?

The Draft Determination also proposed a form of regulation consisting of three components. As now, these components were:

- setting target tariffs
- setting controls on how tariffs can transition towards these target levels, and
- setting a limit on the amount by which an individual customer's bill can increase annually.

The key differences are set out below.

2.3.1 The target tariffs

Target tariffs have been retained, but the target *levels* have been amended to reflect further information and comment from stakeholders where the Tribunal considered this appropriate.

2.3.2 The controls on how tariffs transition towards the target levels

The Draft Determination proposed that the controls should be based on the annual change in revenue for *each tariff*. They also included a further constraint, preventing retailers from increasing over-recovering tariffs. However, stakeholders were concerned that these controls were too inflexible, and would make the transition of tariffs towards target levels too slow. The Tribunal has therefore amended its decision so that the control is based on revenue from *tariffs as a whole*, and it has relaxed the constraints on retailers increasing over-recovering tariffs, if this is to increase cost-reflectivity *within* the tariff. The Tribunal considers that this will allow retailers more flexibility – it will allow them to transition some tariffs towards the cost-reflective targets faster than others – this should allow them to achieve greater overall cost reflectivity by the end of the 2004/05 -2006/07 period. The amount by which revenue can increase compared to the previous year has also been increased for EnergyAustralia and Integral Energy (the Draft Determination had proposed increases of $\Delta\text{CPI}+1\%$) – the reasons for this are discussed in chapter 4.

2.3.3 The limits on increases in individual customer bills

The Draft Determination provided for the pass through of increases in network fixed charges (up to \$30 per annum) plus set a \$5 limit on annual increases to the fixed 'R' component of customers' bills, and a formula to limit annual increases to the variable 'R' component.¹³ The formula was designed to take into account the proportion of revenue coming from the 'N' component and the proportion coming from the 'R' component of each tariff. However, stakeholders found the formula difficult to understand and expressed concern that it would not be transparent for customer groups. Some stakeholders also argued that it could be difficult to implement at a practical level (given that some customer bills are made up of more than one tariff) and that it might not be possible for them to pass through fully increases in the network charges from distribution network service providers. The Tribunal therefore decided to implement a more simple way of limiting the maximum

¹³ The fixed 'R' component is the part which does not vary with consumption. The variable 'R' component is set on a cents per kW basis, so it increases as consumption increases.

increase in individual customers' bills, consisting of a single constraint of $\Delta\text{CPI}+5\%$ or \$35, whichever the greater (as outlined in chapter 4). The arrangements in the Final Determination will still afford customers similar levels of protection to those proposed in the Draft Determination.

2.4 Why has the Tribunal set target levels for retailers to transition towards?

2.4.1 Delivering efficient outcomes

As noted in 2.2, the Tribunal has set targets at what it considers to be cost-reflective levels for an efficient, standard retailer. It has set targets at cost reflective levels to improve the scope for competition. It has prescribed a broad way in which standard retailers should transition their tariffs towards these cost reflective targets, because it believes that the current level of competition in the NSW small retail electricity market is insufficient to ensure that this would happen under a more light-handed approach.

The Tribunal examined the current state of competition in NSW. Current data shows that 562,892 small retail customers¹⁴ have entered into negotiated contracts for electricity and gas with either their existing retailer or a different retailer.¹⁵ The Tribunal also considered information from its recent household survey and a review of competitive offers undertaken by PricewaterhouseCoopers.¹⁶ The Tribunal's analysis on the current state of competition in the NSW small customer retail electricity market is discussed in Appendix 2.

In submissions, stakeholders expressed mixed views about the current effectiveness of competition. For example, Integral Energy¹⁷ and the Energy Retailers Association of Australia (ERAA)¹⁸ provided consultant reports supporting the view that competition is effective or able to be effective. However, TXU¹⁹ and the Australian Consumers' Association²⁰ submitted that the market is not effectively competitive.

Generally, stakeholders put their view that the major factor limiting the development of competition is the fact that regulated retail tariffs are currently largely below the cost of supplying customers. By setting targets for tariffs based on cost-reflective levels, and by setting out a way in which standard retailers should move towards these targets, the Tribunal is:

- ensuring that standard retailers move towards cost reflectivity – something which might not currently happen without regulatory intervention
- removing the barrier that below-cost tariffs present for efficient competitive entry.

¹⁴ There are approximately 3 million electricity customers in NSW. However, because this data includes both electricity and gas customers it is not possible to calculate a simple percentage of customers that have entered a negotiated contract.

¹⁵ NSW Department of Energy, Utilities and Sustainability, *Customers Exercising Choice*, January 2004, available from the Department's website at www.deus.nsw.gov.au.

¹⁶ PWC, Information on Negotiated Contracts offered to Small Electricity & Gas Customers in NSW, March 2004 a public version is available from the Tribunal's website (www.ipart.nsw.gov.au).

¹⁷ Integral Energy submission, Appendix: *Applying workable competition in the NSW electricity retail sector* by NECC, 1 December 2003.

¹⁸ Energy Retailers Association of Australia submission, *The effectiveness of competition and retail energy price regulation* by KPMG, 1 April 2004.

¹⁹ TXU supplementary submission, 2 February 2004.

²⁰ Australian Consumers' Association submission, 8 March 2004.

The Tribunal notes that its Determination should allow EnergyAustralia and Integral Energy to achieve full efficient cost recovery by June 2007. It will also allow Country Energy and Australian Inland to significantly reduce cost under-recovery by June 2007.

A number of stakeholders suggested that the Tribunal should set target tariffs *above* cost-reflective levels for standard retailers, to provide greater encouragement for competitive entry. The Tribunal does not consider this to be appropriate. It considers that charges to customers should be based on the costs of supply *and no more*. It strongly believes that including an allowance in target tariffs for costs that are not incurred by standard retailers is not desirable from an economic efficiency perspective.

2.4.2 Considering future generation needs

Several stakeholders emphasised that at some time in the next five years, it is likely that NSW will need to invest in a new phase of electricity generation capacity if supply is to keep pace with demand. They argued that it was therefore important that the prices set by the Tribunal should facilitate new investment, by reflecting the long run marginal cost (LRMC) of electricity generation. The Tribunal has borne this fact in mind in the assumptions it has made about wholesale energy costs when setting the targets for the 'R' component.

Respondents to consultation did not argue against the basic level of the LRMC estimates adopted by the Tribunal although some submissions did raise specific modelling issues (there were also some stakeholders that argued for the addition of a premium for hedging risk). The Tribunal remains convinced that its wholesale electricity purchase cost assumptions will facilitate efficient investment in future generation needs.

3 TARGET TARIFFS

This chapter outlines the Tribunal's view on what costs should be recovered through the target tariffs (that is, the costs that make up the 'R' component). It also describes the level and structure of target tariffs that reflect these costs, and provides the calculated 'R' factors to be included in them.

3.1 Costs to be recovered through target tariffs

The Tribunal has analysed the underlying costs of supplying regulated retail customers over the next regulatory period for inclusion in the target 'R' values. These costs will be increased annually in line with the rise in inflation.

3.1.1 Decision

The Tribunal has decided that the level of the target 'R' component be set to reflect the following costs (expressed in 2004/05 dollars):

- Energy purchase costs of \$50 per MWh
- NEMMCO fees and ancillary service costs of \$1 per MWh
- Retail operating costs of \$70 per customer per year
- Energy losses which vary by retailer
- Net retail margin of 2 per cent.

This decision results in a weighted average increase of 3.7 per cent (nominal) in the target 'R' component from its 2003/04 level. In 2005/06 and 2006/07 the target 'R' will be increased by the change in CPI (resulting in an increase in the target 'R' component equal to inflation).

3.1.2 Tribunal's consideration in making its final decision

Since the draft determination the Tribunal has considered submissions on each of these cost components and has decided to increase the allowance for retail operating costs from \$65 to \$70 per customer per year. In response to the draft determination, all submissions considered that a retail operating cost of \$65 per customer was too low. AGL and Origin suggested that retail operating costs per customer should be closer to \$90. Some NSW standard retailers argued that \$65 per customer does not cover actual operating costs including depreciation.

In response to these arguments the Tribunal has re-examined the costs provided by retailers and the arguments put forward for increasing the retail operating cost allowance. The Tribunal has decided to increase the allowance to \$70 per customer in order to better reflect the actual costs submitted by retailers (including depreciation costs which were not previously included).

The Tribunal has also decided that the distribution and transmission loss factors should be updated to reflect the values approved by the Tribunal and published on NEMMCO's website. Table 3.1 provides a comparison of the distribution and transmission loss factors included in the draft and final determinations.

Table 3.1 Energy loss factors

Retailer	Draft determination		Final determination	
	Urban	Rural	Urban	Rural
EnergyAustralia	5.85%	-	6.01%	-
Integral Energy	8.55%	-	8.62%	-
Country Energy	12.13%	16.19%	12.27%	16.96%
Australian Inland	21.50%	25.96%	21.35%	21.35%

The Tribunal has also considered the other cost components and affirms the benchmark levels proposed in its draft report. Appendix 3 provides a detailed discussion of each cost component and the basis for the values that the Tribunal has determined.

Table 3.2 sets out the costs underlying the new retail targets compared with those used in the 2002 determination. In the 2002 determination, the Tribunal provided ranges of values for each component. For this determination, it has adopted specific values.

Table 3.2 Comparison of cost components in the retail target tariff

Cost component	OLD		NEW	
	2002 Determination (2000/01 dollars)		2004 Determination (2004/05 dollars)	
Energy purchases (including green energy)	•	Range of \$39 to \$59 per MWh	•	\$50 per MWh (comprised of LRMC \$47 per MWh and \$3 for green energy and generator NEM fees)
NEMMCO fees & ancillary services	•	\$1.37 per MWh (included in energy purchases)	•	\$1.00 per MWh
Energy losses	•	Disaggregated loss factors published by NEMMCO specific to distribution area	•	Disaggregated loss factors published by NEMMCO specific to distribution area
Retail operating costs	•	\$45-\$75 per small retail customer per year (including an allowance for contestability costs)	•	\$70 per small retail customer per year (including contestability costs)
Profit margin	•	1.5-2.5% net profit margin	•	2.0% net profit margin

3.2 Structure of target tariffs

The Tribunal considers that it should maintain some control over the structure of the 'R' component to ensure an appropriate balance between competing regulatory objectives. The structure the Tribunal has chosen comprises fixed (\$ per customer) and variable (c per kWh) components that are the same (in percentage terms) for all the retailers.

3.2.1 Decision

The Tribunal has set a structure for the 'R' component of each retailer's target tariffs based on 15 per cent of retail costs being recoverable through a fixed charge per customer and 85 per cent being recoverable through a variable usage charge.

The Tribunal does not consider that mandating an inclining block structure for the variable (c/kWh) component of target tariffs is justified. There is scope for retailers to propose alternative structures (such as inclining block tariffs) provided that these proposals comply with the price limits. The determination contains provision for retailers to introduce an inclining block structure for the retail tariff if they wish to do so.

3.2.2 Tribunal's consideration in making its final decision

The Tribunal considers that the structure of regulated tariffs should, as far as possible, match the underlying retail costs. Target tariffs that mirror the underlying structure of costs will not require retailers to bear risks related to varying consumption levels of customers. For example, some retailers have suggested that the average consumption of customers remaining on default tariffs in the future may be lower than the current average. Target tariffs that are structured to reflect the underlying costs should also ensure that the structure of regulated tariffs has a neutral impact on the development of competition.

Fixed versus variable costs

The 'R' component comprises five elements including electricity purchase costs, retail operating costs, electricity losses, retail margin and NEM fees. The Tribunal considers that retail operating costs is the only element that does not depend wholly on the amount of electricity sold.²¹ Table 3.2 below indicates the average contribution of each of the five elements to the 'R' component and the Tribunal's assessment of whether each component is fixed or variable (that is varies according to the amount of electricity purchased).

Table 3.2 Elements of the 'R' component

	Average % of retail costs	Fixed or variable
Electricity purchase costs	71%	Variable
Retail operating costs	15%	Largely fixed
Electricity losses	8%	Variable
Retail margin	4%	Variable
NEM fees	2%	Variable

Based on its analysis of information provided by retailers and the cost drivers of the various elements, the Tribunal finds that electricity purchase costs, electricity losses, NEM fees, the retail margin and 15 per cent of retail operating costs should be recovered through the variable 'R'. The remaining 85 per cent of retail operating costs should be recovered through the fixed 'R'.

²¹ Although the Tribunal decided it was appropriate to recover the retail margin through the variable 'R', there are arguments for including it as a fixed charge per customer – this issue is discussed in Appendix 4.

Alternative tariff structures

EnergyAustralia and Integral Energy have indicated that they wish to have an inclining block structure in the 'R' component (that is, the variable 'R' included in the target would be higher beyond a certain level of consumption). The Tribunal does not consider there is a strong case for introducing an inclining block structure in the 'R' component based on cost reflectivity reasons. However, the Tribunal notes that alternative structures, such as inclining block tariffs, may be introduced for other reasons, for example, demand management.²²

The Tribunal is not convinced of the merits of alternative variable tariff structures in the retail component of tariffs. However, it considers that the determination should allow retailers the flexibility to introduce alternative tariff structures if they wish to do so. The Tribunal notes that the determination makes provision for retailers to introduce inclining block structures subject to remaining within the price limits (outlined in chapter 4 of this report). Further discussion on alternative tariff structures is contained in Appendix 4.

3.3 Target values

The 'R' components of the target tariff are set by the Tribunal based on the costs of supply. Which target 'R' value applies to a particular small retail customer depends on which supply district they are in, whether they are classed as urban or rural, and whether they have a standard and/or off-peak or controlled load service. The Tribunal has proposed fixed and variable target 'R' values for each retailer based on the level and structure of costs outlined in sections 3.1 and 3.2 of this report.

3.3.1 Decision

The Tribunal has decided that the target values for the fixed and variable 'R' components of the regulated retail tariffs are those set out in Table 3.3.

Table 3.3 'R' Components for establishing targets to apply in 2004/2005 (\$2004/05)

For the district supplied by the following standard retail supplier under the licence held by it immediately before 1 July 2004	Fixed 'R' (\$/year)	Variable 'R' Standard (c/kWh)	Variable 'R' Off-peak (c/kWh)	Variable 'R' Extended Off-peak (c/kWh)
EnergyAustralia	59.50	6.10	3.91	4.89
Integral Energy	59.50	6.37	3.99	4.85
Country Energy				
Urban	59.50	6.90	4.11	5.34
Rural²³	59.50	7.24	4.29	5.58
Australian Inland				
Urban	59.50	7.27	4.43	5.42
Rural	59.50	7.43	4.51	5.53

²² Some stakeholders have argued that this might also involve other alternatives such as seasonal tariffs.

²³ Rural tariffs differ from urban tariffs due to different transmission and distribution loss factors.

Please note that to obtain the targets for 2005/06 and 2006/07, the values in the table should be increased by the change in inflation to arrive at the target tariffs in each year.²⁴

The target 'R' components shown in the table above are different to those proposed in the draft determination. The Tribunal has made changes to both the fixed and variable 'R' components since the draft determination, primarily to reflect:

- increases to the benchmark retail operating cost per customer from \$65 to \$70
- updated distribution and transmission loss factors.

A comparison of these targets with the 'R' component targets in the 2002 determination (mid-term review) is provided in Appendix 5.

3.3.2 Tribunal's consideration in making its final decision

The Tribunal's decision sets the 'R' values to reflect the cost of supplying regulated retail customers. The different 'R' values represent differences in the underlying costs of supply for different types of tariffs (for example, electricity costs less for retailers to purchase in off-peak times). The determination requires retailers to target:

- single rate tariffs and the peak and shoulder components of time-of-use tariffs with the applicable 'standard R'
- the off-peak component of time-of-use tariffs and off-peak tariffs with the 'off-peak R'
- other controlled load tariffs with the 'extended off-peak R'.

On average, the 'R' values in the determination are set to ensure that they represent the Tribunal's benchmark costs for each retailer. For example, the targets as a whole for each retailer include retail operating costs of \$70 per customer and average energy purchase costs of \$50 per MWh. These calculations are based on the information provided by each retailer regarding customer numbers and the pattern of energy use.

In their submissions, EnergyAustralia and Country Energy argued that targeting the peak component of time-of-use tariffs to the standard 'R' does not adequately reflect the costs of peak energy. To address this issue, Country Energy proposed introducing a new target for the peak and shoulder component of time-of-use tariffs. EnergyAustralia proposed applying the standard 'R' to all consumption.

No off-peak energy wholesale costs are included in the calculation of the standard 'R'. All consumption mapped to the standard 'R' (no matter whether it is consumed at peak, shoulder or off-peak time) is assumed to be purchased at an average of around \$54 per MWh.²⁵ It is for this reason that the Tribunal has decided not to introduce a separate peak and shoulder 'R'. If in calculating the standard 'R', off peak consumption was priced at an

²⁴ The method for calculating target tariffs in each year is described in the determination that accompanies this report.

²⁵ For each retailer, the 'Rs' are based on an average wholesale energy cost of \$50 per MWh.

off peak energy wholesale cost then the Tribunal considers that there may be merit in calculating a peak and shoulder 'R'.

4 TRANSITIONING REGULATED RETAIL TARIFFS TO TARGET LEVELS

There are currently more than 500 regulated retail tariffs in NSW. Some of these are significantly higher than the applicable target level, while others are close to or much lower than the applicable target level.

The Tribunal maintains its view that it is not reasonable to move regulated retail tariffs to target levels immediately as this would result in significant price increases for some small retail customers. Increases need to be phased in over the regulatory period.

This chapter outlines the Tribunal's decisions on transitioning tariffs to the target levels. The Tribunal has decided to limit:

- the overall increase in revenue from the 'R' component for each retailer
- annual increases in customers' bills (excluding miscellaneous charges).

4.1 Limit on increases to total revenue from the 'R' component

4.1.1 Decision

The Tribunal has decided that the overall revenue from the 'R' component of regulated retail tariffs for each retailer must increase as it transitions to cost reflective levels. However the increase in total tariff revenue from the 'R' component must be no greater than:

- (1) $\Delta\text{CPI}+2.5\%$ for EnergyAustralia and Integral Energy
- (2) $\Delta\text{CPI}+3\%$ for Country Energy and Australian Inland.

The Tribunal has decided not to impose additional constraints on increases in over-recovering tariffs to facilitate the removal of cross-subsidies within these tariffs. However, the Tribunal is imposing certain requirements on retailers that wish to increase components of over-recovering tariffs.

4.1.2 Tribunal's consideration in making its final decision for EnergyAustralia and Integral Energy

In its draft report, the Tribunal proposed that the increase in the 'R' component of under-recovering tariffs should be limited to the change in CPI +1% each year. This would have resulted in an estimated \$2m under-recovery for EnergyAustralia and an estimated \$6m under-recovery for Integral Energy in 2006/07.

In making its final decision, the Tribunal considered stakeholders' submissions in response to the draft report that argued strongly that a greater increase in the retail component of regulated prices should be allowed, so that regulated retail tariffs can achieve cost reflective levels by 2007.²⁶ It also considered other arguments advanced by stakeholders, including that:

- the proposed increases in retail revenue were too low

²⁶ Submissions on the draft retail report including AGL ES&M, TXU, Origin, EnergyAustralia and Integral Energy.

- preventing tariffs from reaching cost reflective levels by 30 June 2007 was inconsistent with the terms of reference for the Tribunal's review (in particular, the requirement to move tariffs to cost reflective levels as far as practicable)
- preventing tariffs from reaching cost reflective levels by 30 June 2007 would hamper the development of competition in the market
- the price limits in the draft determination are too numerous and complex, and would prevent retailers from rebalancing tariffs.²⁷

The Tribunal is aware that the presence of under-recovering tariffs may undermine the development of a competitive retail market. Customers who are charged less than the costs to supply them are unlikely to move from regulated tariffs. Potential competitors may be discouraged from entering the market. However, the Tribunal notes that its terms of reference for this review require it to ensure (as far as practicable) that tariffs are at cost reflective levels by 2007, or an appropriate date, *and* that a smooth transition is provided for customers. In making its decisions, the Tribunal must balance the need for retailers to achieve cost reflective tariffs with the need to protect customers from price shocks.

The Tribunal has taken both these needs into consideration in setting the form and the level of the revenue constraint. As outlined in chapter 3, the Tribunal has decided since the draft determination to increase the allowance for retail operating costs and to adjust the energy loss factors. These changes result in increases in the projected under-recovery of costs for both EnergyAustralia and Integral Energy, compared to their under-recovery under the draft determination had all other factors been held equal. For EnergyAustralia, the under-recovery would have increased by about \$6m and for Integral Energy by about \$3.5m. The increase in opex costs and energy loss factors is a key reason as to why the Tribunal has decided to increase the average price change from CPI+1% for EnergyAustralia and Integral Energy.

The Tribunal considers that applying a limit to increases in total regulated retail revenue from the 'R' component rather than to retail revenue at the tariff level (as has been previously applied) will provide retailers with an opportunity to reduce over-recovering tariffs so that under-recovering tariffs may be moved to target levels more quickly. It will also provide retailers with the flexibility to target those tariffs that are significantly under-recovering, to move them more quickly to cost reflective levels (subject to the limits on increasing customers' bills set out in section 4.2).

The Tribunal examined options for increasing the retail component in terms of the effects on achieving cost reflectivity and protecting customers from price shocks. In each case, the Tribunal assumed that network tariffs as determined in the network determination are passed through to customers. The Tribunal decided on a limit of $\Delta\text{CPI} + 2.5\%$ for the increase in total revenue from the 'R' components for EnergyAustralia and Integral Energy. This is projected to allow EnergyAustralia and Integral Energy to transition their regulated retail tariffs to cost reflective levels over the next three years. This will eliminate the under-recovery for EnergyAustralia and Integral Energy by 30 June 2007, based on the Tribunal's benchmark costs (as shown in Table 4.1), without undue price shocks for customers.

²⁷ TXU submission to the draft determination, p 5.

4.1.3 Tribunal's consideration in making its final decision for Country Energy and Australian Inland

The Tribunal has decided that for Country Energy and Australian Inland, the increase in the total revenue from the 'R' component of regulated retail tariffs should be limited to the change in CPI+3% each year. Increases in retail revenue of $\Delta\text{CPI}+3\%$ will move tariffs for these retailers towards cost reflective levels over the course of the determination, but will not allow them to reach the target levels.

The increase in retail operating costs per customer to \$70 (as outlined in chapter 3) increases forecast under-recovery of costs for both Country Energy and Australian Inland. For Country Energy the changes increase its under-recovery by about \$3.5m and for Australian Inland by about \$0.1m.

The Tribunal believes its decision provides the right balance between the interests of these retailers and those of their customers on regulated tariffs. In making this decision, it considered Country Energy's request that the limit be increased to $\Delta\text{CPI}+5\%$ in 2005/06 and 2006/07.²⁸ However, the Tribunal believes that this level of increase is not justified. Its analysis indicates that while such an increase would significantly impact customers, it would have a negligible impact on reducing Country Energy's under-recovery.

Both Country Energy and Australian Inland should be able to better address their under recovering tariffs as the determination will provide them with an opportunity to reduce over-recovering tariffs so that under-recovering tariffs may be moved to target levels more quickly (subject to the limits on increasing customers' bills set out in section 4.2).

The estimated forecast levels of under and over-recovery for each retailer, based on the benchmark costs outlined in Chapter 3, and the limits on increases to regulated retail revenue, are set out in Table 4.1.

Table 4.1 Estimated Impact of increasing the 'R' component on net under-recovery (retailer revenue versus target revenue)

Increase in 'R'	'R' limit	2003/04	2004/05	2005/06	2006/07
----- Net under-recovery -----					
EnergyAustralia	$\Delta\text{CPI}+2.5\%$	\$16m	\$6m	0	0
Integral Energy	$\Delta\text{CPI}+2.5\%$	\$22m	\$11m	\$1m	0
Country Energy	$\Delta\text{CPI}+3\%$	\$41m	\$42m	\$31m	\$19m
Australian Inland	$\Delta\text{CPI}+3\%$	\$3.8m	\$3.9m	\$3.7m	\$3.5m

Note: This modelling is not directly comparable to the figures provided in the draft determination due to the change in the application of the revenue constraint.

²⁸ Country Energy submission to the draft determination, p 14.

4.1.4 Tribunal's consideration in relation to removing the limit on increasing over-recovering tariffs

In its draft determination, the Tribunal proposed price limits on over-recovering tariffs, so that retailers could not increase these tariffs in nominal terms. It noted that this approach was consistent with previous determinations and would afford protection to customers that are currently paying prices above their cost of supply.

However, several submissions in response to the draft determination argued that limiting increases to over-recovering tariffs was unnecessary and would prevent appropriate tariff rebalancing.²⁹ After considering these arguments, the Tribunal accepts that some customers on over-recovering tariffs are actually paying less than it costs to supply them, while others are paying more (that is, there are cross subsidies within tariffs). It accepts that preventing changes to over-recovering tariffs might prevent retailers from addressing this issue (for example, through tariff restructuring).

The Tribunal has therefore decided not to impose additional constraints on over-recovering tariffs in order to allow retailers to address cross subsidies within tariffs. However, the limits on increasing customers' bills (described in section 4.2) will apply to all customers, and retailers are still required to increase under-recovering tariffs towards the target levels. The Tribunal has also imposed an additional requirement on retailers. They must demonstrate to the Tribunal that any increases they make to over-recovering tariffs are in accordance with the objective of increasing the cost reflectivity of the tariff.

4.2 Limits on increasing customers' bills

4.2.1 Decision

The Tribunal has decided that the annual bill (excluding miscellaneous charges) for any customer must not increase by more than \$35 excluding GST or the percentage change in CPI+5% (whichever is greater) for the same pattern and level of consumption.

4.2.2 Tribunal's consideration in making its final decision

Each customer's bill comprises network and retail components (N+R). To ensure that customers are protected from unacceptable price increases, the Tribunal has decided to impose price limits that set maximum increases on customers' bills.

In the draft determination, the Tribunal proposed limits on increases to customers' bills based on the application of a formula that weighted the average of retail and network price increases for each customer.³⁰ In their responses to the draft determination, retailers (and consumer groups) commented that they found it difficult to understand the application of this formula, and some retailers considered that it might be difficult to implement. The Tribunal agrees that the proposed price constraint formula was complex, and believes that a simpler form of price constraint which achieves similar levels of consumer protection is preferable.

²⁹ For example, TXU and Country Energy submissions to the draft determination.

³⁰ IPART, *NSW Electricity Regulated Retail Tariffs 2004/05 to 2006/07 Draft Report and Draft Determination*, April 2004.

The Tribunal has therefore set a limit on increases to customers' bills based on the anticipated increases in network tariffs, and on the increases to the retail component described in section 4.1 above. In making this decision, the Tribunal noted that the resulting maximum impact on customers is consistent with the level of increases allowed under the price limits in the draft determination. The limits provide some flexibility for retailers to increase their tariffs towards cost reflective levels while also ensuring that individual customers are protected.

The Tribunal decided to adopt a percentage level of $\Delta\text{CPI}+5\%$ because it:

- provides some ability for retailers to undertake tariff reform but at the same time protects customers from unacceptable price increases
- will allow retailers to pass through network costs.

The Tribunal decided that a level of \$35 a year should apply to increases in customers' bills. In making this decision, the Tribunal took into account that retailers should be able to pass through increases in network fixed charges, which are limited to \$30 per year under the Tribunal's network determination. It also considered that retailers should have some ability to restructure the retail component of tariffs, and concluded that \$5 per year will provide sufficient scope for such restructuring. The Tribunal notes that this approach is consistent with the approach recommended in retailers' submissions.

The Tribunal also considered that Integral Energy request for the price limits to be relaxed for obsolete tariffs.³¹ However, the Tribunal concluded that this would reduce the customer protection measures in the determination, and therefore decided that the limits to increases in customers' bills should apply to all customers.

Maximum increases for customers are expected to be between 70 cents and \$1.40 a week depending on the customer's level of usage (see Chapter 5).

³¹ Integral Energy submission to the draft determination, p 16.

5 OUTCOMES FOR CUSTOMERS

Under the Tribunal's network determination, average network prices will increase over the next regulatory period. This retail determination allows retailers to pass these increases through to customers, to signal the cost of supply. In addition, it allows retailers to increase the retail component of regulated retail tariffs, to continue to move these tariffs towards levels that better reflect the costs of supplying customers on regulated tariffs. This chapter outlines the key outcomes of the determination for customers.

5.1 Impact on prices

The Tribunal's analysis indicates that this retail determination will result in average price increases of between 5 and 5.8 per cent per annum.³² However, price increases will be higher than this in 2004/05 due to the requirement for larger increases in network charges to be passed through to customers. The actual impact on individual customers will depend on which particular tariff the customer is supplied and the level of network increases. Table 5.1 outlines average price increases for each year of the determination.

Table 5.1 Average annual increases in retail prices (nominal)

	2004/05	2005/06	2006/07	Average over the period
EnergyAustralia	7.1%	4.3%	4.3%	5.3%
Integral Energy	6.3%	4.3%	4.3%	5.0%
Country Energy	7.4%	5.0%	5.0%	5.8%
Australian Inland	7.4%	5.0%	5.0%	5.8%

Note: This information is indicative only and is based on the Tribunal's assumptions that the increase in CPI is 2.8 per cent for 2004/05 and 2.2 per cent for 2005/06 and 2006/07, and that network prices comprise 40 per cent of the final tariff.

The Tribunal has also imposed price limits that constrain the amount by which any one customer's annual bill may increase.³³ These maximum amounts are shown in Tables 5.2 to 5.5. The maximum increase for a typical residential customer will be between 70 cents and \$1.40 per week.

³² The analysis is based on the retail price increases as set out in section 4 of this report and average network price increases as set out in the Tribunal's determination on network pricing in NSW.

³³ For the same pattern and level of consumption and excluding miscellaneous charges.

**Table 5.2 Maximum allowed increases for typical customers of EnergyAustralia
(\$ per year, nominal, exclusive of GST)**

	2003/04 bill	2004/05 bill	\$ increase	% increase
Residential¹				
Low usage (3000kWh)	375	410	35	9.3%
Typical usage without off-peak (5600kWh)	634	683	49	7.8%
Typical usage with off-peak (8900kWh) ²	778	838	61	7.8%
Business				
20MWh	2,185	2,356	170	7.8%
40MWh	4,303	4,639	336	7.8%
80MWh	8,539	9,205	666	7.8%

Note:

1. Based on typical values of consumption supplied by EnergyAustralia.
2. Assumed off-peak 1 consumption of 3300kWh for a typical usage residential customer.

**Table 5.3 Maximum allowed increases for typical customers of Integral Energy
(\$ per year, nominal, exclusive of GST)**

	2003/04 bill	2004/05 bill	\$ increase	% increase
Residential¹				
Low usage (3500kWh)	488	526	38	7.8%
Typical usage without off-peak (7500kWh)	936	1,009	73	7.8%
Typical usage with off-peak (9500kWh) ²	931	1,004	73	7.8%
Business				
20MWh	2,245	2,421	175	7.8%
40MWh	4,351	4,691	339	7.8%
80MWh	8,563	9,231	668	7.8%

Note:

1. Based on typical values of consumption supplied by Integral Energy.
2. Assumed off-peak 1 consumption of 3300kWh for a typical usage residential customer.

**Table 5.4 Maximum allowed increases for typical customers of Country Energy
(\$ per year, nominal, exclusive of GST)**

	2003/04 bill	2004/05 bill	\$ increase	% increase
Residential¹				
Low usage (3000kWh)	486	524	38	7.8%
Typical usage without off-peak (4600kWh)	682	736	53	7.8%
Typical usage with off-peak (8300kWh) ²	905	975	71	7.8%
Business				
20MWh	2,966	3,198	231	7.8%
40MWh	5,754	6,203	449	7.8%
80MWh	11,330	12,214	884	7.8%

Note:

1. Tariffs used for this analysis were 5502: Domestic and 5512: Business based on typical values of consumption supplied by Country Energy.
2. Assumed percentage of off-peak consumption of 40 per cent for typical usage residential customer.

**Table 5.5 Maximum allowed increases for typical customers of Australian Inland
(\$ per year, nominal, exclusive of GST)**

	2003/04 bill	2004/05 bill	\$ increase	% increase
Residential¹				
Low usage (3000kWh)	405	440	35	8.6%
Typical usage without off-peak (4600kWh)	585	631	46	7.8%
Typical usage with off-peak (8300kWh) ²	781	842	61	7.8%
Business				
20MWh	2,849	3,071	222	7.8%
40MWh	5,515	5,945	430	7.8%
80MWh	10,847	11,693	846	7.8%

Note:

1. Tariffs used for this analysis were Domestic tariff 5 and General Supply tariff 25.
2. Assumed percentage of off-peak consumption of 40 per cent for typical usage residential customer.

6 OTHER ISSUES CONSIDERED BY THE TRIBUNAL

In making this determination, the Tribunal has also considered:

- how to regulate the introduction of new retail tariffs, initially and through the course of the determination
- whether 'green tariffs' should be covered by the determination
- the impact of its determination on competition in the small customer retail electricity market
- the current regulated retail charges.

This chapter discusses the Tribunal's decisions and considerations on each of these issues.

6.1 Introducing new regulated retail tariffs

6.1.1 Decision

The Tribunal has decided that two new regulated retail tariffs for 2004/05 may be introduced:

- EnergyAustralia's proposed Time of Use Business tariff for customers with a type 5 electricity meter
- Integral Energy's proposed Time of Use Domestic tariff for customers with a type 6 electricity meter.

New tariffs must not be introduced over the course of the determination unless the Minister has referred the proposed tariff to the Tribunal for consideration.

6.1.2 Tribunal's considerations in making its final decision

The Tribunal believes that regulated retail tariffs should be a basic option without special features. This implies keeping the number of regulated retail tariffs available to a minimum and offering customers choice in services under negotiated contracts in the contestable market.

As part of its review, the Tribunal considered the view expressed by Australian Inland³⁴ and Country Energy³⁵ that the determination should provide retailers with the flexibility to introduce new regulated retail tariffs during the regulatory period, so long as those tariffs comply with the determination. However, it decided to retain the existing provision under which it recommends that the Minister refer any proposals for new regulated retail tariffs to the Tribunal for consideration in accordance with Section 43EA of the *Electricity Supply Act, 1995* (ESA).

This decision means that the Tribunal will consider proposed new regulated retail tariffs on a case-by-case basis. The standard retail supplier will need to submit a request for new regulated tariffs to the Minister in sufficient time for the Tribunal to undertake public consultation prior to the new tariffs taking effect from the next price change date.

³⁴ Australian Inland submission, p 3.

³⁵ Country Energy submission, p 23.

During the course of the review, both EnergyAustralia and Integral Energy requested new regulated retail time of use tariffs to reflect changes being made by their network service provider.³⁶ The Tribunal sought stakeholder comment on EnergyAustralia's proposed new time of use business tariff. In coming to its decision on the two new regulated time of use tariffs, the Tribunal noted that no submissions objecting to the implementation of EnergyAustralia's new tariff were received.

6.2 Green tariffs

For its 2002 determination, the Tribunal considered arrangements for introducing 'green tariffs'. It decided that retail suppliers may offer green tariffs that comprise a regulated retail tariff and a green premium. These green tariffs are generally based on a 'green power' purchase arrangement. Customers elect to be on these tariffs voluntarily.

For this determination, the Tribunal has decided not to introduce a separate regulated green tariff. Under the current arrangements, its view is that the base tariff component of these green tariffs is regulated, but the premium component is not. It believes that these arrangements provide standard retail suppliers with the flexibility to introduce appropriate green premiums, and therefore there is no need to have green premiums regulated as separate retail tariffs.

6.3 Promoting competition

The *Electricity Supply Act 1995* states that the Tribunal must have regard to "...the effect of the Determination on competition in the retail electricity market".³⁷ In addition, the terms of reference for this review refer to the effect on competition of (under-recovering) tariffs set by the Tribunal.

The Tribunal recognises that tariffs that are not at cost reflective levels will have an adverse affect on the development of competition. It is aware that some regulated tariffs are currently below the cost of supply, and believes its determination will facilitate the transition of regulated retail tariffs to cost reflective levels in an appropriate manner. The measures in the determination should allow two of the four retailers to recover the Tribunal's benchmark costs by 30 June 2007, and ensure that all of them are able to pass through increases in network costs. The Tribunal considers that this outcome represents an appropriate balance of the interests of retailers and customers.

Many submissions to the review suggested that the Tribunal should allow higher retail operating costs and an additional margin within the regulated retail tariff to encourage competition. In particular, second tier retailers noted that they do not have access to ETEF. They argued that some allowance for hedging or risk should be built into the benchmark margin to provide the necessary 'headroom' for competition.

The Tribunal remains of the view that the target tariffs should be comprised of benchmark costs that reflect the efficient cost to the standard retailers of serving customers on regulated retail tariffs in NSW over the course of the determination. It strongly believes that providing an allowance in these benchmarks for costs that are not incurred by the standard retailers is

³⁶ EnergyAustralia, letter to Tribunal dated 8 March 2004 and Integral Energy, submission to the draft determination, p 18.

³⁷ *Electricity Supply Act 1995*, section 43EB(2)(b).

not desirable from an economic efficiency perspective, and will not result in regulated retail tariffs that are neutral with respect to competition.

6.4 Non-tariff retail charges

The Tribunal set maximum allowable charges for the list of regulated retail charges (non-tariff charges) in the *Electricity Supply Amendment Act, 2000* (Amending Act), as part of the December 2000 determination.

6.4.1 Decision

The Tribunal has decided to retain the current levels of non-tariff retail charges over the next regulatory period.

Table 6.1 lists the maximum value of regulated retail charges that are to apply. Standard retail suppliers may choose not to charge regulated retail charges, or to charge below the maximum.

Table 6.1 Non-tariff retail charges (exclusive of GST)

Miscellaneous transaction	Maximum allowable charge
Fee for dishonoured cheque	Twice bank fee
Late payment fee	\$5.00
Security deposit	1.5 times the average quarterly account or 1.75 times the average 2-monthly account, or 2.5 times the average monthly account

6.4.2 Tribunal's considerations in making its final decision

The Tribunal discussed the rationale for the existing charges in its 2000 determination.³⁸ Its analysis of proposals from stakeholders to alter the current charges is summarised below.

Late payment fees

In response to requests from retailers, the Tribunal considered whether it should amend the maximum charge for the late payment fee. In particular, it considered:

- retailers' concerns that the current fee may be below cost and may not provide sufficient incentive for customers to pay on time³⁹
- concerns about the impact of these charges on low-income and disadvantaged consumers⁴⁰
- the results of its recent household survey that suggest almost a quarter of low-income households have had difficulty paying their electricity bills in the last three years.

On balance, the Tribunal concluded that the late payment fee should not be increased.

³⁸ IPART, *Regulated retail prices for electricity to 2004*, December 2000, Appendix 4.

³⁹ EnergyAustralia submission, 1 December 2003 and Integral Energy submission, 1 December 2003.

⁴⁰ PIAC submission, 3 February 2004 and EWON submission, 3 February 2004.

In its submission, the Energy and Water Ombudsman (EWON) noted that it has received complaints from customers who have been charged multiple late payment fees on a single bill. For example, one customer who received no bills from the retailer for several months, and then several bills at once, and who was unable to pay all the bills at once was charged five late payment fees on the next bill (one for each month of arrears). The customer had tried to make alternative payment arrangements with the retailer, but the retailer refused to make arrangements that the customer could meet.⁴¹ To ensure that this does not occur, the Tribunal has included a provision within the determination so that retailers may charge only one late payment fee per bill.

Period for withholding security deposits

The Tribunal considered retailers requests that it extend the period for which retailers can retain security deposits. However, it believes it is unreasonable for retailers to retain security deposits for extended periods of time, and reaffirms that security deposits should be refunded to customers as set out in the schedule to the determination.

New non-tariff retail charges

The Tribunal considered the proposal from some retailers that new retail charges for account establishment, credit card payments and administrative costs associated with the pass through of network charges be established. However, as the *Electricity Supply Act 1995* limits the retail charges to those listed in Table 6.1, the Tribunal is not able to introduce these charges. The Tribunal also notes that the costs associated with these activities are part of the costs of doing business and therefore are already included in the retail operating cost allowance.

Provision of information regarding reconnection charges

The Tribunal considered EWON's comment that there is currently no obligation on retailers to inform customers who request their electricity to be reconnected after-hours (as defined in the *Electricity Supply Act 1995*) that they can be reconnected within business hours for a lesser fee.

Although the reconnection charge is a network pass through and not a retailer imposed charge, the Tribunal notes that retailers are responsible for handling requests from customers. It therefore considers that it is appropriate to address this concern at the retail level. The Tribunal agrees that customers should be made aware of the difference in charges and must be given sufficient information to be able to make an informed decision. The Tribunal has incorporated this requirement into the determination.

⁴¹ EWON submission to the draft determination, 14 May 2004, p 3.

APPENDIX 1 TERMS OF REFERENCE

Terms of reference for an investigation and report by the Independent Pricing and Regulatory Tribunal on regulated retail tariffs and regulated retail charges to apply between 1 July 2004 and 30 June 2007 under Division 5 of Part 4 of the *Electricity Supply Act 1995*.

A1.1 Reference to the Tribunal under section 43EA

The Minister refers to the Tribunal for investigation and report under section 43EB of the Act:

The determination of regulated retail tariffs and regulated retail charges to apply to small retail customers in each distribution area in New South Wales for the period from 1 July 2004 to 30 June 2007.

A1.1.1 Background

In accordance with its commitment to retain the offer of regulated retail tariffs, the Government has extended the current scheme for regulated retail tariffs and charges to apply to small retail customers supplied under a standard form contract. A regulation will be made for these purposes under section 43EJ of the *Electricity Supply Act 1995* to allow the Tribunal to make a further determination of regulated retail tariffs and charges that will apply from 1 July 2004 to 30 June 2007. The Electricity Tariff Equalisation Fund (ETEF) arrangement, which complements regulated retail tariffs, will also be extended for the same period.

Since January 2002, every electricity customer in NSW has had the option to negotiate a retail supply contract with any licensed retailer. Small retail customers who do not seek supply from the competitive market are deemed to receive electricity under a 'standard form' customer supply contract from their 'standard retail supplier'. Customers can also switch backwards and forwards between these alternatives. These arrangements were designed to encourage customers to test the market by providing an assurance that they can return to regulated retail tariffs.

While retail competition has delivered benefits for those participating in the market, the majority of residential and some small business customers have chosen to remain on standard form customer supply contracts which include regulated retail tariffs and charges determined by the Tribunal.

International and national experience shows that the level of regulated retail tariffs relative to market based prices is the key determinant of how many eligible customers remain on regulated arrangements. For example, if regulated retail tariffs do not adequately reflect all of the costs of supply to small retail customers, both those customers and prospective competing retailers have little incentive to enter the competitive market. Therefore, in order to promote retail competition, regulated retail tariffs which are below the cost of supply should be moved towards full cost reflectivity, as far as practicable.

A1.1.2 Matters for consideration

For the purposes of section 43EB (2)(a) of the *Electricity Supply Act 1995*, the matters the Tribunal is to consider in making its investigation and report on the setting of tariffs for small retail customers to apply from 1 July 2004 to 30 June 2007 include:

- an allowance for electricity purchase costs based on an assessment of the long-run marginal cost of electricity generation, given the characteristics of the demand of customers remaining on regulated tariffs
- appropriate retail costs
- appropriate retail margin
- an allowance for retailer compliance with any Commonwealth mandatory renewable energy target (MRET) requirements and the licence requirements relating to the NSW Greenhouse Gas Benchmark Scheme
- energy losses as published by the National Electricity Market Management Company (NEMMCO)
- network charges as determined by the Tribunal and the Australian Competition and Consumer Commission
- fees (including charges for ancillary services) as imposed by NEMMCO under the National Electricity Code
- an allowance for expected movements in regulated components and NEMMCO fees.

For the purposes of section 43EB (2)(b) of the *Electricity Supply Act 1995*, the Tribunal must consider the Government's policy aim of reducing customers' reliance on regulated prices and the effect of its determination on competition in the retail electricity market. The level of regulated prices for small retail customers is a crucial factor in encouraging new entry in the retail sector. If the level is set too low, it is not possible for new retailers to attract small retail customers away from the regulated price. This can reduce scale economies for new entrants, increasing their costs and making it more difficult for them to compete. More specifically, the Tribunal is to take account of the following matters in undertaking its review:

- ensuring regulated tariffs cover the costs listed above while recognising consumers' ability to adjust to new prices
- consider options for restructuring tariffs to promote demand management.

The determination should ensure, as far as practicable, that:

- regulated retail tariffs and regulated retail charges are at cost reflective levels for all small retail customers by 30 June 2007
- the setting of any 'price constraint' should allow the further rationalisation of regulated retail tariffs and movement to full cost recovery over the determination period with regard to the need for a smooth transition for customers, and
- alternative ways be considered to facilitate transition to full cost recovery by 2007, or by an appropriate later date, such as the setting of regulated retail tariffs at cost reflective levels for all new connections and new customers.

The Tribunal should also consider and report on the basis for regulating miscellaneous charges and security deposits.

A1.1.3 Consultation

The Tribunal should consult with stakeholders, conduct public hearings or workshops and consider submissions, within the timetable for the investigation and report. The Tribunal must make its report available to the public.

A1.1.4 Timing

The Tribunal is to investigate and provide a report of its determination of regulated retail tariffs and charges by 1 May 2004.

A1.1.5 Definitions

Regulated retail tariff means a tariff for or in relation to the supply of electricity required to be charged to a small retail customer under a standard form customer supply contract, being a tariff specified in a determination in force under Division 5 of Part 4 of the *Electricity Supply Act 1995*.

Small retail customer means a customer that consumes electricity at less than 160MWh per year as prescribed in clause 7 of the *Electricity Supply (General) Regulation 2001*. A small retail customer is eligible for supply under a standard form customer supply contract.

Standard retail supplier means a retail supplier to whose retail supplier's licence is attached a standard retail supplier's endorsement. A standard retail supplier must impose tariffs and charges for or in relation to supplying electricity under a standard form customer supply contract in accordance with any relevant determination of the Tribunal under Division 5 of the *Electricity Supply Act 1995*.

Standard form customer supply contract means a contract entered into under Division 3 of Part 4 of the *Electricity Supply Act 1995*.

APPENDIX 2 EFFECTIVENESS OF COMPETITION

The Tribunal considered the effectiveness of competition as an input in determining the appropriate form of regulation to apply to 2007. An effective competitive retail market implies that regulation can be more light-handed without adversely affecting customers.

The Tribunal considers that effective competition exists where no company has sufficient market power to allow it to raise prices, lower service quality and restrict services, and still maintain profitability.

A2.1 Tribunal's view

The Tribunal concluded that although competition is developing for small retail electricity customers in NSW, it could not yet be considered effective.

There is some information to suggest that incumbent retailers are offering dual fuel products and small price savings to entice their existing regulated customers onto negotiated contracts. However, there appears to be limited product innovation or price savings in negotiated offers compared to regulated tariffs with most retailers offering small discounts on the applicable regulated rates.

It does appear that both small and larger consumption customers are being targeted although there may be a higher level of awareness of choice and approach by retailers among higher income earners.

The Tribunal also noted the fact that some tariffs do not fully reflect the costs of supply also limits competition in some parts of the market.

A2.2 Tribunal's consideration

In undertaking its analysis the Tribunal had regard to the structural features of the market, the conduct of firms and customer outcomes.

The Tribunal also engaged PricewaterhouseCoopers (PwC) to collect and analyse information from retailers on what competitive offers are available in the market and the numbers and characteristics of customers taking them up. A public version of the report from PwC is available from the Tribunal's website (www.ipart.nsw.gov.au).

The key aspects considered by the Tribunal were:

- the definition of effective competition
- market definition
- the number of firms and the degree of market concentration
- barriers to entry and exit
- supplier behaviour
- customer outcomes.

A summary of the key points of each of these aspects is set out below.

A2.2.1 The definition of effective competition

The Tribunal considers that effective competition exists where no company has sufficient market power to allow it to raise prices, lower service quality and restrict services, and still maintain profitability. A market could be effectively competitive where:

- actual competition exists – that is, new entrants have entered the market and actively compete with the incumbent suppliers, taking market share from them
- there is potential competition whereby the threat of entry effectively disciplines the incumbents against abusing their market power but no entry actually occurs.

In deciding on this definition, the Tribunal had regard to a report by the Network Economics Consulting Group (NECG) on competition in the small retail electricity market, provided by Integral Energy.⁴² The report argues that workable (rather than perfect) competition is an achievable standard for the NSW small customer electricity market given the structure of the market and the state of competition in similar markets.

A2.2.2 Market definition

The Tribunal considers the relevant market is the retail supply of electricity to customers consuming less than 160MWh of electricity per annum (small retail electricity market) in NSW.

At a basic level, the retail service involves packaging the final consumer product by buying electricity from the wholesale market and arranging for it to be transported to customers via transmission and distribution networks.

Although natural gas is a limited substitute for electricity, the Tribunal did not consider gas retail to be sufficiently substitutable to form part of the relevant market. This is because although customers might be able to run a limited selection of activities on gas, such as heating, cooking and hot water, they could not switch to gas for all their power needs. LPG and solar energy are other potential substitutes for electricity; however, the Tribunal also considered them very limited in their application.

In coming to this conclusion, the Tribunal also noted that the costs of switching to other forms of energy may be prohibitively high for some customers and would be impossible for some customer groups (for example, where reticulated gas is not available or customers do not own their place of residence).

A2.2.3 The number of firms and the degree of market concentration

There are currently 20 licensed electricity retail suppliers in NSW. However, only nine of these supply the small retail market and of these nine, two supply only business customers. Four of the seven remaining suppliers are standard retailers whose default tariffs are regulated by the Tribunal and not all of the remaining licensees are active in the market.

⁴² Integral Energy submission, Appendix 1, 1 December 2003 (available from www.ipart.nsw.gov.au).

The market shares of the standard retailers did not change significantly between 2000 and 2003. However, there was a gradual but slight increase in the market share of second tier retailers. At 1 July 2003, market concentration remained high with the three largest retailers retaining in excess of 98 per cent of market share.

A2.2.4 Barriers to entry and exit

The Tribunal noted the following potential barriers to entry that might limit the potential for competition in the market:

- fixed costs
- regulatory/legal differences
- information advantages for incumbents
- administrative costs associated with customers switching
- customer inertia.

In considering the effect of these issues, the Tribunal noted that many retailers looking to enter the NSW electricity market already operate in the energy sector in other jurisdictions in which case the above issues may not represent significant barriers to entry.

Information regarding legal and regulatory requirements is generally openly and easily accessible (for example, license requirements). However, the Tribunal noted that many second tier retailers and potential entrants regard the ETEF scheme as a significant impediment to entry as non-incumbent retailers do not have access to the scheme.

The Tribunal also considered there might be information advantages for incumbent retail suppliers in the form of consumption levels and load profiles of customers, which could be used to better target particular customers, forecast demand or determine appropriate hedging strategies.

A2.2.5 Supplier behaviour

Since the commencement of full retail contestability, AGL has begun supplying electricity as part of dual fuel packaging and the four standard retailers have also been offering market contracts in selected areas. There appears to be some likelihood of further entry (for example, TXU noted strong interest among potential entrants).⁴³ However, despite the noted interest, potential entrants have advised that they do not believe the current environment is conducive to competitive entry.

Marketing information considered by the Tribunal indicates that standard retailers seem to be primarily targeting their existing customers although there is evidence of other marketing activity. PwC's analysis indicated that current retailers are using various methods to acquire and retain customers on negotiated contracts. However, TXU commented that, on average, NSW appears to have the lowest level of advertising expenditure per customer in the Southeast Australian retail energy markets (with the exception of AGL).

⁴³ TXU supplementary submission, 2 February 2004, pp 5-6.

A2.2.6 Customer outcomes

Switching information

Based on information provided by retailers, PwC has estimated that approximately 375,000 customers have entered into a negotiated contract for electricity, including with their existing retailer, representing approximately 12 per cent of the relevant customer base.

Switching information for electricity and gas (combined) published by the Department of Energy, Utilities and Sustainability indicates that at January 2004 a total of 562,892 small energy customers had switched to either another retailer or to a competitive offer with their current retailer since the commencement of full retail contestability in January 2002.⁴⁴

NEMMCO switching data indicates that the number of small customers who transferred to a different retailer (as opposed to those taking up competitive offers with either their current retailer or another) was 194,128 at the end of February.⁴⁵ Based on approximately 2,718,870 small customers in NSW this data indicates that 7.1 per cent of customers in the market have switched to another retailer.

The Tribunal also had regard to the results of the IPART Household Survey which collected information from approximately 2,600 households in Sydney, the Blue Mountains and Illawarra, including their awareness of choice and switching behaviour. The survey showed that although most respondents were aware that they could switch their electricity retailer, only around 30 per cent of respondents had been approached by another electricity retailer. Of those approached, approximately one in five switched as a result.

The majority of surveyed customers that switched their electricity retailer did so because they felt it was cheaper. The second highest reason for switching was because a dual fuel product was offered.

Characteristics of customers switching

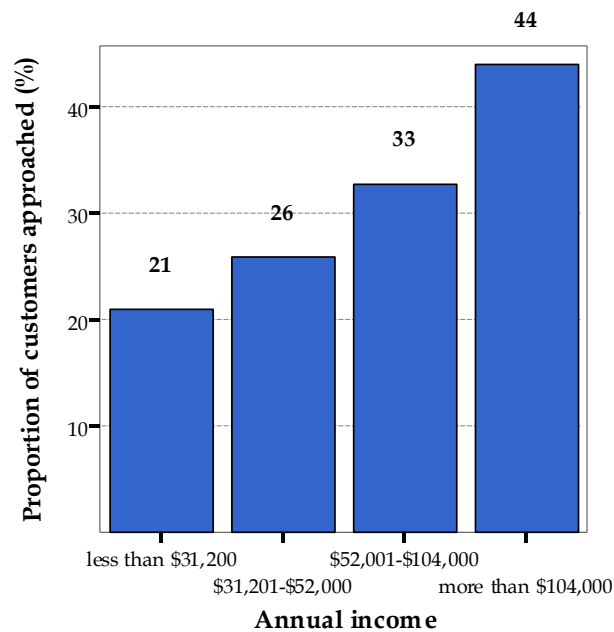
Among the survey participants, both awareness of choice and approaches by suppliers increased as household income increased.

The Tribunal's survey results indicate that almost 30 per cent of electricity customers have been approached to change electricity supplier in the last 18 months. A closer examination of the characteristics of customers who were approached to change energy supplier indicated that they were more likely to own the premises they were living in, be a higher than average energy user and have higher than average income.

⁴⁴ Department of Energy, Utilities and Sustainability, *Customers exercising choice*, January 2004.

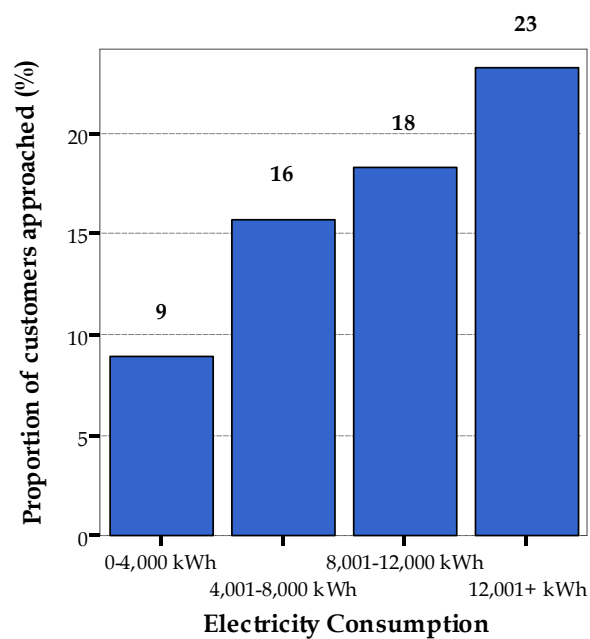
⁴⁵ NEMMCO completed small customer transfers at 29 February 2004, www.nemmco.com.au.

Figure A2.1 Relationship between competitive offers and income



The likelihood that a customer changed electricity supplier increased for higher electricity users as illustrated in the chart below.

Figure A2.2 Relationship between competitive offers and consumption



Data source: IPART household survey data.

The PwC report also suggested that both small and larger customers were being approached however it noted that customers consuming less than 5MWh per year appeared to be under-represented in those taking up competitive offers. PwC found that the take up of competitive offers was largest among customers consuming greater than 5MWh per year, and particularly above 10MWh per year. However, PwC also noted that take up does not appear to be overly focused on the highest consumption levels.

The PwC analysis also looked at geographical differences and concluded that the extent to which customers have entered into negotiated contracts is greater in the Sydney region than in areas outside Sydney as a result of the areas being targeted by retailers.

Characteristics of competitive offers

Regarding the offers available in the market, PwC found that the structure of negotiated tariffs tends to mirror that of the corresponding regulated tariff. PwC also found that the level of negotiated tariffs tends not to depart markedly from the benchmark established by the regulated rates, with relatively small discounts for electricity-only offers (two to five per cent) and slightly larger for combined electricity and gas offers (up to ten per cent). Savings tended to be higher for business customers than for residential customers.

The Tribunal also noted PwC's analysis regarding the characteristics of competitive offers. The report states that retailers to date have tended to adopt one of two basic forms of negotiated tariffs – a simple discount or rebate off the reference regulated tariff or the application of an alternative tariff, with the former being the most common approach.

In most cases competitive offers involve a fixed term (typically 24 to 36 months) with fees for early termination. Many of these contracts allow for tariff variations to follow changes in the underlying regulated tariff or in response to other specified pass through events. PwC found no service differential between competitive and standard form contracts.

APPENDIX 3 ANALYSIS OF COST COMPONENTS IN THE RETAIL TARGETS

The Tribunal has set benchmark costs for inclusion in the target tariffs based on the Tribunal's estimate of the cost of supplying customers on regulated retail electricity tariffs.

The Terms of Reference require the Tribunal to consider the cost components underlying the target tariffs. The costs considered as part of this review were:

- an allowance for electricity purchase costs based on an assessment of the long-run marginal cost of electricity generation, given the characteristics of the demand of customers remaining on regulated tariffs
- an allowance for retailer compliance with any Commonwealth mandatory renewable energy target (MRET) requirements and the licence requirements relating to the NSW Greenhouse Gas Benchmark Scheme
- appropriate retail operating costs
- appropriate retail margin
- energy losses as published by the National Electricity Market Management Company (NEMMCO)
- network charges as determined by the Tribunal and the Australian Competition and Consumer Commission
- fees (including charges for ancillary services and NEM fees) as imposed by NEMMCO under the National Electricity Code
- an allowance for expected movements in regulated components and NEMMCO fees.

This appendix outlines the Tribunal's decisions in relation to each of the cost elements and summarises its rationale for the benchmark costs.

A3.1 Cost of purchasing electricity

In relation to energy costs, the Terms of Reference require the Tribunal to consider:

...an allowance for electricity purchase costs based on an assessment of the long-run marginal cost of electricity generation, given the characteristics of the demand of customers remaining on regulated tariffs.

A3.1.1 Decision

The Tribunal has adopted an electricity purchase cost of \$50 per MWh. This includes green energy costs (\$3 per MWh).

A3.1.2 Tribunal's consideration in making its final decision

The Terms of Reference for the review required the Tribunal to estimate LRMC and not a market price for electricity. The Tribunal engaged Intelligent Energy Systems (IES) as consultants to estimate LRMC. IES were asked to estimate the LRMC for the regulated retail load and were asked to:

- use a forward looking analysis that considered the impact of changing demand on the cost of incremental generation capacity
- include any specific requirements relevant to greenhouse gas
- emphasise the supply price of new generating capacity
- consider whether hedging costs be included in the calculation.

The IES analysis sought to replicate the current regulated load and provide the most efficient generation plant mix to cover that load.

IES produced a range for LRMC by using high, medium and low cost scenarios.⁴⁶ The high cost scenario had high capital costs, high fuel costs and a discount rate of 11 per cent (real pre-tax). The Medium scenario had mid range capital and fuel costs with a discount rate of 9.5 per cent. The low scenario had low capital and fuel costs and a discount rate of 7 per cent.

IES calculated the LRMC for the total average NSW regulated load of:

- \$58.71 for the high case
- \$47.84 for the medium case
- \$35.51 for the low case.

The Tribunal largely accepted that IES's medium case was appropriate but has made some alterations to take into account the inclusion of green costs in the LRMC, the addition of an allowance for reserve capacity and generator NEM fees, which resulted in an LRMC of \$47 per MWh. This process is outlined in Table A3.1.

⁴⁶ The revised IES report is available on the Tribunal's website (www.ipart.nsw.gov.au).

Table A3.1 Calculation of electricity costs (\$ per MWh)

Electricity cost components	
LRMC (IES report)	\$47.84
<i>plus:</i>	
Reserve Capacity	\$1.10
NEM fees (Generation)	\$0.10
Sub-total	\$49.04
<i>minus:</i>	
NGAC	\$2.00
LRMC	\$47.04
<i>plus:</i>	
MRET (REC)	\$1.00
NGAC	\$2.00
ENERGY PURCHASE COST	\$50.04

Submissions from second tier retailers and generators have argued that the IES estimates are below the true LRMC of electricity. The Tribunal notes that the submissions generally do not indicate problems with the modelling but instead focus on the assumptions made by IES, such as the plant mix (for example, Delta's submissions⁴⁷ indicate that applying different assumptions returns a credible range of \$48.18 to \$53.95 per MWh). The Tribunal considers that the assumptions used in the IES report are appropriate, subject to the adjustments described above.

Inclusion of a retailer specific LRMC

EnergyAustralia's submission to the draft determination stated that the LRMC allowance should be different for each retailer due to their different load profiles.⁴⁸ EnergyAustralia pointed out that the original IES report contained retailer specific LRMCs that varied by as much as 12 per cent from the average, therefore to use the average for each retailer disregards the true cost of supply.

The Tribunal has decided not to include retailer specific LRMC estimates for each retailer in the determination. The Tribunal notes that there are arguments both for and against including retailer specific LRMC estimates but that practical problems effectively prevent the Tribunal from determining individual retailer values, as IES stated that its retailer specific calculations are incorrect due to problems with the load profile data used.

For these reasons, the Tribunal decided not to include retailer specific estimates of the LRMC in its determination. However, the Tribunal considers that this issue may be worth further consideration in any future review.

⁴⁷ Delta Electricity submission, 2 February 2004 and submission to the draft determination, 14 May 2004.

⁴⁸ EnergyAustralia submission to the draft determination, 17 May 2004, p 3.

Inclusion of hedging costs

In submissions and at the roundtable discussion the generators and retailers stated that hedging costs should be included in energy costs to encourage retail competition. The Tribunal considers that hedging costs should not be included in the LRMC.

Green energy compliance costs

As noted above, the Tribunal has adopted an allowance in addition to the LRMC for green energy costs of \$3/MWh. The Tribunal's analysis of green energy compliance costs involved consideration of requirements imposed on retailers by:

- The Commonwealth Mandatory Renewable Energy Target (MRET) scheme.
- The NSW Greenhouse Gas Abatement scheme.

The Tribunal has allowed \$1.00 for MRET costs as part of its allowance for green costs. The MRET scheme requires retailers to purchase two per cent of their energy from renewable resources such as wind, solar or land-fill gas. The Tribunal did not include MRET costs directly in the LRMC because compliance is an obligation on the retailer not the generator. MRET costs are instead added in after generator cost allowances. No allowance for MRET compliance was included in the IES calculations of LRMC.

In their submissions to the review, Integral Energy and Macquarie Generation forecast the following costs of complying with the MRET scheme.

Table A3.2 Estimates of MRET compliance costs (per MWh in nominal dollars)

	2005	2006	2007
Integral Energy	0.69	0.94	1.25
Macquarie Generation	0.70	0.91	1.10

Source: Integral Energy and Macquarie Generation submissions.

The Tribunal noted that MRET compliance costs may rise over the next ten years as interim targets become more demanding and lower cost abatement opportunities are exploited.

The Tribunal has adopted compliance costs for the NSW Greenhouse Gas Abatement Scheme of around \$2.00 per MWh. The NSW Greenhouse Abatement Scheme requires that the per capita carbon dioxide (CO₂) equivalent emission be progressively reduced from 8.65 tonnes to 7.27 tonnes in 2007.

The Tribunal noted that if the efficient plant mix (as determined for the LRMC calculation) contains sufficient amounts of CCGT power then this target will be met without need for additional shifting of production plant or purchase of NSW Greenhouse Abatement Certificates (NGACs). The plant mix applied in IES's LRMC model meets the requirements of the scheme. Therefore, the Tribunal considers that the LRMC calculated by IES implicitly includes a value for complying with the scheme.

However, in reality, the generators that retailers purchase from do not comply with the scheme and the retailers must purchase NGACs. The Tribunal has therefore, for clarity removed the implicit compliance cost from the LRMC and is providing an explicit allowance for compliance with the NSW Greenhouse Gas Abatement Scheme. These costs directly offset each other in the energy cost allowance.

In determining the cost of compliance the Tribunal noted that there is little publicly available information. In their submissions, Integral Energy and Macquarie Generation forecast the following costs of complying with the NSW scheme. Based on the information available to it, the Tribunal considers that an allowance of \$2 per MWh is appropriate.

Table A3.3 Estimates of NSW Scheme compliance costs (per MWh in nominal dollars)

	2005	2006	2007
Integral Energy	1.16	1.71	2.27
Macquarie Generation	1.57	2.23	3.07

Source: Integral Energy and Macquarie Generation submissions.

A3.2 NEM Fees and ancillary charges

A3.2.1 Decision

The Tribunal has provided an allowance for retailer NEM fees and ancillary charges of \$1 per MWh.

A3.2.2 Tribunal's consideration in making its final decision

The Tribunal has allowed \$0.41/MWh for retailer NEM fees. NEM Fees are levied on retailers, generators and market participants to cover the costs incurred by NEMMCO and NECA in running the National Electricity Market. Retailers are levied on a per MWh basis according to electricity purchases (NEMMCO calculates the rate for the following year after the budget for each year has been approved). Table A3.4 shows the retailer NEM fees charged over the period 1999/2000 to 2003/04.

Table A3.4 Retailer NEM Fees (per MWh in nominal dollars)

Year	1999/00	2000/01	2001/02	2002/03	2003/04
TOTAL	\$0.54000	\$0.38656	\$0.38211	\$0.30857	\$0.40712

The Tribunal has provided an allowance of \$0.58 per MWh for ancillary service costs (ancillary charges). Ancillary charges cover the costs associated with the physical safety and coordination of the National Grid as distinct from the trading market. Ancillary charges are levied as the costs are incurred. Retailers are levied on a per MWh basis based on electricity purchases.

Over the past two calendar years ancillary service costs have been as follows:

- \$0.79 MWh for the calendar year 2002
- \$0.58 MWh for the calendar year 2003.

A3.3 Retail operating costs including contestability costs

Retail operating costs are incurred by all retailers in supplying regulated customers. Retail operating costs include customer service costs, such as call centre operation, billing and revenue collection, finance costs, IT systems, marketing and advertising costs and costs associated with the introduction of full retail contestability.

A3.3.1 Decision

The Tribunal has adopted a benchmark retail operating cost of \$70 per customer.

A3.3.2 Tribunal's consideration in making its final decision

To help the Tribunal in its determination of appropriate operating retail costs for the 2004-2007 review the Tribunal engaged NERA to:

- develop benchmarks for retail operating costs
- examine each retail supplier's cost to serve and compare with appropriate benchmarks
- include appropriate and efficient FRC costs and regulatory costs
- make recommendations on reasonable operating costs.

NERA prepared a confidential report for the Tribunal. A revised version (non-confidential) was released for public comment.⁴⁹ In its report, NERA recommended a range for retail operating costs per customer of \$50 - \$80 (\$2004/05). This range was based on NERA's analysis of each retailer's operating cost estimates and a consideration of benchmark costs. NERA stated that:

These recommendations are based on a review of the information provided by the retailers, decisions by regulators in other jurisdictions and an assessment of the environment within which retailers operate. The recommended range will allow most retailers to fully recover reported retail costs associated with serving customers on default tariffs and are in line with decisions made by regulators in other jurisdictions.⁵⁰

In the draft determination, the Tribunal proposed an allowance of \$65 per customer, noting that this amount was:

- within the range determined by NERA
- approximately equal to the average of the actual costs submitted by retailers⁵¹
- at the upper end of the values allowed for each retailer in the 2002 determination (including FRC costs).

Submissions to the review noted that NERA's range resulted in retail operating costs that are considerably lower than those allowed by regulators in other jurisdictions. However, the Tribunal has carefully considered the range proposed by NERA and remains of the view that the benchmark allowances should not be increased to take account of costs that are not incurred by NSW retailers. The Tribunal noted that the costs allowed in other jurisdictions

⁴⁹ The NERA report *New South Wales Energy Retail Costs: a report to IPART* is available on the Tribunal's website (www.ipart.nsw.gov.au).

⁵⁰ NERA, *New South Wales Energy Retail Costs: a report to IPART*, p 3.

⁵¹ Excluding Australian Inland.

are above the actual costs (on average) reported by NSW standard retailers therefore, the use of a higher benchmark based on allowances in other jurisdictions is inconsistent with setting efficient costs. The Tribunal also noted comments from stakeholders regarding the applicability of benchmark costs from other jurisdictions and the circularity of benchmarking exercises based on allowances made by other regulators.

Since the draft determination, submissions to the review noted that depreciation costs included in the information provided by retailers were not explicitly considered by the Tribunal. The Tribunal has examined the costs provided by retailers and the arguments put forward for choosing a higher point in NERA's range. The Tribunal considers that the allowance proposed in the draft determination should be increased by \$5 per customer per year in order to better reflect the actual costs submitted by retailers (including depreciation costs). The Tribunal notes that on average (excluding Australian Inland) this benchmark will allow retailers to recover their actual costs over the course of the determination.

To what extent should the allowed costs vary with churn?

Retailers expressed concern that per-customer costs may rise as full retail competition develops. Although they note that retail operating costs are generally related to the number of customers and the size of load served by the retailer, they have argued that there are a significant proportion of costs that would be unchanged as a result of changes in customer numbers. This has raised concerns that the level of operating costs per-customer will necessarily increase as customers are drawn to competitive contracts, leaving the same level of costs to be spread over fewer customers.

The Tribunal asked NERA to examine this issue as part of the review of operating costs and margins. NERA suggested that this will only be relevant if customers move to competitive contracts with retailers other than their default retailer. That is, where a customer enters into a negotiated contract with the local retailer, the retailer would continue to recover the operating costs from that customer. As the systems are shared between the regulated and competitive customers, costs should also be shared and the extent to which costs per customer increase would be softened.

Should the retail operating costs be the same for all retailers?

The Tribunal has decided to continue using a benchmarking approach. The Tribunal has adopted a value of \$70 per customer. The Tribunal considers that under a benchmarking approach it would be reasonable for the Tribunal to allow the same retail operating costs per customer. There is no reason to believe that efficient costs would be different for each retailer.

A3.4 Profit Margin

The net profit margin represents the reward to investors for committing capital to a business. The level of profit margin is influenced by the level of risk associated with energy purchasing costs, customer default and bad debt, and competition from electricity substitutes.

A3.4.1 Decision

The Tribunal has allowed a retail net profit margin of 2 per cent.

A3.4.2 Tribunal's consideration in making its final decision

As part of its current review the Tribunal engaged NERA to undertake research and make recommendations on an appropriate retail margin.

NERA prepared a confidential report for the Tribunal. A non-confidential version was released for public comment. In its report, NERA recommended a net profit margin within the range of 1.5 per cent - 2.5 per cent.

This is consistent with the range decided on by the Tribunal in its December 2000 determination. The basis for this decision was:

- the level of profit margin is influenced by the level of risk associated with energy purchasing costs, customer default and bad debt, and competition from electricity substitutes
- energy purchasing risks have been eliminated by the ETEF and so a premium for this risk is not required
- the regulated customer base is likely to evolve to a 'riskier' profile as the competitive retail market matures
- the risk differential between small retail customer groups is likely to be very small and so does not warrant differential margins in regulated retail tariffs
- it is not desirable from an economic efficiency or equity perspective to build an additional margin into the net profit margin that promotes customer switching.

In response to the draft report, several submissions, for example, AGL ES&M, Origin Energy and TXU, submitted that the Tribunal has understated the retail margin. These submissions considered that the profit margin should be at least four to five per cent. The standard retailers provided mixed views regarding the appropriate level for the profit margin. Prior to the draft determination, Country Energy noted that the current range is at the lower end of the acceptable range, and suggested altering the allowed range to 2 to 2.5 per cent. Australian Inland stated that the current retail margin of 1.5 to 2.5 per cent is 'probably as good as any other figure'.⁵² Both Integral Energy and EnergyAustralia argued for the inclusion of working capital in the retail margin, which the Tribunal has previously decided should not be included.

A number of submissions have been in favour of increasing the retail margin to provide an allowance for energy purchase risk. This has primarily come from second tier retailers who have noted that new entrants do not have access to ETEF.

The New South Wales Government established the ETEF at the beginning of 2001. The ETEF effectively allows retail suppliers to purchase electricity to supply regulated customers at a fixed price determined by the ETEF administrators.⁵³ This arrangement eliminates most of the energy purchase price risk for retail suppliers supplying customers who remain on the regulated tariff. The Tribunal considers that its original decision not to allow a margin for energy purchase price risk remains appropriate because the Tribunal considers it is not appropriate to provide an allowance to standard retailers for costs that they will not incur over the course of the determination.

⁵² Australian Inland submission, Review of Regulated Retail Tariffs, 1 December 2003, p 15.

⁵³ There are two prices — a peak and an off-peak price which vary across retail suppliers.

The Tribunal noted an analysis by Charles River Associates (CRA) undertaken for the Department of Infrastructure in Victoria, which suggested retail margins in the range of 5 per cent to 8 per cent. CRA noted that the Office of the Regulator General (now the Essential Services Commission of Victoria) had previously proposed a range of 2.5 per cent to 5 per cent. CRA increased this range to provide headroom for competition and for the risk associated with purchases.

The Tribunal does not consider that this is an appropriate range for New South Wales. The primary reason is that retail suppliers in Victoria do not have access to a scheme similar to ETEF that eliminates energy purchase price risk. The Tribunal also notes that the consultants took explicit account of energy purchase price risk in recommending a higher range for Victoria than is in place in New South Wales.

Riskiness in customer base

As full retail competition (FRC) progresses, it seems reasonable to expect that the regulated customer base would become more 'risky'. More profitable customers would be attracted into the contestable market, leaving a smaller regulated customer base comprising of less profitable customers. However, to date there has been limited uptake of retail competition.

In setting an allowance for the net profit margin between 1.5 and 2.5 per cent in its 2000 determination, the Tribunal recognised that standard retail suppliers should receive a higher margin for serving small retail customers in the context of a contestable market. To the extent that increased customer churn rates are correlated with an increase in the riskiness of a retail supplier's customer base, then retail suppliers should receive a higher net profit margin to compensate for this risk. However, in the Tribunal's opinion, this is a question of what value *within* the current range should be applied rather than whether the range should be increased. The Tribunal considers that the current range provides sufficient compensation to retail suppliers for the increased risk they are likely to face as FRC impacts on their customer base over the next three years.

Allowance to promote competition

Some submissions to the review have argued for the inclusion of an additional allowance to promote competition. A number of submissions argue that regulated prices do not provide sufficient scope for second tier retail suppliers to effectively compete in all segments of the New South Wales electricity market. In regard to the net profit margin, they challenge the Tribunal's decision to exclude an additional margin to encourage competition.

The Tribunal considers that its arguments against setting artificially high tariffs to promote competition remain valid. In principle, if the Tribunal has established benchmarks that reflect the efficient costs, then there is not a case for including a margin to promote competition.

A3.5 Loss factors

Retailers record energy consumption at the customer's meter but are billed for the energy sent out from the generator. Due to the nature of energy flows through networks, some energy is lost during transmission and distribution. Energy purchase costs need to be adjusted for these losses.

A3.5.1 Decision

The Tribunal decided that the loss factors in Table A3.5 are to be included in the calculation of the target 'R's.

Table A3.5 Loss Factors for 2004-2007

Loss Factors (transmission plus distribution loss factors)	Urban	Rural
EnergyAustralia	6.01%	-
Integral Energy	8.62%	-
Country Energy	12.27%	16.96%
Australian Inland	21.35%	21.35%

Source: Loss factors approved by the Tribunal and NEMMCO.

A3.5.2 Tribunal's consideration in making its final decision

The target levels of regulated retail tariffs include a retail supplier-specific, separate allowance to account for energy losses in delivering electricity to small retail customers (urban and rural where applicable).

The system loss factors are calculated by multiplying transmission and distribution losses. Transmission losses are approved by NEMMCO and published on its website. Distribution losses are approved by the Tribunal and published on NEMMCO's website.

The loss factors applied in the target 'R' calculations in the final determination are different from those applied in the draft determination because the draft determination used estimated energy losses. Final transmission and distribution loss factors were recently approved and the final determination has been updated to incorporate these approved loss factors in the calculation of the target 'R' values.

APPENDIX 4 ALTERNATIVE TARIFF STRUCTURES

EnergyAustralia and Integral Energy have indicated that they wish to have an inclining block structure in the 'R' component (that is, the variable 'R' included in the tariff would be higher beyond a certain level of consumption). Because of the 'N+R' framework, some customers might face an inclining block tariff without the Tribunal explicitly incorporating an inclining block structure into the 'R' component (where the relevant 'N' is structured in this way). The effect of an inclining block structure in the 'R' would be to increase the difference between the two (first and second tier) usage charges paid by customers.

The Tribunal considers that there does not appear to be a cost reflective basis for an inclining block structure in the 'R' component (that is, that retail costs do not appear to become greater for each customer as their consumption increases). However, the Tribunal notes that retailers have advocated inclining block tariffs for other reasons, such as to manage demand for electricity.

The Tribunal noted that the size of the impact of an inclining block tariff on demand for electricity is uncertain. An IPART Secretariat discussion paper on network inclining block tariffs concluded that although electricity consumption is thought to be relatively inelastic, customers would be likely to respond to changes in the final retail price when making their consumption decisions.⁵⁴ The larger the difference between the first and second tier prices, the larger this effect could be expected to be.

However, the Tribunal notes that price signals might be blunted by quarterly billing, inclining block tariffs do not provide an incentive for customers to shift their consumption to off-peak periods, may not accurately target discretionary usage and, where tier one charges are reduced from current levels, might actually encourage smaller customers to increase their usage.

The Tribunal's analysis on the likely customer impact of inclining block tariffs proposed by EnergyAustralia and Integral Energy indicates that most residential customers would be better off under the proposed inclining block tariff than under a single block structure (based on the retailer collecting the same revenue from variable charges) because the majority of customers consume less than the threshold amount of electricity. However, the impact on customers is minimal for most customers in terms of both dollars per annum and percentages. Based on consumption information provided by the retailers, the Tribunal estimates that customers in the top five per cent of consumption for the relevant tariffs would be adversely affected where their consumption is not reduced in response to the tariff changes.

The Tribunal does not believe that a strong case for the introduction of alternative tariff structures, such as inclining blocks, in the 'R' component was put to the Tribunal in this review. However, the Tribunal acknowledges that retailers may want to introduce alternative tariff structures and considers that they should have some flexibility to do so.

⁵⁴ Secretariat Discussion Paper on Inclining Block Tariffs for Electricity Network Services, July 2003.

APPENDIX 5 COMPARISON OF 'R' COMPONENTS OF TARGET TARIFFS

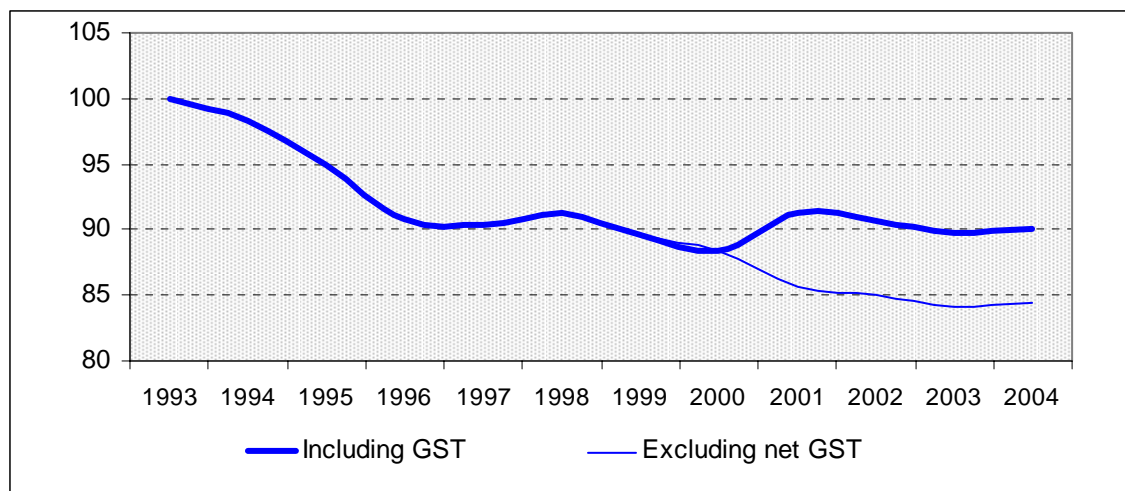
Table A5.1 'R' Components for the 2004 Determination (\$2004/05) compared to those in the 2002 Determination (\$2003/04)

	Fixed R	Fixed R	Variable R	Variable R	Variable R	Variable R	Variable R	Variable R
			Standard	Standard	Off-peak	Off-peak	Extended	Extended
	(\$)	(\$)	c/kWh	c/kWh	c/kWh	c/kWh	Off-peak	Off-peak
	2003/04	2004/05	2003/04	2004/05	2003/04	2004/05	2003/04	2004/05
EnergyAustralia	48.27	59.50	6.01	6.10	3.89	3.91	4.84	4.89
Integral Energy	53.18	59.50	6.30	6.37	3.98	3.99	4.68	4.85
Country Energy								
Urban	51.54	59.50	6.56	6.90	4.08	4.11	4.82	5.34
Rural	51.54	59.50	6.96	7.24	4.31	4.29	5.11	5.58
Australian Inland								
Urban	44.18	59.50	7.14	7.27	4.35	4.43	4.92	5.42
Rural	44.18	59.50	7.14	7.43	4.35	4.51	4.92	5.53

APPENDIX 6 TRENDS IN RETAIL PRICES

In recent years, electricity consumers in NSW have seen average electricity prices fall in real terms. At the same time, they have increased their demand for electricity and, hence, their use of distribution networks. Peak demand has risen even more sharply, placing a strain on the existing distribution infrastructure. The response of the electricity network service providers has been to increase growth-related capital expenditure, with little attempt to use demand management alternatives to network investment.

Figure A6.1 Index of household electricity charges from 1992/93 to 2003/04 (real)



Source: IPART.

According to the Energy Supply Association of Australia (ESAA) publication *Electricity Prices in Australia*, average residential electricity prices in NSW are currently lower than in all other Australian states except the ACT. Note that average prices from 2000/01 to 2003/04 are projections, and must be seen as indicative only.

Table A6.1 Comparison of interstate electricity prices (c/kWh, nominal)

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
NSW	9.62	9.58	9.67	9.90	9.58	9.73	10.74	10.84	11.00	11.38
Victoria	12.75	12.23	12.79	12.81	12.60	12.65	14.19	14.19	15.61	16.12
Queensland	9.76	9.76	9.71	9.69	9.69	9.63	10.88	11.21	11.62	12.02
South Australia	11.17	11.32	11.73	12.55	12.80	13.03	13.96	14.36	14.75	18.78
Western Australia	14.09	14.08	14.02	13.49	13.60	13.68	14.95	14.90	14.73	14.73
ACT	8.06	8.36	8.36	8.22	8.30	8.63	9.75	10.09	9.78	10.94
Tasmania	9.14	9.14	9.16	9.13	10.09	10.30	11.65	12.21	12.51	13.05

Source: ESAA.

APPENDIX 7 LIST OF SUBMISSIONS

List of submissions received on retailer proposals and consultants reports:

Organisation	Date
ActewAGL	22 March 2004
AGL Energy Sales and Marketing (AGL ES&M)	29 January 2004
AGL Retail Energy	23 March 2004
Australian Consumers' Association	8 March 2004
Bardak Energy and Management Services	8 March 2004
Country Energy	18 March 2004
Delta Electricity	2 February 2004
Energy and Water Ombudsman (EWON)	3 February 2004
Energy Retailers Association of Australia (ERAA)	1 December 2003
Energy Retailers Association of Australia (ERAA)	1 April 2004
EnergyAustralia	18 March 2004
Ergon Energy	1 December 2003
Individual	2 February 2004
Integral Energy	18 March 2004
Macquarie Generation	2 February 2004
Origin Energy	19 March 2004
Origin Energy	2 February 2004
Public Interest Advocacy Centre (PIAC)	19 March 2004
Public Interest Advocacy Centre (PIAC)	3 February 2004
TXU Australia	17 March 2004
TXU Australia	8 December 2003
TXU Australia	2 February 2004

List of attendees at the roundtable discussion held by the Tribunal on 4 March 2004:

Organisation	Name
ActewAGL	Shona Scott
AGL	Michael Fraser
Australian Consumers' Association	Charles Britton
Australian Inland	Travis Nadge
Country Energy	Terri Benson
Delta Electricity	Phillip Colebourn
Energy Retailers' Association	Bruce Page
EnergyAustralia	Graeme Lees
Integral Energy	Karen Waldman
Integral Energy	Bruce Rowley
Integral Energy	Steve Lowe
Macquarie Generation	Russell Skelton
Macquarie Generation	Peter Shields
Origin Energy	Van Bui
Public Interest Advocacy Centre	Jim Wellsmore
TXU	Peter Carruthers

List of submissions received on the draft report and draft determination:

Organisation	Date
AGL Energy Sales and Marketing (AGL ES&M)	17 May 2004
Australian Business Limited	20 May 2004
Australian Inland	14 May 2004
Country Energy	14 May 2004
Delta Electricity	14 May 2004
Energy and Water Ombudsman (EWON)	14 May 2004
Energy Retailers Association of Australia (ERAA)	17 May 2004
EnergyAustralia	17 May 2004
Integral Energy	14 May 2004
Macquarie Generation	14 May 2004
Origin Energy	18 May 2004
TXU Australia	14 May 2004

APPENDIX 8 GLOSSARY OF ACRONYMS

2001 dollars (\$ 2001)	Dollars expressed in 2001 dollars, that is in real terms
ACCC	Australian Competition and Consumer Commission
AGL	The Australian Gas Light Company
AIEW	Australia Inland Energy & Water
Amending Act	The <i>Electricity Supply Amendment Act, 2000</i>
CGEY	Cap Gemini Ernst & Young
CO₂-e	CO ₂ equivalent
Code	National Electricity Code
CPI	Consumer Price Index
ΔCPI	The annual change in the CPI as calculated by the formula specified in the determination
Determination	Refers to the determination accompanying this report
Draft Determination	The draft determination accompanying the Draft Report
Draft Report	<i>NSW Electricity Regulated Retail Tariffs 2004/05 to 2006/07, April 2004</i>
EAPA	Energy Accounts Payment Assistance scheme
ESA	The <i>Electricity Supply Act, 1995</i> as amended by the Amending Act
Electricity Supply Act	The <i>Electricity Supply Act, 1995</i> as amended by the Amending Act
ETEF	Electricity tariff equalisation fund
EWON	Energy & Water Ombudsman NSW
GST	Goods & Service Tax
GWh	Gigawatt hour (one GWh=1000 megawatt hours (MWh) or one million kilowatt hours (kWh))
Inclining block tariff	A tariff under which customers pay an initial lower price per kWh for energy consumed up to a defined threshold level of consumption and a higher price per kWh for energy consumed above that threshold
IPART	The Independent Pricing and Regulatory Tribunal of NSW established under the <i>Independent Pricing and Regulatory Tribunal Act, 1992 (NSW)</i>
kWh	Kilowatt hour (the standard unit of energy which represents the consumption of electrical energy at the rate of one kilowatt over the period of one hour)
LRMC	Long Run Marginal Cost
Minister	Minister for Energy, Utilities and Sustainability
MRET	Mandatory Renewable Energy Targets
MWh	Megawatt hour (one MWh=1000 kilowatt hours)

NEC	National Electricity Code
NEM	National electricity market
NEMMCO	National Electricity Market Management Company Limited
'N' component	Network component of the target for a regulated retail tariff
OP2, OP3, OP4	Names of tariffs provided by retailers which will be subject to the extended off-peak tariff
PwC	PricewaterhouseCoopers
'R' Component	Retail component of the target for a regulated retail tariff
Tribunal	The Independent Pricing and Regulatory Tribunal of New South Wales established under the <i>Independent Pricing and Regulatory Tribunal Amending Act, 1992</i>
Type 5 meter	A meter where consumption is measured in half hourly intervals and is read manually not remotely
Type 6 meter	An accumulation meter that measures consumption cumulatively and is read manually (usually on a quarterly basis)
2000 Determination	Recommendation in December 2000, <i>Regulated Retail Prices for Electricity to 2004, December 2000</i>
2002 Determination	Recommendation in December 2002, <i>Mid-term review of Regulated Retail Prices for Electricity to 2004, June 2002</i>

Determination

Determination in a report of the Tribunal to the Minister for Energy and Utilities
under section 43EB of the *Electricity Supply Act 1995*



INDEPENDENT PRICING AND REGULATORY TRIBUNAL
OF NEW SOUTH WALES

1 PREAMBLE

- 1.1 The NSW government has progressively opened its electricity retail industry to competition.
- 1.2 All customers are now permitted to choose their retail supplier for electricity, including small retail customers (currently defined as those consuming less than 160MWh per year).
- 1.3 If a small retail customer does not wish to negotiate supply in the competitive market, the customer may obtain supply from its 'standard retail supplier' under a standard form customer supply contract and under a regulated tariff (section 34 of the ESA). A standard retail supplier is a retail supplier to whose licence is attached a standard retail supplier's endorsement in respect of a designated supply district (section 33A of the ESA).
- 1.4 It is a condition of a standard retail supplier's licence that tariffs and charges for the supply of electricity under a standard form customer supply contract must be in accordance with any relevant determination of the Tribunal (section 36 of the ESA). The Minister may refer to the Tribunal, for investigation and report, the determination of regulated retail tariffs or regulated retail charges, or both (section 43EA of the ESA). If such a referral is made, the Tribunal may determine these in a report to the Minister (section 43EB of the ESA).
- 1.5 In December 2000, the Tribunal published a recommendation in a report to the Minister entitled *Regulated retail prices for electricity to 2004*, made under an arrangement entered into between the Premier and the Tribunal on 14 July 2000. The recommendation was taken to be a determination under section 43EB of the ESA (clause 37 of Schedule 6 to the ESA). It applied for the period 1 January 2001 to 30 June 2004 ('December 2000 determination').
- 1.6 On 29 January 2002 the Tribunal received a referral from the Minister to undertake a mid-term review of the December 2000 determination to assess the robustness of regulated retail prices following the introduction of full retail competition. The Minister requested the Tribunal under section 43EA of the ESA to investigate and report on the determination of regulated retail tariffs for the period 1 July 2002 to 30 June 2004. Pursuant to that referral and section 43EB of the ESA, the Tribunal in June 2002 published a determination in a report to the Minister entitled *Mid-term review of regulated retail prices for electricity to 2004*. It applied for the period 1 August 2002 to 30 June 2004 ('June 2002 determination').
- 1.7 On 16 September 2003 the Minister requested the Tribunal under section 43EA of the ESA to investigate and report on the determination of regulated retail tariffs and regulated retail charges for the period 1 July 2004 to 30 June 2007. This Determination is made pursuant to that referral.

2 DEFINITIONS AND INTERPRETATION

2.1 Definitions

business day means a day other than a Saturday, Sunday or public holiday in New South Wales

Commencement Date means the date that this Determination commences, namely 1 July 2004

Corresponding Previous Year's Bill means, in relation to a customer, the bill that was issued to that customer in respect of a period, during the year immediately preceding a Price change date, covering the same dates (other than the year) as the period for which the bill referred to in the first paragraph of clause 7.1 is issued

CPI has the meaning set out in Schedule 1

ΔCPI_1 means the change in CPI between 2002 and 2003 and is the number derived from the application of the formula described in Schedule 1

ΔCPI_2 means the change in CPI between 2003 and 2004 and is the number derived from the application of the formula described in Schedule 1

ΔCPI_3 means the change in CPI between 2004 and 2005 and is the number derived from the application of the formula described in Schedule 1

December 2000 determination is defined in clause 1.5

Determination means this determination

ESA means the *Electricity Supply Act 1995 (NSW)*

Fixed R component of a regulated retail tariff is defined in clause 5.2

green premiums are any amounts voluntarily payable by a customer in respect of electricity that is generated from renewable energy sources or other sources of energy that provide improved environmental outcomes

GST means the Goods and Services Tax as defined in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*

inclining block tariff means a tariff under which customers pay an initial lower price per kWh for energy consumed up to a defined threshold level of consumption and a higher price per kWh for energy consumed above that threshold

June 2002 determination is defined in clause 1.6

miscellaneous network charges are any charges levied by a distribution network service provider on a standard retail supplier for network services other than use of system services in relation to a relevant small retail customer

Miscellaneous transaction is a transaction listed in clause 8.3

network use of system component means the charge levied by a distribution network service provider on a standard retail supplier for use of system services provided by a network service provider in relation to a relevant small retail customer, for the year commencing on a Price change date

nominal terms means amounts expressed in dollars of the day

NMI means National Metering Identifier, and is as defined in the National Electricity Code

Price change date is defined in clause 5.1

R component of a regulated retail tariff is defined in clause 5.2

retail tariff means a tariff for or in relation to the supply of electricity

Target level for a regulated retail tariff is the level specified in clause 5.2

taxable supply is as defined in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*

Termination date means the date that this Determination ends, namely 30 June 2007 or such earlier or later date as may lawfully be provided

Tribunal means the Independent Pricing and Regulatory Tribunal of New South Wales established under the *Independent Pricing and Regulatory Tribunal Act 1992 (NSW)*

use of system services is as defined in the National Electricity Code

2.2 Interpretation

2.2.1 Words and phrases used in this Determination that are defined in the ESA have the same meaning as in the ESA. These include (without limitation):

- customer
- distribution network service provider
- National Electricity Code
- negotiated customer supply contract
- regulated retail charge
- regulated retail tariff
- retail supplier
- small retail customer
- standard form customer supply contract
- standard retail supplier
- supply
- supply district.

2.2.2 In the interpretation of this Determination a construction that would promote the purpose or object expressly or impliedly underlying the ESA is to be preferred to a construction that would not promote that purpose or object.

2.2.3 The reference to an Act, Code, legislation or law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of them.

2.2.4 A schedule means a schedule to this Determination.

- 2.2.5 Words importing the singular include the plural and vice versa. For instance, the reference to a tariff (or regulated retail tariff) includes tariffs (or regulated retail tariffs) and vice versa.
- 2.2.6 Where a word is defined in this Determination (including because of the operation of clause 2.2.1), other grammatical forms of that word have a corresponding meaning.
- 2.2.7 The explanatory notes and footnotes do not form part of this Determination, but in cases of uncertainty may be relied on for interpretation purposes.
- 2.2.8 A reference to a customer or a small retail customer, unless the context otherwise provides, is a reference to a small retail customer being supplied with electricity by its standard retail supplier, under a standard form customer supply contract.
- 2.2.9 For any purpose under this Determination that involves counting or determining the number of customers, each relevant NMI is to be regarded as one customer.
- 2.2.10 Nothing in this Determination affects the ability of a standard retail supplier to charge a small retail customer for green premiums, in addition to regulated retail tariffs, where the small retail customer so elects. A small retail customer may elect to pay green premiums without affecting that customer's status as having chosen to be supplied under a standard form customer supply contract rather than a negotiated customer supply contract.
- 2.2.11 A reference to a bill or to total revenue (other than in clause 8 or Schedules 2 or 3) means:
- (a) a bill or total revenue inclusive of the applicable amount (if any) of GST payable; and
 - (b) a bill or total revenue as if it contained no amounts other than for or derived from regulated retail tariffs and GST on them (Examples of the excluded amounts are amounts for regulated retail charges for Miscellaneous transactions, green premiums or miscellaneous network charges).
- 2.2.12 A time of use tariff, which contains more than one variable rate for consumption depending upon the time that the consumption occurs, is considered to be a single tariff. Accordingly:
- (a) the reference in clause 5.2(c) to no Fixed R being allowed for off-peak means, in respect of a time of use tariff that is relevant for peak and off-peak periods, that there is one Fixed R for that time of use tariff; and
 - (b) the references in clause 5.2(d)(i), (ii) and (iii) to 'each tariff' set out in the table for Variable R include references to each relevant rate which forms part of a time of use tariff.

3 APPLICATION OF DETERMINATION

- 3.1 This Determination is made under section 43EB of the ESA.
- 3.2 This Determination commences on the Commencement Date and ends on the Termination Date.
- 3.3 This Determination sets the regulated retail tariffs and regulated retail charges that standard retail suppliers can charge small retail customers:

- (a) whose premises are in a standard retail supplier's supply district; and
 - (b) who are supplied electricity at those premises by a standard retail supplier under a standard form customer supply contract.
- 3.4 The provisions of the December 2000 determination that were still in force immediately prior to the Commencement Date are repealed from the Commencement Date.
- 3.5 The June 2002 determination is repealed from the Commencement Date.

4 REGULATED RETAIL TARIFFS

- 4.1 The following retail tariffs will be taken to be the regulated retail tariffs for each of the standard retail suppliers, EnergyAustralia, Integral Energy Australia, Country Energy and Australian Inland Energy Water Infrastructure, in the relevant supply district for the purpose of this Determination, from the Commencement Date:
 - (a) Retail tariffs of each of the standard retail suppliers, EnergyAustralia, Integral Energy Australia, Country Energy and Australian Inland Energy Water Infrastructure:
 - (i) that were, as of 30 June 2004, applicable to that standard supplier's small retail customers under a standard form customer supply contract; and
 - (ii) that are on the register kept by the Tribunal for the purpose of this clause,

(even if any of those retail tariffs were, by that date, no longer being offered to new customers);
 - (b) EnergyAustralia's new business time of use tariff for customers with a Type 5 meter, referred to in EnergyAustralia's submission to the Tribunal dated 8 March 2004 (which tariff is on the register kept by the Tribunal for the purpose of this clause); and
 - (c) Integral Energy's new domestic time of use tariff for customers with a Type 6 meter, referred to in Integral Energy's submission to the Tribunal dated 14 May 2004 (which tariff is on the register kept by the Tribunal for the purpose of this clause),

other than any component of those tariffs that represents a green premium.
- 4.2 A standard retail supplier may not introduce a new retail tariff to apply during the period to which this Determination applies, unless:
 - (a) the standard retail supplier sends a written request to the Tribunal (in which case the Tribunal may request the Minister, under section 43EA(2) of the ESA, to make a referral to the Tribunal); and
 - (b) pursuant to a referral from the Minister under section 43EA of the ESA, the Tribunal makes a new determination under section 43EB of the ESA covering that new retail tariff.
- 4.4 For the purpose of clause 4.2, a standard retail supplier will be deemed to have introduced a new retail tariff if the standard retail supplier:

- (a) introduces a new set of circumstances or category of persons to whom a new price or set of prices will apply; or
 - (b) amends the circumstances in which, or categories of persons to whom, the regulated retail tariffs referred to in clause 4.1 apply.
- 4.5 For the purpose of clause 4.2, a standard retail supplier will not be deemed to have introduced a new retail tariff if the standard retail supplier merely amends:
- (a) the price, or any price component; or
 - (b) the price structure (including adding or removing a price component),
- of the regulated retail tariffs referred to in clause 4.1.

5 TARGET LEVELS OF REGULATED RETAIL TARIFFS

- 5.1 Under this Determination, there is a Target level for each regulated retail tariff and for each of the periods:

- (a) 1 July 2004 to 30 June 2005;
- (b) 1 July 2005 to 30 June 2006; and
- (c) 1 July 2006 to 30 June 2007.

Alternatively, a standard retail supplier may elect for any of those periods to commence up to 14 days after 1 July in each of those periods. Each date on which those periods commence (that is, 1 July of each relevant year, or, if elected by a standard retail supplier, up to 14 days after those dates) is a 'Price change date'.

- 5.2 The Target level for a regulated retail tariff is:

$N + R$

Where

- (a) N is the applicable network use of system component for the small retail customer; and
- (b) R is a retail component, comprising:
 - (i) a fixed charge ('**Fixed R**') expressed in dollars per customer per year; and
 - (ii) a variable charge ('**Variable R**') expressed in c/kWh (cents per kilowatt hour).
- (c) **Fixed R** at the Target level for each regulated retail tariff (with the exception of off-peak and extended off-peak, for which no Fixed R is allowed) of each standard retail supplier supplying the relevant supply district is:
 - (i) in the case of a Price change date for the 2004/05 period:
the relevant amount for each standard retail supplier set out in the following table;
 - (ii) in the case of a Price change date for the 2005/06 period:
the relevant amount for each standard retail supplier set out in the following table $\times (1 + \Delta CPI_2)$; and

- (iii) in the case of a Price change date for the 2006/07 period:
the relevant amount for each standard retail supplier set out in the following table $\times (1 + \Delta \text{CPI}_2) \times (1 + \Delta \text{CPI}_3)$.

Fixed R (\$ per customer per year, exclusive of GST)

Standard retail supplier	Fixed R
For the supply district of EnergyAustralia under the licence held by it immediately before the Commencement Date.	59.50
For the supply district of Integral Energy Australia under the licence held by it immediately before the Commencement Date.	59.50
For the supply district of Country Energy under the licence held by it immediately before the Commencement Date.	59.50
For the supply district of Australian Inland Energy Water Infrastructure under the licence held by it immediately before the Commencement Date.	59.50

- (d) **Variable R** at the Target level for each regulated retail tariff of each standard retail supplier supplying the relevant supply district is:
- (i) in the case of a Price change date for the 2004/05 period:
the relevant amount for each standard retail supplier and for each tariff set out in the following table;
- (ii) in the case of a Price change date for the 2005/06 period:
the relevant amount for each standard retail supplier and for each tariff set out in the following table $\times (1 + \Delta \text{CPI}_2)$; and
- (iii) in the case of a Price change date for the 2006/07 period:
the relevant amount for each standard retail supplier and for each tariff set out in the following table $\times (1 + \Delta \text{CPI}_2) \times (1 + \Delta \text{CPI}_3)$.

Variable R (c/kWh, exclusive of GST)

	Urban			Rural		
	standard	off-peak	extended off-peak	standard	off-peak	extended off-peak
For the supply district of EnergyAustralia under the licence held by it immediately before the Commencement Date.	6.10	3.91	4.89	na	na	na
For the supply district of Integral Energy Australia under the licence held by it immediately before the Commencement Date.	6.37	3.99	4.85	na	na	na
For the supply district of Country Energy under the licence held by it immediately before the Commencement Date.	6.90	4.11	5.34	7.24	4.29	5.58
For the supply district of Australian Inland Energy Water Infrastructure under the licence held by it immediately before the Commencement Date.	7.27	4.43	5.42	7.43	4.51	5.53

For the purposes of the above table and the definitions below:

controlled load means a load which is active only at certain times, where such times are determined by the network

extended off-peak rates apply in respect of all of a customer's controlled load where that load is active both during off-peak periods and at times other than off-peak periods

off-peak periods are from 10:00pm to 7:00am on business days and all times on days other than business days, unless otherwise agreed by the Tribunal with the standard retail supplier following a written request from that standard retail supplier

off-peak rates apply:

- (a) where a customer has time of use metering, to that customer's electricity consumption during off-peak periods; and/or
- (b) in respect of a customer's controlled load where that load is active only during off-peak periods

peak periods are from 7:00am to 9:00am and 5:00pm to 8:00pm on business days, unless otherwise agreed by the Tribunal with the standard retail supplier following a written request from that standard retail supplier

rural rates apply in respect of customers to whom the standard retail supplier applies rural tariffs

shoulder periods are from 9:00am to 5:00pm and 8:00pm to 10:00pm on business days, unless otherwise agreed by the Tribunal with the standard retail supplier following a written request from that standard retail supplier

standard rates apply:

- (a) where a customer has time of use metering, to that customer's electricity consumption during peak and shoulder periods; and
- (b) where a customer does not have time of use metering, to all electricity consumption of that customer other than controlled loads

urban rates apply in respect of customers to whom the standard retail supplier applies tariffs other than rural tariffs

[**Note:** The target levels set out in this clause 5.2 apply to the relevant geographical areas, or supply districts, supplied by EnergyAustralia, Integral Energy Australia, Country Energy and Australian Inland Energy Water Infrastructure as at 30 June 2004.

If the supply district of a standard retail supplier changes from that described above, the Tribunal intends to request that the Minister refer to it, for investigation and report, the determination of regulated retail tariffs under section 43EA of the ESA, based on the changed supply district.]

- 5.3 Each regulated retail tariff is considered to be at the Target level for that tariff and for that Price change date if the standard retail supplier's total estimated revenue from that tariff for the year commencing on the Price change date would equal the total estimated revenue that a tariff whose components are at the level in clause 5.2 would give for that year.
- 5.4 For the purposes of clause 5.3, a standard retail supplier's total estimated revenue from a tariff for a year commencing on a Price change date is to be calculated:
 - (a) as if the relevant tariff would apply for the entire 12 month period commencing on the Price change date (whether or not this is actually the case); and
 - (b) by applying the relevant tariff to the pattern and volume of electricity consumption of customers on that tariff for the 12 months immediately preceding the Price change date.
- 5.5 Although the test of whether a regulated retail tariff is at the Target level is by reference to the standard retail supplier's total revenue from that tariff (calculated in accordance with clauses 5.3 and 5.4), where practicable a standard retail supplier should ensure that regulated retail tariffs reflect the structure and levels specified in clause 5.2.
- 5.6 Clause 5.5 does not prevent a regulated retail tariff being structured as an inclining block tariff.
- 5.7 The amounts set out in the tables to clause 5.2 are exclusive of GST. A standard retail supplier may charge customers an additional amount equal to the GST payable by the standard retail supplier in respect of the taxable supply to which the amounts set out in those tables relate.
- 5.8 Nothing in this Determination prevents a standard retail supplier from passing through to a customer any network charges imposed by the customer's network service provider that are specific to that customer (for example, meter test fees). However, the standard retail supplier may not charge any additional fees in respect of the pass through of these charges (for example, for administration).

6 REGULATED RETAIL TARIFFS TO MOVE TOWARD TARGET LEVEL

- 6.1 A standard retail supplier may only amend a regulated retail tariff on a Price change date and in the manner specified in this Determination.
- 6.2 A standard retail supplier who has a regulated tariff that, immediately prior to a Price change date, is at or above the Target level for that tariff and for that Price change date (calculated under this Determination) may only increase that tariff if the standard retail supplier demonstrates to the Tribunal, in accordance with clause 6.7, that it is moving towards cost reflectivity within that tariff.
- 6.3 Subject to clause 6.4, a standard retail supplier who has a regulated retail tariff that, immediately prior to a Price change date, is below the Target level for that tariff and for that Price change date (calculated under this Determination), must increase that regulated retail tariff up to, but not exceeding the Target level for that tariff and for that Price change date. The increase in the tariff is to be effective from the Price change date.
- 6.4 If a standard retail supplier is unable to increase a regulated retail tariff to the Target level without breaching one or more of the price constraints in clause 7, then the standard retail supplier must increase that regulated retail tariff to the maximum extent allowed by those constraints, without breaching any of them or exceeding the Target level.
- 6.5 EnergyAustralia's new business time of use tariff (referred to in clause 4.1(b)) must be introduced at the Target level.
- 6.6 Integral Energy's new domestic time of use tariff (referred to in clause 4.1(c)) must be introduced at the Target level.
- 6.7 Before an amended regulated retail tariff takes effect:
- (a) in the event of a Price change date for the 2004/05 period, the standard retail supplier must give notice to the Tribunal in writing of the proposed amendment, no later than 17 June 2004,
 - (b) in the event of a Price change date for the 2005/06 and 2006/07 periods, the standard retail supplier must give the Tribunal at least 30 days' notice in writing of the proposed amendment,

together with any information that the Minister determines for the purpose of demonstrating that the amendment is in accordance with this Determination.

7 PRICE CONSTRAINTS

- 7.1 A standard retail supplier must ensure that the bill (for the same pattern and volume of consumption) issued to any regulated retail customer for a period commencing after the Price change date does not exceed the greater of:
- (a) Corresponding Previous Year's Bill + \$35; or
 - (b) the amount of:
 - (i) in the case of a Price change date for the 2004/05 period:

- $\text{Corresponding Previous Year's Bill} \times (1 + \Delta\text{CPI}_1) \times 1.05$
- (ii) in the case of a Price change date for the 2005/06 period:
- $\text{Corresponding Previous Year's Bill} \times (1 + \Delta\text{CPI}_2) \times 1.05$
- (ii) in the case of a Price change date for the 2006/07 period:
- $\text{Corresponding Previous Year's Bill} \times (1 + \Delta\text{CPI}_3) \times 1.05$

7.2 A standard retail supplier must ensure that its total estimated revenue from the R component of all regulated retail tariffs for a year commencing on a Price change date does not exceed the total revenue from the R component of those tariffs in the year immediately preceding the Price change date multiplied by:

- (a) in the case of a Price change date for the 2004/05 period:

$$(1 + \Delta\text{CPI}_1) \times (1 + \Delta R)$$

- (b) in the case of a Price change date for the 2005/06 period:

$$(1 + \Delta\text{CPI}_2) \times (1 + \Delta R)$$

- (c) in the case of a Price change date for the 2006/07 period:

$$(1 + \Delta\text{CPI}_3) \times (1 + \Delta R)$$

where ΔR is:

- (d) in the case of EnergyAustralia and Integral Energy Australia, 0.025; and
- (e) in the case of Country Energy and Australian Inland Energy Water Infrastructure, 0.03.

7.3 For the purposes of clauses 7.1 and 7.2:

- (a) a standard retail supplier's total estimated revenue from regulated retail tariffs for a year commencing on a Price change date is to be calculated:
- (i) as if the relevant tariffs would apply for the entire 12 month period commencing on the Price change date (whether or not this is actually the case); and
 - (ii) by applying the relevant tariffs to the pattern and volume of electricity consumption of customers on that tariff for the 12 months immediately preceding the Price change date;
- (b) the total amount of the bills that would be issued to a customer for a year commencing on a Price change date, is to be calculated:
- (i) as if the relevant tariff would apply for the entire 12 month period commencing on the Price change date (whether or not this is actually the case); and
 - (ii) by applying the relevant tariff to the pattern and volume of electricity consumption of the relevant customer for the 12 months immediately preceding the Price change date; and
- (c) the total revenue received by a standard retail supplier in the 12 months immediately preceding a Price change date is to be calculated as if the tariffs applying immediately prior to the Price change date applied to the entire 12 month period, whether or not this was actually the case.

8 REGULATED RETAIL CHARGES

- 8.1 Regulated retail charges are charges that standard retail suppliers may charge to small retail customers who elect to be supplied with electricity by a standard retail supplier under a standard form customer supply contract.
- 8.2 Regulated retail charges are separate from and additional to the regulated retail tariffs.
- 8.3 The maximum that a standard retail supplier may charge under a standard form customer supply contract for a Miscellaneous transaction listed below, is the maximum regulated retail charge corresponding to the Miscellaneous transaction listed.

Regulated retail charges – Maximum charge

Miscellaneous transaction	Maximum regulated retail charge
Fee for a dishonoured cheque	2 times the regular GST-exclusive fee charged by the bank or other financial institution to which the cheque is presented
Late payment fee	\$5.00 (exclusive of GST)
Security deposit	1.5 times average quarterly electricity account ¹ , or 1.75 times average 2-monthly electricity account, or 2.5 times the average monthly electricity account (where the relevant amounts are the GST-exclusive amounts of those accounts) Interest may not be levied on a security deposit

- 8.4 A standard retail supplier may not impose a charge or fee for a Miscellaneous transaction (whether the transaction is described as a Miscellaneous transaction or otherwise) except as permitted by this clause 8 and Schedules 2 and 3.
- 8.5 A standard retail supplier may impose a regulated retail charge on a small retail customer for a dishonoured cheque only if the standard retail supplier actually incurs a bank or other financial institution fee for that dishonoured cheque.
- 8.6 A standard retail supplier may only impose a regulated retail charge on a small retail customer for a late payment transaction in accordance with Schedule 2.
- 8.7 A standard retail supplier:
- (a) may only require a small retail customer to pay a security deposit where the requirements set out in Part A of Schedule 3 are met; and
 - (b) must repay a security deposit to a small retail customer in accordance with Part B of Schedule 3 as soon as the relevant small retail customer meets the requirements in Part B of Schedule 3.

¹ The amount of the average account will vary between standard retail suppliers, depending on average tariff levels and average consumption. The amount of the average retail account should be calculated as part of the tariff setting process, and the amount of the required security deposits posted on the standard retail suppliers' tariff schedules.

- 8.8 The amounts set out in the table to clause 8.3 are exclusive of GST. A standard retail supplier may charge customers an additional amount equal to the GST payable by the standard retail supplier in respect of the taxable supply to which the amounts set out in that table relate.
- 8.9 If a customer requests a service to be provided outside of business hours, the standard retail supplier should inform the customer of the charge for that service being provided within business hours and outside of business hours.

SCHEDULE 1 DEFINITION OF CPI (CLAUSE 2)

Definition of CPI

1.1 Interpretation

CPI means the consumer price index, All Groups index number for the weighted average of eight capital cities as published by the Australian Bureau of Statistics, or if the Australian Bureau of Statistics does not or ceases to publish the index, then CPI will mean an index determined by the Tribunal that is its best estimate of the index.

1.2 Application of the formula

ΔCPI_1 means the number derived from the application of the following formula:

$$\Delta CPI_1 = \left(\frac{CPI_{Mar\ 2003} + CPI_{June\ 2003} + CPI_{Sep\ 2003} + CPI_{Dec\ 2003}}{CPI_{Mar\ 2002} + CPI_{Jun\ 2002} + CPI_{Sep\ 2002} + CPI_{Dec\ 2002}} - 1 \right)$$

ΔCPI_2 means the number derived from the application of the following formula:

$$\Delta CPI_2 = \left(\frac{CPI_{Mar\ 2004} + CPI_{Jun\ 2004} + CPI_{Sep\ 2004} + CPI_{Dec\ 2004}}{CPI_{Mar\ 2003} + CPI_{Jun\ 2003} + CPI_{Sep\ 2003} + CPI_{Dec\ 2003}} - 1 \right)$$

ΔCPI_3 means the number derived from the application of the following formula:

$$\Delta CPI_3 = \left(\frac{CPI_{Mar\ 2005} + CPI_{Jun\ 2005} + CPI_{Sep\ 2005} + CPI_{Dec\ 2005}}{CPI_{Mar\ 2004} + CPI_{Jun\ 2004} + CPI_{Sep\ 2004} + CPI_{Dec\ 2004}} - 1 \right)$$

where CPI is as defined and where the corresponding subtext (for example $_{Jun\ 2002}$) means the CPI for the quarter and of the year indicated (in the example, the quarter ending in June of the year 2002).

SCHEDULE 2 LATE PAYMENT FEE (CLAUSE 8)

1. Late payment fees must not be levied:
 - (a) during the period of an extension of time within which the small retail customer may pay the electricity retail bill, agreed between the standard retail supplier and the small retail customer; or
 - (b) where a small retail customer has made a billing related complaint in relation to the relevant electricity retail bill to the Energy and Water Ombudsman NSW or another external dispute resolution body where that complaint is unresolved; or
 - (c) during the period of an instalment arrangement, where the small retail customer has entered into an instalment arrangement with the standard retail supplier to pay the electricity retail bill.
2. A late payment fee must be waived:
 - (a) where the small retail customer has contacted a welfare agency/support service for assistance; or
 - (b) where payment or part payment is by EAPA voucher²; or
 - (c) on a case by case basis as considered appropriate by the standard retail supplier or the electricity industry ombudsman under an approved electricity industry ombudsman scheme under the ESA.
3. A late payment fee may only be levied:
 - (a) on or after the date which is at least 5 business days after the due date shown on the electricity retail bill that is the subject of the late payment; and
 - (b) after the small retail customer has been notified in advance that the late payment fee will be charged if the account is not paid, or alternative payment arrangements entered into, within 5 business days of the due date.
4. Late payment fees must be limited to a maximum of one per bill.

² A voucher issued under the Energy Accounts Payments Assistance Scheme. This Scheme is administered by the NSW Department of Community Services.

SCHEDULE 3 SECURITY DEPOSITS (CLAUSE 8)

Part A

Residential small retail customers

A standard retail supplier may require a security deposit from a residential small retail customer prior to connection only if that small retail customer:

- (a) has left a previous supply address without settling an electricity retail bill (**debt**) owed to the standard retail supplier or any other standard retail supplier, the debt remains outstanding and the small retail customer has refused and refuses to make an arrangement to pay that debt; or
- (b) has been responsible for the illegal use of electricity within the previous two years; or
- (c) does not have a satisfactory credit history in the reasonable opinion of the standard retail supplier or cannot demonstrate satisfactory credit history with another retail supplier to the reasonable satisfaction of the standard retail supplier, and the standard retail supplier has offered the small retail customer an instalment plan or other payment option (for example pay as you go by instalments, direct debit) and the small retail customer has refused, or failed to agree to the offer.

A standard retail supplier must not require a security deposit from a residential small retail customer after connection.

Business small retail customers

A standard retail supplier may require a security deposit from business small retail customers prior to connection only if the small retail customer:

- (a) does not have a satisfactory credit history in the reasonable opinion of the standard retail supplier or cannot demonstrate a satisfactory credit history with another retail supplier to the reasonable satisfaction of the standard retail supplier; or
- (b) is a new business; or
- (c) has been responsible for the illegal use of electricity within the previous two years.

A standard retail supplier must not require a security deposit from a business small retail customer after connection.

Types of Security Deposit

A small retail customer must only choose from the following types of security deposits:

- (a) **cash, cheque or credit card** from residential or business small retail customers;
- (b) **annual security levy** from business small retail customers only;
- (c) **guarantees**, including **Department of Housing guarantees** from residential small retail customers, and **bankers' guarantees** from business small retail customers.

Part B

Return of security deposits paid by cash, cheque or credit card

A small retail customer who is required to pay a security deposit, and who pays in the form of cash, cheque or credit card, is eligible for that deposit to be refunded when they have completed:

- (a) for residential small retail customers - on time payment of bills for one year from the date of the first bill; or
- (b) for business small retail customers - on time payment of bills for two years from the date of the first bill and the maintenance of a satisfactory credit rating in the reasonable opinion of the standard retail supplier.

When this occurs, the standard retail supplier must inform the small retail customer, in writing, of the amount that is refundable, and credit that amount to the small retail customer's account within 10 business days.

Maximum duration of requirement for annual security levy or guarantee

A small retail customer who is required to pay a security deposit and does so in the form of an annual security levy or guarantee, is eligible for the levy to cease or the guarantee to be discharged when:

- (a) for residential small retail customers - on time payment of bills for one year from the date of the first bill; or
- (b) for business small retail customers - on time payment of bills for two years from the date of the first bill and the maintenance of a satisfactory credit rating in the reasonable opinion of the standard retail supplier.

A standard retail supplier must inform a small retail customer who meets the above requirements that an annual security levy or guarantee is no longer required. A small retail customer must be informed in writing, and within 10 business days, of the above requirements being met.

Cessation of supply

If a standard retail supplier requires a small retail customer to pay a security deposit, and the small retail customer requests that the standard retail supplier cease supplying electricity to the small retail customer's supply address, the standard retail supplier must:

- (a) inform the small retail customer in writing of the amount of the security deposit held; and
- (b) pay the amount either to the small retail customer or into the small retail customer's account.

This must occur within 10 business days of the small retail customer ceasing to take supply.