IPART
New South Wales

Independent Pricing and Regulatory Tribunal

Review of regulated retail tariffs and charges for gas 2010-2013

Gas — Final Report
June 2010

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1 Introduction and executive summary

For the past 7 years, the retail gas market in NSW has been open to competition: all small retail gas customers have been able to choose their retail supplier and negotiate a retail supply contract. However, customers have also had the option to remain on a regulated retail tariff with the Standard Retailer in their area.[1] Although the NSW Government (along with other Australian governments) has agreed to phase out this regulation where effective competition can be demonstrated,[2] it has decided to retain the option of regulated retail gas tariffs at least until 2013.[3]

Since the current arrangements for setting regulated retail gas tariffs and charges are due to expire on 30 June 2010, the Minster for Energy has asked the Independent Pricing and Regulatory Tribunal of NSW (IPART) to put new arrangements in place for the period 1 July 2010 to 30 June 2013.

This report sets out our final decisions on these new arrangements and our reasons for making them.

1.1 Summary of final decisions

Under the current arrangements, each of the Standard Retailers has a Voluntary Transitional Pricing Arrangements (VTPA) with us.[4] They are obliged to set their regulated tariffs and charges in line with this agreement, and we monitor their compliance.

1 All customers that consume less than 1terajoule (TJ) per year (around $17,000 per annum) are eligible for supply under a standard form customer supply contract.

2 Council of Australian Governments' Meeting, *Communiqué*, 10 February 2006, Appendix A to Attachment B, p 8.

3 NSW Government, *NSW Energy Reform Strategy: Defining an Industry Framework*, March 2009, p 4.

4 Sun Gas (now AGL Sales (Queensland) Pty Ltd) is a Queensland supplier which also supplies a small number of customers located in the Tweed area of NSW. Previously, Sun Gas' customers were charged the retail prices regulated by the Queensland Government. With the removal of gas retail price regulation in Queensland these customers have access to the competitive retail market in Queensland. We have monitored the tariffs for these customers over the current regulatory period and concluded that the prices charged under the competitive market are reasonable. We also note that its customers are charged the same tariffs as those in South East Queensland.

To help us decide on appropriate new arrangements for the coming years, we asked the Standard Retailers to propose revised VTPAs. We then assessed the reasonableness of their proposals, considered stakeholder submissions and made draft decisions. Our final decisions reflect the efficient costs of gas supply, which were independently assessed. They also take into account submissions on our draft decisions including revised proposals from AGL and ActewAGL (see Appendix G for the list of issues raised by stakeholders and our response).

- Our draft decision was to reject ActewAGL's proposed VTPA. We explained why an increase of CPI–3% for the retail component over 3 years would be consistent with efficient costs. In its response ActewAGL proposed an annual increase in the retail component of tariffs of CPI–0.3%.[5] After further discussions with IPART, ActewAGL revised its position and will now accept the price path set out in our draft decision.[6] Therefore, our final decision is to accept the VTPA proposal from ActewAGL.
- AGL's revised proposal reduces the late payment fee to $11 and includes a $2.50 administration fee on network non-tariff fees and charges.[7] We consider these changes are reasonable and agree to its proposed VTPA.
- Our final decision maintains our draft decision to agree to Country Energy's proposed VTPA.
- Origin Energy has maintained its proposal to increase the late payment fee to $12 from 1 July 2010.[8] It has submitted information which has satisfied us that our request in our draft decision to phase in this increase over the period is not practical. We have accepted this and therefore agree to Origin's proposed VTPA.

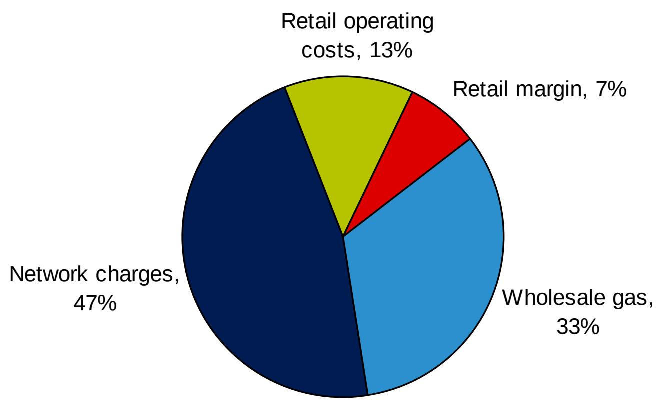
These final decisions reflect our view that the current light-handed form of regulation, which includes VTPAs, and a weighted average price cap (WAPC) on the retail component of tariffs with no additional constraints on individual bills, is the most appropriate form of regulation for regulated retail gas tariffs. The decisions also reflect our view that it is appropriate for retailers to pass through their network costs to customers (as they have no control over these costs) as well as their compliance costs if the Australian Government introduces new climate change mitigation measures (such as the Carbon Pollution Reduction Scheme (CPRS)) during the regulatory period.

5 ActewAGL submission, May 2010, p 13.
6 Letter from ActewAGL, 4 June 2010.
7 AGL submission, May 2010, p 12.
8 Origin Energy submission, May 2010, p 2.

1.2 Implications of final decisions for customers

Figure 1.1 shows the contributions that the retail and network components of regulated gas tariffs make to a small gas customer's overall bill. It indicates that the retail component – which comprise wholesale gas costs, retail operating costs and retail margin – accounts for around 50% of the total customer bill. The network component – which comprises the network charges retailers incur in using the distribution network to deliver gas to their customers – accounts for the other 50%.

Figure 1.1 Composition of typical small gas customer's bill under final decision, 2010/11



We do not regulate the network component of retail gas tariffs. This component is either regulated by the Australian Energy Regulator (AER) or is unregulated. The AER has recently reviewed the prices the network providers can charge retailers. As a result of the AER's recent final decisions the network charges for most small retail customers will increase more than was anticipated when we released our draft report. The reasons for these decisions include new capital investments to accommodate system growth and maintenance, and increased operating costs. Each of the retailers has proposed to pass through in full the network charges as they have no control over these costs. We consider this to be reasonable.

It should also be noted that the analysis includes our estimate of the impact of inflation: 2.1% in 2010/11 and 2.7% in the remaining 2 years.[9]

9 CPI for 2010/11 is calculated as CPI all groups, capital cities, December Quarter 2008 divided by December Quarter 2009. The 2011/12 and 2012/13 estimates are based on inflation indexed swaps as at 8 February 2010.

Our final decision sets the price path for the retail component of tariffs. For most Standard Retailers, our final decisions mean that they will be allowed to increase the retail component of their regulated retail tariffs, on average, by the change in the CPI in each year of the regulatory period.

Table 1.1 shows how our final decision contributes to the indicative average increase in regulated retail tariffs over the regulatory period. It shows that, apart from Origin Energy's customers, the retail component (R) of tariffs is increasing in line with or below CPI as a result of our final decisions while the network (N) component is increasing by more than CPI for all the retailers apart from Origin Energy (this is explained further below).

Table 1.1 Indicative average increase in regulated retail tariffs (N + R) under the final decision – with R and N contributions (including inflation)

	2010/11	2011/12	2012/13	Cumulative total	Cumulative CPI
R contribution					
AGL	1.1%	1.4%	1.4%	4.2%	
Country Energy	1.0%	1.3%	1.2%	3.8%	
Origin Energy	6.3%	2.3%	2.1%	11.1%	
ActewAGL	0.7%	0.9%	0.9%	1.4%	
N contribution					
AGL	4.1%	2.1%	2.1%	8.6%	
Country Energy	7.2%	2.8%	2.9%	13.4%	
Origin Energy	1.6%	1.8%	1.1%	4.8%	
ActewAGL	2.5%	2.5%	2.5%	8.8%	
Total (N + R)					
AGL	5.2%	3.5%	3.5%	12.7%	7.7%
Country Energy	8.2%	4.1%	4.1%	17.2%	7.7%
Origin Energy	7.8%	4.1%	3.2%	15.9%	7.7%
ActewAGL	3.1%	3.4%	3.4%	10.3%	7.7%

Note: Cumulative total includes the compound effect of each year's individual price increase. Totals may not add due to rounding. Assumed inflation is 2.1%, 2.7% and 2.7% for 2010/11, 2011/12, 2012/13.

While the average increase in tariffs from our final decisions on the retail component is moderate, some regulated customers' annual gas bills are likely to receive higher increase for a number of reasons:

- The recent AER final decision on the access arrangement proposal for the NSW gas networks (Jemena Gas Networks) implies increases in the network component of AGL's customers' bills of around 8% from 1 July 2010 and 4% in the following 2 years. (Our draft report was based on the AER's draft decision, ie, a 4% increase in network fees in 2010/11 and 4% in the following 2 years).[10] In addition, AGL proposes to restructure its tariffs to improve their cost reflectivity. Overall, a typical residential customer's bill is likely to increase by 5% from 1 July 2010 and by 13% over the 3 years. A business customer's is likely to increase by 2% from 1 July 2010 and by 10% over the 3 years. The restructuring of retail tariffs is discussed in Chapter 6.
- The retail component for Country Energy is only increasing by CPI but the network component of the customer's bill is increasing by more. As this component makes up around 50% of the total bill, the typical residential customer's bill will increase by 8% from 1 July 2010 and by 18% over the 3 years. A business customer's bill will increase by similar amount ie, 16% over the 3 years.
- For Origin Energy's customers in the Albury region, the network component of the customer's bill has increased substantially over the current regulatory period but current tariffs do not reflect these increases. Therefore, tariffs need to increase to restore them to cost-reflective levels for the 2010-2013 regulatory period. In addition, Origin Energy proposes to restructure its tariffs to improve their cost reflectivity. Overall, the bill of a typical residential customer in the Albury region will increase by 13% from 1 July 2010 and by 21% over the 3 years. A business customer's bill will increase by 10% over the 3-year period. The restructuring of retail tariffs is discussed in Chapter 6.
- Origin Energy's Murray Valley customers will face more modest gas bill increases. For these customers, a typical residential bill will increase by 1% from 1 July 2010 and by 8% over the 3 years. A business customer's bill will increase by 11% over the 3-year period.
- While the retail component for ActewAGL is increasing by less than CPI the network component of customer bills is increasing by at least CPI. In addition, ActewAGL proposes to rebalance its tariffs to improve their cost reflectivity. A typical residential customer's bill will increase by 4% from 1 July 2010 and by 11% over the 3 years. A business customer's bill will increase by similar amount ie, 9% over the 3 years. The rebalancing of retail tariffs is discussed in Chapter 6.

10 On 11 June 2010 the AER released its final decision on the Jemena Gas Networks access arrangement. The AER did not approve Jemena's revised access arrangement proposal. In accordance with the National Gas Rules (NGR), the AER has prepared an access arrangement proposal which incorporates the AER's final decision. Under clause 64(4) of the NGR the AER must make a final decision within 2 months of its proposal.

We note that the Australian Government has made the decision to delay the introduction of the Carbon Pollution Reduction Scheme (CPRS). This means that such a scheme may not come into effect during the 2010-2013 regulatory period. If the CPRS were to be introduced during the period, the increase in tariffs would be greater. However, the impact on gas tariffs would not be as substantial as on electricity tariffs, as gas is less carbon intensive than electricity. Also, note that for our recent electricity review, the terms of reference required that we determine energy costs inclusive of the impact of the CPRS. However, in this gas review, each of the Standard Retailers proposed to pass through these costs if the CPRS is introduced.

Table 1.2 Indicative annual bill for typical residential customers of each Standard Retailer (Including inflation $)

	Current (2009/10)	2010/11	2011/12	2012/13	Cumulative $ increase	Cumulative % increase	Cumulative CPI increase
AGL	618	651	675	699	$81	13.1%	7.7%
Country Energy	571	619	645	672	$101	17.6%	7.7%
Origin Energy	380	429	447	462	$82	21.4%	7.7%
ActewAGL	583	608	628	649	$66	11.3%	7.7%

Note: Bills include GST. Assumed inflation is 2.1%, 2.7% and 2.7% for 2010/11, 2011/12, 2012/13. Calculations may not add due to rounding. Calculated using 23 GJ per annum multiplied by the average price derived from the N + R values of following tariffs: AGL's Residential AGL natural gas price plan, Country Energy's 5300 Wagga Wagga & Uranquinty Gas Residential General, Origin Energy's 03 Domestic General tariff for Albury and ActewAGL's Queanbeyan Always Home@ActewAGL plan and Saver plan. Also based on our final decision and the AER's final decisions for Country Energy, ActewAGL and Jemena. For Country Energy, Origin Energy and ActewAGL we present one outcome but it should be noted that actual bills will vary not just by tariff but by area.

Table 1.3 Indicative annual bill for typical business customers of each Standard Retailer (including inflation $)

	Current (2009/10)	2010/11	2011/12	2012/13	Cumulative $ increase	Cumulative % increase	Cumulative CPI increase
AGL	3,460	3,540	3,662	3,789	$329	9.5%	7.7%
Country Energy	2,223	2,410	2,496	2,586	$363	16.3%	7.7%
Origin Energy	3,048	3,181	3,283	3,389	$341	11.2%	7.7%
ActewAGL	3,326	3,388	3,500	3,616	$291	8.7%	7.7%

Note: Bills include GST. Assumed inflation is 2.1%, 2.7% and 2.7% for 2010/11, 2011/12, 2012/13. Calculations may not add due to rounding. Calculated using 184 GJ per annum multiplied by the average price from N+R values of following tariffs: AGL's Business AGL standard, Country Energy's 5302 Wagga Wagga & Uranquinty Gas Commercial tariff, Origin Energy's M6/M8 Commercial tariff for Murray Valley towns and ActewAGL's Queanbeyan Industrial and Commercial tariff. Also based on our final decision and the AER's final decisions for Country Energy, ActewAGL and Jemena. For Country Energy, Origin Energy and ActewAGL we present one outcome but it should be noted that actual bills will vary not just by tariff but by area.

1.3 Approach we used to make these final decisions

As noted above, we started our review by inviting each of the Standard Retailers to submit a revised VTPA. While the retailers expressed the view that regulation of gas prices should be removed, they recognised that the Minister had requested continued regulation. Given this, they supported the continued use of a light-handed approach to regulation. In general, their proposed VTPAs included the continued use of a WAPC on the retail component of tariffs with no additional constraints on customer bills, and the automatic pass through of network costs.

Table 1.4 summarises the standard elements of their proposed VTPAs. Appendix A provides more detailed information on their proposals.

Table 1.4 Summary of Standard Retailers' proposals for regulated retail gas tariffs for 2010/11 to 2012/13

	AGL	ActewAGL	Country Energy	Origin Energy
Price control	WAPC of CPI applied to retail component of tariffs (R) over the regulatory period	WAPC of CPI-3% applied to the retail component over the regulatory period[a]	WAPC of CPI applied to retail component of tariffs over the regulatory period	WAPC of CPI+10% in 2010/11 for the Albury district, then CPI+1% thereafter; WAPC of CPI+1% for Murray Valley district applied to retail component of tariffs over the regulatory period
Tariff restructuring	Yes	None proposed	None proposed	None proposed
Distribution network costs	Automatic pass through of regulated network costs (N)	Automatic pass through of regulated network costs (N)	Automatic pass through of regulated network costs (N)	Automatic pass through of network costs (N)
Costs associated with national climate change measures	Automatic pass through of costs associated with national climate change measures (C)	Automatic pass through of costs associated with national climate change measures (C)	Addressed under special circumstances clause of VTPA[b]	Automatic pass through of costs associated with national climate change measures (C)
Unforseen changes in costs	Addressed via special circumstances clause in VTPA	Addressed via special circumstances clause in VTPA	Addressed via special circumstances clause in VTPA	Addressed via special circumstances clause in VTPA
Changes in VTPA wording	Yes	Yes	Yes	Yes
Non-tariff fees and charges	Increase in late payment fee to $11[c]; admin fee of $2.50 on network fees and charges; increase other fees and charges by CPI	Increase fees and charges by CPI, admin fee of $2.50 on network fees and charges	Increase in late payment fee to $7.50; other retail fees and charges unchanged	Increase in late payment fee to $12; introduce admin fee of $2.50 on network fees and charges; increase other fees and charges by CPI

a ActewAGL initially revised its proposal to a WAPC of CPI-1% applied to retail component of tariffs over the regulatory period but after providing its revised proposals ActewAGL in further discussions with IPART stated its willingness to accept a price path of CPI-3% applied to the retail component.

b Country Energy revised its proposal to pass through costs associated with national climate change measures consistent with the other standard retailers – see Country Energy submission, December 2009, p 6.

c AGL originally proposed a late payment fee of $14 this was later revised to $11 in its submission on our draft report.

We also asked the Standard Retailers to submit cost and other information to support their pricing proposals. We analysed this information, and also:

- obtained independent expert advice from McLennan Magasanik Associates (MMA) on forecast efficient wholesale gas costs
- undertook our own analysis on forecast efficient retail operating costs
- obtained independent expert advice from Strategic Finance Group Consulting (SFG) on the appropriate retail margin.[11]

This analysis and independent expert advice enabled us to form a view whether the proposals were reasonable and consistent with the costs that an efficient and prudent retailer would incur in supplying small retail customers on regulated retail tariffs over the 2010-2013 regulatory period.

In addition, we developed a set of assessment criteria for this review, to guide our analysis and decision-making (see Appendix B). These criteria reflect what the Minister asked us to do for this review, the objectives of the Gas Supply Act, and the principles of good regulatory practice. We assessed each element of the retailers' proposed VTPAs, particularly the proposed form of regulation and price control.

We then released our draft decisions including our assessment of each of the retailers' proposal. For AGL, Country Energy and Origin Energy, we found that the aggregate cost information they provided supported their pricing proposals and that their forecast costs were consistent with those of an efficient and prudent retailer. Therefore, we made a draft decision to agree to their proposed VTPAs (but requested that AGL and Origin Energy revise their proposals on non-tariff fees and charges).

For ActewAGL we found that its forecast retail costs initially submitted did not support its proposed price path. We also found that its forecast wholesale gas costs were higher than MMA's estimate of the prudent and efficient level for these costs, and that the forecast retail margin implied by its pricing proposal exceeded the reasonable range for this margin identified by SFG as being consistent with margins that would prevail in a competitive market. Therefore, we made a draft decision to reject ActewAGL's proposed VTPA.

We then considered the submission received in response to our draft decisions, including the revised proposals from AGL and ActewAGL, in making our final decisions.

Each of the retailers proposed the wording of its own VTPA. However, we developed a generic version based on the retailers' proposals and have used this as the basis of our agreements with each of the retailers. A copy of this is attached to this report (Appendix C).

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11 Both MMA and SGF prepared public versions of their reports, which have been released with this final report.

1.4 What does the rest of this report cover?

The rest of this final report discusses the analysis and findings that underpin our final decisions. It is structured as follows:

- Chapter 2 discusses our finding on the form of regulation, and explains why we continue to consider that the most appropriate way to regulate retail gas tariffs is through voluntary pricing arrangements that include a WAPC.
- Chapter 3 sets out our findings on each Standard Retailer's forecast retail costs for supplying gas to small retail customers over the 2010-2013 regulatory period, and explains how we assessed whether these costs were reasonable and reached our findings.
- Chapter 4 explains our findings on the appropriate approach for addressing the risks and uncertainties the Standard Retailers will face through their VTPAs.
- Chapter 5 focuses on non-tariff fees and charges.
- Chapter 6 discusses the impact of our final decision on customers.
- Appendix A provides additional details on the proposed VTPAs
- Appendix B lists the assessment criteria for this review.
- Appendix C is our generic VTPA.
- Appendices D and E provide additional details on our cost analysis.
- Appendix F lists the Standard Retailers' fees and charges.
- Appendix G lists the issues raised in submissions on the draft report and our response.

2 Form of regulation

The form of regulation we currently use for regulated retail gas tariffs is a VTPA with each Standard Retailer. Each VTPA includes a WAPC that applies to the total tariff (ie, the combined retail and network components), with no additional price constraints. This is a relatively light-handed form of regulation. It allows the Standard Retailers to set the level and structure of their regulated retail tariffs themselves, subject only to ensuring that the average change in these tariffs is less than the WAPC.

As part of our review, we assessed whether this form of regulation remains appropriate for regulated retail gas tariffs over the 2010-2013 regulatory period. In particular, we considered whether this form of regulation was consistent with our assessment criteria for this review. The criteria most relevant to this question are 1 and 3 (see Appendix B):

- protect small retail customers by (a) resulting in regulated prices that recover the efficient costs of supplying gas to small retail customers, and (b) facilitating the development of effective retail competition, and
- be consistent with the aim of reducing customers' reliance on regulated retail tariffs.

We considered whether the VTPA and WAPC form of regulation has provided the Standard Retailers with scope to set regulated retail tariffs that are either significantly higher or lower than cost-reflective levels (while still complying with the WAPC). This included examining whether they have sought to segment their regulated customers, the number of individual regulated tariffs they have, and the effectiveness of competition in the retail market.

The sections below provide an overview of our finding on the form of regulation, and discuss the analysis which supports this finding.

2.1 Overview of finding on the form of regulation

Our finding is that a VTPA that allows the Standard Retailers to set the level and structure of their regulated retail gas tariffs subject to a WAPC with no additional price constraints is the appropriate form of regulation for the 2010-2013 regulatory period, but that the WAPC should apply only to the retail component of these tariffs. Our view is that it is appropriate for the WAPC to only apply to the retail component and not the whole tariff because the retailers have no control over the network component of tariffs therefore it is appropriate for these costs to be passed on in full to customers.

We consider that the available evidence suggests that the VTPAs used for the 2007-2010 regulatory period were effective in protecting customers from tariffs set significantly above cost-reflective levels. This is a view generally supported by stakeholders.[12] We also considered that the lack of evidence that retailers have sought to segment customers, their small number of regulated tariffs, and the level of competition in the retail market mean they have limited scope to set regulated tariffs significantly above cost-reflective levels in the 2010-2013 regulatory period.

Given this, we consider that allowing the retailers to determine the level and structure of their regulated tariffs is appropriate as the retailers are best placed to understand changes in their cost base and restructure individual tariffs accordingly. Further, continuing to use the WAPC approach has the advantage of increasing regulatory certainty for stakeholders, as most are already reasonably familiar with this approach.

2.2 Segmentation of customer base

We might need to change the form of regulation if we found that the Standard Retailers were able to set regulated tariffs in a way that resulted in them being significantly above or below the cost-reflective level (while still complying with the WAPC). One of the factors that influences their scope to do this is their ability to segment their customer base.

For example, if retailers were able to identify a group of customers that were unlikely to be offered a market contract, or unlikely to have sufficient understanding of the competitive market to seek one out, they may be able to move these customers on to higher regulated tariffs without the risk of them moving to a competitive supplier.

However, we found no evidence that the Standard Retailers have sought to act strategically to segment customers by using different tariffs, or to price in a way that hinders competition. In fact, there has been a trend towards reducing the number of regulated tariffs, which greatly reduces the potential for the Standard Retailers to set a regulated tariff that varies significantly from the average regulated tariff. (This is discussed further in section 2.3 below.)

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12 PIAC submission, December 2009, p 2 and EWON submission, May 2010, p 1.

2.3 Small number of regulated tariffs

A second factor that influences retailers' scope to set regulated tariffs that are significantly above or below the cost-reflective level is the number of individual regulated tariffs they have. If they have a large number of these tariffs, they could potentially increase some by a lot, and some by a little and still comply with the WAPC. However, when they have only a small number of tariffs, or the bulk of their customers are on a small number of tariffs, the increase in individual tariffs is likely to be very close to the average increase allowed under the WAPC, and all tariffs should remain consistent with cost-reflective levels over time.

Currently, each retailer has only one or a limited number of regulated residential tariffs. Where they have more than one, these tariffs vary mainly due to location (to reflect different network tariffs), and the type of use (such as off-peak or hot water use). Therefore, the increases in their individual tariffs are likely to be very close to the average increase under the WAPC and additional price constraints are likely to be redundant.

However, some Standard Retailers have proposed a degree of tariff restructuring. Potentially, tariff restructuring could result in significant changes to some individual customers' bills, and therefore could warrant the inclusion of additional price constraints to protect such customers from price shocks. Our analysis of the impact of the retailers' overall pricing proposal (including the restructuring) on a typical residential customer's bill indicates that the maximum increase in an individual customer's bill is likely to be around the average price increase plus 5%. Since the restructuring will result in prices that better reflect the costs of providing customers with gas, we think this is reasonable and accordingly see no need for additional constraints on bills.

2.4 Effectiveness of competition

We analysed the effectiveness of competition in the gas retail market, to determine whether it is sufficient to constrain the Standard Retailers from setting regulated tariffs significantly above the cost-reflective level. We also assessed how this competition had changed over the 2007-2010 regulatory period, and considered whether regulatory or government action is required to facilitate its continued development.

It is important to note that our analysis of competition was **not** conducted for the purpose of determining whether it is sufficiently effective for regulation to be phased out. The Australian Energy Market Commission (AEMC) is responsible for making this decision, and is scheduled to review the NSW retail electricity market for this purpose in 2011.

On balance, our analysis of the available data suggests the competitiveness of the gas retail market has not changed significantly since 2007, however it continues to increase. While most customers have access to a variety of offers by several different retailers, the choices for customers in some country regions have remained limited.

2.4.1 Definition of the market

We consider that there is only one relevant NSW market for the retail supply of gas to customers consuming less than 1TJ. Within this market, there are 5 different standard supply areas:

- ActewAGL's standard supply area, which includes the NSW regions surrounding the ACT and South East NSW (including Young, Goulburn, Shoalhaven and Yass).
- AGL's standard supply area, which contains most of the gas customers in NSW, including Sydney, Wollongong, Newcastle, Dubbo, Orange, Parkes, and parts of the Riverina.
- AGL Sales' standard supply region which is located on the NSW and Queensland border.[13]
- Country Energy's standard supply region includes South Western regions of NSW including Wagga Wagga and Gundagai and inland cities such as Tamworth.
- Origin Energy's standard supply area, which is situated on the NSW and Victorian border, and includes Albury and the Murray Valley Towns.

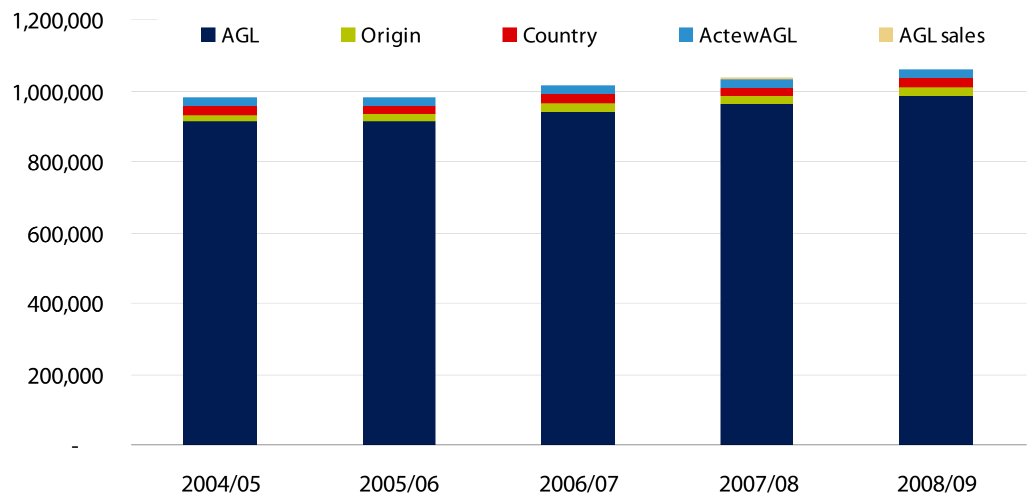
IPART does not regulate the prices in the AGL Sales' standard supply region.

The gas retail market has been defined as the whole of NSW rather than by standard supply area to take account of the most important sources of competition for a retailer or set of retailers. We found that many retailers tailor their offers to a specific standard supply area, for example, by aligning their tariffs to the regulated tariff. However, some price offerings are available across one or more standard supply areas. This means that tariffs in one standard supply area may constrain prices in another.

13 AGL Sales (Queensland) Pty Ltd (previously Sun Gas) is a Queensland supplier which also is the Standard Retailer for a small number of customers located in the Tweed area of NSW. Previously, these customers were charged the retail prices regulated by the Queensland Government. With the removal of gas retail price regulation in Queensland these customers have access to the competitive retail market in Queensland. We have monitored the tariffs for these customers over the current regulatory period and concluded that the prices charged under the competitive market are reasonable. We also note that its customers are charged the same tariffs as those in South East Queensland.

In addition, the majority of customers consuming less than 1TJ are located within one standard supply area. Figure 2.1 shows that AGL's standard supply area contains almost a million small retail connections, or 93% of all connections statewide. In comparison, the Origin Energy, Country Energy and ActewAGL standard supply areas each contain between 22,000 and 28,000 customers, which is around 2% to 3% of all connections in NSW. The AGL Sales standard supply area contains just over 1,000 customers, or 0.1% of all connections (not visible in Figure 2.1).[14]

Figure 2.1 Number of small retail customers in NSW market, by standard supply regions (customers consuming less than 1 TJ per year)



2.4.2 Structure of the market

There are currently 17 gas retailer licence holders in NSW.[15] Only 7 of these are active, and they include:

- The 5 Standard Retailers[16], which are obliged to supply if the customer is connected to gas and must offer a regulated tariff in their standard supply area. These businesses also act as second-tier retailers outside their standard supply areas and can offer negotiated contracts to customers within their own supply area.
- Two mass market second-tier retailers, which are the non-incumbent retailers that aim over time to establish a large customer base.

14 Competition has not been assessed in the AGL Sales standard supply region as it is not subject to the VTPA arrangements.

15 IPART, Choosing your energy supplier, http://www.ipart.nsw.gov.au/electricity/licensing_further_information_2.asp.

16 This includes AGL Sales, which is not subject to the VTPA arrangements. The rest of the report refers only to the 4 Standard Retailers which are the subjects of the VTPAs.

In comparison, Victoria, South Australia and Queensland have 8, 4 and 2 active retailers respectively.[17]

The retailers active in NSW participate to varying levels across the standard supply areas. Table 2.1 shows that most of them offer to supply customers in each of the standard supply areas. However, some do not offer to supply all of the regions within some of these areas. For example, within the ActewAGL supply area, some retailers offer contracts in the capital region, but not in the Queanbeyan or South East NSW regions.

Table 2.1 Retailers' standard contract and market offers in each standard supply area

	Standard supply areas				
	AGL	Origin Energy	Country Energy	ActewAGL	AGL sales
Retailers					
AGL	√				
Origin Energy	√	√	√	√	√
Country Energy			√		
ActewAGL				√	
AGL Sales					√
EnergyAustralia	√		√	√	
TRUenergy	√	√	√	√	

Note: Some retailers also have customers outside the areas shown, but are not currently offering in these areas.

Current market concentration

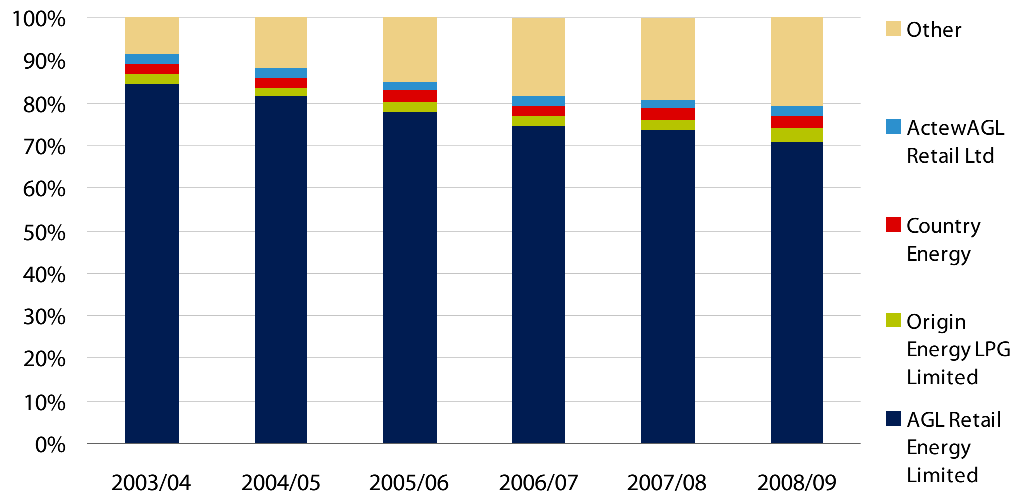
The more concentrated the market, the greater the potential for firms to exercise market power. Therefore, a market with a considerable number of firms may still not exhibit effective competition if it is concentrated in the hands of a small number of firms.

In the NSW retail gas market, AGL is clearly the dominant player. However, it has steadily lost market share to second-tier retailers over the period since full retail contestability began in 2002. Figure 2.2 shows that AGL's share has fallen from 84% of the market in 2003/04 to 71% in 2008/09, while the other Standard Retailers

17 Essential Services Commission Victoria, *Comparative performance report – pricing and the competitive market 2008/09*, p 3, http://www.esc.vic.gov.au/NR/rdonlyres/55E19724-CFE4-426E-9123-720C397F4328/0/FINALPRICINGANDCOMPETITIVEMARKETREPORTCOMMISSIONERS.pdf, Essential Services Commission of South Australia, Annual Performance Report South Australian Energy Supply Industry, 2008-09, p 23, http://www.escosa.sa.gov.au/library/091117-AnnualPerformanceReport_2008-09.pdf QCA, *Competitive Market Outcomes for Small Customers in Queensland,* November 2008, p iv http://www.qca.org.au/files/GR-RSCSPComp-QCA-FinalRep-1208.PDF.

maintained market shares of 2% to 3%. However, Origin Energy and Country Energy increased their customer numbers outside of their standard supply areas – between 20% and 35% of these retailers' customers were now located outside of their standard supply area by 2008/09. New-entrant retailers ('other' on Figure 2.2) have also increased their combined market share to 21% by 2008/09.[18]

Figure 2.2 Market share of gas retailers across NSW (2003/04 – 2008/09)



Data source: IPART compliance data base.

In its own standard supply areas, AGL's market share was approximately 76% in 2008/09. However, the other Standard Retailers still have market shares of between 90% and 100% in their own standard supply areas.

2.4.3 Barriers to market entry

Barriers to entry are the characteristics of a market that may make it difficult or less attractive for firms to enter or exit that market (excluding obstacles that are part of the normal process of entering any market). Generally, a competitive market does not have significant barriers to entry, which helps ensure that the behaviour of market participants is disciplined by the actual or threatened entry of new firms. Where a market does have barriers to entry, there may be more opportunity for participants to exercise market power, reducing the extent to which competitive pricing and product differentiation occurs.

18 We note that NSW Government's Energy Reform Strategy includes the sale of EnergyAustralia's gas retail business which is the largest second-tier retailer in NSW with a market share of approximately 18%. The level of competition in the NSW market is unlikely to be significantly affected if it is purchased by an existing retailer other than AGL, due to the small market share of these participants.

We considered whether the capacity constraints on the transmission pipelines and advantages to the incumbent retailers are barriers to entry in the NSW retail gas markets, and therefore limit the potential for competition in this market.

Capacity constraints on the pipelines

During the 2007-2010 regulatory period, the limited transmission capacity to Sydney for winter 2008 acted as a major barrier to entry. However, capital works have since been undertaken to expand the pipeline capacity in NSW. Other significant developments in gas transmission infrastructure are also planned, including further capacity expansion, and new pipelines, including the Queensland to Hunter Gas Pipeline (QHGP) to connect Queensland coal seam methane fields with the Gunnedah basin and Newcastle.

The significant investment and increased interconnection with new gas sources suggest that it is unlikely that access to upstream gas supplies or network infrastructure will act as a material constraint on market entry and expansion. This will also help the diversification of options available to retailers in terms of potential gas supply sources. Given the new investments in gas-fired generation plant, trends in interconnection are likely to continue. However, we note that Country Energy has argued that in the short term the increase is gas-fired generation in the eastern states may increase the demand for gas supply and capacity, which may lead to a risk of capacity constraints when contracts are renewed.[19]

Advantages for incumbent retailers

The incumbent retailers typically enter into long term contracts with pipeline owners and producers which underpin upstream infrastructure developments. This may suggest a constraint to entry if gas retailing is not viable without developing a network of supporting arrangements. While these arrangements are a common feature of the market and are likely to persist, they do not account for all supply capacity. For example, EnergyAustralia was able to develop retail operations quickly and despite not having any previous position in gas markets.

2.4.4 Market information

The conduct of retailers within a market affects the level of competition. For example, an effective retail market requires retailers to actively market their products and services so customers are aware of the offers available, and can compare them to identify those that best meet their needs and preferences.

[19] Country Energy submission, December 2009, p 8.

Therefore, an effective retail market requires that customers have sufficient information to make an informed choice. Most customers are unlikely to undertake their own investigation of alternative energy offers, for a number of reasons including:

- There may be few perceived benefits of switching retailers:
  - Gas is a homogenous product which means there is no variation in the quality of the product between retailers.
  - Gas retailers generally can only compete on price savings. However, as bills represent a very low percentage of household expenditure (typically less than 0.5%)[20] and increases to gas prices have historically been modest, the impetus to switch retailers has been limited.
- The lack of readily available transparent price information.

EWON submitted that customers need to have access to accurate and independent pricing information in order to make an informed choice about their switching options. It does not consider that this information is readily available to NSW customers.[21] Similarly, PIAC submitted that it is difficult for customers to compare prices across retailers, and notes that in some cases a customer must sign up to an offer before the tariff information is disclosed.[22]

On the other hand, AGL, ActewAGL and EnergyAustralia submitted that there is sufficient publicly available information for customers to make informed choices about their gas retailer through retailer websites and comparison and information sites.[23]

In our experience, retailers' negotiated tariffs are not always easy to ascertain – for example, they are not always published on the retailer's website.[24] We found that:

- Some retailers do not provide any price information at all.
- Some retailers publish the level of discount being offered without providing the reference rates.
- Some retailers require potential customers to initiate a 'sign up process' before providing the tariff details, and may request a large amount of personal information as part of this process (including name, date of birth, address, phone number, email address and drivers licence number).

20 *ABS,* 6430.0 - Consumer Price Index: 15th Series Weighting Pattern (Reissue), Sep 2005, http://www.ausstats.abs.gov.au/Ausstats/subscriber.nsf/0/5424C607D189A7B5CA257097000636B0/$File/6430.0%2015th%20series%20weighting%20pattern.xls.

21 EWON submission, December 2009, p 2.

22 PIAC submission, December 2009, p 2.

23 AGL submission, December 2009, p 5, ActewAGL submission, December 2009, p 6, EnergyAustralia submission, December 2009, p 5.

24 The internet is an increasingly important source of information for customers, for example the AEMC's review of competition in South Australia found that 46% of customers actively seeking information about energy offers used the internet.

- It can also be difficult to compare gas offers due to a lack of consistency in the presentation of tariffs -- for example, where retailers use different time units to express the tariffs, whether GST is included, and whether the tariff presented has already had the discount applied.

We consider that the lack of transparent information and lack of consistency in tariff presentation increases the search costs for customers. Together with other transaction costs such as termination fees, these costs may exceed the benefits of finding a better offer, which makes customers less inclined to assess alternative offers and so reduces pressure on retailers to engage in competitive behaviour. Given the typical 2-year contract periods and contract termination penalties, it is critical that the information that customers are basing their decisions on is accurate to ensure the best possible consumer outcome.

The *Electricity and Gas Supply Legislation Amendment (Retail Price Disclosures and Comparisons) Bill 2010* (the Bill) was passed in the Legislative Council on 22 June 2010.[25] The Bill establishes a price disclosure and comparison scheme in relation to the supply of electricity and gas to small retail customers. It is expected that the legislation will be effective from 1 July 2010 and that the price comparator service will be operational soon after. The price comparator service will assist customers to obtain more accurate information and will increase the competitiveness of the market.

2.4.5 Consumer behaviour and outcomes

A competitive market needs to be characterised by informed and active consumers willing and able to respond to offers for the supply of gas. Where enough consumers respond to price or quality differences by switching to products that better suit their needs, retailers will be encouraged to respond to these signals or risk losing customers and market share. Where this is not the case, retailers may develop a degree of market power that may lead to poorer price and service outcomes for customers.

Overall, significant numbers of small customers in NSW have responded to competitive offers and exercised choice between available offers when approached by retailers and given sufficient incentive. Figure 2.3 shows the number of all customers who have switched retailers over the 2007-2010 regulatory period. The overall switch rate for NSW and the ACT 2008/09 was 4%[26], down from 5%[27] in 2007/08. However, the latest switch rate for the 2009 calendar year was slightly higher again at 6%, reflecting higher switch rates between July and December in

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[25] http://www.parliament.nsw.gov.au/Prod/parlment/hanstrans.nsf/V3ByKey/LC20100622

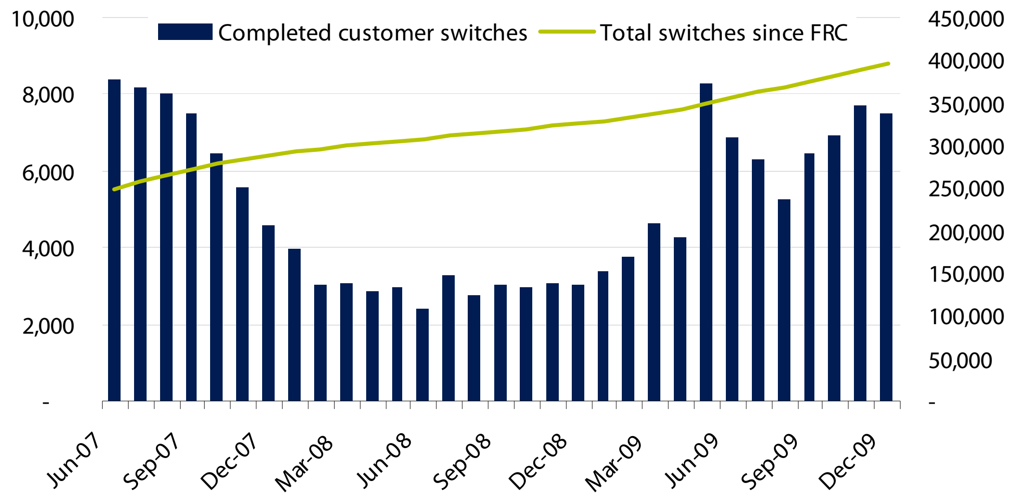
[26] AER, State of the Energy Market 2009, November 2009, p 303, http://www.accc.gov.au/content/index.phtml?itemId=904614.

[27] AER, State of the Energy Market 2008, November 2008, p 302, http://www.accc.gov.au/content/index.phtml?itemId=850040.

2009.[28] Cumulative switch rates at the end of 2008/09 in NSW and the ACT was 30%, compared to 115% in Victoria, and 81% in South Australia.[29]

However, switching rates do not capture the customers that have moved onto a negotiated contract with their *existing* retailer. Figure 2.4 shows that approximately 48% of all customers have switched to a negotiated contract as of June 2009. It is worth noting that the proportion of gas customers on negotiated contracts is significantly higher than for the electricity retail market (33%).[30]

Figure 2.3 Number of customers in the NSW who switch retailers during the 2007-2010 regulatory period



Note: These numbers excluded small customers moving from a regulated tariff to a negotiated contract with their Standard Retailer. The blue columns refer to the left axis and the green line refers to the right axis.

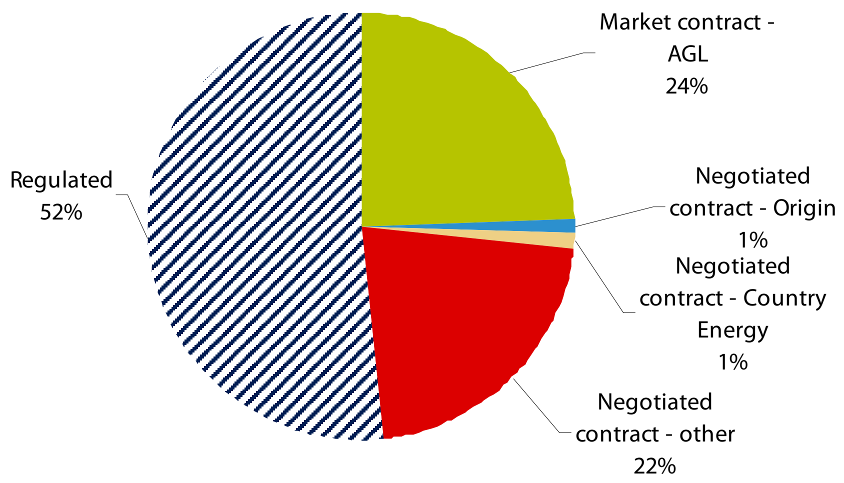
Data source: AEMO.

28 AEMO, Market Activity data: 2009 December, January 2010.

29 AER, State of the Energy Market 2009, November 2009, p 303, http://www.accc.gov.au/content/index.phtml?itemId=904614.

30 The lower number of regulated customers in electricity is likely to be explained in part by the decision of the standard retailers to keep their customers on regulated tariffs to access the risk management benefits provided by the ETEF arrangements, given the uncertainties in the energy market and the volatility of wholesale prices, IPART, *Review of regulated retail tariffs and charges for electricity 2010-2013*, March 2010, p 50.

Figure 2.4 Proportion of all gas customers in NSW on Negotiated contracts, 2008/09



Data source: Information requests, IPART.

3 Retail costs of gas supply

To help us in deciding whether the Standard Retailers' pricing proposals were reasonable, we assessed the retail costs they will incur in supplying gas to small retail customers over the 2010-2013 regulatory period. These retail costs comprise 3 individual cost components: wholesale gas costs, retail operating costs and retail margin.

Our assessment involved 2 steps:

- First, we focused on each retailer's forecast of its individual cost components (which were either submitted by the retailers as part of their submission or implied by their pricing proposal). We assessed the forecast for each component to determine whether it is consistent with our view of the costs an efficient and prudent retailer is likely to incur in supplying customers on regulated retail tariffs over the regulatory period.
- Second, we focused on each retailer's forecast of its aggregate retail costs. We assessed whether these forecast aggregate costs support its pricing proposal (ie, whether the proposed price paths would generate revenue in line with the forecast costs). We also assessed whether the forecast aggregate costs fall within the range for the aggregate costs of an efficient and prudent retailer we have identified.

Please note that while we assessed the cost components individually, we did not determine revenue allowances for these costs, as we did in making our recent determination of regulated retail electricity tariffs. This is consistent with our finding that VTPAs that allow the Standard Retailers to set the level and structure of their regulated retail gas tariffs, subject to a WAPC, are the appropriate form of regulation for the 2010-2013 regulatory period (as discussed in Chapter 2). In addition, we did not consider any additional costs the retailers may incur if new climate change mitigation measures are introduced during the regulatory period, in line with our finding that these costs are best addressed through a cost pass through arrangement (also discussed in Chapter 4).

The section below provides an overview of our finding on retail costs. The subsequent sections discuss our assessments of the retailers' forecasts for the individual cost components and the aggregate costs in detail.

3.1 Overview of findings on retail costs

For AGL, Origin Energy and Country Energy, our finding is that the forecast aggregate costs each retailer submitted are reasonable because these costs:

- support the pricing proposal contained in its proposed VTPA, and
- are consistent with the range of prudent and efficient costs that we identified through examining the individual cost components.

Our draft finding was that ActewAGL's forecast aggregate costs were not reasonable. This is because the costs the retailer initially submitted did not support its pricing proposal and the revised costs it submitted were not consistent with the range of prudent and efficient costs that we identified. In our view ActewAGL's efficient costs support a price path which increases the retail component of tariffs by CPI-3% over the 3 years. ActewAGL has accepted this price path.

In reaching the findings we took account of:

- MMA's assessment of prudent, efficient wholesale gas costs for ActewAGL, AGL and Origin Energy over the 2010-2013 regulatory period and additional information provided by AGL to us, on a confidential basis, in support of its proposed wholesale gas costs.
- MMA's advice that while Country Energy's forecast wholesale gas costs were lower than its assessment of the prudent, efficient level, Country Energy's approach to forecasting these costs is reasonable.
- Our own analysis indicating that these retailers' forecast retail operating costs are reasonable, and within the range for these costs we identified through benchmarking.
- SFG's advice that an EBITDA margin of 7.3% to 8.3% is consistent with margins that would prevail in a competitive market.

3.2 Wholesale gas costs

Gas retailers procure wholesale gas, and generally its transmission to city gates, via long-term bilateral contracts with gas producers and transmission asset owners.[31,32] They hold a portfolio of commercial-in-confidence gas supply contracts with varying expiry dates. The terms and conditions of each supply contract are likely to vary, depending on the geographic location and capacity of the relevant gas field(s) and associated processing facilities, as well as the allocation of risk between retailer and producer. Charges for gas transmission are also likely to vary depending on the

31 A retailer would consider its likely total gas load and how best to meet that load at the city gates given the available sources of gas supply and the cost of transportation (including the potential for gas swap arrangements) and opportunities to hedge price and supply risk.

32 We note that the transmission charges faced by Origin Energy in NSW are subject to an access arrangement, approved by the AER, and in place until 31 December 2012.

distance over which gas must be transported, the productive efficiency of the pipeline and the utilisation of the pipeline's capacity.

These arrangements for procuring wholesale gas supply mean that the Standard Retailers may face different wholesale gas costs, which are largely determined by confidential bilateral agreements and which are difficult to compare. They also mean that little market data is publicly available, which makes it difficult for us to estimate or benchmark the appropriate wholesale gas costs associated with serving regulated retail gas customers in NSW.

Given these circumstances, we decided to assess the information the Standard Retailers' submitted on their actual and forecast wholesale gas costs from 2009/10 to 2012/13, to form a view on whether these costs are reasonable and efficient. We engaged MMA to assist us by assessing the retailers' information on wholesale gas costs and providing advice on whether their forecast wholesale gas costs were consistent with a prudent and efficient level of costs. We also compared the retailers' forecast wholesale gas costs to available benchmarking data.

3.2.1 MMA's assessment of retailers' forecast wholesale gas costs

MMA examined the information submitted by each Standard Retailer on its forecast wholesale gas costs. It examined the individual components of these costs – including base gas supply costs, additional deliverability costs (to service peak demand), transmission costs and other costs. It also assessed how each component had been estimated. In addition, it compared these forecast costs against its own assessment of the prudent, efficient level for the retailers' wholesale gas costs.

We are not able to provide the details of the retailers' forecast costs, or MMA's assessments of these costs, due to the confidential nature of information on gas wholesale costs. However, Table 3.1 shows MMA's assessment of the prudent and efficient level of wholesale gas costs for each Standard Retailer over the 2010-2013 regulatory period. Note that in some cases MMA provided a range of potential outcomes. In this instance, the value provided in the table below has been selected by IPART from the upper end of this range.

Table 3.1 MMA's assessment of prudent, efficient wholesale gas costs for the period 2010/11 to 2012/13 ($ per GJ, $2009/10)

	AGL	ActewAGL	Country Energy	Origin Energy
$/GJ	7.26	7.11	6.17	6.81

Source: McLennan Magasanik Associates (MMA), *Gas Retail Price Review – Wholesale Gas Costs, Final Reports to Independent Pricing and Regulatory Tribunal*, May 2010.

Our findings have been informed by MMA's assessment of prudent, efficient wholesale gas costs for AGL and Origin Energy over the regulatory period and additional information provided by AGL to us, on a confidential basis, in support of its proposed wholesale gas costs. For Country Energy, MMA's advice is that, while Country Energy's forecast wholesale gas costs were lower than its assessment of the prudent, efficient level, Country Energy's approach to forecasting these costs is a reasonable one to adopt.

For ActewAGL, MMA's advice was that this retailer's forecast wholesale gas costs are higher than its assessment of the prudent, efficient level of these costs.

More detailed information on MMA's approach for assessing the retailers' wholesale gas costs is provided in Appendix D. Further information can be found in MMA's public version of its final report, which is available on our website.

Although MMA also provided us with a separate final report on each Standard Retailer, we cannot publish these reports for confidentiality reasons.

3.2.2 Benchmarking data on wholesale gas costs

We compared the Standard Retailer's forecast wholesale gas costs with publicly available benchmarks released by the Queensland Competition Authority (QCA) in November 2008 and the Essential Services Commission of South Australia (ESCOSA) released in June 2008. We found that the retailers' forecasts are broadly consistent with these benchmarks. We note that the differences are largely explained by specific locational factors.

Queensland benchmarks

The QCA engaged MMA to advise it on the costs of gas supply for a second tier retailer supplying small customers in Queensland. In its report, MMA indicated that it had identified significant upward pressure on wholesale gas costs caused by the commissioning of LNG facilities and the Australian Government's proposed CPRS. Its estimates of these costs are shown on Table 3.2 below.

Table 3.2 MMA's estimates of wholesale gas cost in Queensland ($ per GJ, $2009/10)

	2008/09	2012/13
Bas gas supply costs (or annual contract quantity)	4.08	6.13
Additional deliverability costs (or maximum daily quantity)	0.34	0.34
Transmission costs	1.38	1.74
Other costs	0.02	0.02
Total wholesale gas costs	**5.82**	**8.22**

Notes: Transmission cost based on a demand load factor of 60% and MMA forecast costs of the Queensland Gas Pipeline. These figures do not include an estimate of the costs of the CPRS.

Source: McLennan Magasanik Associates, *Costs of gas supply for a second tier retailer supplying small customers in Queensland, Final Report to Queensland Competition Authority*, 3 November 2008.

South Australian benchmarks

In June 2008, ESCOSA released its final determination of gas standing contract prices from 2008 to 2011. In making this determination, ESCOSA set the wholesale gas cost allowances for 2010/11 shown in Table 3.3 below.

Table 3.3 Wholesale gas cost allowances for South Australian Standard Retailer, 2010/11 ($ per GJ, $2009/10)

	Residential	Small business
Bas gas supply costs (or annual contract quantity)	3.97	3.95
Additional deliverability costs (or maximum daily quantity)	0.63	0.29
Transmission costs	1.67	1.20
Other costs	0.02	0.02
Total cost	**6.28**	**5.46**

Notes: Transmission cost is for Adelaide and Peterborough only.

Source: Essential Services Commission of South Australia, *2008 Gas Standing Contract Price Path Inquiry, Final Inquiry Report & Final Price Determination*, June 2008.

A number of location-specific factors explain the differences in wholesale gas costs between jurisdictions, including:

- the particular gas supply source(s) under consideration and the contracts underpinning a retailer's right to access this gas
- sources of additional deliverability utilised by a retailer and their price
- load profile of a retailer's customers
- transmission assets used by a retailer and the distance gas has to be transported.

3.3 Retail operating costs

To assess whether the Standard Retailers' forecast retail operating costs represent efficient costs, we undertook bottom-up and benchmarking analyses of these costs (consistent with our approach in the 2010 review of regulated electricity retail tariffs). The **bottom-up cost analysis** involved estimating each retailer's retail operating costs per customer using data supplied by the retailer, and subjecting these data to reasonableness tests. The **benchmarking analysis** involved comparing the Standard Retailers' forecast costs with the regulatory allowances for retail operating costs set for gas and electricity retailers in NSW and other jurisdictions.

In general, gas retail operating costs comprise 2 broad categories:

- **Retail operating costs (ROC):** These are operating costs incurred in retailing gas to small customers and include, among other things, the costs of billing and revenue collection, call centres, marketing, and an appropriate allocation of corporate overheads.

- **Customer acquisition costs (CAC):** These are primarily marketing costs involved with acquiring new customers.

However, given the differences in the way the Standard Retailers record these costs, we did not disaggregate their forecast costs into these categories.

3.3.1 Bottom-up analysis of retail operating costs

The Standard Retailers provided information on the components of their actual retail operating costs for 2006/07 to 2008/09, and the components of their forecast retail operating costs for 2009/10 to 2012/13. They also provided the actual and forecast customer numbers of these periods. We used this information to estimate their retail operating costs per customer (see Table 3.4), and assess whether level and rate of change in their forecast costs were reasonable.

Table 3.4 IPART's estimates of actual and forecast retail operating costs per customer – all standard retailers ($2009/10, $/customer)

Year	Range of retail costs	Midpoint
2006/07	88 to 105	97
2007/08	83 to 104	94
2008/09	81 to 131	106
2009/10	82 to 118	100
2010/11	*84 to 119*	101
2011/12	*85 to 117*	101
2012/13	*88 to 115*	101
Average cost – historic (2007/08 to 2009/10)	**84 to 114**	**99**
Average cost – forecast (2010/11 to 2012/13)	**86 to 117**	**101**
Difference between historic and forecast (rate of change)	**-6%**	**-2%**

Note: operating cost information included in the table above has been adjusted to remove an allowance for depreciation.

As the table shows, average retail operating costs per customer forecast over the 2010-2013 regulatory period ranged from $86 to $117. The midpoint of the range of retail costs across all the Standard Retailers over the regulatory period is $101 per customer.

We consider it reasonable for AGL to achieve relatively higher cost savings over the period, given that it is the largest Standard Retailer (with 71% market share in NSW in terms of customer numbers).[33] We also note that AGL should reap the first full-year of productivity benefits from its new customer service and billing platform (Project Phoenix) over this period.[34]

33 See Section 2.4.2, p 17.

34 Macquarie Research Equities, *AGL Energy – FY09 Surprises to the upside*, 21 August 2009, p 2.

Origin Energy's forecast retail operating costs per customer for the 2010-2013 regulatory period are also lower than its costs over the last few years. However, we note that most of the decrease is due to the fact that it has deducted the costs associated with late payments, as it proposes to recover these costs by introducing a late payment fee in 2010/11 (see Chapter 5).[35]

Country Energy's forecast costs per customer for the 2010-2013 regulatory period are marginally higher than its costs over recent years. This increase seems somewhat high, given that Country Energy's customer numbers are expected to remain constant over the regulatory period. However, we note that the level of the forecast cost per customer in 2012/13 is the same as it was in 2006/07 (in real terms).

ActewAGL's higher level of retail operating costs per customer for the 2010-2013 regulatory period appears to be due to the significant increase in the service provider fee it pays to AGL in 2008/09. This fee accounts for a significant share of ActewAGL's total retail operating costs and pays for the provision of managed services, such as billing and revenue collection, by AGL.[36] The level of the fee was increased to bring the operating cost component into line with the actual costs incurred in delivering the services, as well as to recover costs associated with the migration of ActewAGL's gas customers to a new billing system in 2008/09 and the subsequent implementation of this billing system. ActewAGL indicated that its higher level of costs per customer is also due to:[37]

- an increase in its corporate overheads due to the sale of its head office in 2008/09 and the new leasing costs thereafter
- newly identified bad and doubtful debts in 2008/09 as a result of the new billing system that required writing-off.

We appreciate that billing systems require upgrading and that these one-off investment costs need to be recouped over time. However, such investments must be efficient and provide future cost savings that should be shared with consumers. Therefore, we would have expected greater decreases in ActewAGL's retail costs per customer over the 2010-2013 regulatory period than its forecasts suggest, as productivity gains filter through from the new billing system. This is especially the case given that its service provider, AGL, has publicly announced that these productivity gains will materialise in 2010/11.[38]

While we note that the retail operating models of AGL and ActewAGL are quite different, direct productivity gains do not seem to have been factored into the service provider fee. However, ActewAGL still considered outsourcing most of its managed

35 Origin Energy, Non-tariff fees and charges and Origin's VTPA, 1 February 2010.

36 ActewAGL Retail is owned equally by ACTEW Corporation and AGL Energy via subsidiary companies (http://www.actewagl.com.au/about/company/default.aspx accessed on 29 January 2009).

37 ActewAGL, email correspondence, 3 February 2010.

38 Macquarie Research Equities, *AGL Energy – FY09 Surprises to the upside*, 21 August 2009, p 2.

services from AGL would achieve economies of scale beyond those it could achieve if it were to undertake these functions itself.[39]

During our analysis we also sought clarification on a number of other issues related to ActewAGL's retail operating costs. As a result, we:

- asked ActewAGL to resubmit its forecasts in $2009/10 dollars, as they were initially submitted to us in nominal dollars
- made a deduction for late payment costs due to double counting
- excluded depreciation costs which are recovered through the retail margin.

We understand that ActewAGL has a different business model to the other Standard Retailers and incurs depreciation costs through its service provider fee. However, we note that as long as depreciation is recovered only once it does not matter whether it is included in the retail margin or retail operating costs. Therefore, to maintain a consistent approach across the Standard Retailers, we decided to model ActewAGL's proposed price path using an EBITDA margin and exclude depreciation from its retail operating costs.

3.3.2 Benchmark analysis of retail operating costs

We benchmarked the Standard Retailers' forecast retail operating costs against retail operating cost allowances set in past regulatory decisions for gas and electricity retailers in NSW and other jurisdictions.[40] Where applicable, we benchmarked combined ROC and CAC allowances to be consistent with the Standard Retailers' reported costs.

We found that the range for retail operating costs established by these past regulatory decisions was $70 to $134 per customer, with a midpoint of about $102 per customer. The Standard Retailers' forecast retail operating costs per customer for the 2010-2013 regulatory period fall within this range, which suggests they are reasonable. (See Appendix E for more detailed information on the past regulatory allowances for retail costs we considered.)

We note that although ActewAGL's retail operating costs were at the higher end of the reasonable range of costs, they were comparable to the retail operating cost allowance we set as part of our 2010 determination on regulated retail electricity tariffs, which reflected an average retail operating cost of $112 per customer per year. The other 3 Standard Retailers all had operating costs below the allowance we set in the 2010 electricity review.

39 ActewAGL submission, 2 October 2009, p 10; ActewAGL, email correspondence, 19 February 2010.

40 We consider the retail operating costs of a gas retailer to be similar to those of an electricity retailer, especially since most retailers serve both gas and electricity customers. ESCOSA also argued this point in their 2008 review of gas standing contract prices. See ESCOSA, *2008 Gas standing contract price path inquiry Final inquiry report and final price regulatory*, June 2008, p 74.

ActewAGL noted in its submission that it was possible that we had not addressed all the differences in its business model when reviewing its retail operating costs.[41] We concluded that ActewAGL's forecast retail operating costs were at the high end of the efficient range. In reaching this view, we consulted with ActewAGL and consider that we understand its business model and capital structure, and thus reasons for its costs (outlined above in section 3.3.1). We note that ActewAGL did not propose any changes to our draft decision on retail operating costs.[42]

With regard to the rate of change in retail operating costs, we note that in the majority of recent regulatory decisions these costs have increased by no more than the change in CPI over their respective regulatory periods (see Appendix E for details). These decisions include ESCOSA's latest gas determination and the recently released 2010/11 final electricity determinations for the ICRC and QCA. This rate of change is broadly consistent with change in the Standard Retailers' forecast retail operating costs over the 2010-2013 regulatory period.

Finally, we note that the reasonable range for retail operating costs identified by our benchmark analysis is broadly consistent with the range of $92 to $134 per customer submitted by AGL based on its own benchmarking analysis.[43] AGL noted that the lower end of its benchmark range does not incorporate customer acquisition costs. However, we note that this point is somewhat negated by the inclusion of ESCOSA's $93 per customer gas retail cost allowance as a benchmark, which was inclusive of customer acquisition costs.

3.4 Retail margin

The Standard Retailers face a range of risks over the 2010-2013 regulatory period. Some of these are systematic risks associated with supplying gas to small customers on regulated tariffs. These systematic risks stem from things such as variations in demand and economic conditions. They arise from the largely fixed cost nature of gas retailing, given that revenue depends on economic conditions. Given these risks, it is reasonable for the Standard Retailers to earn a retail margin.

We reviewed the forecast retail margins implied by the Standard Retailers' pricing proposals to determine whether they were reasonable. To assist us in this, we asked SFG to assess and advise us on the reasonable range for the retail margin. SFG provided a draft report which was released for stakeholder comment. No comments were received and SFG's final report is consistent with the draft (SFG's final report is available from our website). We also considered other recent regulatory decisions on this margin and stakeholder submissions.

41 ActewAGL submission, 14 May 2010, p 8.
42 ActewAGL submission, 2 October 2009, p 8.
43 AGL submission, 14 May 2010, p 8.

After considering SFG's advice and the other factors, we made a finding that the forecast retail margins of AGL, Origin Energy and Country Energy are reasonable. Moreover, a price path which increases the retail component of tariffs by CPI-3% over the 3 years provides ActewAGL with a reasonable margin consistent with SFG's advice.

This finding reflects our view that the estimates provided by SFG's bottom-up approach are potentially biased and not consistent with those that would prevail in a competitive market. Therefore we have not placed any weight on these estimates in our decision making. This is discussed further in section 3.4.1.

3.4.1 SFG's advice on the retail margin

SFG's assessment and advice on the reasonable range for the retail margin are presented in its final report, which is available on our website.[44] In summary, SFG estimated the reasonable range for the retail margin using 3 approaches:

- the expected returns approach
- the benchmarking approach, and
- the bottom-up approach.

It then recommended 2 reasonable ranges for the retail margin. The first range is from 9.2% of 11.1% of earnings before interest, tax, depreciation and amortisation (EBITDA). This range reflects the results of all 3 of the approaches it used, and places equal weight on each result. The second range is from 7.3% to 8.3% of EBITDA. This lower range is based on the results for the expected returns and benchmarking approaches only, and places equal weight on each result. It excludes the results of the bottom-up approach due to SFG's concerns about the estimates provided by this approach.

SFG's final report explains these concerns in detail. However, for our purposes the key concern is that there is potentially an upward bias in the bottom up estimates of the retail margin. A comparison of these estimates to those provided by the other 2 approaches, and to recent regulatory decisions and stakeholder submissions on the retail margin seems to confirm that this upward bias exists. Therefore, we based our findings in relation to the retail margin on SFG's second recommended reasonable range of 7.3% to 8.3% of EBITDA which is consistent with the margin that would prevail in a competitive market.

44 SFG, *Estimation of a competitive profit margin for gas retailers in New South Wales*, Draft Report, 8 April 2010.

It should be noted that this range is considerably higher than the range for the retail margin SFG recommended as part of our review of regulated retail electricity tariffs. This reflects:

- gas retailers' higher fixed costs, which increases the estimated margin under the expected returns approach
- gas retailers' higher estimated depreciation costs, which increases the estimates based on EBITDA
- lower assumptions regarding gas retailers' cash operating costs.

The following sections summarise SFG's estimates for the retail margin using each of the 3 approaches. All are based on EBITDA unless otherwise specified.

Expected returns approach

The expected returns approach is based on the principle that businesses should be compensated for the systematic risk to which they are exposed. This approach estimates the expected cashflows that a retailer will earn and the systematic risk associated with these cashflows, and determines a retail margin that will compensate investors for this systematic risk. As part of the expected returns approach, the relationship between gas consumption by small retail customers and GDP growth activity needs to be considered. Based on its analysis of the available data, SFG has assumed that this relationship is one for one (ie, that this gas consumption increases at the same rate as GDP).

SFG's estimated range for the retail margin using the expected returns approach was 7.5% to 9.1%.

Benchmarking approach

The benchmarking approach develops a range for the retail margin based on the retail margins earned by comparable retail businesses listed on the stock exchange. For this analysis, SFG used the same approach and data set as it used in advising us on the appropriate retail margin for electricity Standard Retailers as part of our recent determination on regulated retail electricity tariffs. However, its estimated range for the margin for gas is higher than the range it recommended for electricity retailers. This is because the gas Standard Retailers have higher forecast depreciation costs which drive up the retail margin estimates based on EBITDA (even though the estimates based on earnings before interest and tax (EBIT) are the same).

SFG's estimated range for the retail margin using the benchmarking approach was 7.2% to 7.6%.

Bottom-up approach

The bottom-up approach estimates the return that a retail business requires for each of the individual risks that it faces in providing the retail service, and combines these individual components of the margin to determine a total retail margin. For this calculation, it is important that a consistent approach is used to consider the risks in each of the cost categories (wholesale gas costs, retail operating costs and retail margin).

SFG's estimate of the range for the retail margin using this approach was 12.9% to 16.5%.

As noted above, SFG's report identified concerns about using this approach for gas retailers. It noted that the estimated values seem to exceed what would be expected in a competitive market, and therefore questioned whether there is an upward bias in the estimates derived from the bottom-up approach. We particularly note its analysis of AGL's recent segment data which suggests that gross retail margins (per customer or per unit of energy) for gas are less than electricity and that this would imply lower transaction prices for gas than electricity. But that this has not occurred in the market transactions to date. SFG's report notes that further analysis on this issue would be aided by information from the retailers involved in these transactions.[45] However no further information has been provided to us since our draft report.

For these reasons we have at this stage placed no weight on the bottom-up estimates in deciding on our reasonable range of 7.3% to 8.3% for the final decision based on SFG's advice.

3.4.2 Other considerations

In addition to taking into account SFG's results, we also considered recent regulatory decisions on the retail margin for gas and electricity retailers, and stakeholder submissions on the appropriate level for the retail margin.

45 SFG, *Estimation of a competitive profit margin for gas retailers in New South Wales*, Draft Report, 8 April 2010, p 2.

Recent regulatory decisions

Recent regulatory decisions have adopted a retail margin for energy retailers of between 5% and 5.6%.[46] We note that this range includes the retail margins set by the ICRC and QCA in their recently released final determinations for electricity for 2010/11 (5.4% and 5% respectively). In our recently completed electricity review we adopted a margin of 5.4% based on SFG's analysis.[47] These estimates of margin are all well below the range of reasonable values recommended by SFG.

Stakeholder submissions

On the whole, the Standard Retailers argued that the decision on an appropriate retail margin needed to reflect the risks faced by gas retailers and that these are greater than the risks faced by electricity retailers.[48] Some of these retailers argued that the margins provided in recent regulatory decisions were insufficient and that a margin of 6.5% to 8% would be appropriate for a Standard Retailer in NSW.[49]

We note that the reasonable range of values recommended by SFG (without the bottom-up approach estimates) overlaps with the range of values submitted as reasonable by the retailers.

3.5 Aggregate retail costs

After assessing the individual components of the Standard Retailers' retail costs, we considered whether their aggregate forecast costs supported their pricing proposals, and was consistent with our view of the range for the prudent and efficient level of these costs based on our consultants' advice and our own analysis. This involved 2 steps.

First, we modelled each retailer's aggregate forecast costs, to establish that they matched the proposed price path in the revised VTPA. Essentially this involved taking each retailer's forecast aggregate costs and building up a tariff price path, which we then compared to the price path proposed in the revised VTPAs.

For AGL, Country Energy and Origin Energy we found that their aggregate forecast costs supported their pricing proposal. For ActewAGL, we found that the forecast costs it initially submitted did not support its pricing proposal.

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46 ESCOSA, Office of Energy in WA - see SFG report for further commentary on these decisions, *Estimation of a competitive profit margin for gas retailers in New South Wales*, Report, May 2010, p 7.

47 IPART, *Review of regulated retail tariffs and charges for electricity 2010-2013 – Final Report,* March 2010.

48 Origin submission, p 8, ActewAGL proposal p 10, EnergyAustralia submission, p 15.

49 AGL submission, p 12 and ActewAGL proposal, p 10.

Second, we compared each retailer's aggregate forecast costs (and its proposed price path) to our view of the range for the prudent and efficient level of these costs, based on MMA's and SFG's advice and our own analysis. This allowed us to cross-check that the proposed price paths are reasonable and that proposed tariffs are consistent with the costs an efficient and prudent retailer is likely to incur over the 2010-2013 regulatory period.

For AGL, Country Energy and Origin Energy, we found that their forecast aggregate costs (and pricing proposals) are consistent with the range for the prudent and efficient level of these costs identified by assessing the individual cost components.

For ActewAGL, we found that its forecast aggregate costs (and pricing proposal) are not consistent with this range. In addition, we found that in order for these costs to reflect MMA's estimate of the prudent and efficient level for ActewAGL's wholesale gas costs, ActewAGL's own forecast level of retail operating costs, and SFG's recommended reasonable range for the retail margin, they would need to increase by CPI-1% per annum over the regulatory period. ActewAGL has now accepted this price path and we have agreed to its VTPA.

4 Addressing risks and uncertainties

Whenever we make pricing decisions based on the regulated business' forecast costs, there is a risk that the business' actual costs will differ from the forecasts we used in making our decisions. This may be because the forecasts were inaccurate, or because unanticipated events or circumstances led to significantly higher or lower costs.

To some extent, this risk is considered an ordinary part of business and is compensated for through the retail margin, which rewards the business for the systematic risks it faces in providing regulated services (see Chapter 3). However, where a risk (or a cost) is considered to be outside the business' control, or contextual factors make it difficult to forecast a cost with a high degree of certainty, it can be addressed through additional regulatory mechanisms. In the 2010-2013 regulatory period, the Standard Retailers are likely to face 3 specific types of risks or costs in supplying customers on regulated tariffs. These relate to:

- the distribution network costs they will incur over the regulatory period)
- the costs associated with any new government-initiated climate change mitigation measures introduced over the regulatory period, although the announcement by the Australian Government to delay the start date for the CPRS has diminished this risk.
- the costs that arise from unforeseen events or regulatory changes that occur over the regulatory period.

It is important that our 'package' of regulatory decisions adequately addresses these risks, but does so only once. The VTPAs need to allow the Standard Retailers to set regulated tariffs so they generate sufficient revenue to recover their efficient costs in supplying regulated customers over this period, including those that were not known with certainty or were unforeseen at the time of our decisions. If they do not, it could have a detrimental impact on consumers, the Standard Retailers and the development of effective competition in the state's retail gas market.

The sections below set out our finding on the appropriate approach for addressing these risks and uncertainties in the VTPAs, and then discuss each type of risk and our consideration of the retailers' proposals in detail.

4.1 Overview of findings on addressing risks and uncertainties

Our finding is that the Standard Retailers' proposals to include additional regulatory measures in their VTPAs to address the risks and uncertainties related to distribution network costs, and the costs associated with new government-initiated climate change mitigation measures and unforseen events are reasonable and appropriate.

In reaching this finding, we assessed the Standard Retailers' proposed approach(es) for managing each of the main types of risk and uncertainty they are likely to face over the 2010-2013 regulatory period. We concluded that:

- The proposed automatic pass through of distribution network costs is reasonable, given retailers have no control over these costs.
- The proposed pass through of costs associated with any new government-initiated climate change mitigation measures is appropriate, as the NSW Government has committed to doing this at COAG. We should review and approve the amounts that retailers propose to pass through (based on their forecasts) before these amounts are reflected in retail prices. Moreover in 2012/13 we will undertake a price review if we consider that there is a material difference between the retailers' forecast and actual costs of compliance with the carbon obligation.
- The proposed retention of the existing special circumstances clause in the revised VTPAs to address costs arising from unforseen events is reasonable.

The wording of the retailers' proposals in relation to addressing risks and uncertainties varied. We have revised this wording in preparing the generic VTPA to improve transparency. However, we consider the wording in the generic VTPA is consistent with the intent of each retailer's proposal.

4.2 The risk and uncertainty associated with distribution network costs

Distribution network costs are the charges all retailers incur for using distribution network services to transport gas from 'city gates' to their customers' premises.[50] For residential customers, these costs generally comprise around 40% to 50% of gas bills. Distribution network charges are generally regulated,[51] and retailers have no ability to control or influence them.[52] For these reasons, regulators (including IPART) usually allow retailers to pass through their actual network costs to customers.

As Chapter 2 noted, under the current VTPAs the WAPC applies to a 'bundled tariff' that comprises both the retail and distribution network components. However, in their revised VTPAs, the retailers proposed a WAPC that applies only to the retail component. In addition, they proposed an explicit and automatic pass through of distribution network costs. AGL also proposed to restructure its regulated retail tariffs to reflect the structure of network charges levied by Jemena (the main distribution network service provider in NSW).[53]

4.2.1 Pass through of distribution network costs

At the time of our last review of regulated retail gas tariffs, we were also responsible for regulating distribution network charges in NSW for networks that were covered under the National Gas Code (ie, the distribution network charges faced by AGL and Country Energy). As we had made a determination on these charges in 2005 for the period until 30 June 2010, the charges were known. Therefore, they were implicitly included in full in the 'bundled' regulated tariffs that the WAPC applied to. However, this had the same effect on tariffs as passing through the costs to customers would have done.[54]

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50 Gas distribution networks transport gas from transmission pipelines to end customers. City gates (or gate stations) link transmission pipelines with distribution networks. The gates measure the natural gas entering a distribution system for billing and gas balancing purpose and adjust the pressure of the gas before it enters the distribution network.

51 Given their natural monopoly characteristics, gas distribution networks are generally subject to regulation under network access arrangements. The main aim of regulating a distribution network is to ensure that energy retailers and other third parties can negotiate access on reasonable terms and conditions.

52 For customers in most of Country Energy's supply area, their retailer owns the distribution network. For a small proportion of customers in ActewAGL's supply area, ActewAGL Distribution owns the distribution network.

53 However, we note AGL is not proposing to reflect Jemena's differentiation between country and coastal usage charges.

54 This was not the case for Origin Energy, which incurs distribution charges in Albury that are regulated by the ESC, and charges in the Murray Valley districts that are not regulated at all (ie, they are set by the network operator Envestra). Increases in these costs have not been passed through to customers in the current regulatory period.

On 1 July 2008, AER became the economic regulator for covered natural gas distribution pipelines in all states and territories (except WA). Therefore, it is responsible for determining the distribution network charges that 3 of the 4 Standard Retailers in NSW will incur from 1 July 2010.[55] The AER has recently completed its review of the access arrangements that include these charges. (Further detail about the AER's reviews of gas access arrangements can be found at www.aer.gov.au)

As the retailers have no control over these costs, we consider that the pass through of network costs is appropriate. We note that the amounts the retailers pass through would be subject to our annual compliance process.[56] We also note that we sought stakeholder comment on the pass through of these costs in our issues paper and draft report, and that none of the submissions we received raised concerns about this approach.

4.2.2 The structure of retail tariffs

While stakeholders didn't object to the pass through of distribution costs, EWON raised concerns about AGL's proposal to reflect the structure of Jemena's distribution network charges, which involves increasing the number of steps in AGL's declining block usage charge from 2 to 6.[57] We understand that most residential AGL customers will sit in the first 2 consumption blocks after tariff restructuring (consistent with the existing structure).

EWON also raised concerns about AGL's proposed tariff restructuring. Under AGL's approach the fixed supply charge for residential customers will increase by an amount greater than the change in WAPC.[58] AGL's proposed tariff rebalancing will have a minor impact on low usage residential customers of around 20 cents a week.[59] These changes are more cost reflective and are consistent with the WAPC approach (see 6.3.1 for more details).

55 Origin Energy's distribution charges in Albury are regulated by the ESC, and charges in the Murray Valley districts are not regulated at all (ie, they are set by the network operator Envestra).

56 We are not proposing to treat Origin's costs arising from unregulated network charges any differently to costs arising from regulated network charges.

57 Energy & Water Ombudsman NSW (EWON), Response to IPART's Issues Paper: Review of regulated retail tariffs and charges for gas 2010 – 2013, December 2009, p 4.

58 EWON submission, May 2010, pp 1-2.

59 We also acknowledge that declining block tariffs support increased utilisation of distribution networks (which lowers overall costs) and that encouraging gas usage over other more carbon intensive fuels has environmental benefits.

4.3 Costs associated with new government-initiated climate change mitigation measures

The possibility that governments may introduce new climate change mitigation measures, such as the proposed CPRS or an alternative to this scheme, increases the level of uncertainty about the Standard Retailers' costs over the 2010-2013 regulatory period.

If the CPRS, or a comparable scheme were to be implemented in the 2010-2013 regulatory period it is likely that the gas retailers would be directly liable for the carbon emissions associated with the combustion of the gas they sell. For example under the CPRS they would incur both the market cost of CPRS permits (Australian Emissions Units or AEUs) they purchase, and the financial costs of purchasing them in advance (in line with standard risk management practices). In addition, they would face increases in the wholesale cost of gas that reflect the cost of carbon emissions associated with gas processing plants and pipelines.

The NSW Government has agreed at COAG (under the Australian Energy Market Agreement) that these costs should be recovered from end use customers of gas. Therefore, the only issue for us to consider as part of this review of regulated retail gas tariffs is the appropriate mechanism for the cost recovery.

The Standard Retailers proposed that upstream and downstream costs associated with the CPRS should be passed through to retail tariffs. In particular, they proposed passing through the costs of complying with the CPRS to customers via a specific pass through mechanism. This would be based on their own internal forecast of the AEU price and other compliance costs.[60]

We considered the Standard Retailers proposals. We also considered what role IPART should play in approving the pass through amounts, and reconciling any difference between these amounts (which would be based on forecast compliance costs) and the retailers' actual costs (which would be transparent ex post).

4.3.1 Pass through of compliance costs associated with the CPRS or other new government-initiated scheme

We consider that the Standard Retailers' proposals to pass through the costs associated with the CPRS or any alternative new government-initiated climate change mitigation measures into retail gas prices are appropriate. There is no certainty about whether such schemes will be implemented during the regulatory period, or about the level of compliance costs they will involve. In addition, the NSW Government has already committed to passing through these costs at COAG.

60 AGL submission, October 2009, p 8; Country Energy submission, December 2009, p 6; Origin Energy submission, October 2009, p 9; ActewAGL submission, May 2010, p 11.

In its response to our draft report and the generic VTPA, EnergyAustralia considered that the relevant clause in the VTPA needs to be sufficiently general to accommodate whatever form an equivalent scheme may take including a carbon tax.[61] We have amended the wording of the generic VTPA such that it can accommodate the CPRS, carbon tax or equivalent carbon reduction schemes (see generic VTPA).

4.3.2 How should the pass through amount be set?

If the CPRS, or an alternative scheme that places a cost on carbon emissions, is implemented we expect that emissions intensities will be set by regulation. If this were the case, we consider that the Standard Retailers would be in the best position to forecast the price of carbon, and any other compliance costs, and so calculate the pass through amount.

However, we also consider that IPART should review and approve the pass through amount before it is recovered through regulated retail prices. Therefore, we have included in the generic VTPA a compliance process that requires the retailers to provide IPART with sufficient information to demonstrate how they calculated the pass through amount and allow IPART to verify this calculation.

In reaching this view, we considered the submissions of stakeholders, who expressed differing views on the process for setting pass through amounts and the role IPART should have in approving them. On the one hand, energy retailers generally supported the Standard Retailers' proposals for pass through. EnergyAustralia put the view that there is value in taking a consistent approach to the treatment of costs associated with national climate change measures and that the most appropriate way is through an annual adjustment mechanism outside of the CPI constraint, which allows an automatic pass through by the Standard Retailer of a "benchmark cost".[62] TRUenergy supported the proposal for costs associated with CPRS to be passed through to customers via a retailer-initiated annual adjustment mechanism.[63]

On the other hand, consumer groups supported a greater role for IPART in establishing the pass through amount. EWON suggested that, as there is still a lot of uncertainty about the imposition of these costs, the added scrutiny of the special circumstances review would be preferable to automatic pass through (particularly as if the CPRS were implemented as planned, retailers would only face the market price of permits in the final year of the regulatory period, which may be the last time gas prices are subject to regulation).[64] PIAC supported an annual adjustment

61 EnergyAustralia submission, May 2010, p 1.

62 EnergyAustralia Retail, Response to IPART's Issues Paper: Review of regulated retail tariffs and charges for gas 2010 – 2013, December 2009, p 10.

63 TRUenergy, Response to Review of regulated retail tariffs and charges for gas 2010 – 2013 – Issues Paper, December 2009, p 3.

64 Energy & Water Ombudsman NSW (EWON), Response to IPART's Issues Paper: Review of regulated retail tariffs and charges for gas 2010 – 2013, December 2009, p 4.

mechanism, but argued that IPART should set the efficient pass-through benchmark, rather than allowing the retailers to set their own adjustments.[65]

4.3.3 Should forecast and actual costs be reconciled?

We considered whether retailers' forecast and actual compliance costs should ever be reconciled. Where they are reconciled, customers pay the actual costs incurred in meeting the CPRS obligation. However, the pass though of actual costs may remove the incentive for the retailer to forecast these costs efficiently. In addition, the market price for AEUs will only be faced by retailers in the last year of the next regulatory period, which may be last time retail gas prices are subject to regulation.

Assuming emissions intensities are set by regulation, the variable component of compliance costs will be the price of AEUs. As we expect a market to develop for these permits, we believe forecast and actual prices should be similar. However, we do not support automatic adjustments to prices to reflect differences between forecast and actual costs. We believe that IPART should have the ability to review pass through amounts during the final year of the regulatory period when actual market prices for carbon are available. If we found that the retailers' actual compliance costs were materially different to the amounts we had approved them passing though into retail prices, we would have scope to trigger a price review. Accordingly, we have included this scope in the generic VTPA.

Again, we came to this view after considering the submissions of stakeholders, and the views expressed about regulatory oversight of this cost pass through mechanism and the reconciliation of forecast and actual costs. Among the Standard Retailers:

- AGL proposed that we undertake an ex-post review of the cost pass through amount to ensure that regulated retail prices reflect market costs, noting that the market price of CPRS permits would be transparent in retrospect. In its submission, it argued that there is likely to be sufficient transparency in the actual carbon price and the forecast incorporated into regulated retail tariffs to provide adequate regulatory oversight.[66] AGL also suggested that it would consult with us about any required adjustments to account for material differences between forecast and actual prices.[67]
- Origin Energy acknowledged that an ex-post review of forecast and actual CPRS permit costs by IPART may be appropriate. However, it requested that any such review should be based on some form of materiality criteria, so that it is initiated only when necessary.[68]

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65 Public Interest Advocacy Centre (PIAC), Response to IPART's Review of regulated retail tariffs and charges for gas 2010 – 2013 – Issues Paper, December 2009, p 3.

66 AGL submission to IPART Issues Paper, Review of regulated retail tariffs and charges for gas 2010 – 2013, December 2009, p 9.

67 Ibid. p 9.

68 Origin Energy s submission to the Independent Pricing and Regulatory Tribunal on the Review of regulated gas retail tariffs and charges from 2010 to 2013, December 2009, p 5.

- ActewAGL submitted that an ex-post review of the calculation of CPRS costs could be conducted, with adjustments in subsequent years for material differences. However, its proposed draft VTPA (provided after its submission) suggests it will adjust retail prices for actual carbon costs regardless of level of materiality.[69]
- Country Energy submitted that a competitive market would ensure that prices are not set at falsely high levels, and therefore it did not consider there would be a need for reconciliation.[70]

Among other energy retailers, EnergyAustralia argued against the need for reconciliation. It noted it is only in the final year of the regulatory period that AEUs will be set at a market price, and that this year (in theory) is the last year of price regulation. Therefore, forecast compliance costs should not be reconciled with the actual costs.[71] TRUenergy argued that, given the asymmetrical risks of price setting, any ex-post review by IPART should only make further adjustment on the basis of an initial underestimate.[72]

ActewAGL suggests that we should adopt the same definition of materiality as was adopted in the review of regulated electricity price. This would involve comparing the difference between a retailer's forecast and actual carbon costs against annual retail gas revenues.[73] We have considered this issue but consider that it is not appropriate to define materiality when the costs, timing and form of any carbon scheme are so uncertain. The intention behind the VTPA wording is to indicate that minor variations between forecast and actual costs are unlikely to necessitate a review but that it would be in both the retailers' and customers' interests to review substantial variations.

4.4 Costs arising from unforeseen events or changes

In any regulatory period, the Standard Retailers may incur costs that were unanticipated at the time of our price review. In the current VTPAs, this risk is addressed through the inclusion of a special circumstances clause. This clause specifies that a Standard Retailer may apply to IPART to vary its regulated tariffs outside the WAPC limit in special circumstances that give rise to changes in costs. These circumstances include, but are not limited to: regulatory changes; taxation changes; unanticipated gas field price review; and fundamental changes to gas market frameworks and arrangements.

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69 ActewAGL Retail submission to the Independent Pricing and Regulatory Tribunal, Review of Regulated retail tariffs and charges for gas 2010- 2013, December 2009, p 9.

70 Country Energy submission to IPART Review of regulated retail tariffs and charges for gas 2010-2013, December 2009, p 6.

71 EnergyAustralia Retail, Response to IPART's Issues Paper: Review of regulated retail tariffs and charges for gas 2010 – 2013, December 2009, p 10.

72 TRUenergy, Response to Review of regulated retail tariffs and charges for gas 2010 – 2013 – Issues Paper, December 2009, p 3.

73 ActewAGL submission, May 2010, p. 11-12.

Over the current regulatory period, 3 of the Standard Retailers made an application under the special circumstances clause (see Box 4.1).

Box 4.1 Use of the special circumstances clause during the 2007 regulatory period

In early 2008 AGL, ActewAGL and Country Energy made applications for special circumstances price increases in excess of the CPI. Each of these applications cited special circumstances relating to gas wholesale and transmission arrangements for the winter of 2008.

After reviewing these applications, IPART approved regulated retail gas price increases from 1 April 2008 of:

- 5.24% for AGL and
- 5.8% and 6.1% for ActewAGL customers in the Capital Region and Queanbeyan respectively,

and from 1 June 2008 of:

- 12.2% for Country Energy.

The special circumstance decision did not apply to ActewAGL's Shoalhaven customers or Origin Energy's customers on regulated tariffs. These increases replaced the CPI increase that would have otherwise occurred on 1 July 2008 for these 3 retailers.[a]

a See http://www.ipart.nsw.gov.au/investigations.asp?industry=1&sector=1&show=com

For the 2010-2013 regulatory period, each of the Standard Retailers has proposed retaining the special circumstances clause of the existing VTPA. We considered this proposal. We also considered whether the Standard Retailers should be the only parties that can a trigger special circumstances review, how IPART should conduct such a review, and whether there should be a materiality threshold on the cost impact of the event before a review can be triggered.

4.4.1 Retention of the existing 'special circumstances' clause

We consider that the existing special circumstances clause in the current VTPAs should be retained, as it provides a mechanism for dealing with risks and uncertainties not addressed elsewhere. There is the possibility that material, unforseen or unanticipated changes in costs may occur due to events that are unable to be predicted, planned for, or reasonably insured against.

4.4.2 Should the Standard Retailers be the only parties able to trigger a special circumstances review?

Given the light-handed form of regulation and the views of stakeholders, we consider that that Standard Retailers should be the only parties able to trigger a special circumstances review.

In reaching this view, we considered submissions to this review. Among the Standard Retailers:

- AGL and ActewAGL argued that the retailer should be the only party able to trigger a special circumstances review.[74]
- Country Energy suggested it could be either the retailer or IPART, as both are parties to the VTPA.[75]
- Origin Energy put the view that while other industry participants having the ability to trigger a price review has some merit, it could not see how this could be made feasible in practice, because of the nature of the VTPAs.[76]

Among other retailers EnergyAustralia contended that only the Standard Retailers should be able to trigger a special circumstances review; TRUenergy argued that 2nd tier retailers should also have this option.[77]

4.4.3 How should IPART conduct a special circumstances review?

We do not consider there is a need to modify the current arrangements for conducting a special circumstances review, given the general satisfaction stakeholders expressed with these arrangements. For example, in submissions to the review:

- AGL put the view that the current process is appropriate and does not require modification.[78]
- ActewAGL suggested that the review process could be more standardised through the use of high level guidelines.[79]
- Origin Energy argued against increasing the level of detail around the existing process, especially if network charges and carbon costs are passed through to customers.[80]

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74 AGL submission to IPART Issues Paper, Review of regulated retail tariffs and charges for gas 2010 – 2013, December 2009, p 9; ActewAGL Retail submission to the Independent Pricing and Regulatory Tribunal, Review of Regulated retail tariffs and charges for gas 2010- 2013, December 2009, p 9.

75 Country Energy submission to IPART Review of regulated retail tariffs and charges for gas 2010-2013, December 2009, p 6.

76 Origin Energy submission to the Independent Pricing and Regulatory Tribunal on the Review of regulated gas retail tariffs and charges from 2010 to 2013, December 2009, p 6.

77 EnergyAustralia Retail, Response to IPART's Issues Paper: Review of regulated retail tariffs and charges for gas 2010 – 2013, December 2009, p 11; TRUenergy, Response to Review of regulated retail tariffs and charges for gas 2010 – 2013 – Issues Paper, December 2009, p 3.

78 AGL submission to IPART Issues Paper, Review of regulated retail tariffs and charges for gas 2010 – 2013, December 2009, p 10.

79 ActewAGL Retail submission to the Independent Pricing and Regulatory Tribunal, Review of Regulated retail tariffs and charges for gas 2010- 2013, December 2009, p 10.

80 Origin Energy submission to the Independent Pricing and Regulatory Tribunal on the Review of regulated gas retail tariffs and charges from 2010 to 2013, December 2009, p 6.

- Country Energy suggested that special circumstances should be assessed against the objectives of the Gas Supply Act and the criteria of this review.[81]
- EnergyAustralia noted that the special circumstances review process should be consistent for all of the Standard Retailers and, where feasible, consistent with the process undertaken in reviewing the prices for the regulatory period.[82]

We note that the special circumstances review process included in the generic VTPA is consistent across all of the Standard Retailers. In addition, we note that any special circumstances review in the 2010-2013 regulatory period would be informed by the current retail price review process. That is, any application for a special circumstances price increase would be assessed against the wholesale gas costs, retail operating costs and retail margin that have implicitly been allowed under the price path contained in the revised VTPAs.

4.4.4 Should there be a materiality threshold?

We do not consider there is a need for a materiality threshold for triggering a special circumstances review. No stakeholder supports this. In addition, all 4 Standard Retailers and EnergyAustralia noted that there is an implicit materiality threshold in the form of the retailer's administrative time and costs in applying for a special circumstances review.[83]

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81 Country Energy submission to IPART Review of regulated retail tariffs and charges for gas 2010-2013, December 2009, p 7.

82 EnergyAustralia Retail, Response to IPART's Issues Paper: Review of regulated retail tariffs and charges for gas 2010 – 2013, December 2009, p 11.

83 See, for example, AGL submission to IPART Issues Paper, Review of regulated retail tariffs and charges for gas 2010 – 2013, December 2009, p 10. ActewAGL Retail submission to the Independent Pricing and Regulatory Tribunal, Review of Regulated retail tariffs and charges for gas 2010- 2013, December 2009, p 10. Origin Energy submission to the Independent Pricing and Regulatory Tribunal on the Review of regulated gas retail tariffs and charges from 2010 to 2013, December 2009, p 6. EnergyAustralia Retail, Response to IPART's Issues Paper: Review of regulated retail tariffs and charges for gas 2010 – 2013, December 2009, p 11.

5 Non tariff fees and charges

Energy retailers levy non-tariff fees and charges (or miscellaneous charges) that are not a routine part of retail supply services. Rather, they arise from particular events associated with the supply of energy to individual customers – for example, as a result of a request from a customer, or when a customer takes (or fails to take) certain actions.

Miscellaneous charges are not consistent across the Standard Retailers, and comprise both retail and network charges. Retail miscellaneous charges are levied by the Standard Retailers. They are set via each retailer's VTPA, which specify the maximum level for each charge. Retail miscellaneous charges include:

- late payment fees
- security deposits
- dishonoured payment fees, and
- account establishment fees.

Network miscellaneous charges are levied by network distribution service providers, but are passed through to the customer by the retailer. They may include special meter reads, network disconnection and reconnection and permanent disconnection. In general, network miscellaneous charges are set in the network service provider's Access Arrangements which are regulated by the AER.

The sections below set out our findings on the Standard Retailers' proposals in relation to late payment fees, administration fees and other retail miscellaneous charges. Consistent with our approach for this review, we considered whether the proposed charges are reasonable and reflect the costs that an efficient and prudent retailer would incur in providing the services to which they relate.

5.1 Overview of findings on non-tariff fees and charges

Our findings are to:

- Agree to each Standard Retailer's proposal to increase the level of its late payment fee, noting that AGL has revised its proposed increase to $11 (from $14) (excl GST) and Origin Energy has maintained its original proposal to increase the late payment fee to $12 (excl GST). Both increases are to take effect from 1 July 2010.

- Consistently define when the late payment fee can be levied as "on issue of the reminder notice" in all 4 VTPAs.
- Expand the definition of the circumstances in which the late payment fee may not be levied to include "when the customer is a hardship customer".
- Accept AGL's, ActewAGL's and Origin Energy's proposal to charge an administration fee when passing through network non-tariff fees and charges, but to cap this fee at $2.50 (excl GST) per service and to allow other standard retailers to charge this fee.
- Agree to each Standard Retailer's proposal to increase other retail miscellaneous fees by the annual change in the CPI (or less).

5.2 Late payment fees

Late payment fees are charged when customers pay their gas bill after the due date. We have considered in detail the level of late payment fee, and the circumstances in which the retailers are entitled and not entitled to levy this fee.

5.2.1 Level of late payment fee

Table 5.1 sets out the current level of each Standard Retailer's late payment fee and its proposed level for 2010/11, and compares these to the late payment fees levied by the electricity Standard Retailers. It shows that currently, the maximum fees the 4 gas Standard Retailers are entitled to charge vary from $7 to $11.50, but the fees they actually charge range from zero to $8.80. Each Standard Retailer proposed to increase its late payment fee, arguing that this fee (and other non-tariff charges) should be cost reflective.

Table 5.1 Current and proposed late payment fees ($nominal, excl GST)

Fee	ActewAGL	AGL Retail	Country Energy	Origin Energy	Electricity
2009/10	Notionally $11.50, but in practice $8.80[a]	$8.30	Notionally $7.00, but not levied	Notionally $9.66, but not levied	$7.00
Proposed 2010/11	$11.71	$11.00[c]	Notionally $7.50 but not levied	$12.00	$7.50[b]
Increase (%)	2%	33%	7.1%	24%	7%
Draft finding	$11.74	Transition to $14.00	$7.50	Transition to $12.00	

[a] We understand ActewAGL has been charging $8.80 rather than the currently allowed fee due to systems issues, however it expects the systems issue to be resolved.

[b] IPART, *Review of regulated retail tariffs and charges for electricity 2010-2013 - Final Report*, March 2010, p 190.

[c] AGL revised its proposed late payment fee increase to $11 in response to our draft report see AGL submission, May 2010, p 2.

Source: Standard Retailers' proposals and correspondence with Standard Retailers.

The proposed new level for the late payment fee varies from $7.50 to $12:

- ActewAGL proposed to increase the late payment fee by the change in CPI in each year of the regulatory period, to maintain it at the current level in real terms. In 2010, this would mean the fee is $11.74 (excl GST).
- Country Energy proposed to increase the fee so it continues to be at the same level as the late payment fee the electricity Standard Retailers can charge under our recent determination on regulated retail electricity tariffs. This means its fee would be a maximum of $7.50 over the life of the new VTPA if it chooses to charge this fee.
- Origin Energy proposed to increase its fee from the current level of $9.66 to $12 in 2010 (which is a 24% increase), and by the change in the CPI in each of the remaining years of the regulatory period. It submitted that the additional costs retailers incur as a result of non-routine services should be fully reflected in miscellaneous charges, rather than recovered through tariffs (ie, as retail operating costs).[84] It also submitted that in other jurisdictions, it currently charges both gas and electricity customers a $12 late payment fee and that, on average, this is less than the costs it incurs per late payment. These costs include labour, reminder notices, third party debt collection, call transfer costs, rental, management overhead allocation, unpaid disconnection fees and cost of capital.[85] In addition, Origin Energy noted that in preparing its cost estimates for this review, it deducted revenue from late payment fees from its retail operating costs to ensure there was no double counting.
- AGL originally proposed to increase its late payment fee from $8.30 to $14 but in response to our draft report revised this to $11 from 1 July 2010, and by the change in the CPI in each remaining year of the regulatory period. It argued that the additional costs retailers incur as a result of late payments should be recovered through cost-reflective late payment fees levied on the customers who have caused those costs to be incurred, not from all customers via tariffs – and pointed out that these fees are completely avoidable. It also noted that it charges a $14 late payment fee to customers on electricity market contracts in NSW and calculates that it incurs more than this in costs on average for each late payment. Costs include reminder and disconnection notices, in bound calls, credit and collection and finance and carrying costs. Like Origin Energy, AGL indicated that it had deducted revenue from non-tariff fees and charges from its retail operating costs so that there was no material double counting.[86]

Several other stakeholders commented on the late payment fee proposals. EnergyAustralia submitted that the current fee levels are insufficient to cover the costs associated with late payments and that the fee should be cost reflective.[87]

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84 Origin Energy submission to IPART Issues Paper, December 2009, p 8.
85 Origin Energy submission to IPART Issues Paper, December 2009, p 9.
86 AGL email to IPART, 19 February 2010.
87 EnergyAustralia submission to IPART Issues Paper, December 2009, p 16.

PIAC submitted that late payment fees should be abolished for customers on standard contracts, and the costs associated with late payment should be counted as retail operating costs and so recovered through tariffs. It argued this was appropriate as standard contracts are a safety net for consumers who cannot benefit from the protections offered by a competitive market.[88] We do not agree with this argument. Late payment fees are a cost to retailers that are incurred only when customers pay their bill late. It is therefore reasonable that the retailers should charge such customers a fee in recognition of the costs incurred except in the cases noted in the VTPA.

The incidence of late payment in gas is considerably higher than electricity. The number of late payment fees is equivalent to 60% to 90% of the number of regulated customers.[89] This suggests that the reasons for late payment for many customers are unlikely to stem from payment difficulties alone but reflect other factors.

EWON submitted that the late payment fee should be set at the same level for electricity and gas customers because, from a customer's perspective, there does not appear to be a valid reason for the difference. In addition, it commented that AGL's proposal to increase the fee from $8.30 to $14 appears excessive.[90] As stated in previous reviews we do not support moves to align the non-tariff fees and charges for gas and electricity.

For AGL and Origin Energy, as each of these retailers proposed large increases in the late payment fee – noting that AGL's was reduced from the original $14 down to $11, we considered whether each had provided sufficient evidence that the proposed fee reflected its efficient costs and whether these costs had already been accounted for in estimating its retail operating costs. We compared the cost information it submitted with that provided by electricity retailers for our retail electricity determination. We also compared the proposed level of the fee with the fees levied on customers on market contracts for gas and electricity in NSW and other jurisdictions.

We found that the retailer's estimate of the cost it incurs per late payment[91] was consistent with the level of late payment fee it proposed, and was broadly in line with the costs provided by electricity retailers for the electricity review (which were equivalent to between $11 and $14.50 per late payment).[92] We also noted that each retailer had indicated that it had ensured that the costs associated with late payment were not included in its estimated retail operating costs, so there was no double counting.

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88 Public Interest Advocacy Centre submission to IPART Issues Paper, December 2009, p 4 and submission on draft report, May 2010, p 1.

89 Information provided by Standard Retailers and IPART calculations.

90 EWON submission to IPART Issues Paper, December 2009, p 6.

91 AGL and Origin provided costs data to IPART in confidence.

92 The Standard electricity retailers' estimates of the cost of each late payment ranged from $13-$14.50. We considered 1 estimate was based on an inappropriately high interest rate and after adjusting for this the costs estimates ranged between $11 and $14.50.

In comparing the proposed fees to those levied on customers on market contracts, we found energy retailers use a variety of approaches in relation to late payments. For example, AGL levies a fee of $14 on customers on electricity market contacts,[93] while Origin Energy levies a fee of $12 on gas and electricity customers in other jurisdictions.[94] In both cases, these fees are the same level as the retailer proposed to levy on gas customers on standard contracts in NSW. However, TRUenergy advertises market contracts with a 3% discount when customers pay bills by the due date, with no late payment fees (or exit fees or security bonds).[95]

In comparing the proposed fee levels with those levied in other jurisdictions, we noted that in Victoria, retailers cannot levy late payment fees on small retail gas or electricity customers.[96] In South Australia, the customer may be required to pay reasonable costs of recovering the amount owed and business customers may be charged interest. The second draft of the National Energy Customer Framework allows retailers to levy a late payment fee but does not indicate the level of this fee.[97] It also requires retailers to waive the late payment fee for small customers who are hardship customers.

Both Country Energy and ActewAGL proposed no real increase in the maximum allowable fee, and we found this to be reasonable. However, we note that Country Energy currently does not levy a late payment fee, and ActewAGL currently charges below the maximum fee. Therefore, if either retailer moved to charge the maximum allowable fee, customers would experience a large increase.

On balance, we concluded that the level of late payment fee proposed by each of the retailers was reasonable. In making this judgement we considered the costs involved in charging a late payment fee, and the fees charged by other gas and electricity retailers.

In our draft report we requested that both Origin Energy and AGL consider revised proposals that implemented the increase of their late payment fees gradually over the 3-year regulatory period. In response to the draft report AGL has revised its late payment fee to $11. Origin Energy has maintained its proposed increase to $12,[98] noting that it has operational limitations which make transitioning impractical. It has included operating cost savings on the basis that the fee is implemented. We have considered Origin Energy's submission and consider that its proposal is reasonable.

93 AGL submission to IPART Issues Paper, 18 December 2009, p 13.

94 Origin Energy submission to IPART Issues Paper, December 2009, p 9.

95 TRUenergy website 12 February 2010 http://www.truenergy.com.au/Residential/TRUenergyPackages.xhtml

96 In Victoria, the *Gas Industry Act 2001* prohibits the energy retailers from charging small retail customers late fees, although the Energy Retail Code makes provision for a 'fair and reasonable' late fee to be charged.

97 Ministerial Council on Energy standing Committee of Officials, Second Exposure draft National Energy Customer Framework, November 2009.

98 Origin Energy submission, May 2010, p 2.

5.2.2 When the late payment fee can be levied

Under the current VTPAs, the definition of when the Standard Retailers can levy a late payment fee varies, reflecting each retailer's historic practices. AGL can levy a late payment fee when the reminder notice is issued. ActewAGL and Origin Energy can levy a late payment fee on issue of a disconnection notice. Country Energy can levy a late payment fee 5 business days after the bill is due (unless the bill is paid, or alternative payment arrangements entered into and the customer has been notified in advance of this).

We consider that the VTPAs should include a consistent definition of when the retailers can levy the late payment fee, to improve clarity and transparency. We consider that this definition should be that the late payment fee can be levied "on issue of the reminder notice", consistent with AGL's current practice. We note that this may increase the incidence of late payment fees issued by ActewAGL and Origin Energy.

An individual stakeholder submission suggested that the definition of when a late payment fee is applied should be amended to the following: "on issue of the reminder notice, **but no earlier than 5 business days**" (addition in bold text).[99] Our view is that this suggested change is overly prescriptive and inconsistent with the form of regulation. A decision on the timing of when retailers submit reminder notices and therefore impose a late payment fee is a business decision better left to them.

5.2.3 Circumstances in which a late payment fee may not be levied

Under the current VTPAs, Standard Retailers may *not* levy a late payment fee:

- where payment or part payment is made by an EAPA voucher
- where the customer has contacted the supplier before the due date in relation to a billing complaint and this complaint is unresolved
- during the period of an instalment arrangement entered into between the customer and the supplier to pay the gas retail bill.

All 4 Standard Retailers proposed or have agreed to include these exclusions in their new VTPAs.

[99] Keith Bengston submission, April 2010, p. 1.

We considered whether these circumstances should be expanded. We found that the circumstances should be expanded to include when a customer is a hardship customer. We note that a new regulation on customer hardship came into effect on 1 March 2010. This regulation requires NSW gas retailers to develop and publish customer hardship charters for residential customers.[100] The regulation was developed to be consistent with the draft National Customer Energy Framework (NECF), which requires retailers to develop a customer hardship policy and submit it to the AER for approval. We also note that the draft NECF requires that late payment fees not be levied where the customer is a hardship customer (although this is not a requirement of the new NSW regulation).

To be consistent with the NECF draft framework, and in view of the customer impacts of increases in the late payment fees, we have added "where the customer is a hardship customer" to the list of circumstances in the VTPAs where the late payment fee may not be levied. We consider that this will mitigate the extent to which the increase in the late payment fee will impact on more vulnerable customers.

EWON submitted that the circumstances in which late payment fees can be levied should be the same as those specified in our recent determination on retail electricity tariffs. In particular an additional exception should be added along the following lines: "on a case by case basis as the Ombudsman considers appropriate".[101] In response to EWON's suggestion, AGL stated that it considers that such a move would extend EWON's mandate in a way that is incompatible with its role and purpose as the independent dispute resolution body.[102] As stated above we do not support moves to align the non-tariff fees and charges for electricity, including the list of exemptions.

EWON also had some concerns with the definition of hardship customer that was included in the generic VTPA. It wanted a hardship customer to be defined as being any customer experiencing payment difficulties who self-identifies or is identified by the retailer or an advocate such as a community worker.[103] PIAC argued that the exemptions should be expanded to include Commonwealth Health Care Card Holders.[104] We considered both these suggestions but believe both suffer from practical limitations. For example, a retailer won't know when a customer is the recipient of Commonwealth Health Card. We believe it is more appropriate to define a hardship customer consistent with the hardship charter policies required as part of the retailers' licensing obligations. We consider that this exemption is a straight forward way to identify genuine hardship customers.

100 The *Gas Supply (Natural Gas Retail Competition) Amendment (Customer Hardship) Regulation*, 2010.
101 EWON submission, May 2010, p 3.
102 AGL submission, May 2010, p 2.
103 EWON submission, May 2010, p 3.
104 PIAC submission, May 2010, p 2.

5.3 Administration charge on network non-tariff fees and charges

As noted above, networks levy non-tariff fees and charges for certain services. Typically, network non-tariff fees and charges include special meter readings, meter testing and disconnection/reconnection of gas supply. The fees differ across networks.

The gas retailers are the interface between the gas networks and the customer. Retailers state that they incur costs taking calls, requesting the network service, advising customers of costs, processing orders, including fees on customer accounts and collecting the revenue. To recover these costs, some of the Standard Retailers proposed to include an administration fee on network non-tariff fees and charges in their new VTPAs.

Origin Energy originally proposed adding an administration charge of 5% or a maximum fee of $20 (excl GST). However, it revised this proposal, and now proposes to add a flat $2.50 (excl GST) administration charge on to each network non-tariff fee and charge to recover costs of administering these charges. It identified the following costs associated with network non-tariff services: interest (as it pays the network fees in advance of passing them through to the customer); credit risk; and the additional cost of managing the transaction between the customer and distributor.[105] Origin Energy does not currently charge customers on standard contracts an administration fee on network non-tariff fees and charges, but does so on some electricity and gas market contracts.[106]

In our draft decision we requested a new proposal from AGL which limited administration charges on network non-tariff fees and charges to $2.50. AGL has accepted this request.[107] In response to the draft decision, ActewAGL stated that it would apply a $2.50 administration charge.[108]

Country Energy noted that there is a cost associated with passing network fees onto customers but considered these are not significant enough to be included as a separate charge.[109]

PIAC recommended that we reject the proposal to apply a premium stating that it strongly believes such a charge is not reasonable and the administration costs should be considered an operating expense.[110]

Table 5.2 sets out the Standard Retailers current and proposed practices in relation to administration fees on network miscellaneous charges.

105 Origin energy submission on Issues Paper, December 2009, p 9.
106 Email Origin Energy 19 February 2010.
107 AGL submission, May 2010, p 2.
108 ActewAGL submission, May 2010, p 12.
109 Country Energy submission on Issues Paper, December 2009, p 10.
110 PIAC submission on Issues Paper, December 2009, p 4.

Table 5.2 Current and proposed administration fee on network miscellaneous charges (excl GST)

Fee	ActewAGL	AGL Retail	Country Energy	Origin Energy
Current in 2009/10	Surcharge in some instances, under recovery in others	Surcharge in some instances	No surcharge	No surcharge
Proposed for 2010/11	$2.50	$2.50	No surcharge	$2.50
Difference	Reduction for some increase for others	Reduction for some increase for others	-	$2.50

Source: Correspondence with Standard Retailers.

We agree that passing through network miscellaneous charges is likely to impose a small administrative cost on retailers, and that it is reasonable for them to recover this from the customers concerned. We also consider that there should be transparency about the charges and any administration fee added by the Standard Retailers. On balance, we consider that a fee up to $2.50 (excl GST) (adjusted annually by the change in CPI) appears to be reasonable to allow the Standard Retailers to recover the administration costs involved. This is based on Origin Energy's proposal.

5.4 Other miscellaneous charges

Most Standard Retailers charge other non-tariff fees – such as a fee to establish an account and for dishonoured payments – and may require new customers to provide a security deposit. The security deposit is returned after the customer has paid bills on time for an agreed period.

In addition, some Standard Retailers charge miscellaneous fees in relation to disconnection or potential disconnection. For example, these may include collector call fees (where the premises are visited to disconnect supply but the customer agrees to make a payment), high bill field visit fees and disconnection fees. However, in some cases, this type of miscellaneous fee is levied by the network service provider - see Appendix F for a complete list of retail non-tariff fees and the main network non-tariff fees for each Standard Retailer. To improve clarity and transparency we think the Standard Retailers should provide this information on their websites.

In relation to increasing these other miscellaneous fees, Country Energy proposed no changes to its level of security deposit and dishonoured cheque fee, continuing to align these with our recent determination on regulated retail electricity tariffs. The other Standard Retailers proposed to increase the fees by the change in the CPI or less, and to leave security deposits at the same level. AGL also proposed to discontinue charging pensioners an account establishment fee. We consider that it is reasonable for the retailers to maintain the real level of existing fees and charges, and therefore we agree to these proposals.

We note that AGL and Origin Energy initially also proposed to introduce a 1% merchant service fee for accounts paid by credit card. We have advised the Standard Retailers that applying a merchant service fee is inconsistent with the *Gas Supply (Natural Gas Retail Competition) Regulations 2001*. In light of this, AGL and Origin Energy have withdrawn their proposals to impose a merchant service fee.

6 Impact of the decision on small customers

One of the main purposes for regulating gas supply under the *Gas Supply Act 1996* is to protect the interests of customers.[111] Therefore as part of our final decisions on the proposed VTPAs, we examined their likely impact on customers.

The section below provides an overview of the high-level impacts of our final decisions on the proposed VTPAs.[112] The subsequent sections look more closely at gas usage and consumption patterns in NSW and the impacts of the final decisions on customers with different levels of consumption.

Much of our analysis has been informed by our period surveys of household water, electricity and gas consumption. Our most recent surveys were conducted in the Sydney, Illawarra and Blue Mountains area (2006) and in the Hunter, Gosford and Wyong area (2008).[113]

6.1 Overview of impacts

As noted in Chapter 1, a typical gas customer's bill is made up of both retail and network components, with both contributing around 50% to the total bill. We do not regulate the network component of retail gas tariffs. This component is either regulated by the AER or is unregulated.

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111 *Gas Supply Act 1996*, s 3(1)(b).

112 We have not agreed to ActewAGL's proposed VTPA. Our analysis of ActewAGL is based on IPART's cost analysis.

113 IPART, *Residential energy and water use in Sydney, the Blue Mountains and Illawarra*, November 2007, http://www.ipart.nsw.gov.au/investigation_content.asp?industry=6&sector=17&inquiry=105, IPART, *Residential energy and water use in the Hunter, Gosford and Wyong*, December 2008, http://www.ipart.nsw.gov.au/investigation_content.asp?industry=6&sector=17&inquiry=146.

As we note in Chapter 1, the increase in network charges is the primary driver of increased retail gas prices over the regulatory period. The AER has approved significant increases in network charges which affect AGL, ActewAGL and Country Energy.[114] Origin Energy's network increases are more modest. The AER has allowed these network increases to accommodate system growth and maintenance, and increased operating costs.

The analysis below is presented in nominal terms; that is it includes our estimate of increases in CPI: 2.1% in 2010/11 and 2.7% in the remaining 2 years.[115]

Our final decision sets the price path for retail component of tariffs. For most Standard Retailers, our final decisions mean that they will be allowed to increase the retail component of their regulated retail tariffs, on average, by the change in the CPI in each year of the regulatory period. However, because network charges are increasing under the AER's final decisions, total gas bills for AGL, ActewAGL and Country Energy customers will increase by more than CPI. Origin Energy's customers face more substantial increases as a result of previous network increases which have not been passed onto customers meaning that tariffs must now increase to a cost reflective level.

Between 2010/11 and 2012/13, the our final decisions will result in cumulative total increases in the Standard Retailers' average regulated retail gas tariffs (including inflation) as follows:

- AGL by 13%
- Country Energy by 17%
- Origin Energy by 16%
- ActewAGL by 10%.

We note that around 93% of all customers are in the AGL Standard Supply area.

114 The access arrangement decision made by the AER in respect of ActewAGL's gas distribution network is the subject of an application for review by the Australian Competition Tribunal. ActewAGL has sought review of the decision made by the AER in respect of the methodology and calculation of the debt risk premium. See: http://www.aer.gov.au/content/index.phtml/itemId/737057

115 CPI for 2010/11 is calculated as CPI all groups, capital cities, December Quarter 2008 divided by December Quarter 2009. The 2011/12 and 2012/13 estimates are based on inflation indexed swaps as at 8 February 2010.

Table 6.1 shows the annual increases in each Standard Retailer's average regulated tariffs under our decisions, and compares these to historical annual increases in average regulated tariffs.

Table 6.1 Increases in average regulated retail tariffs (R+N) (% including inflation)

	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	Cumulative [a]
AGL	2.40	2.40	2.80	4.00	5.20	4.40	5.20	3.50	3.50	38.8
Country Energy	2.60	4.20	2.70	4.20	12.20	0.00	8.20	4.10	4.10	50.5
Origin Energy	3.10	3.10	3.50	3.80	2.60	4.60	7.80	4.10	3.20	41.9
ActewAGL	2.10	2.30	2.80	4.00	5.30	4.40	3.10	3.40	3.40	35.3
CPI[b]	2.40	2.40	2.80	3.50	2.30	4.40	2.10	2.70	2.70	28.6

a Cumulative calculation is from 2004/05-2012/13.

b March year on year CPI index for 2004/05 to 2009/10, December on December quarter CPI for 2010/11, 2011/12 and 2012/13 CPI numbers are IPART's estimates based on inflation indexed swaps.

Note: The nominal increases for 2010/11 to 2012/13 depend on actual rate of inflation and increases in network charges.

Table 6.1 shows that on 1 July 2010, prices are likely to increase by between 3.1% (ActewAGL) and 8.2% (Country Energy). As mentioned previously, the larger increases for Country Energy is driven by their higher network costs. The average annual increases in regulated gas prices for all the retailers will be similar in 2011/12 and 2012/13.

It is important to note that Table 6.1 shows the average increase in prices. This means that some customers will face higher increases than shown in the table. In particular, AGL's low consumption residential customers will experience higher than average bill increases as a result of AGL's proposal to restructure its tariffs to make them more cost reflective (see section 6.3.1 below).

We note that gas bills typically account for a small percentage of household expenditure. For example, a typical NSW residential gas customer of AGL currently spends around $12 per week on gas. By the end of the regulatory period, this is likely to increase by about $1.45 to around $13.45.[116]

[116] Based on 23 GJ of consumption on the AGL residential tariff, including GST.

The actual impact on individual households will depend on their current consumption level, which is primarily driven by the number of gas appliances contained in a household. Our analysis also suggests that consumption is highly correlated with income levels. We also note that the average level of gas consumption per customer in NSW is declining.[117] However this is mainly the result of lower levels of consumption for new customers, rather than a decline in consumption for existing customers.[118]

6.2 Gas usage in NSW

6.2.1 Who is connected to gas?

Across NSW, there are around 1 million households connected to gas in NSW, which is around one third of all households. The results of our household surveys show that 49% of respondents in the greater Sydney region and 29% of respondents in the Hunter, Wyong and Gosford regions were connected to gas.[119]

The Hunter, Wyong and Gosford survey found that on average, households connected to gas have higher incomes, a higher number of occupants per household and are more likely to live in a freestanding house compared to households that are not connected to gas. This is consistent with the results of the Sydney Households survey which found that 42% of low income households are connected to gas, compared to 68% of high income households.[120]

117 ACIL Tasman, *Review of Demand Forecasts for Jemena Gas Networks NSW,* 2 February 2010, p 5, http://www.aer.gov.au/content/item.phtml?itemId=734055&nodeId=adb7af5e32d94075682f190a7c82583f&fn=ACIL%20Tasman%20-%20Demand%20forecasts%20report.pdf.

118 ACIL Tasman, *Review of Demand Forecasts for Jemena Gas Networks NSW,* 2 February 2010, p 11, http://www.aer.gov.au/content/item.phtml?itemId=734055&nodeId=adb7af5e32d94075682f190a7c82583f&fn=ACIL%20Tasman%20-%20Demand%20forecasts%20report.pdf.

119 IPART, *Residential energy and water use in the Hunter, Gosford and Wyong,* December 2008, p 35, http://www.ipart.nsw.gov.au/investigation_content.asp?industry=6&sector=17&inquiry=146.

120 Low income households are households that earn less than $37,370 ($2009/10). High income are households that earn more than $117,050 ($09/10). IPART, *Residential energy and water use in Sydney, the Blue Mountains and Illawarra,* November 2007, p 50, http://www.ipart.nsw.gov.au/investigation_content.asp?industry=6&sector=17&inquiry=105, IPART, *Residential energy and water use in the Hunter, Gosford and Wyong,* December 2008, p 36, http://www.ipart.nsw.gov.au/investigation_content.asp?industry=6&sector=17&inquiry=146.

There has been a steady growth in the number of new gas connections in AGL's standard retail area (which contains 93% of all connections) between 2001 and 2009. During this time the number of gas customers grew by 3.1% per year.[121] Gas penetration in NSW is likely to continue for a number of reasons:

- Conventional electric water heating systems will be banned in all new and existing homes in gas reticulated areas from 2010 and established homes in non-gas reticulated areas from 2013. It is estimated that around 43% of existing electric hot water heaters when replaced will be replaced by a gas hot water system (compared to 49.5% of replacements for solar electric or heat pumps).[122]
- As gas interconnection improves through NSW, some regions will be able to access gas for the first time. Most recently, Country Energy's gas reticulation area was expanded to the Central Ranges. The uptake of gas in these areas is likely to increase throughout the regulatory period.

6.2.2 What do households use gas for?

Gas is usually used for 3 distinct purposes in a residential household – cooking, water heating and space heating. The Sydney household survey found that 85% of customers use gas for at least 2 of these purposes, and the 34% of households connected to gas use it for all 3 purposes.[123] In particular, of customers connected to mains gas:

- 87% use gas for cooking
- 71% use gas for hot water
- 61% use gas for space heating.[124]

The different combinations of gas usage mean that the level of gas consumption varies amongst households. Figure 6.1 shows that a customer that uses gas for cooking only consumes around 8 GJ, while a customer using gas for all 3 purposes will have an annual gas bill of around 29 GJ.[125]

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121 ACIL Tasman, *Review of Demand Forecasts for Jemena Gas Networks NSW*, 2 February 2010, p 4 http://www.aer.gov.au/content/item.phtml?itemId=734055&nodeId=adb7af5e32d94075682f190a7c82583f&fn=ACIL%20Tasman%20-%20Demand%20forecasts%20report.pdf.

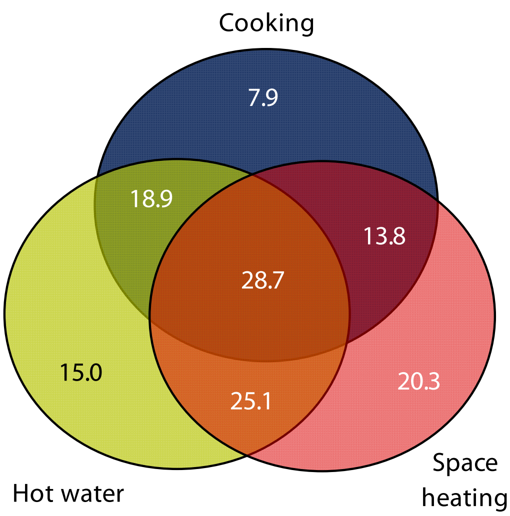
122 ACIL Tasman, *Review of Demand Forecasts for Jemena Gas Networks NSW*, 2 February 2010, p 30, http://www.aer.gov.au/content/item.phtml?itemId=734055&nodeId=adb7af5e32d94075682f190a7c82583f&fn=ACIL%20Tasman%20-%20Demand%20forecasts%20report.pdf.

123 IPART, *Residential energy and water use in the Hunter, Gosford and Wyong*, December 2008, p 35, http://www.ipart.nsw.gov.au/investigation_content.asp?industry=6&sector=17&inquiry=146.

124 IPART, *Residential energy and water use in the Hunter, Gosford and Wyong*, December 2008, p 38, http://www.ipart.nsw.gov.au/investigation_content.asp?industry=6&sector=17&inquiry=146.

125 IPART, *Residential energy and water use in the Hunter, Gosford and Wyong*, December 2008, p 42, http://www.ipart.nsw.gov.au/investigation_content.asp?industry=6&sector=17&inquiry=146.

Figure 6.1 Average gas consumption of gas customers using gas for cooking, water heating and space heating 2006 (GJ)



Data source: IPART, *Residential energy and water use in the Hunter, Gosford and Wyong*, December 2008, p 42, http://www.ipart.nsw.gov.au/investigation_content.asp?industry=6&sector=17&inquiry=146.

6.3 Impact of the final decision on customer bills

As noted in section 6.1 our final decision sets the price path for the retail component of tariffs. For most Standard Retailers, our final decisions mean that they will be allowed to increase the retail component of their regulated retail tariffs, on average, by the change in the CPI in each year of the regulatory period. The network component as determined by the AER (or in limited cases unregulated) is passed on in full under our final decision. For all retailers except Origin Energy the increase in network charges is substantial and this means that the increase in the total customer bill is considerably more than CPI.

Although it is not possible to forecast precisely how our final decision will affect regulated tariffs, we have attempted to indicate the likely impact on typical customer bills. Tables 6.2 to 6.5 summarise the impacts on residential bills for 3 different consumption levels:

- low consumption, eg, cooking only
- medium consumption, eg, cooking and hot water
- high consumption, eg, cooking, hot water and space heating.

We have also considered the bill for a typical business customer using 184 GJ of gas per year and large business customer consuming 1000 GJ of gas per year.

The analysis uses each of the Standard Retailers' most common tariffs to show the impact of our final decision impacts on customer bills.[126] However, the vast majority of customers in NSW are located in the AGL standard retail area.

For each user type, Tables 6.2 to 6.5 show the total annual bill for 2009/10 and for the next 3 years. These amounts are expressed in nominal terms, based on current forecast inflation.[127] However, we stress that these results are indicative only – customers' actual bills may differ depending on a range of factors, including the level and structure of the regulated tariff they are supplied on and the actual rate of inflation.

Also, Tables 6.2 to 6.5 assume constant consumption throughout the regulatory period. However, average consumption per customer is likely to decline slightly in the context of government policies that support improved energy efficiency, reduced hot water consumption, and increased use of renewable sources such as solar electric. In addition, the increasing take up of reverse cycle air conditioning is likely to replace some existing space heaters.[128]

Table 6.2 AGL – Indicative increases in annual bills for typical customers under our final decision ($/customer, including inflation, incl GST)

Description	2009/10 bill ($)	2010/11 bill ($)	2011/12 bill ($)	2012/13 bill ($)	Increase 2009/10–2010/11	Increase 2010/11-2011/12	Increase 2011/12–2012/13
Residential							
Low usage (10 GJ per year)	379	404	419	434	$26	$14	$15
% change					6.8%	3.6%	3.6%
Medium Usage (23 GJ per year)	618	651	675	699	$33	$23	$24
% change					5.4%	3.6%	3.6%
High Usage (30 GJ per year)	739	782	810	839	$43	$28	$29
% change					5.8%	3.6%	3.6%
Business							
184 GJ per year	3,460	3,540	3,662	3,789	$81	$122	$126
% change					2.3%	3.4%	3.5%
1000 GJ per year	17,062	17,640	18,246	18,874	578	605	628
% change					3.4%	3.4%	3.4%

Note: Bills include GST. Assumed inflation is 2.1%, 2.7% and 2.7% for 2010/11, 2011/12, 2012/13. The bills are typical for AGL residential customers on the Residential AGL natural gas price plan. Non-residential customers are on the Business AGL standard. Figures may not add due to rounding.

126 Some customers may be on other tariffs, depending on where they are located.

127 Forecast inflation is 2.1%, 2.7% and 2.7% for 2010/11, 2011/12, 2012/13, respectively.

128 ACIL Tasman, *Review of Demand Forecasts for Jemena Gas Networks NSW,* 2 February 2010, p 31, http://www.aer.gov.au/content/item.phtml?itemId=734055&nodeId=adb7af5e32d94075682f190a7c82583f&fn=ACIL%20Tasman%20-%20Demand%20forecasts%20report.pdf.

Table 6.3 Country Energy – Indicative increases in annual bills for typical customers under our final decision ($/customer, including inflation, incl GST)

Description	2009/10 bill	2010/11 bill	2011/12 bill	2012/13 bill	Increase 2009/10–2010/11	Increase 2010/11-2011/12	Increase 2011/12–2012/13
Residential							
Low usage (10 GJ per year)	384	409	427	445	$25	$18	$19
% change					6.4%	4.4%	4.4%
Medium Usage (23 GJ per year)	571	619	645	672	$48	$26	$27
% change					8.4%	4.2%	4.2%
High Usage (30 GJ per year)	672	733	763	794	$61	$30	$31
% change					9.0%	4.1%	4.1%
Business							
184 GJ per year	2,223	2,410	2,496	2,586	$187	$86	$90
% change					8.4%	3.6%	3.6%
1000 GJ per year	11,199	12,124	12,528	12,947	$925	$404	$419
% change					8.3%	3.3%	3.3%

Note: Bills include GST. Assumed inflation is 2.1%, 2.7% and 2.7% for 2010/11, 2011/12, 2012/13. The bills are typical for Country Energy residential customers on the 5300 Wagga Wagga & Uranquinty Gas Residential General tariff. Non-residential customers are on the 5302 Wagga Wagga & Uranquinty Gas Commercial tariff. Figures may not add due to rounding.

Table 6.4 Origin Energy – Indicative increases in annual bills for typical customers under our final decision ($/customer, including inflation, incl GST)

Description	2009/10 bill	2010/11 bill	2011/12 bill	2012/13 bill	Increase 2009/10–2010/11	Increase 2010/11-2011/12	Increase 2011/12–2012/13
Residential							
Low usage (10 GJ per year)	242	274	285	294	$31	$12	$9
% change					12.9%	4.2%	3.2%
Medium Usage (23 GJ per year)	380	429	447	462	$49	$18	$14
% change					12.9%	4.2%	3.2%
High Usage (30 GJ per year)	470	526	548	566	$56	$22	$18
% change					11.9%	4.2%	3.2%
Business							
184 GJ per year	3,048	3,181	3,283	3,389	$133	$102	$106
% change					4.4%	3.2%	3.2%
1000 GJ per year	15,625	16,309	16,833	17,374	$684	$524	$541
% change					4.4%	3.2%	3.2%

Note: Bills include GST. Assumed inflation is 2.1%, 2.7% and 2.7% for 2010/11, 2011/12, 2012/13. The bills are typical for Origin Energy residential customers on the 03 Domestic General tariff for Albury. Non-residential customers are on the M6/M8 Commercial tariff for Murray Valley towns. Figures may not add due to rounding.

Table 6.5 ActewAGL – Indicative increases in annual bills for typical customers under our final decision ($/customer, including inflation, incl GST)

Description	2009/10 bill	2010/11 bill	2011/12 bill	2012/13 bill	Increase 2009/10–2010/11	Increase 2010/11-2011/12	Increase 2011/12–2012/13
Residential							
Low usage (10 GJ per year)	352	369	381	394	$17	$12	$13
% change					4.9%	3.4%	3.4%
Medium Usage (23 GJ per year)	583	608	628	649	$25	$20	$21
% change					4.3%	3.3%	3.3%
High Usage (30 GJ per year)	708	737	761	786	$29	$24	$25
% change					4.1%	3.3%	3.3%
Business							
184 GJ per year	3,326	3,388	3,500	3,616	$62	$112	$117
% change					1.9%	3.3%	3.3%
1000 GJ per year	16,442	16,772	17,319	17,890	$331	$547	$571
% change					2.0%	3.3%	3.3%

Note: Bills include GST. Assumed inflation is 2.1%, 2.7% and 2.7% for 2010/11, 2011/12, 2012/13. The bills are typical for ActewAGL residential customers on the Queanbeyan Always Home@ActewAGL plan and Saver plan. Non-residential customers are on the Queanbeyan Industrial and Commercial tariff. Figures may not add due to rounding.

6.3.1 Retail tariff restructuring

As noted previously, 3 of the 4 Standard Retailers are proposing a degree of tariff restructuring as part of the 1 July 2010 price changes. This is discussed below.

AGL

Table 6.2 shows that AGL's residential customers will face price increases that are slightly higher than AGL's average price increase. This is because AGL has proposed to increase the fixed charge that applies to residential customers by more than the WAPC in the VTPA from 1 July 2010. This will lead to a nominal increase in the fixed charge for residential customers of around 8%.

Table 6.2 also shows that AGL's residential customers with low levels of consumption will face higher percentage increases than customers with higher levels of consumption. This partly reflects the higher fixed charge, which will make up a higher proportion of the bill for a customer that uses small amounts of gas. In addition, AGL has proposed to restructure its consumption tariffs to mirror the network charges. Currently there are only 2 declining block tariffs. In line with the network charges, AGL will create 6 tariff "blocks" with the highest unit tariffs applying to the customers with lowest annual usage and visa versa. This structure reflects the fact that there are significant fixed and semi-variable costs involved in providing services to each customer.

In its submission on the draft report EWON was critical of AGL's proposed tariff restructuring. They argued that it would result in smaller use residential customers paying a higher share of the tariff increase while business customers would receive a small real decrease in their tariffs.[129]

In response to our request, AGL has submitted cost information which explains how the increase in its fixed charge for residential customers will increase the cost reflectivity of its tariffs. For residential customers, we have estimated that the revenue AGL received from the fixed supply fee in 2009/10 was less than its fixed costs. Therefore we are satisfied that an increase in the fixed charge for residential customers is reasonable. This is consistent with the form of regulation which allows the retailers the scope to restructure individual tariffs within the overall weighted average price cap.

With regard to EWON's concerns on the customer impacts we note:

- AGL's commitment to limit the impact on any customer to CPI+5%[130]
- Our own analysis which shows that the impact on customers is modest – a small use residential customer will pay around an extra 20 cents a week as a result of the tariff restructuring.

Therefore we consider AGL's tariff rebalancing to be reasonable.

Origin and ActewAGL

Table 6.4 shows that Origin's residential customers in Albury will face price increases that are higher than the average price increase. As mentioned previously, for Origin Energy's customers in the Albury region, the network component of the customer's bill has increased substantially over the current regulatory period but current tariffs do not reflect these increases. Therefore, tariffs need to increase to restore them to cost-reflective levels over the 2010-2013 regulatory period. In addition, Origin is proposing some restructuring between residential and business customers and between fixed and variable charges, to move fixed charges towards cost reflective levels.

129 EWON submission, May 2010, pp 1-2.

130 Statement by AGL at IPART's public forum 30 April 2010 – see transcript p 10 http://www.ipart.nsw.gov.au/files/Transcript%20-%20Review%20of%20regulated%20gas%20retail%20tariffs%20and%20charges%202010%20to%202013%20-%20Public%20Forum%20-%20Friday%2030%20April%202010%20-%20Website%20document.PDF

Similarly for ActewAGL, Table 6.5 also shows that ActewAGL's residential customers will face price increases that are higher than the average price increase initially. This reflects tariff rebalancing that ActewAGL is undertaking to improve the cost reflectivity of individual tariffs and tariff components (ie, fixed and variable charges). ActewAGL has advised that under the proposed rebalancing the change in the retail component for any customer is limited to CPI +/- 5%. We consider that this is reasonable.

Appendices

A Standard Retailers proposed VTPAs

Each of the Standard Retailers has proposed new VTPAs to apply from 1 July 2010 to 30 June 2013. The VTPAs set out how tariffs and non-tariff fees and charges will be set and how they will vary over the period, and how risks and uncertainties will be addressed. The introduction to this report provides a summary of each of the VTPA proposal (see Table 1.4). The sections below provide a fuller overview of the VTPAs.

A.1 Overview of proposed VTPAs

Each of the Standard Retailers has proposed to retain the WAPC form of price control. However, AGL, Country Energy and Origin Energy have proposed that this price cap apply only to the retail component of regulated tariffs ('R'),[131] and that their actual network costs ('N') be automatically passed through to customers. Originally ActewAGL proposed that the VTPA retain the WAPC for the bundled tariff, it has amended its proposal to be consistent with the other retailers. However, it also proposes to pass through its network costs in full as part of its adjustment cost mechanism.

A.1.1 AGL

AGL is the Standard Retailer for the Sydney, Hunter, Illawarra and Central Coast regions of NSW. Currently, AGL charges regulated tariffs to residential and small business customers throughout this area who have not opted to sign a market contract. Both tariffs comprise a fixed charge and a usage rate (applied to the amount of gas consumed). The usage rate declines when a certain level of consumption per day is reached, ie, there are 2 usage rates – 1 for consumption of less than a specified daily limit and 1 for consumption of more than this amount each day.

Under AGL's proposed VTPA, the retailer would still charge a single regulated tariff for residential and business customers. However, it would restructure these tariffs so that there are 6 usage rates (for different levels of consumption), to reflect the structure of the distribution network charges it expects to incur. But it does not propose to pass on the split between country and coastal network.

131 The retail component consists of wholesale gas commodity and transmission costs, retail operating costs and retail margin.

In addition, in each year of the regulatory period, AGL would increase the retail component of this tariff subject to a WAPC equal to the change in the CPI over the previous calendar year. It would also be able to automatically pass through the regulated distribution network charges it incurs, and any costs associated with the CPRS. The proposed VTPA also retains the current special circumstances clause to address other unforseen cost changes.

A.1.2 Country Energy

Country Energy's area of operations currently covers the Country Energy Natural Gas Networks area[132] and has recently been expanded to include the Tamworth Natural Gas Network area. Country Energy has 5 sets of location-specific regulated tariffs.[133] Each location has individual tariffs for residential and non-residential customers, and some include "economy" or hot water tariffs. The residential tariffs comprise a fixed charge and a single usage charge. The non-residential tariffs comprise a fixed charge and up to 3 usage charges, that decline as specified daily consumption thresholds are reached.

Under Country Energy's proposed VTPA, in each year of the regulatory period, it would increase the retail component of these tariffs subject to a WAPC equal to the change in the CPI in the previous calendar year. It would also be able to automatically pass through the regulated distribution network charges it incurs, and any costs associated with the CPRS. In addition, the proposed VTPA retains a special circumstances clause to address unforseen cost changes.

A.1.3 Origin Energy

Origin Energy's area of operations covers Albury/Moama and the NSW Murray Valley districts. Origin Energy has 2 sets of location-specific regulated tariffs and each location has separate tariffs for residential and non-residential customers.[134] Both residential and non-residential tariffs applying in the Albury distribution area comprise a fixed charge, and up to 3 usage charges that decline as daily consumption increases. Residential customers may also take supply on off-peak and hot water tariffs. All tariffs in the Murray Valley distribution area comprise a fixed charge and a single usage charge.

132 The Country Energy Natural Gas Networks area is made up of the Wagga Wagga gas network and the networks in the Monaro, Riverina and Tumut Valley towns.

133 There are no regulated retail tariffs in Tamworth as Country Energy has only recently become the Standard Retailer in that area. All Country Energy's customers in Tamworth are currently on negotiated contracts but as part of the VTPA it will be required to implement regulated tariffs for the Tamworth area.

134 Non-residential tariffs are further differentiated by meter size.

Under Origin Energy's proposed VTPA, it would increase the retail component of tariffs subject to a WAPC equal to the change in the:

- CPI +10% for customers in the Albury district from 1 July 2010
- CPI +1% for customers in the Albury district from 1 July 2011 to 30 June 2013
- CPI +1% for customers in the Murray Towns district from 1 July 2010 to 30 June 2013.

Origin Energy claims that this increase in the Albury district tariffs is necessary as current tariffs are below the cost of supply. This has resulted from Origin Energy not passing on unexpected increases in its network costs to customers over the current VTPA period.

Origin Energy's proposal would also allow it to automatically pass through the distribution network charges it incurs, and any costs associated with the CPRS. The proposed VTPA also retains the current special circumstances clause to address other unforseen cost changes.

A.1.4 ActewAGL

ActewAGL's area of operations in NSW is adjacent to the ACT. Currently, it has 3 sets of location-specific regulated tariffs.[135] Each tariff includes a fixed charge and variable usage charges. Residential customers either pay a lower fixed charge and a single usage rate, or a higher fixed charge and a usage rate that declines when specified daily consumption levels are reached. The usage rate for all non-residential tariffs declines when particular daily consumption levels are reached.

Unlike the other Standard Retailers, ActewAGL had proposed a WAPC to apply to the bundled tariff (N+R), rather than the retail component of tariffs (R) only. Under ActewAGL's pricing proposal, it would increase its regulated retail tariffs by CPI+1.5% in 2010/11, and a WAPC of CPI only in 2011/12 and 2012/13 (assuming network costs (N) increased by CPI). This pricing proposal translated into a WAPC for R of 2.5% in 2010/11, with no real increase in R for the remaining 2 years. ActewAGL subsequently revised its pricing proposal to an annual increase of CPI-0.3% in the R component in its submission on the draft report.[136] After further discussions with IPART, ActewAGL revised its position and will now accept the price path set out in our draft decision which increases the R component by CPI-1% annually.[137]

135 For Queanbeyan and Bungendore, the Capital region (Boorowa, Goulburn, Yass and Young) and Shoalhaven respectively.

136 ActewAGL submission, May 2010, p. 15.

137 Letter from ActewAGL, 4 June 2010.

ActewAGL has proposed an annual adjustment mechanism that would enable it to automatically pass through the actual regulated distribution network charges it incurs, any costs associated with national climate change measures and any externally determined fees and charges. ActewAGL also proposes to retain the current special circumstances clause to address other unforseen cost changes.

B Our assessment criteria for the review

IPART's regulation of retail gas tariffs should:

1. Protect small retail customers by:
   a) resulting in regulated prices that recover the efficient costs of supplying gas to small retail customers, and
   b) facilitating the development of effective retail competition.
2. Be consistent with the aim of promoting the efficient, safe and reliable supply and use of gas.
3. Be consistent with the aim of reducing customers' reliance on regulated retail tariffs.
4. Be consistent with principles of regulatory best practice by:
   c) ensuring that where possible, decisions are made by parties in the best position to make those decisions (avoid micro-management)
   d) being practical, pragmatic and feasible
   e) being simple and understandable
   f) being targeted at the regulatory objectives
   g) being proportionate with the problem
   h) being internally consistent
   i) promoting regulatory certainty
   j) being as transparent as possible.

C Generic VTPA

VOLUNTARY TRANSITIONAL PRICING ARRANGEMENTS FOR [RETAILER] FOR SUPPLY OF NATURAL GAS TO SMALL GAS CUSTOMERS (CONSUMING 0-1 TJ A YEAR)

1 July 2010 to 30 June 2013

The Independent Pricing and Regulatory Tribunal of New South Wales (**IPART**) and [name of retailer] (**[RETAILER]**) each agree to the following Voluntary Transitional Pricing Arrangements (**VTPA**).

1. Background and overview

1.1 IPART and [RETAILER] wish to continue the light-handed approach to Default Prices for Small Gas Customers that was established under the *Voluntary Pricing Principles July 2001 to June 2004* and continued under *Voluntary Transitional Pricing Arrangements July 2004 to June 2010.*

1.2 IPART notes that [RETAILER] is of the view that at the cessation of the VTPA, prices should be set by market forces, but that this will ultimately be a matter for government policy.

1.3 This VTPA sets out the pricing arrangements for Default Prices and Miscellaneous Charges.

1.4 IPART notes that [RETAILER] has advised that the pricing increases for the Retail Component of the Default Prices for each Financial Year for the period 1 July 2010 to 30 June 2013 are expected to be at or below the change in CPI.

[Alternative Clause for Origin

IPART notes that Origin has advised that the pricing increases for the Retail Component of the Default Prices for each Financial Year for the period 1 July 2010 to 30 June 2013 are expected to be at or below the change in:

(a) *CPI + 10% for the Albury district from 1 July 2010 to 30 June 2011;*

(b) *CPI + 1% cent for the Albury district from 1 July 2011 to 30 June 2013; and*

(c) *CPI + 1% for the Murray Valley district for the period 1 July 2010 to 30 June 2013.*

[Alternative Clause for ActewAGL

IPART notes that ActewAGL has advised that the pricing increases for the Retail Component of the Default Prices for each Financial Year for the period 1 July 2010 to 30 June 2013 are expected to be at or below the change in CPI-1%.

2. Application

2.1 This VTPA will apply to the Default Prices for Small Gas Customers for the period 1 July 2010 to 30 June 2013.

2.2 This VTPA replaces any previous such voluntary transitional pricing arrangements between IPART and [RETAILER].

2.3 Nothing in this VTPA affects IPART's ability to impose a gas pricing order pursuant to section 27 of the Gas Supply Act or any other powers of IPART.

3. Default Prices

3.1 At the commencement of this VTPA and:

(a) prior to commencement of a Carbon Pollution Reduction Scheme: the Default Prices will be comprised as follows:

R + N;

(b) on and from the commencement of a Carbon Pollution Reduction Scheme: the Default Prices will be comprised as follows:

R + N + C;

where

(c) *R* refers to the Retail Component;

(d) *N* refers to the Network Component; and

(e) *C* refers to the Carbon Component.

4. Arrangements for Default Prices

4.1 [RETAILER] undertakes to:

(a) make Default Prices available to all Small Gas Customers; and

(b) allow Small Gas Customers who have accepted a competitive market offer to revert to [RETAILER]'s Default Prices without penalty once they have met their contractual obligation.

4.2 Subject to clauses 4.3 and 4.4, [RETAILER] may vary the Default Prices for Small Gas Customers without approval from IPART provided that:

(a) the Weighted Average Price Increase for the Retail Component of the Default Prices for the next Financial Year is at or below the change in the CPI for the previous Financial Year;

[Alternative clause for Origin Energy

the Weighted Average Price Increase for the Retail Component of the Default Prices:

(i) for the Albury district:

(A) from 1 July 2010 to 30 June 2011: is at or below the change in CPI for the previous Financial Year + 10%;

(B) from 1 July 2011 to 30 June 2012: is at or below the change in CPI for the previous Financial Year + 1%; and

(C) from 1 July 2012 to 30 June 2013: is at or below the change in CPI for the previous Financial Year + 1%;

(ii) for the Murray Valley district: for each period from 1 July 2010 to 30 June 2011, 1 July 2011 to 30 June 2012, and 1 July 2012 to 30 June 2013, is at or below the change in CPI for the previous Financial Year + 1%.

[Alternative clause for ActewAGL

the Weighted Average Price Increase for the Retail Component of the Default Prices for the next Financial Year is at or below the change in the CPI-1% for the previous Financial Year;

(b) the Network Component is equal to:

(i) the Network Charges actually incurred by [RETAILER]; or

(ii) the figure verified by [RETAILER] to fairly and accurately reflect the actual Network Charges having regard to the Network Charges incurred by [RETAILER] and the total revenue to be derived from the Network Component; and

(c) the Carbon Component (if applicable) is determined in accordance with clauses 4.10 and 4.11.

4.3 [RETAILER] may only vary the Retail Component of the Default Prices in accordance with clause 4.2 once for each Financial Year.

4.4 At least one month before any change in Default Prices takes effect, [RETAILER] is required to:

(a) advise IPART of the increase in Default Prices;

(b) provide supporting information showing that each component of the Default Prices has varied in accordance with clause 4.2; and

(c) provide IPART with sufficient information in respect of the Network Component, Retail Component and (if relevant) Carbon Component to permit IPART to verify the Retail Component of the Default Prices comply with the Weighted Average Price Increase for Year t+1 by providing at least:

(i) the Retail Component and Network Component of the Default Prices for Year t and Year t+1 together with customer numbers and volume for Year t-1; or

(ii) the total revenue forecast to be recovered from each of the Retail Component, and Network Component for Year t and Year t+1 together with customer numbers and volume for Year t-1.

4.5 IPART will notify [RETAILER] in writing whether it is satisfied with the proposed increase in Default Prices within 10 business days of receipt of the information from [RETAILER] under clause 4.4.

4.6 If IPART is not satisfied with the proposed increase in the Default Prices:

(a) IPART agrees to provide to [RETAILER] details of the reasons it is not satisfied;

(b) [RETAILER] agrees to submit to IPART an amended proposal within 5 business days following receipt of details from IPART of the reasons why it is not satisfied with [RETAILER]'s proposed increase in Default Prices; and

(c) IPART agrees to notify [RETAILER] whether it is satisfied with that amended proposal within 5 business days of receipt of the amended proposal.

4.7 [RETAILER] will publish its Default Prices on its website within 5 days of IPART notifying [RETAILER] that it is satisfied with the proposed price changes.

4.8 Should [RETAILER] consider it necessary as a result of special circumstances (as defined in paragraph 4.9 below) to vary average Default Prices outside of the limits in paragraph 4.2, then:

(a) [RETAILER] must advise IPART no later than 4 months before the date of effect of the increase (eg by 1 March for 1 July increase). This period may be varied by the mutual agreement of [RETAILER] and IPART;

(b) [RETAILER] must provide a justification statement to IPART specifying the basis of the increase and providing relevant information supporting the increase;

(c) IPART may undertake an investigation of relevant costs incurred by [RETAILER] to reasonably satisfy itself of the validity of the increase proposed;

(d) [RETAILER] will provide reasonable cooperation with IPART during such reviews;

(e) IPART will notify [RETAILER] in writing of its decision on the proposed price variation no later than 15 business days prior to the proposed date of effect of the increase; and

(f) [RETAILER] will publish its revised prices on its website within 5 days of IPART notifying [RETAILER] that it approves the revised prices.

4.9 For the purposes of paragraph 4.8, special circumstances include, but are not limited to, events that result in changes to costs such as regulatory changes, taxation changes, unanticipated field price review or fundamental changes to gas market frameworks and arrangements.

4.10 If a Carbon Pollution Reduction Scheme is introduced and [RETAILER] intends to introduce or change the Carbon Component, [RETAILER]:

(a) must advise IPART of the Carbon Component no later than 2 months before the date of the proposed use of the Carbon Component or date of effect of the proposed increase (eg by 1 May for 1 July increase);

(b) can vary the period for notification with IPART's agreement; and

(c) must provide IPART with sufficient information to demonstrate and verify:

(i) how it has calculated the Carbon Component; and
(ii) that the Carbon Component is reasonable.

4.11 If IPART considers the amount charged by [RETAILER] for any period for the Carbon Component is, in IPART's opinion, materially different to the costs actually incurred by [RETAILER] as a result of the introduction of a Carbon Pollution Reduction Scheme, IPART may require [RETAILER] to:

(a) provide IPART with additional information regarding the quantification of the Carbon Component;
(b) provide IPART with reasonable assistance for any review by IPART of those charges; and
(c) comply with any requirement by IPART that the Carbon Component be amended:
(i) to an amount considered reasonable by IPART; and
(ii) to compensate for the over-recovery or under-recovery by [RETAILER].

5. Arrangements for Miscellaneous Charges

5.1 In relation to Miscellaneous Charges, IPART and [RETAILER] agree that:

(a) any variation to existing Miscellaneous Charges other than to reflect changes in CPI or to pass through third party costs other than Network Charges are subject to IPART's agreement prior to implementation; and
(b) any proposed new Miscellaneous Charge will not be introduced without IPART's agreement. [RETAILER] agrees that new Miscellaneous Charges will be established on a cost-reflective basis.

5.2 In relation to late payment fees, [RETAILER] agrees that late payment fees will be applied on issue of the reminder notice and that late payment fees will not be levied:

(a) where the customer indicates that payment or part payment has been made by an Energy Accounts Payment Assistance voucher;
(b) where the customer has contacted [RETAILER] before the due date in relation to a billing complaint and the billing complaint is unresolved;
(c) where the customer has entered into and remains on an instalment arrangement between the customer and [RETAILER] to pay the gas retail bill; or
(d) where the customer is a Hardship Customer.

5.3 At least one month before any change in Miscellaneous Charges take effect, [RETAILER] is required to:

(a) advise IPART of any increase in Miscellaneous Charges; and
(b) provide supporting information showing that Miscellaneous Changes have varied in accordance with clause 5.1.

5.4 IPART will notify [RETAILER] in writing whether it is satisfied with the proposed increase in Miscellaneous Charges within 10 business days of receipt of the information from [RETAILER] set out in clause 5.3.

5.5 If IPART is not satisfied with the proposed increase in Miscellaneous Charges:

(a) IPART must provide to [RETAILER] notice that IPART is not satisfied with the proposed increase together with details of the reasons it is not satisfied;

(b) [RETAILER] agrees to submit an amended proposal within 5 business days following receipt of details from IPART of the reasons why it is not satisfied with [RETAILER]'s proposed increase in Miscellaneous Charges; and

(c) IPART agrees to notify [RETAILER] whether it is satisfied with that amended proposal within 5 business days of receipt of the amended proposal.

5.6 [RETAILER] will publish its Miscellaneous Charges on its website within 5 days of IPART notifying [RETAILER] that it agrees with the proposed changes in Miscellaneous Charges.

5.7 Where [RETAILER] proposes an increase or introduction of a Miscellaneous Charge that requires IPART's agreement:

(a) [RETAILER] must advise IPART no later than 4 months before the date of effect of the Miscellaneous Charge (e.g. by 1 March for 1 July increase). This period may be varied by the mutual agreement of [RETAILER] and IPART;

(b) [RETAILER] must provide a justification statement to IPART specifying the basis of the Miscellaneous Charge and providing relevant information supporting the increase;

(c) IPART may undertake an investigation of relevant costs incurred by [RETAILER] to reasonably satisfy itself of the validity of the Miscellaneous Charge proposed;

(d) [RETAILER] will provide reasonable cooperation with IPART during such reviews;

(e) IPART will notify [RETAILER] in writing of its decision on the proposed increase or introduction no later than 15 business days prior to the proposed date of effect of the increase or introduction; and

(f) [RETAILER] will publish its revised Miscellaneous Charges on its website within 5 days of IPART notifying [RETAILER] that it approves the revised Miscellaneous Charges.

6. Definitions

6.1 In this VTPA:

(a) **Carbon Component** refers to that part of the Default Prices that reflects costs relating to the introduction of or participation in a Carbon Pollution Reduction Scheme;

(b) **Carbon Pollution Reduction Scheme** means a mandatory scheme enacted or a carbon tax imposed by the Commonwealth of Australia after 1 July 2010 for the purpose of reducing greenhouse gas emissions, including but not limited to an emissions trading scheme;

(c) **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 IPART;

The change in the CPI for any given Financial Year (t/(t+1)) is equal to the CPI index number for the quarter ending in December of the preceding calendar year (t-1) divided by the CPI index number for the corresponding quarter of the previous year (t-2) determined as follows to 2 decimal places:

$$CPI_{t/(t+1)} = \left(\frac{CPI_{Dec(t-1)}}{CPI_{Dec(t-2)}} - 1 \right) \times 100\%$$

(d) **Customer Hardship Charter** has the meaning given to that term under the *Gas Supply (Natural Gas Retail Competition) Regulation 2001* (NSW);

(e) **Default Price** means a fee or charge for the supply of natural gas to a Small Gas Customer by [RETAILER] under a Standard Form Customer Supply Contract excluding Miscellaneous Charges and as determined or calculated in accordance with clause 3;

(f) **Financial Year** means 1 July to 30 June of any year;

(g) **Gas Supply Act** means the *Gas Supply Act 1996* (NSW);

(h) **Hardship Customer** means a Small Retail Customer of [RETAILER] who is identified as a customer experiencing financial difficulty in accordance with [RETAILER]'s Customer Hardship Charter;

(i) **Miscellaneous Charge** means a fee or charge in addition to the Default Price for the supply of natural gas to a Small Gas Customer by [RETAILER] under a Standard Form Customer Supply Contract as published by [RETAILER] on its website in accordance with paragraph 5.6 (including but not limited to an account establishment fee, late payment fee, fee for dishonoured payment and fee for special meter read);

Note: The Miscellaneous Charges applicable from 1 July 2010 to 30 June 2011 (unless varied in accordance with clause 5.1) are set out in Appendix F of the report entitled Review of Regulated Retail Tariffs and Charges for Gas 2010-2013 Final Report published by IPART in June 2010.

(j) **Network Charges** refers to:

(i) charges imposed by a network operator on [RETAILER] for network related services in accordance with the relevant access arrangement approved by the Australian Energy Regulator; and

(ii) charges imposed by a network operator on [RETAILER] for network related services under unregulated access agreements;

(k) **Network Component** refers to that part of the Default Prices relating to Network Charges;

(l) **Retail Component** refers to that part of the Default Prices that [RETAILER] may set for retail costs including but not limited to wholesale gas costs, retail operating costs and a retail margin;

(m) **Small Gas Customer** means a Small Retail Customer whose consumption of natural gas at a premises is, or is expected to be, 0-1 TJ a year;

(n) **Small Retail Customer** has the meaning given to that term under the Gas Supply Act;

(o) **Standard Form Customer Supply Contract** has the meaning given to the term under the Gas Supply Act;

(p) **Weighted Average Price Increase** means the increase in the Retail Component of Default Prices calculated by comparing the Retail Component of Default Prices for Year t with the Retail Component of Default Prices for Year t+1 for the customer numbers and consumption levels for the Year t;

(q) **Year t** means the current financial year;

(r) **Year t+1** means the next financial year; and

(s) **Year t-1** means the previous financial year.

7. Interpretation

7.1 In this VTPA:

(a) references to an Act, legislation or law includes regulations, rules, codes and other instruments under it and consolidations, amendments, re-enactments or replacements of them;

(b) words importing the singular include the plural and vice versa (for instance, the reference to a Default Price includes Default Prices and vice versa);

(c) references to business days are references to days on which the banks are open for retail banking business other than a Saturday, Sunday or public holiday in New South Wales;

(d) explanatory notes do not form part of this VTPA, but in the case of uncertainty may be relied on for interpretation purposes; and

(d) headings are for convenience only and do not affect the interpretation of this VTPA.

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Signed for and on behalf of IPART by an authorised person

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Signed for and on behalf of [RETAILER] by an authorised person

D MMA's approach for assessing the prudent and efficient level for each Standard Retailer's wholesale gas costs

As part of its assessment of wholesale gas costs, MMA examined the information submitted by each Standard Retailer on the individual components of its forecast costs – including base gas supply costs, additional deliverability costs (to service peak demand), transmission costs and other costs. The sections below outline how MMA assessed each of these components.

D.1 Base gas supply costs

The largest proportion of wholesale gas costs is base gas supply costs which reflects the cost of gas commodity supplied under contract with upstream producers. These contracts specify the annual volume of gas (annual contract quantity or ACQ) and take or pay quantities (TOP) available under these supply agreements. These costs should not differ significantly between customer classes and should take into account all material supply sources.

MMA considers it prudent and efficient for a retailer to have a portfolio of supply, and to estimate as the price to the small customer market the average of the costs of supply across NSW as a whole. MMA assessed the forecast base gas supply costs of each Standard Retailer by comparing them against the costs submitted by the other retailers, recent regulatory decisions and other publicly available benchmarks.

D.2 Additional deliverability costs

Additional deliverability, above that provided for in base gas supply contracts, is required to service peak demand (which usually occurs in winter). This is often referred to as the additional maximum daily quantity or MDQ. Additional deliverability can be provided in a number of ways[138] and will typically involve a combination of approaches with the cheapest source being used first.

138 Through the portfolio of base gas supply contracts, additional contracted gas supply (eg, a contract for additional "winter" MDQ), linepack, 'park and loan' services within pipelines (where available), underground storage, LNG storage, spot markets (where available) and customer interuptibility.

MMA considered 3 components in assessing the forecast costs of additional deliverability:

- Customer (or demand) load factor (calculated as the average daily quantity (ADQ) demanded/MDQ).
- Supply load factor (which takes into account the contracted MDQ, ACQ and TOP obligation).
- Source and price of additional deliverability.

MMA examined the additional deliverability required by the small customer market on a very cold day, the sources of such additional deliverability and the likely price of additional deliverability. As part of this analysis, MMA considered each retailer's assumption about customer load factor, which is central to the calculation of both additional deliverability costs and transmission costs.

To assess the customer load factor, where appropriate MMA reviewed the methodology used and tested its sensitivity to varying key parameters and underlying assumptions. In addition, MMA compared customer load factors to evidence from other sources. It has generally accepted supply load factors at face value.

In assessing the source and price of additional deliverability, MMA compared proposed costs to those submitted by the other Standard Retailers, recent regulatory decisions and other publicly available benchmarks.

D.3 Transmission costs

The transmission of gas through large pipelines (haulage) attracts tariffs based largely on capacity reservation payments ($/GJ MDQ), which generally vary inversely with load factor. That is, a higher customer load factor (less peaky demand) leads to a lower transmission cost per GJ transported, with relatively little cost relying on actual throughput.[139]

MMA compared each retailer's forecast transmission costs to those it estimated using published transmission tariffs and MMA estimates of customer load factors and proportion of peak load supplied through each pipeline. MMA considers that the use of published tariffs to calculate these costs is reasonable.

139 Additional costs relating to throughput may include for system use gas (for use in compressors or lost during transmission) and odourisation.

D.4 Other costs

As well as the costs of gas commodity, additional deliverability and transmission, retailers also face additional risk or market-related costs associated with procuring wholesale gas supply. For example, AGL has estimated the additional costs of participating in the mandatory Short Term Trading Market (STTM – see Box D.1 below), which is expected to begin operation by 1 September 2010.

MMA has initially assessed the forecast other costs of each Standard Retailer by comparing them to the costs submitted by the other retailers and against information gathered from discussions with other industry participants. Further assessment in this area is continuing.

Box D.1 The Short Term trading market (STTM)

The Short Term Trading Market (STTM), expected to commence before 1 September 2010, is a compulsory market that will require all participants to settle gas imbalances (the difference between gas injected into and withdrawn from the system). The STTM will be established at defined gas hubs - initially the low pressure networks in Sydney and surrounding areas (including Newcastle and Wollongong) and Adelaide.

The market itself will run once a day, on the day ahead, for each hub. It will use bids, offers and forecasts submitted by participants to determine schedules for deliveries from the pipelines which ship gas from producers to transmission users and the hubs. The market will set a daily market price for gas at each hub and settle each hub based on the schedules and deviations from schedules. Participant's daily transactions (scheduled trades of imbalances and unscheduled deviations or variations) will be settled at market prices.

This differs from the current operational balancing gas arrangements in NSW, under which a cost is only incurred by a participant if the entire market as a whole is deemed by the network operator to be short (ie, a total negative imbalance only). That is, at present a participant with an individual negative imbalance may avoid a charge if another retailer has a positive imbalance. There are no costs for deviations between scheduled and actual quantities.

While the Victorian wholesale gas market also provides a mechanism for resolving imbalances, the 2 markets use different approaches and create different incentives for participants. One of the key differences is that the STTM creates a much stronger incentive for participants to be accurate in forecasting injections into and withdrawals from the system.

E Benchmarking retail costs

This appendix provides a summary of allowances for retail costs in recent regulatory decisions in Australia (Table E.1). Retail costs include provisions for both retail operating costs (ROC) and customer acquisition costs (CAC) allowances, where applicable.

Table E.1 Retail costs in other regulatory decisions 2003/04 to 2009/10 ($2009/10, per customer)

Decision	Regulatory period	Fuel	Retail Cost	Escalation	Comments
IPART (2004)	July 2004 to June 2007	Electricity	$80.43	R-value by CPI	IPART based its allowance on estimates of retail operating costs provided by retailers. IPART noted that these estimates were lower than retail operating costs allowed for in other jurisdictions, but considered that the use of higher benchmark costs is inconsistent with determining efficient costs.
ESCOSA (2005)	January 2005 to December 2007	Electricity	$96.98	CPI + 2%	ESCOSA undertook a review of AGL SA's retail costs and concluded that the results of the cost audit were sufficiently similar to its previous benchmarking exercises that there was no justification for replacing the benchmarked results. ESCOSA increased the $82 allowance to reflect inflation.
ESCOSA (2005)	July 2005 to June 2008	Gas	$99.74	CPI + 2%	The ROC includes $18.86 annual allowance for FRC costs. ESCOSA factored a 2% real annual increase in ROC to accommodate for increasing operating costs per customer as the standing contract customer base switched to market contracts - ie, a customer acquisition cost.
IPART (2007)	July 2007 to June 2010	Electricity	$113.67	R-value by CPI	Retail costs reflected an efficient mass market new entrant - which was judged to have similar scale to standard retailers and thus estimates were based on retailers cost data. IPART was not persuaded that retail operating costs should increase in real terms over the determination period due to likely productivity gains.

Decision	Regulatory period	Fuel	Retail Cost	Escalation	Comments
QCA (2007)	July 2006 to June 2007	Electricity	$70.37	-	Benchmarked on IPART's $75 per customer allowance in the 2007 Determination - for a well established, standalone and efficient retail business. A $10 per customer deduction was made because FRC costs did not apply in Qld at the time.
QCA (2007)	July 2007 to June 2008	Electricity	$82.60	CPI / WPI	Retail operating costs were calculated by escalating the benchmark cost established in 2006/07 for wage and price inflation. FRC-related costs were also accounted for and so the benchmark used was $75 per customer. The uplift factor was 3.95%.
ESCOSA (2007)	January 2008 to December 2010	Electricity	$100.76	CPI - 4.1%	ESCOSA factored a 4.1% real annual decrease in ROC over the determination period due to efficiency gains from project Phoenix - based on a 50:50 sharing ratio of the expected benefits between consumers and AGL.
CRA (2007)	Jan 2004 to Dec 2007	Electricity	$134.24	-	CRA has based ROC on IPART's 2007 determination. A higher acquisition cost results from higher churn rates in Victoria - customers switch every 3-4 years.
CRA (2007) - Gas	Jan 2004 to Dec 2007	Gas	$106.09	-	CRA has based ROC on IPART's 2007 determination. Lower acquisition cost for gas because some retailer can off a dual fuel product.
QCA (2008)	July 2008 to June 2009	Electricity	$110.60	CPI / WPI	Retail operating costs were calculated by escalating the 2007/08 allowance for wage and price inflation. Uplift factor of 3.85%.
ESCOSA (2008)	July 2008 to June 2011	Gas	$93.11	CPI	Excludes customer acquisition costs, which are accounted for in the retail margin that provides a 'return on' and 'return of' the value of customers.
QCA (2008)	from July 2007	Gas	$132.73	CPI	QCA state that this figure is higher than most other regulatory decisions. It takes into account differing FRC costs, inflationary pressure and Queensland specific costs concerning the retailing of gas, such as administering the Pensioner concession Rebate.
QCA (2009)	July 2009 to June 2010	Electricity	$109.72	CPI / WPI	QCA estimates 2009/10 retail operating costs represents a 2.8% increase on the estimated costs for 2008/09. The escalation factor is based on a 40/60 weighting of CPI and wage inflation as measured by the wage price index (WPI).

Decision	Regulatory period	Fuel	Retail Cost	Escalation	Comments
ICRC (2009)	July 2003 to June 2010	Electricity	$100.09	CPI	Costs incurred in providing retail services are based on an estimate of $85 per customer in 2003/04. The cost per customer was then translated into a cost per megawatt hour so that it could be included in the Commission's cost build-up. In all subsequent years, the figure has been adjusted for movements in the CPI.
IPART (2010)	July 2010 to June 2013	Electricity	$109.8	CPI + 3.3% of fixed component of ROC	IPART adjusted the fixed component of retail operating costs in real terms by 3.3% per year to account for declining customer numbers. Customer acquisition costs include retention costs. A $2.30 per customer deduction was made to avoid double counting some of the costs associated with late payment fees.
QCA (2010)	July 2010 to June 2011	Electricity	126.41	CPI / WPI	The QCA escalated its original ROC benchmark of $75 in 2006/07 by its 60/40 weight of CPI/WPI factors to arrive at its 2010/11 allowance of $85.89. CAC increased to $40.52 because of a significantly higher switch rate rather than any real increase permitted in unit customer acquisition costs.
ICRC (2010)	July 2010 to June 2011	Electricity	$104.90	CPI	ICRC adjusted its 2009/10 retail operating cost allowance by its estimate of CPI of 1.82%. The ICRC did not provide for customer acquisition costs.

a We have converted all allowances in this benchmarking exercise into 2009/10 dollars using the actual quarter on quarter to June CPI for each year.

Source:

IPART, *NSW Electricity Regulated Retail Tariffs 2004/05 to 2006/07: Final report and determination*, June 2004, p 10.

ESCOSA, *Inquiry into retail electricity price path: Final report*, March 2005, p 53.

ESCOSA, *2008 Gas standing contract price path inquiry Final inquiry report and final price determination*, June 2008, p 69.

IPART, *Promoting retail competition and investment in the NSW electricity industry: Regulated electricity retail tariffs and charges for small customers 2007 to 2010*, June 2007, p 94.

QCA, *Benchmark Retail Cost Index for Electricity: 2006-07 and 2007-08*, May 2007, p 22.

QCA, *Benchmark Retail Cost Index for Electricity: 2006-07 and 2007-08*, May 2007, p 23.

CRA *International, Calculation of Benchmark Retail Cost Index for 2007-08 and 2008-09*, May 2008, p 41.

ESCOSA, *2007 Review of retail electricity path: Final inquiry report and price determination*, November 2007, p A-59.

CRA, *Impact of prices and profit margins on energy retail competition in Victoria: Final report*, November 2007, p 38-9.

CRA, *Impact of prices and profit margins on energy retail competition in Victoria: Final report*, November 2007, p 40.

QCA, *Final Decision 2009-10 Benchmark Retail Cost Index*, June 2009, p 44.

ESCOSA, *2008 Gas standing contract price path inquiry Final inquiry report and final price determination*, June 2008, p 88.

QCA, *Review of Small Customer Gas Pricing and Competition in Queensland: Final Report*, November 2008, p 67.

QCA, *Final Decision 2009-10 Benchmark Retail Cost Index*, June 2009, p 44-45.

ICRC, *Final Decision Retail Prices for Non-contestable Electricity Customers 2009–2010*, June 2009, p 40.

IPART, *Review of regulated retail tariffs and charges for electricity 2010 - 2013*, March 2010, p 111.

QCA, *Final Decision 2010-11 Benchmark Retail Cost Index*, May 2010 p 36 and 45.

ICRC, *Final Decision Retail Prices for Non-contestable Electricity Customers 2010–2012*, June 2010, p 41.

F Retail and network non-tariff fees and charges

Table F.1 AGL Retail and network non tariff fees and charges ($ nominal, excl GST)

	2009/10	2010/11 maximum charge	2011/12 and 2012/13 maximum charges	Description
Retail charges				
Account establishment fee	23.40	23.89	increase by CPI	Applies to new accounts being established in the system for the first time.
Account establishment fee - pensioner	11.50	no charge	no charge	As above, but applied to pensioners.
After hours reconnection	119.00	121.51	Increase by CPI	Applies on the reconnection of supply following disconnection for unpaid accounts when the reconnection is required outside business hours. The fee is charged on top of the standard disconnection/reconnection fee.
Collector call fee	35.40	36.14	increase by CPI	Applies when a contractor attends a premise to disconnect supply but the customer agrees to make a payment to the contractor.
Dishonoured payment	24.90	25.42	increase by CPI	Applies when a customer payment by cheque, debit card or credit card fails.
Late payment fee	8.30	$11	increase by CPI	From 1 July 2010 raised on issue of a reminder notice. Fees are waived in circumstances listed in Chapter 5 and at AGL's discretion.
Security deposit	Residential: up to 1.5 times the average quarterly account. Business: 2.5 times the average monthly account	same as in 2009/10	same as in 2009/10	Paid by a tenant or business customer who has not been responsible for a supply address before, or a domestic or business customer who does not have a satisfactory credit history. Advances are refunded if customers pay their account on time for 1 year (2 years for business

	2009/10	2010/11 maximum charge	2011/12 and 2012/13 maximum charges	Description
				customers).
Network charges[a]		Network charge plus up to $2.50	Network charge plus up to $2.50 (increased by CPI)	

[a] Network charges for AGL's customers are special meter reads, network disconnection/reconnection, network temporary disconnection/reconnection, permanent disconnection, high bill field visits and meter testing charges.

Note: Assumed inflation is 2.1%, 2.7% and 2.7% for 2010/11, 2011/12, 2012/13.

Source: IPART, descriptions provided by AGL.

Table F.2 Country Energy Retail and network non tariff fees and charges ($ nominal, excl GST)

	2009/10	2010/11 charge	2011/12 and 2012/13	Description
Retail charges				
Late payment fee	7.00	7.50	7.50	Country Energy does not currently levy a late payment fee. However under the VTPA Country Energy can levy a late payment fee on issue of reminder notice and fees must be waived in circumstances listed in Chapter 5.
Security deposit	for customers billed quarterly,1.5 times Country Energy's average quarterly gas bill; for customers billed 2-monthly, 1.75 times Country energy's average 2 monthly gas bill; for customers billed monthly, 2.5 times country energy's standard monthly gas bill	as in 2009/10	as in 2009/10	From residential customers – Country Energy may require a security deposit prior to commencement of supply if the customer: ▾ has an outstanding debt owed to Country Energy in relation to a gas retail bill and the customer refuses to make an arrangement to pay that debt ▾ has been responsible for the illegal use of gas within the previous 2 years ▾ in the reasonable opinion of Country Energy does not have a satisfactory credit history and has refused an offer of a payment plan. May be required within 12 months of commencement of supply if the customer had entered into a payment plan at the commencement

	2009/10	2010/11 charge	2011/12 and 2012/13	Description
				of supply then cancelled that plan and one or more of the circumstances listed above exist. For business customers – prior to commencement of supply if the customer: ▾ in the reasonable opinion of Country Energy does not have a satisfactory credit history ▾ is carrying on a new business or ▾ has been responsible for the illegal use of gas within the previous 2 years. Security deposits are returned: for residential customers after on one year's on time payment of all gas bills; for business customers after 2 year's on time payment of all gas bills.
Dishonoured payment	twice bank fee plus GST	as in 2009/10	as in 2009/10	Applies to dishonoured cheques.
Network charges[a]		Network charge plus up to $2.50	Network charge plus up to $2.50(increased by CPI)	

[a] Network charges for Country Energy's customers are: residential meter testing, reconnection fee (existing gas services), disconnection charge, business disconnection/reconnection, after hour's reconnection, special meter read, connection charge and meter/asset removal.

Note: Country Energy applies non-tariff charges on the same basis and in accordance with the same conditions as the Tribunal determines for regulated retail electricity customers. For a complete description of Country Energy's non-tariff fees and when they can be charged see IPART's Review *of regulated retail tariffs and charges for electricity 2010-2013*, March 2010. Assumed inflation is 2.1%, 2.7% and 2.7% for 2010/11, 2011/12, 2012/13.

Source: IPART.

Table F.3 Origin Energy Retail and network non tariff fees and charges ($ nominal, excl GST)

	2009/10	2010/11 charge	2011/12 and 2012/13	Description
Retail charges				
Account establishment fee	30.85	30.85	increase by CPI	Applies: ▾ to new customers being established onto the system for the first time; and ▾ when an account changes from one name to another. If an Origin customer has an existing home and has a new gas connection, the establishment fee will be waived.
Late payment fee	9.66	$12	increase by CPI	Late payment fees will be applied on issue of the reminder notice. The late payment fees will not be levied where: ▾ a customer indicates that payment or part payment has been made by an Energy Accounts Payment Assistance (EAPA) voucher; ▾ a customer has contacted Origin before the due date in relation to a billing complaint and the billing complaint is unresolved; ▾ an instalment arrangement has been entered into between a customer and Origin to pay the gas retail bill; ▾ a customer is a hardship customer.
Security deposit	$150 for residential and $420 for business customers	$150 for residential and $420 for business customers	increase by CPI	A security deposit may be requested from a residential or business customer in situations where: ▾ a new customer moves into a premises with an unsatisfactory credit reference; or

	2009/10	2010/11 charge	2011/12 and 2012/13	Description
				▾ an existing customer has an unsatisfactory credit history.
Dishonoured payment	24.70	24.70	increase by CPI	Applies when customer payments made by cheque or credit card are dishonoured.
Network charges[a]		Network charge plus up to $2.50	Network charge plus up to $2.50 (increased by CPI)	Applies when Origin is required to process and pass through network excluded service charges to customers.

a Network charges for Origin's customers are: meter and gas installation test, disconnection, reconnection, meter removal, meter reinstallation, special meter reading (metropolitan and no-metropolitan) and meter/asset removal.

Note: Assumed inflation is 2.1%, 2.7% and 2.7% for 2010/11, 2011/12, 2012/13.

Source: IPART.

Table F.4 ActewAGL retail and network non tariff fees and charges ($ nominal, excl GST)

	2009/10 maximum charge	2010/11 maximum charge	2011/12 and 2012/13 maximum charges	Description
Retail charges				
Account establishment fee	23.40	23.89	Increase by CPI	Applies to customers being established into the system on a new account.
Account establishment fee - pensioner	11.50	11.74	Increase by CPI	As above, but applied to pensioners.
After hours reconnection	119.00	121.50	Increase by CPI	Applies on the reconnection of supply following disconnection for unpaid accounts when the reconnection is required outside of business hours. The fee is charged on top of the standard disconnection/reconnection fee.
Collector call fee	35.40	36.14	Increase by CPI	Applies when a contractor attends a premise to disconnect supply but the customer agrees to make a payment to the contractor or provides appropriate proof of payment.
Disconnection/reconnection	83.10	84.85	Increase by CPI	Applies where a disconnection or reconnection of supply is required. This can be due to non payment of account or customer request. Removal of a meter is also classed as disconnection.
Dishonoured payment	24.90	25.42	Increase by CPI	Applies when a customer payment by cheque, debit card or credit card fails.
High bill field visit	58.10	59.32	Increase by CPI	Applies where a field visit is required to investigate a meter in relation to a high bill enquiry
Late payment fee	11.50	11.74	Increase by CPI	From 1 July 2010 raised on issue of a reminder notice. Fees are waived in circumstances listed in Chapter 5 and at ActewAGL's discretion.

	2009/10 maximum charge	2010/11 maximum charge	2011/12 and 2012/13 maximum charges	Description
Meter testing charges	49.80 – 953.50 depending on meter capacity	50.85 – 973.60 depending on meter capacity	Increase by CPI	Applies where a meter accuracy test is requested and carried out and the results determine there was no fault with the meter
Security deposit	Residential: up to 1.5 times the average quarterly account. Business: 2.5 times the average monthly account	Same as in 2009/10	Same as in 2009/10	Paid by a tenant or business customer who has not been responsible for a supply address before, or a domestic or business customer who does not have a satisfactory credit history. Advances are refunded if customers pay their account on time for 1 year (2 years for business customers)
Network charges[a]		Network charge plus up to 2.50	Network charge plus up to 2.50 (increased by CPI)	

[a] Network charges for ActewAGL are: Network disconnection, network reconnection and special meter reads.

Note: Assumed inflation is 2.1%, 2.7% and 2.7% for 2010/11, 2011/12, 2012/13.

Source: IPART.

G Summary of stakeholder submissions on draft report

Table G.1 Issues raised by stakeholders and our response

Issue	Stakeholder comment	Our response
Form of regulation	Submissions supported the continued use of the VTPAs. A number of submissions supported the move to full price deregulation.[a]	We consider that the VTPAs are the appropriate form of regulation and a WAPC on the retail component of tariffs only with full pass through of the network component.
Wholesale gas costs	ActewAGL disagreed with MMA and our draft decision on its efficient wholesale gas costs arguing that we did not take into account its small customer base and benefits generated by its agreement to purchase its wholesale gas from AGL.[b]	We consider that MMA has taken into account the issues raised by ActewAGL. We accept MMA's recommendations (see section 3.2).
Climate change mitigation measures	EnergyAustralia considered the cost-pass-through definition for a CPRS event to be too narrow, and argued that it should be broad enough to apply to whatever form any equivalent scheme may take, including a carbon tax.[c] ActewAGL argued that IPART should adopt a materiality threshold before triggering a review of any difference between forecast and actual carbon costs.[d]	We have reviewed the existing VTPA wording and consider it is broad enough to encompass any carbon scheme. We do not consider it appropriate to define materiality given the costs, timing and form of any scheme are uncertain.
Special circumstances clause	ActewAGL reasserted its view that an adjustment mechanism enabling retailers to recover cost increases associated with externally determined fees and charges (including Australian Energy Market Operator fees and retail authorisation fees) is more in line with the light handed regulatory approach underpinning the VTPAs, imposing a lower regulatory burden on the Standard Retailers. Nonetheless, ActewAGL is prepared to accept the draft decision, providing that the special circumstances event clause can be used to achieve a similar outcome.[e]	We consider that costs associated with externally determined fees, charges or tax events would be covered by the special circumstances clause.
Late payments fees	AGL revised its increase to $11 Origin Energy provided justification why it should be allowed to charge a late payment fee of $12 from 1 July 2010 EWON sought specific changes to when late payment fees could be levied and argued for the alignment with electricity.[f]	We accepted the late payment fees proposed by AGL and Origin Energy. We do not accept the arguments to align gas and electricity fees. We consider the list of exemptions provided in the

Issue	Stakeholder comment	Our response
	PIAC submitted that late payment fees should be abolished for customers on standard contracts; but if they are allowed people on Commonwealth health care cards should be exempted and the fee should be consistent with electricity.[g]	VTPA provide sufficient protection to vulnerable customers in particular the exemption for hardship customers.
Administration charge of $2.50 on network non-tariff fees and charges	All retailers proposal comply with the draft decision.	Accept retailers proposal to levy a $2.50 administration charge.
AGL's tariff rebalancing	EWON was critical of AGL's proposed tariff restructuring arguing that it would result in smaller use residential customers paying a higher share of the tariff increase while business customers would receive a small real decrease in their tariffs.[h]	We have sought information from AGL which explains the tariff changes and are satisfied that the restructuring will move tariffs towards cost reflective levels. This is consistent with the form of regulation which allows the retails the scope to restructure individual tariffs within the overall weighted average price cap. The customer impacts are minor , about 20 cents a week.

a AGL and ActewAGL submissions, May 2010.
b ActewAGL submission, May 2010.
c EnergyAustralia submission, May 2010.
d ActewAGL submission, May 2010.
e Ibid.
f EWON submission, May 2010.
g PIAC submission, May 2010.
h EWON submission, May 2010.

Source: Stakeholder submissions on draft report.