

Review of regulated retail prices for electricity to 2007

Draft Report and Draft Determination



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

Review of regulated retail prices for electricity to 2007

Draft Report and Draft Determination

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TABLE OF CONTENTS

1	INTRODUCTION	1
1.1	Need for price increases	1
1.2	Overview of draft determination	2
1.3	Structure of the report	3
2	REGULATING RETAIL ELECTRICITY PRICES	4
2.1	Which prices are regulated	4
2.2	How prices are currently regulated	5
2.3	The draft determination	5
3	WHAT ARE COST REFLECTIVE PRICES?	8
3.1	Level of target tariffs	8
3.2	Costs to be recovered through target tariffs	9
3.3	Structure of target tariffs	11
4	WHAT ARE THE OUTCOMES FOR CUSTOMERS?	13
4.1	Impact of the draft determination on prices	13
5	IMPLEMENTING THE DETERMINATION	16
5.1	Implementing the price changes	16
5.2	Limits on increasing over-recovering tariffs	16
5.3	Limits on increasing customers' bills	17
5.4	Limits on increasing the retail component of tariffs	18
5.5	Limits on increasing the fixed retail component	21
6	OTHER ISSUES CONSIDERED BY THE TRIBUNAL	22
6.1	Introducing new regulated retail tariffs	22
6.2	Consideration of 'green tariffs'	23
6.3	Promoting competition	23
6.4	Regulated retail charges	24
	APPENDIX 1 TERMS OF REFERENCE	27
	APPENDIX 2 EFFECTIVENESS OF COMPETITION	30
	APPENDIX 3 COMPARISON OF R COMPONENTS OF TARGET TARIFFS	36
	APPENDIX 4 ANALYSIS OF COST COMPONENTS IN THE RETAIL TARGETS	37
	APPENDIX 5 INCLINING BLOCK TARIFFS	49
	APPENDIX 6 TRENDS IN RETAIL PRICES	50
	APPENDIX 7 LIST OF SUBMISSIONS	51
	APPENDIX 8 GLOSSARY OF ACRONYMS	53

1 INTRODUCTION

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

The current retail electricity determination will expire on 30 June 2004, and the Minister for Energy and Utilities has asked the Tribunal to review and determine appropriate regulated retail tariffs and charges for a further three years until 30 June 2007 (see Appendix 1 for the terms of reference). The Tribunal has completed this review. This document sets out and explains its draft determination, and seeks comments from interested parties. The Tribunal’s review process is summarised in Box 1.1.

1.1 Need for price increases

Currently, average electricity prices for small retail customers in NSW are among the lowest in Australia – only the Australian Capital Territory has lower prices. Since 1992/93, average retail prices for residential customers have decreased in real terms by 10 per cent.⁴ In recent years, these prices have been *lower* than the full cost of supply.

At the same time, average electricity consumption has risen, and peak demand has increased sharply. This is placing pressure on existing network infrastructure, and as a consequence, increases in network prices are required.⁵ The Tribunal is currently finalising its network price determination, and in this draft regulated retail tariff determination, it proposes to pass on any increases in network prices to retail customers.

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

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

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

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

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

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

1.2 Overview of draft determination

The Tribunal's draft determination is to allow average prices to increase by between 3.7 per cent and 5.6 per cent per annum (nominal) in each year of the determination period. The actual increase for each customer will depend on whether the current price paid is greater or less than the benchmark cost of supply set by the Tribunal. However, the price limits in the draft determination limit the maximum increase for any customer to between 5.2 per cent and 7.2 per cent per annum. For most customers on residential tariffs, the draft determination is likely to result in an increase in their electricity bill equivalent to about \$1 per week.

The draft determination establishes a framework for setting regulated retail tariffs based on target tariffs. This framework:

- establishes new targets for regulated retail tariffs to apply from 1 July 2004 based on 'N' + 'R' (where N represents network charges as provided for in the Tribunal's draft network determination and R represents retail costs as determined in this draft determination)
- allows retailers to pass through their full network charges
- increases the 'R' component of the target tariff in line with the change in inflation⁶ each year
- makes no amendment to regulated retail charges (miscellaneous charges).

Within this framework, standard retail suppliers have the flexibility to set individual regulated retail tariffs (but cannot introduce new regulated tariffs). In doing so, the retailer must determine whether each of its current regulated retail tariffs (including obsolete tariffs)⁷ is above or below the target level. Retailers:

- must not increase (in nominal terms) tariffs that are on or above the target level
- may increase the 'R' component of retail tariffs that are below target level by $\Delta\text{CPI}+1\%$ (for EnergyAustralia and Integral Energy) and $\Delta\text{CPI}+3\%$ (for Country Energy and Australian Inland)
- may increase the final tariff paid by customers to enable the retailer to pass through network increases into final tariffs, for under-recovering tariffs
- must not increase the fixed 'R' of regulated retail tariffs by more than \$5 per annum.

The new targets for 'R' are the result of changes in the cost components underlying the regulated retail tariffs. These components are energy purchase costs, retail operating costs, retail margins, network losses and NEM fees.

⁶ 'Inflation' will be the percentage change in CPI for each year as defined in Schedule 1 of the determination.

⁷ Obsolete tariffs are regulated retail tariffs that are not offered to new customers. Existing customers on these tariffs generally remain on them under 'grandfathering' arrangements.

1.3 Structure of the report

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

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

Box 1.1 Review process

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

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

The Tribunal now seeks comments on this draft report and determination. Submissions are due on 14 May 2004. Following consideration of these submissions, the Tribunal will release a final report and determination, which will apply from 1 July 2004.

2 REGULATING RETAIL ELECTRICITY PRICES

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

2.1 Which prices are regulated

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

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

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

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



Source: Energy and Water Ombudsman NSW.⁸

⁸ This map is to be used for indicative purposes only. It is intended as a guide and may not accurately identify the standard retail supplier in a particular area.

2.2 How prices are currently regulated

The Tribunal's previous determinations⁹ have established a 'target level' for tariffs and a transitional process to move them to that level over time. The target tariffs were set using the 'N+R' formula. The 'N' component represents the network element of the tariffs (the amount retailers are charged by the local distribution network service provider) and 'R' represents the retail component, which is derived from the cost of supply and is set by the Tribunal. The target tariff is based on adding together the network 'N' component and the retail 'R' components.

The Tribunal has set a path (or process for transition) to move individual tariffs towards cost reflective levels over time. To reduce price shocks to customers, the Tribunal set limits on price increases.

2.3 The draft determination

The Tribunal's draft determination retains a form of regulation that is based on N+R and passes through any changes in network charges. The Tribunal notes that, as a result of its draft network determination, network prices will be increasing in real terms over the period 2004 to 2007.

2.3.1 Draft Decision

The Tribunal's draft decision is to retain a form of regulation based on N+R.

2.3.2 Tribunal's analysis and rationale

The Tribunal notes that most submissions are in favour of retaining a target tariff arrangement based on N+R. However, there is a general view that there are too many constraints in the current form of regulation and that these prevent retailers from moving their tariffs to the targets. This view was supported at the Roundtable Discussion¹⁰ and in subsequent submissions where there was support for a less constraining form of regulation.

The N component is the applicable network charge for each customer and is a direct pass-through from the distribution network service provider (DNSP). It may have a fixed and variable structure. Since there are a large number of network charges in NSW, there will be many different target levels for regulated retail tariffs.

Various approaches to the form of regulation were put forward for the Tribunal's consideration by stakeholders in their submissions to the review. The submissions contain proposals ranging from variations of the existing 'N+R' approach to setting prices at cost reflective levels in 2004/05 followed by a path of CPI-X increases for the remainder of the regulatory period.

⁹ IPART, *Regulated retail prices for Electricity to 2004*, Recommendation and Report, December 2000 and *Mid-term review of regulated retail prices for electricity to 2004 - Report and Determination to the Minister for Energy*, June 2002.

¹⁰ Roundtable discussion held on 4 March at Star City.

Following discussion at the roundtable, stakeholders appeared to support a form of regulation that entails:

1. Target tariffs based on $N+R$.
2. Pass through of network (N) cost increases.
3. Price limits applied to the R component only.

This approach is less restrictive than the current form of regulation as it removes the average price constraint on all tariffs. It also ensures that retailers recover network charges.

The Tribunal believes that a form of regulation based on $N + R$:

- provides an approach that is easy to understand and which establishes transparent targets
- is relatively simple to implement
- ensures network costs are recovered
- ensures other benchmark costs are recovered over time
- minimises compliance and administration costs
- is acceptable to the majority of stakeholders.

In proposing this form of regulation, the Tribunal has considered the effectiveness or otherwise of competition and the impact it has on the form of regulation. As retail competition becomes more effective, regulation of prices could become more light-handed. For example, in the UK Ofgem withdrew from regulation of retail prices when 40 per cent of the market had changed their supplier.¹¹ Therefore, the current state of competition is a key element in determining the appropriate form of regulation. The Tribunal's view at this stage is that while retail competition is developing, it is not yet effective.

Switching rates are one indicator of the success of competition. Current data shows that 562,892 small retail customers¹² have entered into negotiated contracts for electricity and gas with either their existing retailer or a different retailer.¹³ As well as analysing switching rates, the Tribunal has considered information from its recent household survey and a review of competitive offers undertaken by PricewaterhouseCoopers.¹⁴ The Tribunal's analysis is discussed in Appendix 2.

¹¹ Ofgem, *Review of Domestic Gas and Electricity Competition and Supply Price Regulation, Conclusion and Final Proposals*, February 2002.

¹² There are approximately 3 million electricity customers in NSW. However, the 562,892 small retail customers who have switched comprise both electricity and gas customers. Therefore it is not possible to calculate a simple ratio of customers who have entered a negotiated contract.

¹³ NSW Department of Energy, Utilities and Sustainability, *Customers Exercising Choice*, January 2004, available from the Department's website at www.deus.nsw.gov.au.

¹⁴ PWC, *Information on Negotiated Contracts offered to Small Electricity & Gas Customers in NSW*, March 2004.

The Tribunal also notes that submissions have indicated mixed views regarding the effectiveness of competition in the NSW small retail electricity market. For example, Integral Energy¹⁵ and the Energy Retailers Association of Australia (ERAA)¹⁶ have provided consultant reports supporting the view that competition is effective or able to be effective. Other submissions, for example, TXU¹⁷ and the Australian Consumers' Association¹⁸ have noted that the market is not effectively competitive. In making its assessment, the Tribunal is aware that competition is limited because some customers are presently being charged less than it costs to supply them. The Tribunal considers that its recommendations will help to address this issue.

¹⁵ Integral Energy submission, 1 December 2003, Appendix: *Applying workable competition in the NSW electricity retail sector* by NECG.

¹⁶ Energy Retailers Association of Australia submission, 1 April 2004, *The effectiveness of competition and retail energy price regulation* by KPMG.

¹⁷ TXU supplementary submission, 2 February 2004.

¹⁸ Australian Consumers' Association submission, 8 March 2004.

3 WHAT ARE COST REFLECTIVE PRICES?

This section of the report outlines the Tribunal's preliminary view on what costs should be recovered through the target tariffs (that is, the costs that make up the 'R' component). It also describes the proposed structure of target tariffs and provides the various 'R' factors to be included in the target tariffs.

3.1 Level of target tariffs

The retail ('R') component of target tariffs is comprised of a fixed dollar per customer per year amount (fixed R), plus a variable cents per kilowatt hour amount (variable R). The R component depends on which supply district the small retail customer is in, whether the small retail customer is urban or rural, and whether they have a standard and/or off-peak service. The Tribunal has proposed fixed and variable target R values for each retailer based on the cost of supplying small retail customers.

3.1.1 Draft Decision

The Tribunal's draft decision is that the target values for the fixed and variable R components of the regulated retail tariffs are those set out in Table 3.1.

Table 3.1 R Components for establishing targets to apply in 2004/2005 (\$ nominal)

For the district supplied by the following standard retail supplier under the licence held by it immediately before 1 July 2004	Fixed R (\$/year)	Variable R Standard (c/kWh)	Variable R Off-peak (c/kWh)	Variable R Extended Off-peak (c/kWh)
EnergyAustralia	55.25	5.99	3.93	4.85
Integral Energy	55.25	6.29	4.02	4.69
Country Energy				
Urban	55.25	6.80	4.12	4.89
Rural ¹⁹	55.25	7.04	4.26	5.07
Australian Inland				
Urban	55.25	7.09	4.40	4.93
Rural	55.25	7.63	4.57	5.23

Table 3.1 presents the various R components of the target tariffs for 2004/05. To estimate the targets for 2005/06 and 2006/07, the values in the table should be increased by the change in inflation to arrive at the target in each year.²⁰

A comparison with the 2002 determination R component targets is provided in Appendix 3. There has been a slight reduction in some of the variable R values because of the increase in the fixed component (refer to section 3.3 of this report for details).

¹⁹ Rural tariff differ from urban tariffs due to different transmission and distribution loss factors.

²⁰ The method for calculating target tariffs in each year is described in the draft determination that accompanies this report.

3.1.2 Tribunal's analysis and rationale

The Tribunal's draft decision sets the R values to reflect the cost of supplying regulated retail customers.

In their submissions, EnergyAustralia and Country Energy expressed concern that applying the standard 'R' to the peak time of use does not adequately reflect the costs of peak energy. These retailers proposed different approaches to address this issue.

Country Energy proposed introducing a new target for the peak and shoulder component of time of use tariffs. Country Energy submitted that this would ensure that time of use pricing is reflective of costs, the correct price signals are sent to the customer and demand management can be encouraged.²¹

In the 2002 determination, the Tribunal rejected the introduction of a specific shoulder tariff. At the time the increase in complexity was considered difficult to justify in terms of the current Electricity Tariff Equalisation Fund (ETEF) structure because the wholesale energy price is not split into peak/shoulder/off-peak but is purchased under the ETEF based on an off-peak/peak²² split.

The Tribunal is not aware of any changed circumstances since this issue was considered at the mid-term review. The Tribunal also notes that the determination attempts to ensure that the long run marginal cost (LRMC) is recovered (on average) by retailers. It does not attempt to mirror market electricity prices. The energy prices and 'R' values in the current determination are calculated to ensure that retailers receive the average LRMC based on their own consumption profiles.

EnergyAustralia has proposed an alternative to the Country Energy approach. The alternative method involves applying a single variable 'R' to the entire consumption of time of use tariffs, such that the average price charged to a customer should not exceed the target level.²³ This would then mean that the determination would contain a standard 'R' for single rate tariffs and a time of use 'R' that would be a weighted average of off-peak, shoulder and peak consumption. **The Tribunal seeks comments on this approach from stakeholders.**

3.2 Costs to be recovered through target tariffs

The Tribunal has established the fixed and variable R values based on its analysis of the underlying costs of supplying regulated retail customers over the next regulatory period. These costs will be increased by the rise in inflation each year.

²¹ Country Energy submission, 1 December 2004, p 27.

²² ETEF's definition of peak covers periods that would generally be considered shoulder and peak — that is, between 7 am and 10 pm on weekdays.

²³ EnergyAustralia submission on consultant reports, March 2004, pp 2-3.

3.2.1 Draft Decision

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

- *Energy purchase costs of \$50 per MWh.*
- *NEMMCO fees and ancillary services costs of \$1 per MWh.*
- *Energy losses which vary by retailer.*
- *Retail operating costs of \$65 per customer per year.*
- *Net retail margin of 2 per cent.*

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

Table 3.2 Comparison of cost components in the retail target tariff

Cost component	OLD		NEW	
	2002 Determination (2001 dollars)		2004 Determination (2004 dollars)	
Energy purchases (including green energy)	•	Range \$39 to \$59 per MWh as the weighted average for long run marginal cost (LRMC)	•	\$50 per MWh (comprised of LRMC \$47 per MWh and \$3 for green energy and generator NEM fees)
NEMMCO fees & ancillary services	•	\$1.37 per MWh (included in energy purchases)	•	\$1.00 per MWh
Energy losses	•	Disaggregated loss factors published by NEMMCO specific to distribution area	•	Disaggregated loss factors published by NEMMCO specific to distribution area
Retail operating costs	•	\$45-\$75 per small retail customer per year including an allowance for contestability costs. Retail operating costs are split into a fixed and a variable component	•	\$65 per small retail customer per year. Retail operating costs are split into a fixed and a variable component
Profit margin	•	1.5-2.5% net profit margin	•	2.0% net profit margin

3.2.2 Tribunal's analysis and rationale

The Minister for Energy and Utilities requested that the Tribunal consider the cost components underlying the target tariffs. The costs considered in this review were:

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

Appendix 4 provides a detailed discussion of each cost component and the basis for determining the new values.

3.3 Structure of target tariffs

The Tribunal considers that it is appropriate for it to maintain some level of control over the structure of the 'R' component in order to ensure the appropriate balance between competing regulatory objectives and has proposed a uniform fixed (\$ per customer per annum) and variable (c/kWh) structure for all retailers.

3.3.1 Draft decision

The Tribunal proposes that regulated retail tariffs have a fixed and variable structure. However, there is scope for retailers to propose alternative structures (for example, inclining block tariffs) provided the price limits are satisfied. The Tribunal proposes that the fixed R and variable R recover 15% and 85% of total retail costs respectively.

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

The Tribunal did not consider that mandating an inclining block structure for the variable (c/kWh) component of target tariffs was justified. However, the Tribunal has outlined procedures that retailers should follow if they intend to structure the retail component of their default tariffs in such a way.

3.3.2 Tribunal's analysis and rationale

The Tribunal considers that the appropriate structure is one that matches the underlying retail costs. Target tariffs that mirror the underlying structure of costs will not require retailers to take on risks related to varying consumption levels of customers. For example, some retailers have suggested that the average consumption of customers remaining on default tariffs in the future may be lower than the current average. It should also ensure that the structure of regulated tariffs has a neutral impact on the development of competition.

Fixed versus variable costs

The 'R' component is comprised of five elements: electricity purchase costs, retail operating costs, electricity losses, retail margin and NEM fees. The Tribunal considers that retail operating costs is the only element that does not depend wholly on the amount of electricity sold.²⁴ Table 3.3 below indicates the average contribution of each of the five elements to the 'R' component and the Tribunal's assessment of whether each component is fixed in nature or varies with electricity purchases (variable).

Table 3.3 Elements of the 'R' component

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

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

Inclining block tariffs

EnergyAustralia and Integral Energy have indicated that they wish to have an inclining block structure in the R component (that is, the variable R included in the target would be higher beyond a certain level of consumption). The Tribunal does not consider there is a strong case for the introduction of an inclining block structure in the 'R' component for cost reflectivity reasons. However, an inclining block tariff may be justified for other reasons, for example, demand management. The Tribunal proposes that the determination allow retailers the flexibility to introduce an inclining block structure. The draft determination sets out the price limits with which retailers must comply when implementing an inclining block structure in the R component. Further discussion on inclining block tariff structures is contained in Appendix 5.

²⁴ Although the Tribunal decided it was appropriate to recover the retail margin through the variable 'R', there are arguments for including it as a fixed charge per customer – this issue is discussed in Appendix 4.

4 WHAT ARE THE OUTCOMES FOR CUSTOMERS?

Under the Tribunal's draft network determination, average network prices will increase over the next regulatory period. These increases need to be passed through to customers in order to signal the cost of supply.

As well as network price rises, retailers have also proposed price increases to continue to move tariffs towards levels that better reflect the cost of supplying small retail customers. This section outlines the key outcomes of the draft determination for customers.

4.1 Impact of the draft determination on prices

The Tribunal's modelling (see Table 4.1) shows that average prices will increase by less than 5.5 per cent per annum.²⁵ The actual impact on individual customers will depend on whether their tariffs are currently higher or lower than the target level set in the draft determination and the level of network increases.

Table 4.1 Annual increases in average retail prices (nominal)

Retailer	Increase
EnergyAustralia	4.5%
Integral Energy	3.7%
Country Energy	5.6%
Australian Inland	5.6%

Note: This table assumes that the increase in CPI is 2.8 per cent for 2004/05 and 2.2 per cent for 2005/06 and 2006/07.

Table 4.2 sets out maximum price increases permitted by the price limits, for any customer. The maximum increases include pass through of the maximum increases in network prices allowed in the Tribunal's draft network determination and estimates of increases in the CPI of 2.8 per cent for 2004/05 and 2.2 per cent for 2005/06 and 2006/07. The impact on an individual customer may be less than the percentage increases listed in this table.

Table 4.2 Maximum increase in retail tariffs permitted by the price limits (nominal)

	2004/05	2005/06	2006/07
EnergyAustralia	6.0%	4.6%	4.6%
Integral Energy	5.2%	4.6%	4.6%
Country Energy	7.2%	5.8%	5.8%
Australian Inland	7.2%	5.8%	5.8%

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

²⁵ The analysis is based on the maximum retail price increases as set out in section 5 of this report and average network price increases as set out in the Tribunal's draft determination on network pricing in NSW.

The Tribunal has modelled the impact of the maximum increases allowed by the price limits on an annual bill for a typical residential customer who is on an under-recovering tariff. These impacts are shown in Tables 4.3 to 4.6. The impact differs across retail suppliers and depends on whether they are a small, medium or relatively large user of electricity. On average the maximum increases for residential customers would be around \$1.00 per week.

Table 4.3 Estimated maximum allowed increases for typical customers of EnergyAustralia (\$ per year)

	2003/04 bill	2004/05 bill	\$ increase	% increase
Residential				
Low usage (3500kWh)	425	450	25	6.0%
Typical usage without off-peak (7000kWh)	773	819	46	6.0%
Typical usage with off-peak (9500kWh) ¹	809	858	49	6.0%
Business				
20MWh	2208	2341	133	6.0%
40MWh	4326	4586	260	6.0%
80MWh	8562	9076	514	6.0%

Note:

1 Assumed percentage of off-peak consumption of 40 per cent for typical usage residential customer.

Table 4.4 Estimated maximum allowed increases for typical customers of Integral Energy (\$ per year)

	2003/04 bill	2004/05 bill	\$ increase	% increase
Residential¹				
Low usage (3500kWh)	488	513	25	5.2%
Typical usage without off-peak (7000kWh)	880	926	46	5.2%
Typical usage with off-peak (9500kWh) ²	896	943	47	5.2%
Business				
20MWh	2245	2362	117	5.2%
40MWh	4351	4578	227	5.2%
80MWh	8563	9009	446	5.2%

Note:

1 Based on typical values of consumption supplied by Integral Energy

2 Assumed percentage of off-peak consumption of 40 per cent for typical usage residential customer.

Table 4.5 Estimated maximum allowed increases for typical customers of Country Energy (\$ per year)

	2003/04 bill	2004/05 bill	\$ increase	% increase
Residential¹				
Low usage (3000kWh)	486	521	35	7.2%
Typical usage without off-peak (4600kWh)	682	731	49	7.2%
Typical usage with off-peak (8300kWh) ²	905	970	65	7.2%
Business				
20MWh	2966	3180	214	7.2%
40MWh	5754	6168	414	7.2%
80MWh	11330	12146	816	7.2%

Note:

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

Table 4.6 Estimated maximum allowed increases for typical customers of Australian Inland (\$ per year)

	2003/04 bill	2004/05 bill	\$ increase	% increase
Residential¹				
Low usage (3500kWh)	462	495	33	7.2%
Typical usage without off-peak (7000kWh)	854	915	61	7.2%
Typical usage with off-peak (9500kWh) ²	716	767	51	7.2%
Business				
20MWh	2798	3469	671	7.2%
40MWh	5464	5857	393	7.2%
80MWh	10796	11573	777	7.2%

Note:

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

5 IMPLEMENTING THE DETERMINATION

There are currently more than 500 regulated retail tariffs in NSW. Some of these are significantly higher than the applicable target level, while others are close to or much lower than the applicable target level. The Tribunal maintains its view that it is not appropriate to move regulated retail tariffs to target levels immediately as it may result in significant price increases for some small retail customers.

However, the Tribunal considers that the regulatory framework should provide adequate scope for regulated retail tariffs that are below target to move closer to the target by the end of the regulatory period without resulting in unreasonable increases for customers. This section outlines the Tribunal's proposal for transitioning tariffs to the target levels including limits on tariff and bill increases.

The Tribunal proposes:

- not to allow increases in over-recovering tariffs
- to limit overall bill changes
- limits on increases in the retail component.

5.1 Implementing the price changes

The objective of price changes is to transition tariffs towards target levels in each year. As part of this process, retail suppliers must determine each year whether a tariff is under-recovering, recovering, or over-recovering in relation to the target tariff applicable at that price change date.

To determine whether a tariff is under-recovering or over-recovering, the retail supplier compares the total revenue (network and retail) from all small retail customers on that tariff during the previous 12 months, with the estimated target revenue which would have been received had the tariff been at the target applicable to that price change date (using the same number of customers and pattern and volume of electricity consumption for the previous 12 months).

The Tribunal has established this process to facilitate a smooth transition to the target levels. Retail suppliers must demonstrate to the Tribunal that they have moved the tariffs in accordance with the determination.

5.2 Limits on increasing over-recovering tariffs

5.2.1 Draft Decision

The Tribunal's draft decision is that, in the regulatory period commencing 1 July 2004, tariffs that are above target should not increase in nominal terms.

5.2.2 Tribunal's analysis and rationale

The Tribunal has decided that only tariffs that are less than their target levels may increase. This means that retailers may not pass through network increases for over-recovering tariffs.

This approach is consistent with the current determination. The Tribunal notes that there is some evidence that many customers, particularly larger users, have shifted off regulated tariffs. However, this has not been so across all retail areas. Therefore these customers may still require some protection.

5.3 Limits on increasing customers' bills

While price limits can be expressed in a number of ways, for example, on the R component of the tariff, the Tribunal considered that it would be appropriate to apply price limits to final bills in addition to limits on the R component.

5.3.1 Draft Decision

The Tribunal's draft decision is that price limits for each regulated retail tariff should be expressed as a price limit on customers' bills according to the formula:

$$\text{Allowed increase} = \Delta \text{CPI} + \left\{ \left(\frac{N_t - N_{t-1}}{N_{t-1}} - \Delta \text{CPI} \right) \times \frac{\text{Network Revenue}}{\text{Regulated retail revenue}} \right\} + \left\{ \Delta R \times \left(1 - \frac{\text{Network Revenue}}{\text{Regulated retail revenue}} \right) \right\}$$

5.3.2 Tribunal's analysis and rationale

A price limit on the R component only may be difficult for customers to understand. As the bill bundles network and retail components (N+R) into a single amount, the Tribunal has specified price limits on the final bills of customers. This approach should be easier for customers to understand while still allowing retailers the flexibility to pass through different price limits for network tariffs.

In its draft determination for network prices, the Tribunal set different price limits for each DNSP as shown in the table below (Table 5.1).

Table 5.1 Network price limits in draft network determination²⁶

DNSP	2004/05	2005/06 to 2008/09
EnergyAustralia	$\Delta \text{CPI} + 6.5\%$	$\Delta \text{CPI} + 4.5\%$
Country Energy	$\Delta \text{CPI} + 6.5\%$	$\Delta \text{CPI} + 4.5\%$
Australian Inland	$\Delta \text{CPI} + 6.5\%$	$\Delta \text{CPI} + 4.5\%$
Integral Energy	$\Delta \text{CPI} + 4.5\%$	$\Delta \text{CPI} + 4.5\%$

²⁶ IPART, NSW Electricity Distribution Pricing 2004/05 to 2008/09 - Draft Determination, January 2004.

Limits on customers' bills could be estimated by taking some form of average of the price limits for N and R. In its submission, Country Energy suggested one such approach which weights the network component.

The Tribunal considers that such an approach would provide a simple measure to ensure standard retailer suppliers are complying with the requirements. The Tribunal sought comment from the standard retailers on Country Energy's approach. EnergyAustralia supported using the formula. In its response Integral Energy was concerned that little detail had been provided in the application of the formula.

The Tribunal considers that a formula based approach would be an appropriate way to express price limits. However, the Tribunal considers that Country Energy's approach over-compensates retailers. This is because the formula weights the network component but does not weight the retail component. The Tribunal considers that the correct formula should be:

$$Allowed\ increase = \Delta CPI + \left\{ \left(\frac{N_t - N_{t-1}}{N_{t-1}} - \Delta CPI \right) \times \frac{Network\ Revenue}{Regulated\ retail\ revenue} \right\} + \left\{ \Delta R \times \left(1 - \frac{Network\ Revenue}{Regulated\ retail\ revenue} \right) \right\}$$

Where:

DCPI means:

- (a) in relation to a Price change date for the 2004/05 period, **DCPI₁**
- (b) in relation to a Price change date for the 2005/06 period, **DCPI₂**
- (c) in relation to a Price change date for the 2006/07 period, **DCPI₃**

DR is:

- (a) in the case of EnergyAustralia and Integral Energy 0.01, and
- (b) in the case of Country Energy and Australian Inland 0.03.

N_t is that part of the total amount of the bills that would be issued to the small retail customer for the year commencing on the relevant Price change date that relates to the network use of system component of the customer's regulated retail tariff

N_{t-1} is that part of the total amount of the bills issued to the small retail customer for the year immediately preceding the relevant Price change date that relates to the network use of system component of the customer's regulated retail tariff

The Tribunal has set out in the draft determination how the formula should be applied.

5.4 Limits on increasing the retail component of tariffs

As discussed in the section on 'N+R', the Tribunal's draft decision is that network tariffs should be passed through and that there should be a price limit on the R component of the tariff. This section describes the limits on R for each retailer.

5.4.1 Draft Decision

The Tribunal's draft decision is that price limits should be imposed on the R component of the tariff. These price limits should be:

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

The Tribunal's draft decision is that price limits on residential and business tariffs should be the same.

5.4.2 Tribunal's analysis and rationale

The presence of under-recovering tariffs may undermine the proper functioning of the competitive retail market, with customers being charged less than it costs to supply them.

The Tribunal has considered options for setting price limits on R that would enable retailers' tariffs to move tariffs closer to their targets during the course of the next regulatory period. The Tribunal examined options where the retail component increases by ΔCPI , $\Delta\text{CPI}+1\%$, $\Delta\text{CPI}+2\%$ and $\Delta\text{CPI}+3\%$. In each case network tariffs as set out in the draft determination have been assumed to be passed through. The Tribunal estimated likely levels of under and over-recovery under each scenario (see Table 5.2).

**Table 5.2 Impact of increasing the R component on net under-recovery
(retailer revenue versus target revenue)**

Increase in R	2003/04	2004/05	2005/06	2006/07
----- Net under-recovery -----				
<i>EnergyAustralia</i>				
DCPI	\$16m	\$13m	\$12m	\$12m
DCPI+1%	\$16m	\$10m	\$6m	\$2m
DCPI+2%	\$16m	\$6m	0	0
DCPI+3%	\$16m	\$2m	0	0
<i>Integral Energy</i>				
DCPI	\$22m	\$14m	\$14m	\$14m
DCPI+1%	\$22m	\$11m	\$8m	\$6m
DCPI+2%	\$22m	\$8m	\$3m	0
DCPI+3%	\$22m	\$5m	0	0
<i>Country Energy</i>				
DCPI	\$42m	\$46m	\$48m	\$49m
DCPI+1%	\$42m	\$43m	\$42m	\$41m
DCPI+2%	\$42m	\$41m	\$37m	\$33m
DCPI+3%	\$42m	\$38m	\$32m	\$28m
<i>Australian Inland</i>				
DCPI	\$3.8m	\$4.7m	\$4.3m	\$4.4m
DCPI+1%	\$3.8m	\$4.6m	\$4.1m	\$4.1m
DCPI+2%	\$3.8m	\$4.4m	\$3.9m	\$3.8m
DCPI+3%	\$3.8m	\$4.3m	\$3.7m	\$3.5m

Note: This modelling is indicative only as it assumes that all over-recovering tariffs increase by the same percentage. Network increases have been based on average increases not maximum increases. Consequently it may be possible for some tariffs to reach cost recovery more quickly than assumed in this analysis.

The modelling shows that a CPI increase in the R component would have little or no impact on reducing the level of under-recovery for any retailer. The analysis also shows that with increases of $\Delta\text{CPI}+2\%$ each year, EnergyAustralia and Integral Energy could eliminate their under-recovering tariffs by the end of the regulatory period. However, Country Energy and Australian Inland would require considerably larger annual increases to remove their under-recovery.

The Tribunal notes that the Terms of Reference require the Tribunal to ensure (as far as possible) that tariffs are at cost reflective levels by 2007, or an appropriate date, with a smooth transition for customers. This means that there needs to be a balance between achieving cost reflectivity and impacts on customers.

The Tribunal considers that a price limit of $\Delta\text{CPI}+1\%$ on the R components for EnergyAustralia and Integral Energy provides a reasonable balance between achieving cost reflective prices and minimising customer impacts. Under this scenario both EnergyAustralia and Integral Energy will have largely achieved cost reflectivity by the end of the regulatory period.

Country Energy and Australian Inland would be well short of achieving cost reflectivity of their tariffs by 2007 if their R components were to increase by $\Delta\text{CPI}+1\%$. In order to provide a reasonable balance between achieving cost reflective tariffs and minimising customer impacts, the Tribunal considers that a price limit of $\Delta\text{CPI}+3\%$ on the R component is appropriate.

The 2000-2004 determination applied different price limits to residential ($\Delta\text{CPI}+2\%$) and business tariffs ($\Delta\text{CPI}+5\%$). The Tribunal is of the view that there is no need for different price limits for residential and business customers over the coming regulatory period.

5.5 Limits on increasing the fixed retail component

5.5.1 Draft Decision

The Tribunal's draft decision is that the fixed R component of any customer's bill must not increase by more than \$5 per annum.

This limit is proposed to be in addition to limits on increasing customers' bills described in section 5.3 above.

5.5.2 Tribunal's analysis and rationale

In the current determination residential tariffs must increase by no more than $\Delta\text{CPI}+2\%$ or \$25, whichever is the greater. The Tribunal's draft determination for network prices requires that the fixed component of any network tariff must not increase by more than \$30. As the Tribunal is passing through network tariffs, the Tribunal considers that it would be appropriate to allow pass through of the price limit on the fixed component into retail prices.

The Tribunal notes that placing a limit of \$30 on a customer's final retail bill would not provide the retailer with any scope to increase the retail component of the fixed charge. Therefore, the Tribunal is proposing to set a maximum increase in the fixed retail component of \$5 per annum. The Tribunal notes that this is approximately 10 per cent of the fixed R and should provide retailers sufficient scope to recover any increases in the fixed R in any year or where a tariff is currently under-recovering the fixed component. Combined with the network price limit, this sets a constraint on increasing the fixed portion of the customers' final bill of \$35 per annum.

6 OTHER ISSUES CONSIDERED BY THE TRIBUNAL

6.1 Introducing new regulated retail tariffs

6.1.1 Draft Decision

The Tribunal's draft decision is that the only new regulated retail tariff for 2004/05 should be EnergyAustralia's proposed Time of Use Business tariff for customers with a type 5 meter.

6.1.2 Tribunal's analysis and rationale

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

Retailers' proposed tariffs

In their initial submissions to this review the retailers did not propose introducing new regulated retail tariffs. However, both Australian Inland²⁷ and Country Energy²⁸ stated that the determination should provide the flexibility for retailers to introduce new regulated retail tariffs during the regulatory period so long as those tariffs comply with the determination.

During March 2004, EnergyAustralia wrote to the Tribunal seeking the Tribunal's approval to the introduction of a business time of use (ToU) tariff to be applied to customers with a Type 5 meter and who will have the LV Energy40 ToU network tariff applied to their consumption.²⁹

EnergyAustralia's proposal seeks to provide a regulated retail tariff in circumstances where EnergyAustralia (network) installs a type 5 (interval) meter for business customers and puts that customer onto a type 5 network charge. The existing business ToU tariffs (general supply, irrigation and process heating) are for customers with Type 6 ToU meters and therefore cannot also be applied to customers with Type 5 meters. The new business ToU tariff would be the default tariff for all new installations, as well as existing installations that have their meter changed to a Type 5 and whose consumption is less than 40 MWh pa.

The Tribunal considers that a retailer should be able to provide a tariff that matches a type 5 network tariff. The Tribunal notes that it is the network that requires the type 5 meter. If the retailer is unable to establish a new tariff which reflects the network tariff (and costs) there would not be a default tariff for that customer that is cost reflective.

The Tribunal notes that EnergyAustralia's proposal was submitted just prior to the final date for submissions for the review. Consequently there has been no opportunity to formally consult on the proposal. The Tribunal is inclined to allow this tariff as a new regulated retail tariff. **The Tribunal seeks stakeholders' views on this proposal.**

²⁷ Australian Inland submission, p 3.

²⁸ Country Energy submission, p 23.

²⁹ EnergyAustralia, letter to Tribunal dated 8 March 2004.

Other new tariffs

Regulated retail tariffs are those specified in a determination of the Tribunal. Under the network determination it is possible that the network may introduce new tariffs. The Tribunal believes that retailers should be able to introduce a new retail tariff if the network introduces new network tariffs.

To accommodate such circumstances, the Tribunal recommends that the Minister refer any proposals for new regulated retail tariffs to the Tribunal for consideration in accordance with Section 43EA of the *Electricity Supply Act, 1995* (ESA). In this way, new regulated retail tariffs will be considered on a case-by-case basis.

The standard retail supplier would need to place a request with the Minister in sufficient time for the Tribunal to undertake public consultation prior to the new tariffs taking effect from the next price change date.

The Tribunal considers that this framework, which is unchanged from the 2002 determination, would provide retailers with the appropriate mechanism for the introduction of new tariffs.

6.2 Consideration of ‘green tariffs’

In the 2002 determination the Tribunal considered arrangements for introducing ‘green tariffs’. Retail suppliers may have green tariffs comprising of a regulated retail tariff and a green premium. These green tariffs are generally based on a ‘green power’ purchase arrangement. Customers elect to be on these tariffs voluntarily.

The Tribunal’s view is that while the base tariff is regulated, the premium is not. The Tribunal believes that the current arrangements provide standard retail suppliers with the flexibility to introduce appropriate green premiums and hence there is no need to have green premiums regulated as separate retail tariffs.

6.3 Promoting competition

The Electricity Supply Act states that the Tribunal must have regard to “*the effect of the Determination on competition in the retail electricity market*”.³⁰ Additionally, the terms of reference for this review refer to the effect on competition of (under-recovering) tariffs set by the Tribunal.

Many submissions to the review insisted that the Tribunal should allow higher operating costs and an additional margin within the regulated retail tariff to encourage competition. These views are discussed further in Appendix 4 in relation to profit margins. The Tribunal strongly believes that this is not desirable from an economic efficiency perspective and maintains that the regulated retail tariffs should be neutral with respect to competition.

³⁰ *Electricity Supply Act 1995*, section 43EB(2)(b).

6.4 Regulated retail charges

6.4.1 Draft Decision

The Tribunal's draft decision is not to amend regulated retail charges over the next regulatory period.

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

Table 6.1 Regulated retail charges (ex GST)

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

The Tribunal discussed the rationale for these charges in its December 2000 determination.³¹

6.4.2 Tribunal's analysis and rationale

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

The Tribunal has considered whether it should amend the maximum allowable charge for the late payment fee. The Tribunal notes that a \$5.00 fee may be less than cost (as argued by EnergyAustralia and Integral Energy)³² and may not provide sufficient incentive for customers to pay on time. However, the Tribunal notes the Public Interest Advocacy Centre and the Energy and Water Ombudsman of NSW's concerns about these charges have the effect of increasing hardship for low-income and disadvantaged consumers.³³ On balance the Tribunal considers that an increase is not justified.

The Tribunal also considered the issue of security deposits in response to retailer requests to extend the period for which security deposits can be retained. The Tribunal also considers it unreasonable that a retailer retain security deposits for extended periods of time without paying interest. The Tribunal reaffirms that security deposits should be refunded to customers as set out in the schedule to the determination.

³¹ IPART, *Regulated retail prices for electricity to 2004*, December 2000, Appendix 4.

³² EnergyAustralia submission, 1 December 2003 and Integral Energy submission, 1 December 2003.

³³ PIAC submission, 3 February 2004 and EWON submission, 3 February 2004.

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

APPENDIX 1 TERMS OF REFERENCE

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

A1.1 Reference to the Tribunal under section 43EA

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

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

A1.1.1 Background

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

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

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

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

A1.1.2 Matters for consideration

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

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

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

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

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

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

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

A1.1.3 Consultation

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

A1.1.4 Timing

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

A1.1.5 Definitions

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

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

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

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

APPENDIX 2 EFFECTIVENESS OF COMPETITION

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

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

A2.1 Summary of draft decision

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

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

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

A2.2 Tribunal's analysis and rationale

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

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

The key aspects considered by the Tribunal were:

- a) the definition of effective competition
- b) market definition
- c) the number of firms and the degree of market concentration
- d) barriers to entry and exit
- e) supplier behaviour
- f) customer outcomes.

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

a) The definition of effective competition

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

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

In deciding on this definition the Tribunal had regard to a report by the Network Economics Consulting Group (NECG) on competition in the small retail electricity market, provided by Integral Energy.³⁴ The report argues that workable (rather than perfect) competition is an achievable standard for the NSW small customer electricity market given the structure of the market and the state of competition in similar markets.

b) Market definition

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

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

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

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

c) The number of firms and the degree of market concentration

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

³⁴ Integral Energy submission - Appendix 1, 1 December 2003 (available from www.ipart.nsw.gov.au).

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

d) Barriers to entry and exit

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

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

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

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

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

e) Supplier behaviour

Since the commencement of full retail contestability, AGL has begun supplying electricity as part of dual fuel packaging and the four standard retailers have also been offering market contracts in selected areas. There appears to be some likelihood of further entry (for example, TXU noted strong interest among potential entrants).³⁵ However, despite the noted interest, potential entrants have advised that they do not believe the current environment is conducive to competitive entry.

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

³⁵ TXU supplementary submission, 2 February 2004, pp 5-6.

f) Customer outcomes

Switching information

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

Switching information for electricity and gas (combined) published by the Department of Energy, Utilities and Sustainability indicates that at January 2004 a total of 562,892 small energy customers had switched to either another retailer or to a competitive offer with their current retailer since the commencement of full retail contestability in January 2002.³⁶

NEMMCO switching data indicates that the number of small customers who transferred to a different retailer (as opposed to those taking up competitive offers with either their current retailer or another) was 194,128 at the end of February.³⁷ Based on approximately 2,718,870 small customers in NSW this data indicates that 7.1 per cent of customers in the market have switched to another retailer.

The Tribunal also had regard to the results of the IPART Household Survey which collected information from approximately 2,000 households in Sydney, the Blue Mountains and Illawarra, including their awareness of choice and switching behaviour. The survey showed that although most respondents were aware that they could switch their electricity retailer, only around 30 per cent of respondents had been approached by another electricity retailer. Of those approached, approximately one in five switched as a result.

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

Characteristics of customers switching

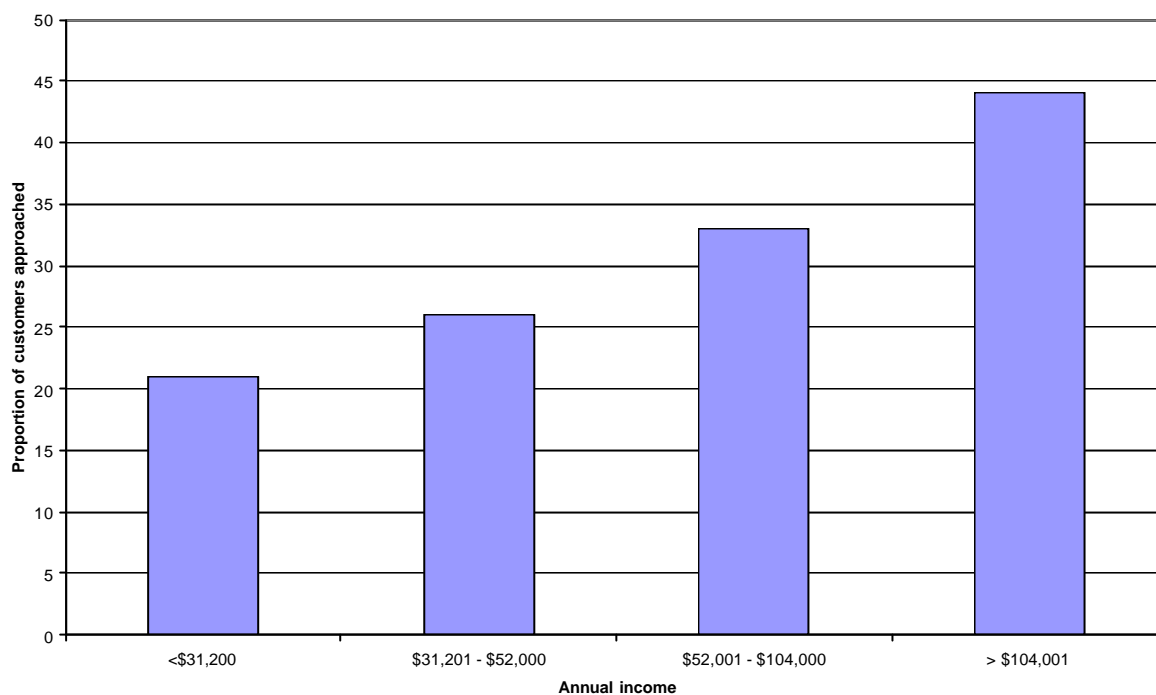
Among the survey participants, both awareness of choice and approaches by suppliers increased as household income increased.

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

³⁶ Department of Energy, Utilities and Sustainability, *Customers exercising choice*, January 2004.

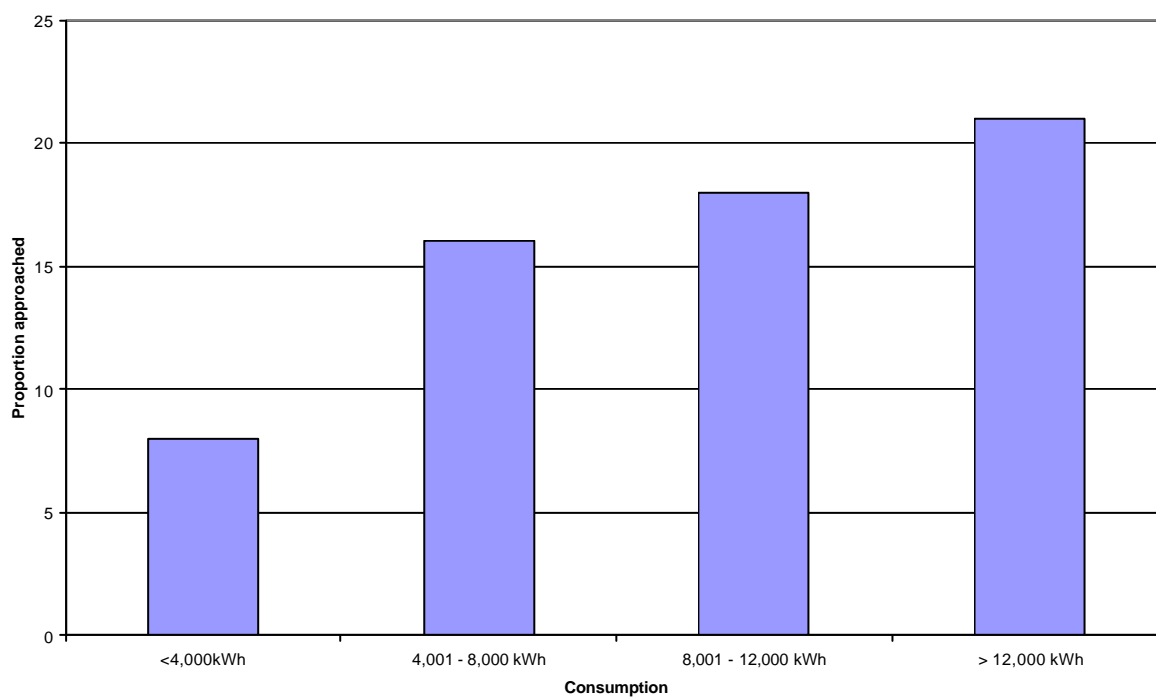
³⁷ NEMMCO completed small customer transfers at 29 February 2004, www.nemmco.com.au.

Figure A2.1 Relationship between competitive offers and income



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

Figure A2.2 Relationship between competitive offers and consumption



Data source: IPART household survey data.

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

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

Characteristics of competitive offers

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

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

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

APPENDIX 3 COMPARISON OF R COMPONENTS OF TARGET TARIFFS

Table A3.1 R Component June 2004 Determination \$2004/05 (new) compared to June 2002 Determination (\$2003/04)

	Fixed R	Fixed R	Variable R	Variable R	Variable R	Variable R	Variable R	Variable R
			Standard	Standard	Off-peak	Off-peak	Extended Off-peak	Extended Off-peak
	(\$)	(\$)	c/kWh	c/kWh	c/kWh	c/kWh	c/kWh	c/kWh
	2003/04	2004/05	2003/04	2004/05	2003/04	2004/05	2003/04	2004/05
EnergyAustralia	48.27	55.25	6.01	5.99	3.89	3.93	4.84	4.85
Integral Energy	53.18	55.25	6.30	6.29	3.98	4.02	4.68	4.69
Country Energy								
Urban	51.54	55.25	6.56	6.80	4.08	4.12	4.82	4.89
Rural	51.54	55.25	6.96	7.04	4.31	4.26	5.11	5.07
Australian Inland								
Urban	44.18	55.25	7.14	7.09	4.35	4.40	4.92	4.93
Rural	44.18	55.25	7.14	7.63	4.35	4.57	4.92	5.23

APPENDIX 4 ANALYSIS OF COST COMPONENTS IN THE RETAIL TARGETS

A4.1 Cost of purchasing electricity

A4.1.1 Long Run Marginal Cost (LRMC)

The Tribunal has adopted a value for LRMC of \$47/MWh. This excludes green costs (\$3/MWh) and retailer NEM fees (\$1/MWh) (discussed below)

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

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

In its 2000 determination the Tribunal decided that the range for the LRMC was \$36-\$56/MWh. In its modelling the Tribunal used \$45.80/MWh (\$2003/04). In its Mid-Term Review of the current determination the Tribunal increased the range of LRMC to \$39-\$59/MWh. The point estimate used by the Tribunal in the 2002 determination was \$49.00 (\$2003/04). The Tribunal notes that these values included an allowance for green costs.

The Tribunal engaged Intelligent Energy Systems as consultants to estimate LRMC. The invitation to tender required that the model developed should:

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

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

IES produced a range for LRMC by using high, medium and low cost scenarios.³⁸ The high cost scenario had high capital costs, high fuel costs and a discount rate of 12 per cent (real pre-tax). The Medium scenario had mid range capital and fuel costs with a discount rate of 9 per cent. The low scenario had low capital and fuel costs and a discount rate of 7 per cent.

The LRMC for the total average NSW regulated load was calculated at:

- \$58.71 for the high case
- \$47.84 for the medium case
- \$35.54 for the low case.

³⁸ The IES report is available on the Tribunal's website (www.ipart.nsw.gov.au).

Delta's submission³⁹ calculated LRMC that was substantially the same as IES's. Delta's efficient plant mix was 660MW Thermal, 380 MW CCGT, 100MW OCGT and 100 MW open cycle fuel oil fired turbine. Delta specifically included the cost of reserve capacity in their calculation. The discount rate applied was 9.6 per cent (real).

Macquarie presented a similar submission to that of Delta. Macquarie replicated the ETEF load with a plant mix of 3,800MW of thermal, 1,400 CCGT and 2100 OCGT. Macquarie used a discount rate of 10.5 per cent (real). It provided a LRMC of generation of \$43.27/MWh plus cost of reserve capacity of \$0.72/MWh and MRET/NGAC obligations of \$1.45 MWh in 2004 to \$4.18MWh in 2007, resulting in a final cost of \$49.63MWh.

In submissions and at the roundtable discussion the generators and retailers stated that hedging costs should be included in energy costs to encourage retail competition. The Tribunal notes that the Terms of Reference for the review require it to estimate LRMC and not a market price for electricity. The Tribunal considers that hedging costs should not be included in the LRMC.

A4.1.2 Green energy compliance costs

The Tribunal has adopted an allowance in the LRMC for green energy costs of \$3/MWh.

The Tribunal's analysis of green energy compliance costs involves consideration of requirements imposed on retailers by:

- The Commonwealth Mandatory Renewable Energy Target Scheme .
- The NSW Greenhouse Gas Abatement Scheme.

The **MRET** scheme requires retailers to purchase 2 per cent of the energy from renewable resources such as wind, solar or land-fill gas. IES did not calculate a value for complying with MRET.

The Tribunal has not included MRET costs in the LRMC. This is because MRET compliance is an obligation on the retailer not the generator. Therefore MRET costs should not be included in the energy purchase price (LRMC) but added in after retailer cost allowances.

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

Table A4.1 Estimates of MRET compliance costs (per MWh in nominal dollars)

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

Source: Submissions.

The Tribunal has allowed \$1.00 for MRET costs.

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

³⁹ Delta Electricity submission, 2 February 2004.

The **NSW Greenhouse Abatement Scheme** requires that the per capita CO₂ equivalent emission be progressively reduced from 8.65 tonnes to 7.27 tonnes in 2007.

If the efficient plant mix happens to contain sufficient amounts of CCGT power then this target will be met without need for additional shifting of production plant or purchase of NSW Greenhouse Abatement Certificates (NGACs). IES state that the plant mix in the LRMC model meets the requirements of the scheme. Therefore the LRMC would include a value for complying with the scheme.

However, the generators that retailers purchase from do not comply with the scheme and the retailers must buy NGACs. The Tribunal has decided that when calculating the LRMC of electricity generation it should not only calculate the costs of that generation but *offset* any direct benefits to arrive at the final figure for LRMC.

There is little information available publicly on the costs associated in complying with the requirements under the scheme. In their submissions Integral Energy and Macquarie Generation forecast the following costs of complying with the NSW scheme.

Table A4.2 Estimates of NSW Scheme compliance costs (per MWh in nominal dollars)

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

Source: Submissions.

Based on these forecasts, the Tribunal has allowed compliance costs of around \$2.00/MWh for compliance with the NSW Greenhouse Gas Abatement Scheme.

A4.1.3 National electricity market (NEM) fees

The Tribunal has provided for an allowance for retailer NEM fees and ancillary charges for 2004/05 to 2006/07 of \$1.00/MWh.

This amount will remain constant in real terms over the period of the determination. The Tribunal notes that NEMMCO can only calculate the rate (per MWh) for the following year after the budget for that year has been approved.

NEM Fees are levied on retailers, generators and market participants to cover the costs incurred by NEMMCO and NECA in running the National Electricity Market. Retailers are levied on a per MWh basis according to electricity purchases. For generators the fees are levied on a per MW capacity basis. These fees are calculated each year for the following year based on the approved NEMMCO and NECA budgets for that year.

Ancillary charges cover the costs associated with the physical safety and coordination of the National Grid as distinct from the trading market. Ancillary charges are levied as the costs are incurred. Retailers are levied on a per MWh basis based on electricity purchases.

NEM fees

In the current determination, the Tribunal allows a single aggregated total for NEM fees and ancillary charges of \$1.49 per MWh (\$2003/04). This was made up of a \$0.33/MWh (\$2003/04) allowance for NEM fees and a \$1.17/MWh (\$2003/04) allowance for ancillary charges. Table A4.3 shows the NEM fees charged over the period 1999/2000 to 2003/04.

Table A4.3 Retailer NEM Fees (per MWh in nominal dollars)

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

The Tribunal proposes to allow \$0.41/MWh for retailer NEM fees for the period 2004/05 to 2006/07.

Ancillary charges

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

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

The Tribunal proposes to provide an allowance of \$0.58 per MWh for ancillary charges.

A4.2 Retail operating costs including contestability costs

The Tribunal has allowed an amount for retail operating costs of \$65 per customer.

In the December 2000 determination, the Tribunal adopted a benchmark range for retail operating costs of between \$40 and \$60 per customer per annum (\$2001) (equivalent to \$43.64 to \$65.46 in \$2003/04) which included a preliminary \$5 allowance for contestability costs. The range was based on cost benchmarks from other jurisdictions, having reviewed NSW retail suppliers' costs. At the 2002 determination the Tribunal considered that an increase in the operating cost range was appropriate, and set the range for 2002-2004 at \$45 to \$75 per customer (\$2001) (equivalent to \$49 to \$82 \$2003/04) per customer which included a provision for contestability costs.

The \$65 per customer proposed by the Tribunal in the draft determination is at the upper end of the values allowed for each retailer in the 2002 determination (including FRC costs). Based on the evidence provided, the Tribunal does not believe that a significant change in the retail operating cost allowance is justified. Adopting a value of \$65 provides an appropriate recovery of reasonable costs.

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

- Develop benchmarks for retail operating costs.
- Examine each retail supplier's cost to serve and compare with appropriate benchmarks.
- Include appropriate and efficient FRC costs and regulatory costs.

- Make recommendations on reasonable operating costs.

NERA prepared a confidential report for the Tribunal. A revised version (non-confidential) was released for public comment. In its report NERA recommended a range for retail operating costs per customer of \$50 - \$80 (nominal).

NERA's estimate of \$50-\$80 was based on its analysis of each retailer's operating cost estimates and a consideration of benchmark costs. NERA stated that:

These recommendations are based on a review of the information provided by the retailers, decisions by regulators in other jurisdictions and an assessment of the environment within which retailers operate. The recommended range will allow most retailers to fully recover reported retail costs associated with serving customers on default tariffs and are in line with decisions made by regulators in other jurisdictions.⁴⁰

The submissions have also noted that NERA's benchmarks were considerably lower than those allowed in other jurisdictions. NERA's own analysis confirms this (see Table 1). To use a higher benchmark based on other jurisdictions is inconsistent with setting efficient costs.

The Tribunal notes that Australian Inland's costs are considerably higher than those of the other retailers. Analysis undertaken by McKinsey suggests that the large retailers tend to have lower opex per customer.⁴¹ This is essentially due to the fact that IT systems, call centres, billing, marketing and branding is partly fixed and these can be extended to serve a larger customer base without a corresponding increase in costs.

To what extent should the allowed costs vary with churn?

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

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

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

Under a benchmarking approach it would be appropriate for the Tribunal to allow the same retail operating costs per customer. Except in the case of Australian Inland there is no reason to believe that efficient costs would be different for each retailer.

⁴⁰ NERA, *New South Wales Energy Retail Costs*, A Report to IPART, p 3.

⁴¹ Allas, T and Leslie K, "Sizing Power", *McKinsey Quarterly*, No 1, 2001.

In the 2002 determination the Tribunal allowed different FRC costs for each retailer. The Tribunal has decided to continue using a benchmarking approach. The Tribunal has adopted a value of \$65 per customer. After allowing for inflation, this is less than the amounts allowed in the 2002 determination for Integral Energy and Country Energy, approximately equal to EnergyAustralia's allowed costs and greater than Australian Inland's allowed amount (but significantly less than Australian Inland's reported costs).

Table A4.4 Benchmarking of electricity retail costs (\$/Customer)

Jurisdiction	Range Nominal	Range 2004 dollars		Comments
NSW (IPART) 2000 ¹	\$40 - \$60	\$43.25 - \$64.88	•	Includes FRC allowance of \$5
NSW (IPART) 2002 ²	\$45 - \$75	\$48.66 - \$81.10	•	Reflects increased costs for computer processing, billing and revenue collection, updated benchmarks and includes a range of allowances for FRC
Victoria (ORG ³) 2001 ⁴	\$50 - \$80	\$54.06 - \$86.50	•	Benchmarked on IPART's 2000 decision, with slightly higher costs justified due to Victorian retailers being less likely to benefit from economies of scale
			•	Includes a FRC allowance of \$5 - \$10
South Australia (SAIIR ⁵) 2002 ⁶	\$80	\$84	•	Retailers' information suggested they were at the upper end of the ORG's range
			•	AGL SA submitted that it was a 'stand-alone' retail business unlike the majority of retailers in NSW and Victoria, resulting in higher costs
South Australia (ESCOSA) ⁷ 2003	\$82	\$83.72	•	Previous decision was determined to be 'reasonable' and increased by CPI
Tasmania (OTTER) 2003 ⁸	\$76.67	\$78.27	•	Excludes FRC costs which are to be agreed by the regulator/passed through
ACT (ICRC) 2003 ⁹	\$85	\$86.78	•	Higher cost recognises diseconomies of scale in the ACT compared to NSW and Vic
UK (Ofgem) 1999 ¹⁰	\$69.34 - \$85.04 ¹¹	\$79.68 - \$97.71 ¹¹	•	Includes metering costs (which were not separately specified)

Notes:

1. IPART, *Regulated Retail Prices for Electricity to 2004*, December 2000; 2. IPART, *Mid-term review of regulated retail prices for electricity to 2004*, June 2002; 3. Office of the Regulator General, now the Essential Services Commission; 4. Office of the Regulator General, *Special Investigation: Electricity retailers' proposed price increases*, December 2001; 5. South Australian Independent Industry Regulator, now the Essential Services Commission of South Australia; 6. SAIIR, *Electricity Retail Price Justification: Final Report*, September 2002; 7. ESCOSA, *2004 Electricity Standing Contract Price: Final Report*, December 2003; 8. OTTER, *Investigation of Prices for Electricity Distribution Services and Retail Tariffs on Mainland Tasmania: Final Report and Proposed Maximum Prices*, September 2003; 9. ICRC *Final Determination: Investigation into Retail Prices for Non-Contestable Electricity Customers in the ACT*, May 2003; 10. Ofgem, *Reviews of Public Electricity Suppliers 1998 to 2000: Supply Price Control Review, Final Proposals*, December 1999; 11. £34.41 - £42.20 Converted to Australian dollars using the PPI index for 1999, obtained from the OECD website.

A4.3 Profit Margin

The Tribunal has allowed a retail net profit margin of 2.0 per cent.

The net profit margin represents the reward to investors for committing capital to a business. The level of profit margin is influenced by the level of risk associated with energy purchasing costs, customer default and bad debt, and competition from electricity substitutes. In its December 2000 determination, the Tribunal allowed a net profit margin in the range of 1.5 to 2.5 per cent of sales turnover. The basis for this decision was:

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

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

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

Submissions on Net Margin

Country Energy notes that the current range is at the lower end of the range, and suggests altering it to 2 to 2.5 per cent. Australian Inland stated that the current retail margin of 1.5 to 2.5 per cent is 'probably as good as any other figure'.⁴² Both Integral Energy and EnergyAustralia argued for the inclusion of working capital in the retail margin.

Energy purchase risk eliminated

The New South Wales Government established the ETEF at the start of 2001. At the time of the 2000 determination these arrangements were still being finalised. The ETEF effectively allows retail suppliers to purchase electricity to supply regulated customers at a fixed price determined by the ETEF administrators.⁴³ This arrangement eliminates most of the energy purchase price risk for retail suppliers supplying customers who remain on the regulated tariff.

The Tribunal considers that its original decision not to allow a margin for energy purchase price risk remains appropriate.

⁴² Australian Inland submission - Review of Regulated Retail Tariffs, 1 December 2003, p 15.

⁴³ There are two prices — a peak and an off-peak price which vary across retail suppliers.

Benchmarks

For the December 2000 determination, the Tribunal examined benchmarks for the net profit margin established in the previous determination and also the experience in the United Kingdom. Since then, other jurisdictions have undertaken reviews of regulated retail prices as shown in the following table.

The Tribunal notes that CRA's analysis for the Department of Infrastructure in Victoria suggested retail margins in the range of 5 per cent to 8 per cent. CRA noted that the Office of the Regulator General (now the Essential Services Commission of Victoria) had previously proposed a range of 2.5 per cent to 5 per cent. CRA uplifted this range to provide headroom for competition and for the risk associated with purchases.

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

Table A4.5 Benchmarking of electricity retail margins

Jurisdiction	Range (% of sales)	Comments
NSW (IPART) 2000 ¹	1.5 – 2.5%	<ul style="list-style-type: none"> Used the UK profit margin as a starting point Noted that the UK and NSW are not directly comparable because retailers operate in different environments with varying levels of risk and varying degrees of competitive pressures
NSW (IPART) 2002 ²	1.5 – 2.5%	<ul style="list-style-type: none"> IPART believed no change was warranted from the previous determination
Victoria (ORG) 2001 ³	2.5 – 5%	<ul style="list-style-type: none"> A higher margin than NSW is reasonable because of reduced risks from energy trading as a result of ETEF
Victoria (DOI) 2003	5 – 8%	<ul style="list-style-type: none"> CRA analysis recommends providing headroom for competition
South Australia (SAIIR) 2002 ⁴	5%	<ul style="list-style-type: none"> Inherent 'riskiness' of the market more similar to Victoria than NSW The higher end of the range reflects the 'peakiness' of the SA energy market
South Australia (ESCOSA) ⁵ 2003	5%	<ul style="list-style-type: none"> ESCOSA was provided with no reason to alter its position from the previous decision
Tasmania (OTTER) 2003 ⁶	3%	<ul style="list-style-type: none"> The major retailer faces little contestability risk in the next regulatory period; Some risk associated with inter-fuel competition is justified
ACT (ICRC) 2003 ⁷	3%	<ul style="list-style-type: none"> Not as risky as the SA market, therefore 5% proposed margin was not justified
UK (Ofgem) 1999 ⁸	1.5%	<ul style="list-style-type: none"> Low margin reflects relatively few competitive pressures

Notes:

1. IPART, Regulated Retail Prices for Electricity to 2004, December 2000; 2. IPART, Mid-term review of regulated retail prices for electricity to 2004, June 2002; 3. Office of the Regulator General, Special Investigation: Electricity retailers' proposed price increases, December 2001; 4. SAIIR, Electricity Retail Price Justification: Final Report, September 2002; 5. ESCOSA, 2004 Electricity Standing Contract Price: Final Report, December 2003; 6. OTTER, Investigation of Prices for Electricity Distribution Services and Retail Tariffs on Mainland Tasmania: Final Report and Proposed Maximum Prices, September 2003; 7. ICRC, Final Determination: Investigation into Retail Prices for Non-Contestable Electricity Customers in the ACT, May 2003; 10. Ofgem, Reviews of Public Electricity Suppliers 1998 to 2000: Supply Price Control Review, Final Proposals, December 1999.

Riskiness in customer base

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

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

The Tribunal believes that the current range provides sufficient compensation to retail suppliers for the increased risk they are likely to face as FRC impacts on their customer base. The Tribunal believes that 2 per cent provides an appropriate return for regulated retail tariffs in NSW.

Allowance to promote competition

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

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

A4.4 Loss factors

The Tribunal has updated the loss factors to represent the sales estimates provided by retail suppliers

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

The target levels of regulated retail tariffs include a retail supplier-specific, separate dollar per MWh component for small retail customers (urban and rural) to account for energy losses.

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

The Tribunal has averaged transmission losses from NEMMCO's website and used distribution losses submitted by the DNSPs and subsequently reviewed by Intelligent Energy Systems. Table A4.6 shows the system losses the Tribunal has used in the target values for 2004-2007.

Table A4.6 Tribunal's Loss Factor Assumptions for 2004-2007

Loss Factors (transmission loss factors plus distribution loss factors)	Urban %	Rural %
EnergyAustralia	5.85	na
Integral Energy	8.55	na
Country Energy	12.13	16.19
Australian Inland	20.50	25.96

Source: calculated on loss factors published by NEMMCO.

A4.4.1 Network Component 'N'

Network charges are a pass-through item in the final charge

Network charges have been included in the regulated retail tariff as a pass-through item, whereby the actual network charge (N) incurred is added to the retail component (R) to arrive at the target tariff. The Tribunal remains of the view that this is the most appropriate way to apply network charges within the current tariff structure. The reasons for this decision under the 2000 determination remain valid and are outlined in the 2000 Report.

APPENDIX 5 INCLINING BLOCK TARIFFS

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

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

The Tribunal considered that the likely impact on demand for electricity is uncertain. An IPART Secretariat discussion paper on network inclining block tariffs concluded that although electricity consumption is thought to be relatively inelastic, customers would be likely to respond to changes in the final retail price when making their consumption decisions.⁴⁴ The larger the difference between the first and second tier prices, the larger this effect could be expected to be.

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

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

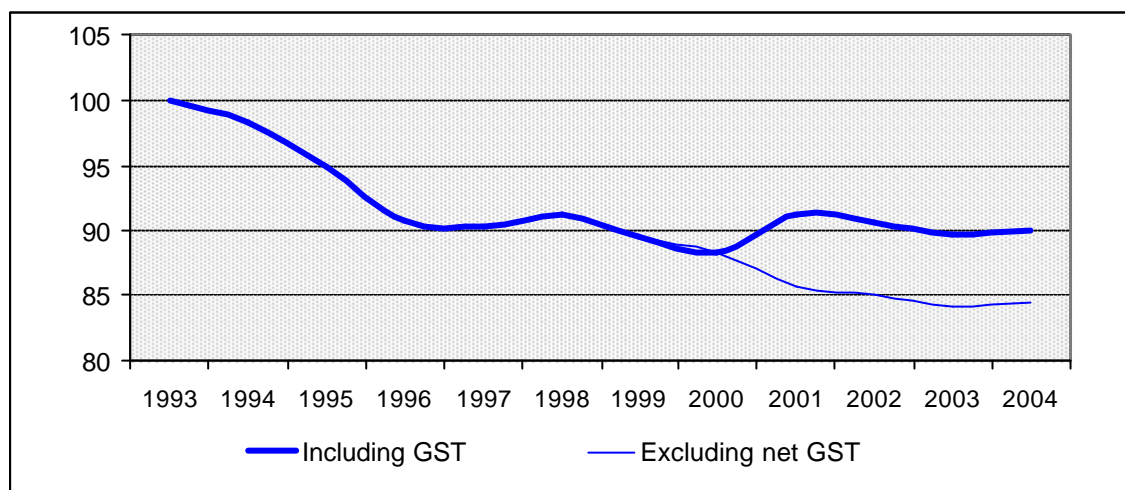
The Tribunal does not consider there is a strong case for the introduction of an inclining block structure into the 'R' component. However, the Tribunal considered that retailers should have some flexibility to introduce such structures into their tariffs.

⁴⁴ Secretariat Discussion Paper on Inclining Block Tariffs for Electricity Network Services (July 2003).

APPENDIX 6 TRENDS IN RETAIL PRICES

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

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



Source: IPART.

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

Table A6.1 Comparison of interstate electricity prices (nominal)

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

Source: ESAA.

APPENDIX 7 LIST OF SUBMISSIONS

Organisation	Contact name	Date
ActewAGL	Bianca Giurietto	22 March 2004
AGL Energy Sales and Marketing (AGL ES&M)	Kamlesh Khelawan	29 January 2004
AGL Retail Energy	Kamlesh Khelawan	23 March 2004
Australian Consumers' Association	Charles Britton	8 March 2004
Bardak Energy and Management Services	Dr Robert Booth	8 March 2004
Country Energy	Natalie Banicevic	18 March 2004
Delta Electricity	Tim Baker	2 February 2004
Energy and Water Ombudsman (EWON)	Clare Petre	3 February 2004
Energy Retailers Association of Australia (ERAA)	Tony Wood	1 December 2003
Energy Retailers Association of Australia (ERAA)	Deane Russell	1 April 2004
EnergyAustralia	Nick Saphin	18 March 2004
Ergon Energy	Rebecca Myers	1 December 2003
Individual	R A Caines	2 February 2004
Integral Energy	Richard Powis	18 March 2004
Macquarie Generation	Russell Skelton	2 February 2004
Origin Energy	Van Bui	19 March 2004
Origin Energy	Van Bui	2 February 2004
Public Interest Advocacy Centre (PIAC)	Jim Wellsmore	19 March 2004
Public Interest Advocacy Centre (PIAC)	Jim Wellsmore	3 February 2004
TXU Australia	Peter Carruthers	17 March 2004
TXU Australia	Caryle Demarte	8 December 2003
TXU Australia	Caryle Demarte	2 February 2004

Independent Pricing and Regulatory Tribunal

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

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

APPENDIX 8 GLOSSARY OF ACRONYMS

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

N component	Network component of the target for a regulated retail tariff
OP2, OP3, OP4	Names of tariffs provided by retailers which will be subject to the extended off-peak tariff
R Component	Retail component of the target for a regulated retail tariff
Tribunal	The Independent Pricing and Regulatory Tribunal of New South Wales established under the <i>Independent Pricing and Regulatory Tribunal Amending Act, 1992</i>
Type 5 meter	A meter where consumption is measured in half hourly intervals and is read manually not remotely
2000 Determination	Recommendation in December 2000, <i>Regulated Retail Prices for Electricity to 2004, December 2000</i>
2002 Determination	Recommendation in December 2002, <i>Mid-term review of Regulated Retail Prices for Electricity to 2004, June 2002</i>

Draft Determination

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



INDEPENDENT PRICING AND REGULATORY TRIBUNAL
OF NEW SOUTH WALES

1 PREAMBLE

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

2 DEFINITIONS AND INTERPRETATION

2.1 Definitions

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

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

CPI has the meaning set out in Schedule 1

DCPI₁ means the change in CPI between 2002 and 2003 and is the number derived from the application of the formula described in Schedule 1

DCPI₂ means the change in CPI between 2003 and 2004 and is the number derived from the application of the formula described in Schedule 1

DCPI₃ means the change in CPI between 2004 and 2005 and is the number derived from the application of the formula described in Schedule 1

December 2000 determination is defined in clause 1.5

Determination means this determination

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

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

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

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

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

June 2002 determination is defined in clause 1.6

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

Miscellaneous transaction is a transaction listed in clause 8.3

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

nominal terms means amounts expressed in dollars of the day

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

Price change date is defined in clause 5.1

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

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

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

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

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

Total Previous Year's Bills means, in relation to a small retail customer, the total of the bills issued to that customer for the 12 months immediately preceding a Price change date. The total of the bills for this purpose is to be calculated as if the tariffs applying immediately prior to the Price change date applied to the entire 12 month period (whether or not this was actually the case)

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

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

2.2 Interpretation

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

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

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

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

2.2.4 A schedule means a schedule to this Determination.

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

3 APPLICATION OF DETERMINATION

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

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

4 REGULATED RETAIL TARIFFS

- 4.1 The following retail tariffs will be taken to be the regulated retail tariffs for each of the standard retail suppliers, EnergyAustralia, Integral Energy Australia, Country Energy and Australian Inland Energy Water Infrastructure, in the relevant supply district for the purpose of this Determination, from the Commencement Date:

- (a) Retail tariffs of each of the standard retail suppliers, EnergyAustralia, Integral Energy Australia, Country Energy and Australian Inland Energy Water Infrastructure:
 - (i) that were, as of 30 June 2004, applicable to that standard supplier's small retail customers under a standard form customer supply contract; and
 - (ii) that are on the register kept by the Tribunal for the purpose of this clause,
(even if any of those retail tariffs were, by that date, no longer being offered to new customers); and
 - (b) EnergyAustralia's new business time of use tariff for customers with a Type 5 meter, referred to in EnergyAustralia's letter to the Tribunal dated 8 March 2004 (which tariff is on the register kept by the Tribunal for the purpose of this clause),

other than any component of those tariffs that represents a green premium.

- 4.2 A standard retail supplier may not introduce a new retail tariff to apply during the period to which this Determination applies, unless:
 - (a) the standard retail supplier sends a written request to the Tribunal (in which case the Tribunal may request the Minister, under section 43EA(2) of the ESA, to make a referral to the Tribunal); and
 - (b) pursuant to a referral from the Minister under section 43EA of the ESA, the Tribunal makes a new determination under section 43EB of the ESA covering that new retail tariff.
- 4.4 For the purpose of clause 4.2, a standard retail supplier will be deemed to have introduced a new retail tariff if the standard retail supplier:
 - (a) introduces a new set of circumstances or category of persons to whom a new price or set of prices will apply; or
 - (b) amends the circumstances in which, or categories of persons to whom, the regulated retail tariffs referred to in clause 4.1 apply.

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

5 TARGET LEVELS OF REGULATED RETAIL TARIFFS

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

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

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

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

$N + R$

Where

- (a) N is the applicable network use of system component for the small retail customer; and
- (b) R is a retail component, comprising:
 - (i) a fixed charge ('**Fixed R**') expressed in dollars per customer per year; and
 - (ii) a variable charge ('**Variable R**') expressed in c/kWh (cents per kilowatt hour).
- (c) **Fixed R** at the Target level for each regulated retail tariff (with the exception of off-peak and extended off-peak, for which no Fixed R is allowed) of each standard retail supplier supplying the relevant supply district is:
 - (i) in the case of a Price change date for the 2004/05 period:
the relevant amount for each standard retail supplier set out in the following table;
 - (ii) in the case of a Price change date for the 2005/06 period:
the relevant amount for each standard retail supplier set out in the following table x $(1 + \Delta CPI_2)$; and
 - (iii) in the case of a Price change date for the 2006/07 period:
the relevant amount for each standard retail supplier set out in the following table x $(1 + \Delta CPI_2)$ x $(1 + \Delta CPI_3)$.

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

Standard retail supplier	Fixed R
For the supply district of EnergyAustralia under the licence held by it immediately before the Commencement Date.	55.25
For the supply district of Integral Energy Australia under the licence held by it immediately before the Commencement Date.	55.25
For the supply district of Country Energy under the licence held by it immediately before the Commencement Date.	55.25
For the supply district of Australian Inland Energy Water Infrastructure under the licence held by it immediately before the Commencement Date.	55.25

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

Variable R (c/kWh, exclusive of GST)

	Urban			Rural		
	standard	off-peak	extended off-peak	standard	off-peak	extended off-peak
For the supply district of EnergyAustralia under the licence held by it immediately before the Commencement Date.	5.99	3.93	4.85	na	na	na
For the supply district of Integral Energy Australia under the licence held by it immediately before the Commencement Date.	6.29	4.02	4.69	na	na	na
For the supply district of Country Energy under the licence held by it immediately before the Commencement Date.	6.80	4.12	4.89	7.04	4.26	5.07
For the supply district of Australian Inland Energy Water Infrastructure under the licence held by it immediately before the Commencement Date.	7.09	4.40	4.93	7.63	4.57	5.23

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

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

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

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

off-peak rates apply:

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

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

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

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

standard rates apply:

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

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

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

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

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

6 REGULATED RETAIL TARIFFS TO MOVE TOWARD TARGET LEVEL

- 6.1 A standard retail supplier may only amend a regulated retail tariff on a Price change date and in the manner specified in this Determination.
- 6.2 A standard retail supplier who has a regulated retail tariff that, immediately prior to a Price change date, is at or above the Target level for that tariff and for that Price change date (calculated under this Determination), must not increase that tariff.
- 6.3 Subject to clause 6.4, a standard retail supplier who has a regulated retail tariff that, immediately prior to a Price change date, is below the Target level for that tariff and for that Price change date (calculated under this Determination), must increase that regulated retail tariff up to, but not exceeding the Target level for that tariff and for that Price change date. The increase in the tariff is to be effective from the Price change date.
- 6.4 If a standard retail supplier is unable to increase a regulated retail tariff to the Target level without breaching one or more of the price constraints in clause 7, then the standard retail supplier must increase that regulated retail tariff to the maximum extent allowed by those constraints, without breaching any of them or exceeding the Target level.
- 6.5 EnergyAustralia's new business time of use tariff (referred to in clause 4.1(b)) must be introduced at the Target level.
- 6.6 Before an amended regulated retail tariff takes effect, the standard retail supplier must give the Tribunal at least 30 days' notice in writing of the proposed amendment, together with any information that the Minister determines for the purpose of demonstrating that the amendment is in accordance with this Determination.

7 PRICE CONSTRAINTS

- 7.1 A standard retail supplier must ensure that the Fixed R component of a regulated retail tariff does not increase by more than \$5 per customer per year.
- 7.2 A standard retail supplier must ensure that its total estimated revenue from the R component of a regulated retail tariff for a year commencing on a Price change date does not exceed its total revenue from the R component of that tariff in the year immediately preceding the Price change date multiplied by:

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

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

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

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

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

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

where ΔR is:

- (d) in the case of EnergyAustralia and Integral Energy Australia, 0.01; and
- (e) in the case of Country Energy and Australian Inland Energy Water Infrastructure, 0.03.

7.3 A standard retail supplier must ensure that the total amount of the bills that would be issued to any customer for a year commencing on a Price change date would not exceed:

Total Previous Year's Bills x (1 + Allowed increase from the following equation)

$$Allowed\ increase = \Delta CPI + \left\{ \left(\frac{N_t - N_{t-1}}{N_{t-1}} - \Delta CPI \right) \times \frac{Network\ Revenue}{Regulated\ retail\ revenue} \right\} + \left\{ \Delta R \times \left(1 - \frac{Network\ Revenue}{Regulated\ retail\ revenue} \right) \right\}$$

Where:

DCPI means:

- (a) in relation to a Price change date for the 2004/05 period, **DCPI₁**
- (a) in relation to a Price change date for the 2005/06 period, **DCPI₂**
- (a) in relation to a Price change date for the 2006/07 period, **DCPI₃**

DR has the meaning given to it in clause 7.2

N_t is that part of the total amount of the bills that would be issued to the small retail customer for the year commencing on the relevant Price change date that relates to the network use of system component of the customer's regulated retail tariff

N_{t-1} is that part of the total amount of the bills issued to the small retail customer for the year immediately preceding the relevant Price change date that relates to the network use of system component of the customer's regulated retail tariff

Network Revenue is the total revenue received by the standard retail supplier from all customers in relation to the network use of system component of the customer's regulated retail tariff in the year immediately preceding the relevant Price change date

Regulated retail revenue is the total revenue received by the standard retail supplier from all customers in relation to the customer's regulated retail tariff (including the Network Revenue) in the year immediately preceding the relevant Price change date.

7.4 For the purposes of clauses 7.2 and 7.3:

- (a) a standard retail supplier's total estimated revenue from a tariff or a component of a tariff for a year commencing on a Price change date is to be calculated:
 - (i) as if the relevant tariff or component would apply for the entire 12 month period commencing on the Price change date (whether or not this is actually the case); and
 - (ii) by applying the relevant tariff or component to the pattern and volume of electricity consumption of customers on that tariff for the 12 months immediately preceding the Price change date;

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

8 REGULATED RETAIL CHARGES

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

Regulated retail charges – Maximum charge

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

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

- 8.4 A standard retail supplier may not impose a charge or fee for a Miscellaneous transaction (whether the transaction is described as a Miscellaneous transaction or otherwise) except as permitted by this clause 8 and Schedules 2 and 3.
- 8.5 A standard retail supplier may impose a regulated retail charge on a small retail customer for a dishonoured cheque only if the standard retail supplier actually incurs a bank or other financial institution fee for that dishonoured cheque.
- 8.6 A standard retail supplier may only impose a regulated retail charge on a small retail customer for a late payment transaction in accordance with Schedule 2.
- 8.7 A standard retail supplier:
- (a) may only require a small retail customer to pay a security deposit where the requirements set out in Part A of Schedule 3 are met; and
 - (b) must repay a security deposit to a small retail customer in accordance with Part B of Schedule 3 as soon as the relevant small retail customer meets the requirements in Part B of Schedule 3.
- 8.8 The amounts set out in the table to clause 8.3 are exclusive of GST. A standard retail supplier may charge customers an additional amount equal to the GST payable by the standard retail supplier in respect of the taxable supply to which the amounts set out in that table relate.

SCHEDULE 1 DEFINITION OF CPI (CLAUSE 2)

Definition of CPI

1.1 Interpretation

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

1.2 Application of the formula

DCPI₁ means the number derived from the application of the following formula:

$$DCPI_1 = \left(\frac{CPI_{Mar2003} + CPI_{June\ 2003} + CPI_{Sep2003} + CPI_{Dec2003}}{CPI_{Mar2002} + CPI_{Jun\ 2002} + CPI_{Sep\ 2002} + CPI_{Dec2002}} - 1 \right)$$

DCPI₂ means the number derived from the application of the following formula:

$$DCPI_2 = \left(\frac{CPI_{Mar2004} + CPI_{Jun2004} + CPI_{Sep2004} + CPI_{Dec2004}}{CPI_{Mar2003} + CPI_{Jun2003} + CPI_{Sep2003} + CPI_{Dec2003}} - 1 \right)$$

DCPI₃ means the number derived from the application of the following formula:

$$DCPI_3 = \left(\frac{CPI_{Mar2005} + CPI_{Jun2005} + CPI_{Sep2005} + CPI_{Dec2005}}{CPI_{Mar2004} + CPI_{Jun2004} + CPI_{Sep2004} + CPI_{Dec2004}} - 1 \right)$$

where CPI is as defined and where the corresponding subtext (for example Jun2002) means the CPI for the quarter and of the year indicated (in the example, the quarter ending in June of the year 2002).

SCHEDULE 2 LATE PAYMENT FEE (CLAUSE 8)

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

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

SCHEDULE 3 SECURITY DEPOSITS (CLAUSE 8)

Part A

Residential small retail customers

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

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

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

Business small retail customers

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

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

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

Types of Security Deposit

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

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

Part B

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

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

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

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

Maximum duration of requirement for annual security levy or guarantee

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

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

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

Cessation of supply

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

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

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