

# **Terms of reference for an investigation and report by the Independent Pricing and Regulatory Tribunal on regulated retail tariffs to apply between 1 July 2002 and 30 June 2004 under Division 5 of Part 4 of the *Electricity Supply Act 1995*.**

## **Background**

The *Electricity Supply Act 1995* sets out arrangements for determining regulated retail tariffs for small retail customers (less than 160 MWh per annum). The Tribunal's report of December 2000, *Regulated Retail Prices for Electricity to 2004*, was taken to be a determination<sup>1</sup> under section 43EB of the *Supply Act 1995* for the period 1 January 2001 to 30 June 2004.

Small retail customers in NSW can seek supply from the competitive market or they can remain with their standard retail supplier on a regulated 'safety net' tariff. Customers can also switch backwards and forwards between these alternatives. These arrangements are designed to encourage customers to test the market by providing a safety net if a customer's market experience is unsatisfactory. Customers will seek competitive retail supply if the market price is less than the regulated safety net tariff and/or if competitive retail suppliers offer superior service to the standard form contract associated with the regulated safety net arrangements.

The Tribunal's current determination of regulated retail tariffs aimed, in part, to rationalise the number of tariffs through time through the setting of a 'target' level for each regulated retail tariff and a transitional process for moving regulated retail tariffs towards that level over time.

Standard retail suppliers are able to increase regulated retail tariffs that are currently below their target level in line with IPART determined side constraints.

Target levels are 'end-points' for existing regulated retail tariffs. The duration of the transition to the target tariff for an individual customer will depend on how cost reflective the small retail customer's regulated retail tariffs was when the transition commenced. Standard retail suppliers are not able to increase regulated retail tariffs that are currently above the relevant target level, so that these tariffs will decrease in real terms. However, it seems likely that a number of customer tariffs will remain below the target level for some time and this indicates that customers are being charged less than it costs to supply them. The presence of these under-recovering tariffs may undermine the proper functioning of the competitive retail market.

## **Matters for consideration**

For the purpose of section 43EB (2)(a) of the *Electricity Supply Act 1995*, the Tribunal is to consider whether there are any factors that would lead the Tribunal to form the view that there has been a material change in the following cost components in the setting of cost-reflective 'target' tariffs since the determination was issued and if so whether this justifies a change in the level of the target tariffs to apply from 1 July 2002 to 30 June 2004:

- an allowance for electricity purchase costs based on an assessment of the long-run marginal cost of electricity generation

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<sup>1</sup> See clause 37, Schedule 6, *Electricity Supply Act 1995*.

- an allowance for purchases of 'green energy' consistent with retailer licence obligations
- energy losses as published by NEMMCO
- network charges as determined by the Independent Pricing and Regulatory Tribunal and the Australian Competition and Consumer Commission
- fees (including charges for ancillary services) as imposed by NEMMCO under the National Electricity Code
- an appropriate Retail Gross Margin
- the allowance for annual indexation based on the Consumer Price Index and expected movements in regulated components and NEMMCO fees.

Consistent with the requirement of section 43EB (2)(b) of the Supply Act, the Tribunal should review the system of tariffs to determine whether the tariffs that are currently below the relevant target level are likely to materially undermine the effective operation of the competitive electricity retail market. If the market is adversely affected by these below target tariffs the Tribunal should determine the changes necessary to the system of regulated retail tariffs to ensure the market operates effectively.

More specifically, the Tribunal is to take account of the following matters in undertaking its mid term review:

- the effect of side constraints in facilitating the rationalisation of existing regulated tariffs and the transition to the target retail tariffs by 30 June 2004
- clarification of the circumstances in which standard retail suppliers may introduce regulated retail tariffs in addition to the transitional and target retail tariffs, in particular arrangements for introducing 'green tariffs'
- clarification of off-peak versus controlled loads including the merits of introducing a 'shoulder' target retail tariff, and
- arrangements for the recovery of all reasonable full retail competition costs.

The Tribunal may consult with stakeholders as appropriate, within the timetable for the investigation and report. The Tribunal's report is to be made publicly available.

### **Timing**

The Tribunal is to investigate and provide a report of its determination of regulated retail tariffs by 1 June 2002.

### **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 160 MWh 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*.<sup>2</sup>

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

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<sup>2</sup> The standard retail supplier for each supply district is the existing local retailer for that district, based on the existing local network supply areas – Australian Inland Energy and Water, Country Energy, Energy Australia and Integral Energy