



New South Wales
T R E A S U R Y

REGULATORY IMPACT STATEMENT
ELECTRICITY SUPPLY (GENERAL)
REGULATION 2001

Office of Financial Management

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Information Paper

Preface

The NSW Government has implemented substantial reforms of the electricity industry in New South Wales, including the introduction of competition at the wholesale and retail levels. Over the last five years, progressively more business customers have had the opportunity to arrange retail supply under commercially negotiated supply contracts with any licensed retailer.

From 1 January 2002, the mass market of residential and small business electricity customers will have the choice of negotiating their own supply arrangements or remaining on standard form supply contracts with regulated terms and conditions. Under the Government's policy of full retail competition, all customers consuming less than 160 megawatt hours per annum will have the benefit of a range of customer protection policies.

NSW Treasury has overseen the preparation of amendments to the *Electricity Supply Act 1995* and the introduction of the *Electricity Supply (General) Regulation 2001* to facilitate the implementation of full retail competition.

The *Subordinate Legislation Act 1989* requires the preparation of a Regulatory Impact Statement of the *Electricity Supply (General) Regulation 2001*. Consistent with the detail that must be included in a Regulatory Impact Statement, this document examines the costs and benefits of the Regulation and examines the merits of alternative approaches for achieving retail competition and the customer protection objectives.

Feedback and comment on the assessment of the Regulation that is provided in this Regulatory Impact Statement are invited from all interested parties. Arrangements for making a submission are detailed in the final section of the paper.

Following the receipt of submissions, NSW Treasury will prepare a report for the Minister for Energy outlining issues raised in the public consultation process. Any amendments to the Regulation resulting from this process will be made prior to the commencement of full retail competition.

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Secretary
NSW Treasury
September 2001

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Executive Summary

The *Electricity Supply (General) Regulation 2001* (the Regulation), which commenced on 1 July 2001, provides a framework to support the introduction and operation of a competitive retail market for all electricity customers.

The *Subordinate Legislation Act 1989* requires the preparation of a Regulatory Impact Statement that assesses the economic and social costs and benefits of a new regulation.

The *overarching objective* of the Regulation is to provide a framework that facilitates customer choice and provides effective protection for small retail customers against inappropriate market behaviour.

The success of retail competition in other jurisdictions has largely depended on engendering sufficient confidence in small customers to encourage them to enter into negotiated supply contracts. Therefore, not only do customer protections serve to protect small customers in an immediate sense, but they can also help encourage customers to take-up negotiated arrangements, thereby helping build a more competitive market. The Government convened Working Groups involving industry, the ombudsman and customer groups to ensure that the reforms achieved the objectives in a workable fashion. In light of the difficulties associated with quantifying the benefits and costs of proposals for change, the Working Groups provided crucial input into what arrangements were workable and likely to produce maximum net benefits. Many of the arrangements have been put in place as a result of Working Groups.

The emphasis of the Regulatory Impact Statement is on the regulatory mechanisms and instruments that the Government established to deliver its customer protection objectives.

Those objectives are summarised as follows:

- ensure all customers' rights and protections are maintained or strengthened;
- ensure that customers receive sufficient information to make informed choices;
- ensure the adequate disclosure of billing and charging information;
- establish a right to electricity connection services and supply on regulated terms and conditions to all persons;
- establish minimum customer protections for negotiated contracts;
- develop a reliable and responsive framework for retailer of last resort supply;
- establish a cost-effective framework for dealing with customer disputes;
- ensure cost-effective delivery of social programs; and
- ensure the competency of contestable service providers.

Alternative ways of achieving these customer protection objectives are considered in the Regulatory Impact Statement, as are the costs and benefits of the Regulation and the possible alternatives.

The Regulatory Impact Statement also provides information on the next steps in the public consultation process.

Part I

Background

1. Introduction

1.1. Full retail competition in electricity supply

The *Electricity Supply (General) Regulation 2001* (the Regulation) was made on 29 June 2001 and commenced on 1 July 2001. The Regulation was made under the *Electricity Supply Act 1995* (the Act) as a consequence of the commencement of the *Electricity Supply Amendment Act 2000* (the Amendment Act).

The Regulation gives effect to a range of provisions that will enable all electricity customers in New South Wales to choose their retail supplier of electricity from 1 January 2002. The category of electricity customers known as “small retail customers” are given particular protections and rights under the Act and the Regulation. Small retail customers are defined as those customers consuming less than 160 MWh per annum of electricity. In New South Wales, there are approximately 2.8 million residential and small business customers in this category, whose bills are each up to approximately \$16,000 a year.

Small retail customers that do not elect to enter into a negotiated contract will be supplied by the “standard retail supplier” in each supply district under a deemed standard form supply contract from 1 January 2002. The standard retail supplier for each supply district is the existing local retailer for that district (based on existing local network supply areas).¹

1.2. Purpose and content of the Regulatory Impact Statement

Under the requirements of the *Subordinate Legislation Act 1989*, the agency responsible for a regulation must prepare a Regulatory Impact Statement to assess the economic and social costs and benefits of the Regulation compared with its alternatives. The purpose of the analysis is to ensure that the relevant regulation provides the greatest net benefit or provides a certain level of benefits more cost-effectively to the community than the plausible alternatives.

More specifically, the *Subordinate Legislation Act 1989* requires a Regulatory Impact Statement to include the following matters:

- a statement of the objectives sought to be achieved and the reasons for them;
- identification of the alternative options by which those objectives can be achieved (whether wholly or substantially);
- an assessment of the costs and benefits of the proposed regulation, including the costs and benefits relating to resource allocation, administration and compliance;

¹ The standard retail suppliers are Australian Inland Energy and Water, Country Energy, EnergyAustralia and Integral Energy.

- an assessment of the costs and benefits of each alternative option, including the costs and benefits relating to resource allocation, administration and compliance;
- an assessment as to which of the alternative options provides the greatest net benefit or provides a certain level of benefits at minimum cost to the community; and
- a statement of the consultation program to be undertaken.

The Act also requires costs and benefits to be quantified wherever possible. If this is not possible, the anticipated impacts of the proposed regulation and its alternatives should be stated and presented in a way that permits a comparison of the costs and benefits.

The specific quantification of the costs and benefits of the Regulations has not been attempted in this Impact Statement. Given the unique and innovative nature of many of the Regulations, it is difficult to quantify the costs and benefits attributable to each regulatory change. Under these circumstances any attempt to quantify the costs are, at best, speculative. However, IPART is currently reviewing the costs incurred by the businesses for the purposes of determining the charges to be passed onto to final customers.

The Working Groups played an integral part in the development and finalisation of the Act, Regulation and market operations rules (see Section 1.5). In light of the difficulties associated with quantifying the benefits and costs of proposals for change, the Working Groups provided crucial input into what arrangements were workable and likely to produce maximum net benefits.

It is important to note that the regulatory framework that the Working Groups helped to develop encompasses the *Electricity Supply Amendment Act 2000*, the Regulation, and a series of Market Operations Rules. As required by the *Subordinate Legislation Act*, this Regulatory Impact Statement covers those provisions included in the Regulation only.

1.3. Process for the Regulatory Impact Statement

On 25 June 2001, the Premier (as Minister administering the *Subordinate Legislation Act 1989*) certified that there were special circumstances in the making of the Regulation such that it could be made as a principal regulation with a postponement of the Regulatory Impact Statement process. The Premier agreed that:

- the Regulation was needed to commence certain provisions of the Amendment Act to extend the customer protection framework of the Act to the customers that became contestable on 1 July 2001; and
- the timetable for drafting the Regulation did not allow for a comprehensive Regulatory Impact Statement by 1 July 2001.

The Minister for Energy has undertaken to ensure that all necessary processes associated with the Regulatory Impact Statement for the Regulation are completed by 1 November 2001.

A notice detailing the public release of this Regulatory Impact Statement has been published in the New South Wales Government Gazette and in ten newspapers across the State.

Interested parties are able to provide written comment on the Regulatory Impact Statement by way of a submission to NSW Treasury. Details of the public consultation process are provided in Chapter 7.

After considering all public feedback on this Regulatory Impact Statement, NSW Treasury will report to the Minister for Energy detailing the nature of public comment. NSW Treasury will also advise the Minister of any necessary amendment to the Regulation that may have been identified throughout the consultation period.

1.4. Impact analysis of the Regulation

The parties affected by the Regulation are categorised into three groups – customers, Government and the electricity supply industry. Wherever possible, the impacts on the segments within these broad stakeholder groupings listed below are also considered.

1. Customers

- small retail customers;
- potential small retail customers; and
- customer advocacy groups.

2. Government

- Independent Pricing and Regulatory Tribunal (IPART);
- Ministry of Energy and Utilities;
- Treasury;
- Department of Fair Trading; and
- Department of Community Services.

3. Industry

- licensed electricity retail suppliers;
- potential licensed electricity retailers in New South Wales;
- distribution network service providers (DNSPs); and
- electricity marketers operating in New South Wales.

The focus of the Regulatory Impact Statement is on the impact of the Regulation. Any costs and benefits that are created by the Act are not within the scope of the impact assessment.

1.5. Consultation to-date

NSW Treasury has responsibility for coordinating the development of full retail competition policy and procedures. An important part of this process involved the release in August 2000 of eight Discussion Papers on the regulation of electricity supply in a contestable market. The papers, developed by Working Groups, were a key step in the development of the policy proposals.

The Discussion Papers outlined a broad statutory and regulatory framework to support full retail competition based on two key elements:

- establishing effective customer protection; and
- establishing market arrangements to allow customers to readily switch between retailers.

The Discussion Papers provided a focus for the consultation process. Submissions were open to any person who wished to comment. Further consultation followed the release of the papers and varied according to the nature and importance of the issue. The Government also established working groups of interested parties to consider and assess reform proposals. The groups had a similar stakeholder representation involving:

- industry representatives from New South Wales and other jurisdictions - first and second tier retailers and DNSPs²;
- customer representatives – the Public Interest Advocacy Centre;
- Government departments – Ministry of Energy and Utilities, Department of Fair Trading and Department of Community Services;
- IPART; and
- Energy and Water Ombudsman of NSW.

Key functions undertaken by the Working Groups included:

- discussion of submissions to the Government's Discussion Papers released in August 2000;
- consideration and detailed analysis of Government proposals;
- assistance in developing interim arrangements to support release of the 100-160 MWh per annum tranche on 1 January 2001; and
- discussion of outstanding issues in the lead-up to finalising the Regulation.

Therefore, the Working Groups were a key part in the development of the set of robust and practical arrangements set out in the Regulation.

² First tier retailers refer to the existing incumbent retailers who have historically been, and will continue to be, responsible for the supply of customers in a particular area. For example, EnergyAustralia is the first tier retailer in the region defined by the EnergyAustralia network boundaries. Customers supplied by a first tier retailer are known as first tier customers. Second tier retailers are alternative retailers to whom those customers may switch, thus becoming second tier customers. For example, if Country Energy were to supply a customer in Energy Australia's area, it would be a second tier retailer and the customer a second tier customer.

1.6. Report structure

This report consists of four broad sections. The first provides the necessary background to the Regulatory Impact Statement – outlining the purpose of its preparation, summarising the recent history of the Government’s electricity reforms and describing the Government’s policy of full retail competition.

The primary purpose of the Regulation is to facilitate extension of choice of retail supplier to all customers whilst maintaining minimum protections to customers. Hence, the second part examines the rationale for extending competition to the entire market. This includes an analysis of the potential benefits to customers as well as a brief description of some overseas experiences. Specifically, the broad framework adopted by the Government is described, the scope for cost savings and improved services examined and international evidence presented.

Part three of the report describes the model adopted by the Government for introducing competition and examines the customer protection and market facilitation framework encapsulated in the Regulation. Finally, part four contains details regarding the submission to Government of any comments on the Regulatory Impact Statement and the Regulation.

2. Path towards full retail competition

2.1. Reform of the electricity industry in New South Wales

The restructure of the New South Wales electricity industry commenced in earnest soon after the release of the Industry Commission's report "Energy Generation and Distribution" in May 1991. Among other things, the Commission recommended the horizontal and vertical disaggregation of vertically integrated utilities such as Pacific Power. The recommendations of the Industry Commission were effectively adopted as the template for electricity market reform in New South Wales.³

As early as 1994, the Council of Australian Governments (COAG) identified the main objectives for a fully competitive National Electricity Market (NEM) to operate from 1 July 1999 as follows:

- the ability for customers to choose the supplier, including generators, retailers and traders, with which they will trade;
- no discriminatory legislative or regulatory barriers to entry for new participants in generation or retail supply; and
- non-discriminatory access to the interconnected transmission and distribution network; and
- no discriminatory legislative or regulatory barriers to interstate and/or intrastate trade.

The Regulation is firmly aimed at facilitating customer choice in line with the first of these NEM objectives. The Regulation also puts in place arrangements that make it easier for customers to exercise their choice, which will ease entry barriers for new retailers. Along with other reforms already in place, this will help achieve the 2nd NEM objective. Also, in part, the Regulation clarifies arrangements for access to the network, which will improve the arrangements that already exist. This will help achieve the 3rd NEM objective.

The New South Wales Government's commitment to these structural and regulatory reforms was reaffirmed when it signed the National Competition Policy (NCP) Agreements with all Australian Governments (Federal, State and Territory) in April 1995. Under the *Competition Principles Agreement*, the signatories agreed to implement major competitive reforms in their jurisdictions and to undertake structural reform of vertically integrated utilities. The *Agreement to Implement the National Competition Policy and Related Reforms* linked NCP payments from the Commonwealth to States and Territories to the implementation of COAG agreed structural reforms.

³ In a speech to the Electricity Supply Association of Australia (ESAA) conference, the Secretary of Treasury, Mr John Pierce, outlined the reform achievements in New South Wales against the Industry Commission recommendations "10 year anniversary of the Industry Commission report into the Australian electricity supply industry" (28 March 2001).

Shortly afterwards, in May 1995, the New South Wales Government issued its *Electricity Reform Statement* (the Statement) detailing how the Government intended to implement the Competition Principles Agreement in the New South Wales electricity sector.

The Statement acknowledged the importance of providing wholesale and, ultimately, retail customers in New South Wales with the opportunity to exercise choice between competing suppliers. Industry structure and regulation also needed to be consistent with the development of the national market.

The Government took the view that the establishment of appropriate market and regulatory structures would drive productivity improvements and produce efficient prices, thereby lowering the costs of energy services and promoting an expansion in economic output and employment. In short, the central tenets of the Government's reform policy were based upon effective competition where possible, and incentive compatible regulation where competitive forces were weak or absent.

In May 1997, the New South Wales and Victorian electricity markets were harmonised to form a wholesale market allowing competition between New South Wales and Victorian generators to supply electricity to registered customers (retailers and large industrial loads) in the two States. Subsequently, in December 1998, New South Wales joined with the Australian Capital Territory, Queensland, South Australia and Victoria to commence the NEM.

The National Competition Council's *Third Tranche Assessment Framework for NCP, February 2001* made the following comments on full retail competition:

The Council believes that the implementation of full retail competition is an essential component of the electricity reforms. Both the timing of, and the approach to, the implementation of full retail competition will be essential to ensure that the NEM objectives are met.

In the third tranche assessment, the Council will want to ensure that the opening up of the market to competition to date is proving effective. The Council will therefore review experience in NEM participating jurisdictions for evidence that customers in tranches opened up to competition have been able to realise benefits (p. 6.11).

This means that it is insufficient to merely put arrangements in place that makes it technically possible for customers to switch retail suppliers. The arrangements must be effective in that the costs of switching are low so customers have a credible threat that unless they receive adequate service for a fair price, they can switch their demand to another, better quality supplier.

The Amendments to the Electricity Act and the associated Regulations are firmly aimed at delivering effective choice to customers. The customer protection regime embodied in the Amendment Act and Regulations provides a strong bargaining position from which small customers can negotiate.

2.2. Full retail competition timetable

Competition in the New South Wales retail electricity market began on 1 October 1996, when 47 of the State's largest customers became contestable and therefore eligible to choose their retailer or to enter the wholesale market directly.

On 6 May 2000, the Minister for Energy announced details of a transitional timetable to full retail competition.

The rollout of competition for customers is shown in Table 1.

Table 1: Contestability timetable for NSW

Choice as of...	Who is eligible?	Typical Premises	Typical annual bill (approx.)	Approx no. of customer sites
1 October 1996	More than 40 GWh p.a.	Large metropolitan hospital Heavy manufacturing	\$2,000,000+	47
1 April 1997	More than 4 GWh p.a.	Multi-storey office block Food processing plant	\$250,000+	600
29 June 1997	More than 750 MWh p.a. ¹	Supermarket Engineering workshop	\$75,000+	2,800
28 June 1998	More than 160 MWh p.a. ²	Fast food restaurant Service station	\$16,000+	7,300
1 Jan 2001	More than 100 MWh pa	Poultry farm, department store, small engineering	\$10,000 to \$16,000	18,000
1 July 2001	More than 40 MWh pa	Restaurant/café, small hotel/pubs, medical centre	\$4,000 to \$10,000	33,000
1 Jan 2002	All customers	Milk bar/deli, real estate office, boutique, residential	\$400 to \$4,000 (average bill of \$650 p.a.)	2,800,000

¹ Aggregation of >160 MWh sites was permitted to reach the 750 MWh threshold (subject to certain conditions).

² Aggregation of >100 MWh sites was permitted to reach the 160 MWh threshold (subject to certain conditions).

2.3. Benefits of competition to date

The commercial activities of electricity customers consuming more than 160 MWh per annum are covered by general legislative protection provisions under the *Fair Trading Act 1987* and *Trade Practices Act 1974*. However, the Government did not regulate any *industry specific* customer protections for above 160 MWh per annum customers beyond maintaining the right to electricity connection and supply.

The Government has relied primarily upon competition in the retail market for larger customers as the mechanism for delivering improved services and cost savings. All customers were given 12 months to choose a retail supplier from the date they were made contestable. During this interim period, the incumbent local retailer would supply customers at IPART determined tariffs if the customer did not enter into negotiated supply contracts. However, most customers negotiated commercial contracts shortly after becoming contestable.

Industrial and commercial customers have enjoyed substantial benefits in the competitive market to date. NSW Treasury estimates total customer savings since the introduction of contestability in 1996 to be in excess of \$1.6 billion.

Competition for contestable customers amongst incumbent and independent retailers has been intense in recent years. Customers have benefited not only from lower prices but also better services in areas such as demand management and billing arrangements. Industry surveys of contestable customers in 1999 indicated overwhelming support for the competitive market.⁴

⁴ Electricity Supply Association of Australia, *Survey of Electricity Customers: NSW, Victoria and Queensland*, 1999; Australian Industry Group, *Outcomes of the National Electricity Market, Public Report*, December 1999.

Part II

Rationale for extending retail competition

3. Potential benefits of full retail competition

3.1. Background

The International Energy Agency of the Organisation for Economic Co-operation and Development (OECD) recently completed a review of competition in electricity markets throughout OECD countries that stated the following in respect of the importance of retail competition:⁵

A fundamental pillar of effective reform in the electricity supply industry is consumer choice, that is to say, giving consumers the ability to choose their electricity supplier. Consumer choice disciplines market players, because dissatisfied consumers can switch supplier, and it encourages innovation. As in any other market, consumer choice in the electricity supply industry is fundamental to achieving both static and dynamic efficiency, and it is difficult to envisage real competition without it.

Competition in wholesale markets has resulted in significant improvements in the productivity and internal efficiency of electricity companies but translating these benefits to consumers has proven to be a crucial challenge for electricity market reform. Experience has shown that consumers benefit from reform only if the other elements of the supply chain transmit the benefits of competition (p. 137).

Retail competition generally occurs on the basis of price and the services offered to customers. The ability of retailers to compete will therefore depend on their success in electricity purchasing and contracting strategies on the one hand, and their ability to devise, innovate and deliver valued services to customers on the other.

3.2. Possible cost savings for small retail customers

The international experience in retail competition provides some indication of the savings that are possible. The annual report of the UK Office of Gas and Electricity Markets (Ofgem) summarises recent developments in the retail market in the UK as follows:⁶ In particular Ofgem reported that:

- in the period from April 1998 to April 2000 the average annual domestic electricity bill fell by 11 per cent in real terms. This is the equivalent of almost \$A2 billion per annum; and
- electricity customers attracted a range of competitive offers compared to the tariffs offered by their local suppliers, with reductions on offer of up to 17 per cent for direct debit, up to 14 per cent on other credit tariffs and up to 7 per cent on prepayment.

⁵ OECD International Energy Agency, *Energy Market Reform, Competition in Electricity Markets*, Paris, 2000.

⁶ Office of Gas and Electricity Markets, *Annual Report 2000-01*, Chapter 4 “Competition in Gas and Electricity Supply”.

If all NSW customers enjoyed that same experience as their UK counterparts, customers would save about \$120 million per year in electricity bills. This estimate is based on savings of 10 per cent (the savings in the UK were 11 per cent) on the \$1.2 billion energy component of small retail annual bills. In net present value terms over a 10-year period (with a discount rate of 7 per cent) this would equate to a saving from FRC of \$850 million. However, the extent to which these savings could be achieved is dependent on the possible price reductions and the proportion of customers actively seeking lower prices.

In the United Kingdom, nearly 30 per cent of all customers had switched suppliers, and by the end of 2000, well after FRC had been introduced, nearly 400,000 customers were switching per month. These high rates of switching clearly had a major bearing on the level of retail competition and the price savings achieved by customers. The Government believes that the Regulation will provide the basis for achieving similar levels of price savings for New South Wales customers. Certainly the experience of large customers in NSW has been that they enjoyed considerable cost savings as a result of FRC. And while prices have more recently risen to more commercially sustainable levels these prices are still below the pre-reform levels.

3.3. Improvements in retail services for small retail customers

Many of the jurisdictions that have introduced full retail competition internationally also offer a 'default' or 'basic' regulated service for residential customers similar to the standard form supply contract in New South Wales. A recent study⁷ of retail competition in the United States focused on the importance of new value-added services as an indicator of a successful retail market.

The availability of a Basic Electricity Service helps to channel Electricity Service Providers competitive efforts toward providing value added services such as real time metering and control, energy management contracts, risk hedging and forward contracting, green power and other services. This is the strategy that the most successful Electricity Service Providers are pursuing. A successful retail competition program can have additional social benefits by helping to improve the performance of wholesale markets. The success of retail competition should be judged by the new value added services it brings to the system, not by the number of customers who switch to Electricity Service Providers from default services.

The introduction of full retail competition in New South Wales will establish a framework that will allow competitive pressures to generate improved and more innovative retail services for residential and small business customers. It is difficult to predict how competition in the electricity market will evolve.

⁷ Joskow, P., 'Why do we need electricity retailers? Or can you get it cheaper wholesale?' Discussion Paper, Department of Economics, Massachusetts Institute of Technology, February 2000.

The following developments, however, are possible:

- savings through agreed bill payment methods. For example the lower costs associated with direct debit of a customer's bank account could be shared between the retailer and customer;
- internet retailers may be able to use their internet platforms to reduce marketing and billing costs;
- overseas markets also show a retail trend towards the bundling of electricity with other utility services such as gas, telephone and pay-TV services to provide 'one-stop' shopping. Joint sales, marketing, billing and promotion may allow a retailer to exploit economics of scope thereby reducing the average cost of the services provided and should result in benefits for customers both in terms of convenience and lower prices; and
- while supply contracts for "green" energy are available under current arrangements, full retail competition should encourage more innovative marketing of these products.

In January 2001, the UK National Audit Office (NAO) published a report examining the impact of retail choice for domestic electricity customers.⁸ The report provides a comprehensive study on "whether customers have benefited from the introduction of competition in electricity supply and what more Ofgem can do to help domestic customers benefit". The NAO's overall conclusion was that customers who had elected to switch supplier had achieved price and service benefits:

Competition has resulted in lower prices for the 6.5 million customers who have changed electricity supplier. The market has seen the emergence of greater choice in the types of services available and ways of buying electricity alongside other commodities such as gas. Standards of service have yet to improve overall and the level of complaints against some new suppliers is higher than before competition. The 19 million customers who have not switched have yet to benefit to a significant extent financially, beyond the reductions in price caps from which all customers have benefited (p. 17).

⁸ National Audit Office, *Giving Domestic Customers a Choice of Electricity Supplier*, Report by the Comptroller and Auditor General, 5 January 2001.

3.4. Lessons from other jurisdictions

Several studies have examined the key factors affecting the competitiveness of retail markets and the incentives for customers to switch supplier.⁹ According to these studies, the level of transaction and search costs, service quality and the size of price savings all influence customer decision-making:

- **Transactions/search costs** – switching suppliers requires an investment of time and effort by the consumer and may include actual out-of-pocket expenses. For customers to respond to lower prices they must be first made aware of price offers. The level of customer awareness about the offers of suppliers, therefore, has an important bearing on the observed switch rates. Customers can gain information about suppliers and their offers in various ways, but all information acquisition requires an investment of time and effort. The benefits of price reductions or improvements in service must exceed the full transaction costs in order for the switch to be advantageous to the customer;
- **Long-term versus short-term response** – customers' responses to changes in price or other attributes of a product or service may not be immediate. Customers may need time to adjust their attitudes about the changes or adapt their consumption patterns to take advantage of the potential benefits of the changes. Customers may experience a general inertia, even though they may believe a particular response is likely to be beneficial;
- **Relative size of the bill** – the magnitude of a customer's energy bill can affect the customers' response to a price discount. A 10 per cent reduction for a residential customer with very low consumption may not induce the same response as a 10 per cent reduction for a more intensive energy user such as a small business or a high consumption household; and
- **Non-price attributes** – Customers choose suppliers on the basis of non-price attributes, such as service quality and customer relations, as well as price. Customers are less likely to switch suppliers in response to an offer of lower prices from a supplier whose non-price attributes are viewed as being less desirable, than to a similar offer from a supplier whose service quality is more attractive.

⁹ Michelman, T., 'Factors Affecting Robust Retail Energy Markets', *The Electricity Journal*, April 1999, Vol.12, No.3, pp.49-60; and Train, K., and Selting, A., *The Effect of Price on Residential Customer Choice in Competitive Retail Energy Markets: Evidence from Specific Markets to Date*, Prepared for the Edison Electric Institute, March 2000.

Another study in the United States, entitled *What Consumers Need to Know if Competition is Going to Work*¹⁰, found that residential customers are more likely to stay with their existing supplier if there is no standardisation of basic customer information.

Economic theory, common sense, and extensive research all point to the essential role that standardised information can play in a competitive retail environment. Without easy-to-use information, customers are more likely to stay with their existing supplier or choose a competitive supplier they did not intend to select. It is no wonder that state and federal officials are calling for consumer information disclosure provisions as they consider industry restructuring.

The study included consumer research from 19 focus groups in six states involving people who had participated in retail pilot programs. The study made several findings concerning the information needs of residential consumers:

- Focus groups consistently identified the factors that were important to them in choosing a supplier. The most important of these factors were price, service reliability, environmental attributes, company track record, customer service record and contract terms;
- Customers wanted standard information displays to enable them to make ‘apples-to-apples’ comparisons;
- Most participants felt that standard information should be required of all suppliers. They did not believe it would be satisfactory if some companies made standard information available and others did not. They also felt that an independent entity should oversee the requirement, often mentioning the state utility regulators; and
- Of all the factors in their decisions, price was usually the most important. Although suppliers might use different pricing structures for different products, participants wanted to be able to compare price in average cents per kilowatt hour.

¹⁰ Moskowitz, D., Cowart, R., Levy, A., and Roe, B., (1998), ‘What consumers need to know if competition is going to work’, *The Electricity Journal*, pp. 38-48.

Part III

Framework and objectives of the Regulation

4. Policy framework for full retail competition

4.1. Background

The savings enjoyed by large electricity users clearly indicate that customer choice does deliver real benefits, and that for larger customers the costs of exercising that choice are small relative to the benefits. By contrast, smaller customers tend to be less well equipped to search and compare contract offers, and to protect their rights. Given this disadvantage it is possible that, in the absence of some basic protections, small customers could be worse off if they were obliged to negotiate their own arrangements in an unfettered retail market.

Therefore, the Government's broad choices for full retail competition for small customers were to:

- maintain the existing exclusive franchises for small customers (i.e. prevent choice);
- allow the operation of an unfettered market; or
- allow small customers the ability to participate in the market with the protection of minimum standards and ensure that customers who do not choose to negotiate are covered by regulated standard terms and conditions.

4.2. Full retail competition: alternative regulatory frameworks for supply of small customers

4.2.1. Maintain exclusive customer franchise

Under this model, small customers would have no choice of supplier and would continue to receive their electricity supply from their existing retailer under a regulated monopoly arrangement. This model was not favoured because it denies customers the ability to select their own favoured supplier. The inability of customers to choose and the restriction on entry into the market by alternative retail suppliers would perpetuate the negative attributes of the current regime including:

- weak incentives on retailers to improve services and reduce prices;
- lack of responsiveness by retailers to customer needs;
- limited innovation in the development of new services and the way they are delivered; and
- significant and ongoing regulatory costs.

4.2.2. ‘Unfettered’ retail competition for all customers

Experience overseas has demonstrated that (relatively) unfettered electricity retail competition can create significant problems for customers, particularly smaller customers. The absence of any rules or regulations can make switching difficult, frustrating and costly. This can discourage customers from exercising their choices and undermines competition. In a less competitive market, with limited customer protections, retailers are likely to increase prices and degrade the quality of service to small customers.

If these problems occur, Governments will ultimately be pressured to intervene in the operation of the market to protect small customers. If this occurs, it is most likely to occur in the context of a crisis. Under these circumstances, when policy is being developed quickly, it is very likely that the policy response gives rise to new, unintended and possibly detrimental consequences. Therefore, this approach was also not favoured by the Government.

4.2.3. Full retail competition with protections for small customers

This model recognises the importance of market processes as the vehicle for delivering benefits to customers (which is the ultimate test of the policy) while establishing a customer protection framework to ensure that customers are entitled to basic protections whether they switch to negotiated terms or remain with the default service.

As well as providing intended direct benefits to customers, customer protections can enhance the competitive process. For example, controls over the way that pricing information is presented to customers to make it easy to compare different quotes, will enhance competition at the same time as protecting customers from making bad buying decisions. Similarly, standardising and simplifying the form of contracts that can be offered to customers will allow customers to concentrate on key terms and conditions, such as price. This helps enhance competition further.

4.3. The Government’s preferred approach

The Government has made clear that its preferred approach for small retail electricity customers involves the introduction of competition combined with customer protection.

The success of retail competition in other jurisdictions has largely depended on engendering sufficient confidence in small customers to encourage them to enter into negotiated supply contracts. Therefore, not only do customer protections serve to protect small customers in an immediate sense, but they can also help to provide a strong negotiating position. The key regulatory policy objectives that flow from the adoption of this reform framework are discussed in Chapter 5.

The Government has put in place a range of mechanisms to ensure this - the Electricity Supply Amendment Act 2000 (including the Marketing Code of Conduct), the Regulation and a series of Market Operation Rules. The objectives of the Regulation are outlined in chapter 5.

The Amendment Act ensures small retail customers have access to a range of consumer protection measures such as standard supply, minimum terms and conditions in standard form and negotiated supply and connection contracts, opt back provisions, access to the Ombudsman, and a Marketing Code of Conduct designed to improve the quality of information customers have in relation to retailers' prices and services and to protect customers against unscrupulous operators.

In addition to the Act and Regulation a number of rules need to be developed to give effect to the Regulation (and other instruments). These rules are currently being finalised by NSW Treasury in conjunction with the Working Groups and will be in place prior to the opening of the mass market on 1 January 2002. The key sets of rules being finalised are rules governing retail relationships, covering payment arrangements for network use of system services and the arrangement of connection services, customer transfer rules, and metering services rules.

5. Key customer protection policy objectives of Regulation

5.1. Outline of objectives

In order to both protect customers and provide them with the information and confidence to negotiate their own supply arrangements, the Government developed a number of customer protection objectives. These objectives include:

- ensuring all customers' rights and protections are maintained or strengthened;
- ensuring that customers are provided with sufficient information to make informed choices;
- ensuring the adequate disclosure of billing and charging information;
- establishing the right to connection and supply of electricity to all persons;
- establishing minimum customer protections for negotiated contracts;
- developing a reliable and responsive framework for 'retailer of last resort' supply;
- establishing a cost-effective framework for dealing with customer disputes;
- ensuring cost effective delivery of social programs for energy; and
- ensuring the competency of contestable service providers.

This section provides a brief description of the customer protection objective and sets out criteria for an assessment of the most suitable regulatory mechanism for delivering the objective.

5.2. Ensuring small customers' rights and protections are maintained or strengthened

To ensure that small customers' rights are protected, the Government has provided an option whereby small customers can choose between remaining on a rate regulated by IPART with an associated contract containing standard terms and conditions, or a contract containing terms and conditions (e.g. price) negotiated with their supplier of choice. This provides a fall-back negotiating position for small customers.

5.3. Provision of sufficient information to make informed choices

Effective competition requires that customers be provided with adequate information prior to entering into a negotiated supply contract, to enable them to make informed choices about whether or not to enter into a contract. Information is necessary to enable customers to compare multiple offers against each other, including against a standard form offer.

The key types of information required by customers are:

- full details of tariffs and charges, preferably on an all-inclusive basis to allow ‘apples with apples’ comparisons to be made;
- penalties or other hidden charges for early termination or other events;
- eligibility requirements, such as security deposits.

5.4. Adequate disclosure of billing and charging information

To help ensure that customers are not misled and to encourage competition on an ongoing basis, it is crucial that customers are provided with sufficient billing information to enable them to compare their bills against the offer they accepted. This will help customers ascertain whether their contract remains appropriate over time when their pattern and levels of consumption could change. The types of information that customers should receive, at a minimum should include:

- total charges to be payable by the customer;
- separation of charges into electricity-related charges and charges for other goods and services (where applicable);
- amounts credited or deducted due to a Government-funded rebate scheme or a retailer payment plan;
- methods by which the bill can be paid; and
- retailer’s contact numbers, including a number for faults and difficulties.

5.5. Maintaining rights to connection and supply of electricity

The introduction of full retail competition need not and should not be linked to a diminution of customers’ rights to connection and supply of electricity. It is crucial to retain rights to connection and supply on acceptable default terms of service and price. This would help ensure that customers who do not or cannot enter negotiated contracts can still receive supply.

Since its inception, the Act has provided all customers with a statutory right to:

- connection to the local distribution system by a DNSP (section 15); and
- supply of electricity from a standard retail supplier (section 34).

The statutory obligations to deliver these rights to customers apply to all licensed DNSPs and standard retail suppliers.

Further, there are a number of people in New South Wales who do not receive their supply or connection services directly from a licensed retail supplier or a licensed DNSP. These customers receive supply and connection services from persons who are exempt from the licence requirements under the Act. Exempt suppliers and DNSPs are typically owners of 'embedded' distribution systems found in caravan and residential parks, residential flats and units, industrial parks and shopping centres.

The Government has a policy objective of extending basic customer rights to residential customers of exempt suppliers and DNSPs. The basic rights include protections under standard disconnection and notice procedures, terms consistent with regulated tariffs under standard form supply and free access to the Electricity and Water Ombudsman (EWON) scheme.

5.6. Minimum protections for negotiated contracts

The New South Wales Government's view is that many of the regulated customer protections for customers on standard form contracts should be extended to customers who choose negotiated supply. This is because the Government considers that the focus of competition between retailers should be on reducing prices and improving service, including bundling of products, rather than offering customers trade-offs between prices and service standards that may ultimately leave customers worse off.

5.7. Reliable and responsive framework for retailer of last resort supply

The Code provides that where a retailer runs into serious financial difficulties, the retailer might be suspended from the NEM. Suspension could arise, for example, through insolvency, payment default or fraud. In such a case, the retailer's customers would be left without a contracted retailer. It is fundamental to the integrity of the wholesale market that all customer usage is attributable at all times to a responsible retailer. Without an effective 'retailer of last resort' scheme in place, customers of the suspended retailer could be disconnected through no fault of their own.

A Retailer of Last Resort is a retailer to which customers can be immediately and automatically transferred in the event of a retailer suspension. A successful Retailer of Last Resort Scheme must be able to:

- maintain continuity of supply to customers through the immediate and automatic appointment of a Retailer of Last Resort and transfer of customer details to that retailer;
- protect the interests of customers, with regard to the prices that they pay for electricity and the other terms and conditions on which it is supplied and sold;
- maintain the integrity of payments for energy in the wholesale market and network charges to network service providers, thereby protecting the financial interests of market participants providing essential customer services; and
- notify customers when they have been transferred under these arrangements.

The delivery of franchise supply via a State-owned 'distribution' business has hitherto provided adequate protection for small retail customers. However, the commencement of full retail competition and the 'ring-fencing' of network and retail supply arrangements have necessitated the development of a replacement scheme for managing last resort supply.

5.8. Cost-effective customer disputes framework

Access to an inexpensive, equitable and quick dispute resolution mechanism for small retail customers is a key component of the Government's overall customer protection package. The Government's belief is that such a mechanism could be achieved by an ombudsman scheme.

Some of the key objectives that should be satisfied by an approved ombudsman scheme are:

- ***Universal coverage of parties*** – all licence holders should be members of the scheme and agree should be bound by the ombudsman's decisions. Electricity marketers, landlords and exempt networks should also be required to comply with the decisions of the ombudsman;
- ***Universal coverage of disputes*** – the scheme should apply to all complaints by small retail customers or other prescribed persons relating to all disputes involving customer contracts – for example, exempt customers, tenants and new occupants;
- ***Speedy and economical*** – the scheme should operate expeditiously and without cost to customers; and
- ***Customer choice*** – the scheme should allow customers to choose whether they will be bound by determinations.

5.9. Cost effective delivery of social programs for energy

The Government has a number of social programs that provide financial concessions to certain groups of energy users. The concessions are currently delivered by the state-owned electricity distributors under direction from the Government. However, the delivery of social programs should not constrain customer choice of retailer under full retail competition.

The Government has used the following evaluation criteria for assessing the merits of alternative program delivery options:

- **Administrative simplicity** – costs of implementation, compliance and administration are a significant factor with the objective to minimise ‘global’ costs. More complex systems are likely to be costly to implement;
- **Retail competition objective** – the arrangement should not create barriers to retail competition and should have a minimal effect on retailers as far as practicable;
- **Transparency** – the arrangement should be predictable and provide certainty to customers and retailers;
- **Fairness** – network service providers and retailers should be appropriately reimbursed for the efficient costs of administering the energy concessions;
- **Targeting** – the delivery model should ensure that the ‘right’ customers receive the correct amount at the right time; and
- **Ease of customer transfer** – no disruption to recipients should occur when switching retailers.

5.10. Ensuring competence of contestable service providers

The Act established a framework for delivering a contestable market for works related to connection of customers to the electricity network. Under the framework, if a customer (or builder) is required to fund such work, the customer has the right to select the service provider.

The Government supports customer choice for connection services. Competition should ensure that there is an effective discipline on service costs. However, the Government is also mindful of the need to ensure that service providers satisfy the following key requirements:

- relevant qualifications, experience and training; and
- relevant commercial prudential requirements including all necessary insurance cover.

It is also necessary that the administration of contestable service providers is maintained in the light of recent winding back of activities by the Electricity Association of New South Wales.

6. Assessment of the costs and benefits of the Regulation and alternative approaches

6.1. Background

This section of the Regulatory Impact Statement addresses the requirements in Clauses 1(a)-(e) of Schedule 2 of the *Subordinate Legislation Act 1989*. Given the range of regulatory provisions that are contained in the Regulation, it is appropriate that the requirements of the *Subordinate Legislation Act 1989* are separately addressed with respect to the following key areas of the Regulation:

- customers and customer rights (Part 3)
- requirements for customer contracts (Part 3 and Schedules 1-3)
- charges and Billing requirements (Part 3, Division 4);
- review of decisions (Part 5) and Electricity Industry Ombudsman Schemes (Part 6);
- retailers of Last Resort (Part 7);
- exemptions relating to service providers and supply arrangements (Part 8);
- social programs for electricity (Part 9); and
- accreditation of providers of contestable services (Part 10).

The Regulation is a key component of the legislative framework necessary for ensuring the effective and efficient implementation of full retail competition. Without the Regulation, many of the objectives of the *Electricity Supply Act 1995* could not be achieved.

Before undertaking a detailed examination of the key areas of the Regulation, it is worth addressing the specific issues that Working Groups and other stakeholders attached particular importance to.

6.2. Specific issues of stakeholder debate

6.2.1. Billing cycles

The Contracts Working Group determined that customer billing periods for standard form contracts should be no more than three months. This was a new requirement, not provided for in the previous regulation. It was necessary to establish a minimum level of service in the advent of full retail competition. However, in order to place least possible needless burden on industry, the Working Group considered the present industry practice prior to settling on the three month figure. This consideration should ensure that no major changes to systems would be required. Further discussion on billing is contained in section 6.3.2.5 below

6.2.2. Hotline number

There was a great deal of debate in the Contracts and Network Agreement Working Groups regarding the telephone number for faults and difficulties that should be placed on customers' bills. In essence, DNSPs believed that this number should be the DNSP's number, whilst some second tier retailers believed that they should have the option of putting their own faults and difficulties number on the bill and transferring calls to the DNSP. The rationale for the retailer number was primarily marketing – to allow retailers to offer a complete branded customer interface to customers and to promote the maximum level of competitive neutrality between first and second tier retailers. The final decision embodied in the Regulation was to allow the retailers to put their own number on the bill, but require a transfer to the DNSP almost immediately. This outcome achieves the marketing advantages sought by retailers – by allowing them to handle the call in the first instance – but ensures that any threats to customers' safety or property as a result of delays in contacting the DNSP are virtually eliminated.

6.2.3. New occupant arrangements

Under full retail competition, there is a risk that new occupants could be inadvertently placed in the position of taking supply without a supply contract. This could occur on a regular basis if, as is typical, a customer moved into a premise without already having arranged supply under a contract. This could result in large numbers of customer being disconnected or at risk of 'thieving' electricity in the normal course of events. PIAC was concerned that in such situations, the solution did not involve subjecting customers to interim 'default' terms for supply that they had not explicitly agreed to.

The Regulation resolves this issue by allowing new occupants a short period of time to arrange supply following moving into a premises, without being considered as taking supply without a contract. Retailers were generally not in favour of such arrangements. Retailers wanted to ensure that liability of customers taking supply was clear from the outset and argued that a policy of allowing them some time to organise supply after moving in would be complex to administer. However, the Government attempted to address this issue by clarifying who was responsible for payment for supply at each stage in the move in process. The Government, supported by PIAC, considered the new occupant arrangements were necessary to protect customers.

Further discussion on new occupants in contained in section 6.6.4 below.

6.2.4. Exempt networks

Exempt networks involve customers who are not directly connected to DNSPs' networks (e.g. occupants of caravan parks). Often, exempt network customers are amongst the most vulnerable in society. The Regulation sought to provide these customers with some key protections – access to the ombudsman scheme and protections relating to disconnection. PIAC supported these protections but believed disconnection protections required further clarity. PIAC would have also preferred the protections being extended to residents of boarding houses. However, the lack of individual metering for such persons presented a barrier to the practical extension of these protections. Instead, it was proposed that the Department of Fair Trading would investigate alternative ways of providing basic protections to boarding house residents.

Further discussion on exempt networks is contained in section 6.6 below.

6.2.5. Retailer of last resort

Under full retail competition, there is a risk that if a retailer is suspended, its customers could be disconnected. Therefore, arrangements will be put in place to ensure that such customers get transferred to a 'retailer of last resort' (RoLR) (see section 6.5 below). One issue that arose in the development of the Regulation was the fee that could be charged to customers who were transferred to RoLRs. The Regulation limits this fee to a maximum of \$50. PIAC was concerned about customers possibly being charged this maximum fee. It was agreed to refer the charge to IPART for advice.

Further discussion on retailer of last resort is contained in section 6.5 below.

6.3. Requirements for customer supply and connection contracts

6.3.1. Background

In order to be connected to the distribution network, NSW electricity customers require a *connection* contract with their DNSP. The connection contract governs the terms by which a safe, efficient and reliable connection of a customer's premises to the distribution network is made and maintained. To receive electricity supply, customers require a separate *supply* contract.

The Act sets out the broad framework for the delivery of:

- connection services by a licensed DNSP; and
- retail supply services by a licensed retail supplier.

These services are provided to customers under either a 'standard form' or 'negotiated' customer contract. The Act sets out the general requirements for standard form customer connection contract and standard form customer supply contracts (see sections 20 and 40).

The Act provides that the Regulation may set out additional requirements for these types of contracts. For negotiated customer contracts, the Act provides that the Regulation may prescribe requirements for these contracts. Any customer may enter into a negotiated supply contract and, subject to the Regulation, the contract will contain such terms as agreed by the retail supplier and customer.

Nothing in the Regulation alters the general framework for the deliver of customer electricity services under customer connection and supply contracts.

Consistent with regulation making powers conferred under the Act, the Regulation sets out the minimum requirements for the terms and conditions of the following types of customer contracts:

1. standard form customer supply contracts – these apply to small retail customers who elect to take supply under these arrangements from a standard retail supplier or ‘opt back’ from negotiated supply arrangements. Standard form customer supply contracts also apply to all customers who have not as yet been made contestable;
2. negotiated customer supply contracts between a small retail customer and retail supplier;
3. standard form customer connection contracts between a small retail customer and a DNSP; and
4. negotiated customer connection contracts between a small retail customer and a DNSP.

6.3.2. Chosen regulatory approach

6.3.2.1. Application of regulatory provisions

The contractual requirements in the Regulation with respect to *supply* have been made to apply to customers consuming less than 160 MWh a year (effectively, small business and residential customers). Experience in the contestable market to date suggests that customers above this size are able to enter into unregulated arrangements for competitive electricity supply. Larger, more intensive users of electricity are likely to have the relevant expertise, commercial interest and negotiating ability to enter into tailored contracts.

In the case of connection contracts, customers using less than 160 MWh per annum also have the same protections as with the standard form *connection* contract if they choose to negotiate these contracts. Nevertheless, all customers (large and small) have access to the *standard* form customer connection contract.

6.3.2.2. Standard form contracts

Standard form customer contracts were a feature of the 1996 Regulation and with the introduction of full retail competition will continue to be available to certain customers.

The key reason for establishing a standard form customer contract was to protect the interests of customers who had no right to change their supplier/provider if they were unhappy with the services being provided. In the context of a competitive retail market and the current Regulation, the concept of standard form contracts has been retained for the following circumstances:

- ***Customer connection contracts*** – as already discussed, most connection services are still characterised by monopoly provision and therefore it is appropriate that the pre-existing requirements are retained. Nevertheless, where customers have particular needs they are able to negotiate connection contracts but in the process, small customers (<160 MWh) cannot negotiate away rights that they are entitled to under the standard form customer connection contract. In practice, it is expected that instances of small customers choosing to negotiate connection contracts will be extremely limited; and
- ***Customer supply contracts*** – customers consuming less than 160 MWh per annum who do not take up supply under negotiated terms and conditions. Standard form customer supply contracts help protect the interests of customers who may have no effective choice because the actual or perceived costs associated with exercising that choice are not outweighed by the actual or perceived benefits. Importantly, even where small retail customers have entered into negotiated contracts, they are able (subject to them meeting their contractual obligations) to return to the host retailer and receive supply under the standard form contract at a regulated price.

The offer of a standard form supply contract to all small retail customers is a cornerstone of the Government's full retail competition policy. The standard form contract is a regulated, safety net contract. Prices under this contract are set through a determination of retail tariffs and charges by IPART. The Regulation sets out the required standard conditions of the contract (such as regulated billing procedures and other customer protections discussed further below) against which the regulated price is separately determined.

Where a small retail customer elects, the standard retail supplier in the relevant supply district is required to supply the customer at the regulated retail tariff under a standard form customer supply contract. From 1 January 2002, customers who consume less than 40 MWh a year will be made contestable. Customers in this tranche who do not elect supply under a negotiated supply contract will continue to be supplied under the standard form customer supply contract. This will ensure that small retail customers who elect not to choose their retailer or who do nothing will receive all the protections delivered under a standard supply contract.

The Regulation include a range of arrangements to deliver standard form supply:

- **Minimum information** - the Regulation is specifically designed to reduce a customer's costs of searching for and comparing retail contract offers. It does so by standardising the structure and terms and conditions of contracts. Standardisation of contracts will allow customers to focus on the key terms of the contract, such as price;
- **Minimum standards** – establishing the framework for ensuring minimum contractual standards of service for all small retail customers to protect the basic rights of those customers in a fully competitive market; and
- **Customer Consultative Groups** – The Regulation requires a DNSP and standard retail supplier to have charter governing the constitution of their customer consultative group (clause 17). These Groups provide input into the development of and changes to standard form contracts, amongst other things. The Charter may provide for matters relating to procedure of CCG meeting, funding and access to information by the CCG. A Charter must be approved by the Minister.

6.3.2.3. Negotiated customer contracts

The Government was concerned that small customers exposed to the competitive market for the first time may lack the necessary skills, or may not be sufficiently informed, to make a judgement as to whether offers that may be developed in a competitive setting generate equivalent or greater value for them. Accordingly, the Regulation is the mechanism for putting in place requirements to protect small retail customers in an environment where they are negotiating their supply and connection terms and conditions by prescribing:

- **Core requirements** – contractual requirements (with respect to negotiated supply contracts) that cannot be varied, either by the retailer or by the customer. These 'core' requirements were developed on the basis that customers could not gain an equivalent or greater benefit if they negotiated away from them; and
- **Cooling-off rights** – cooling-off rights allow a small retail customer to opt out of a negotiated contract within ten days at no penalty other than any costs of connection that may have been incurred.

The table below summarises the broad contract choices and design described above.

Type of retail customer	Customer connection contract	Customer supply contract
Small (<160 MWh per annum)	Standard form available	Standard form
Small (<160 MWh per annum)	Negotiated Essentially the same as the standard form but allows flexibility for customers to negotiate if they have particular needs.	Minimum requirements largely reflecting those in standard form contracts but with the ability to negotiate price and with added flexibility, primarily in the areas of billing, payment and the bundling of electricity with other services.
Large (>160 MWh per annum)	Standard form Same as for small customers	No standard form contract available
Large (>160 MWh per annum)	Negotiated – unregulated	Negotiated – unregulated

6.3.2.4. Facilitation of ‘one-stop shop’

Despite the customer having a contract with both a retailer (for supply) and a DNSP (for connection), the Regulation has been designed to facilitate a ‘one-stop shop’ arrangement for small retail customers so that these customers can deal with one party – their retail supplier – for the bulk of their electricity needs.

In order to promote a one-stop shop arrangement for customers, retailers will typically arrange any necessary customer connection services with DNSPs on the customers’ behalf (this has been explicitly allowed for in clause 4(1), Schedule 2 of the Regulation). Customer connection services are defined in the Act and include the physical connection of the customer’s premises to the DNSP’s distribution system and the maintenance of the capability for electricity to be supplied to any premises from a DNSP’s distribution system.

However, nothing in the Regulation prevents the parties from agreeing that a customer will pay the DNSP directly for customer connection services, if the customer so requests. Similarly, nothing in the Regulation prohibits a customer from dealing with a DNSP directly for the provision of connection services and, if the customer so wishes, from receiving a separate bill for those services from the DNSP.

However, in most, if not all, circumstances it is expected that small retail customers will wish to deal just with their retailer. For this purpose, the Regulation ensures that:

- retail suppliers can bill a customer for customer connection services they arrange on the customer’s behalf and, if so, to provide the type of billing information that would be required of a DNSP in billing a customer directly (clause 20); and
- customers do not remain liable to pay charges for customer connection services to the DNSP where the retail supplier is arranging the connection services on behalf of the customer (clause 6, Schedule 3).

6.3.2.5. Types of contractual requirements

The contractual requirements are predominantly contained in the schedules to the Regulation – the key exception is the billing obligations that are in Division 4 of Part 3 of the Regulation. The matters contained in the schedules must be included in all customer contracts while the billing requirements must also be *summarised* in contracts. The billing provisions were removed from the schedules in order to provide scope for contracts to be shortened and not be excessively cumbersome for customers and difficult to understand.

There are three schedules to the Regulation governing customer contracts as follows:

- Schedule 1 contains those provisions which are common to both supply and connection contracts – to the extent that obligations under the respective contracts could be generalised they were brought together into the one schedule for ease of reference and to remove any unnecessary duplication;
- Schedule 2 contains the remaining matters that are specific to supply contracts; and
- Schedule 3 has those requirements that apply only to customer connection contracts.

The key contractual provisions contained in the Regulation are summarised below.

Schedule 1 – Requirements common to supply and connection contracts

These requirements are contained in Schedule 1 to the Regulation and are intended to ensure that customers are equipped with adequate information to fully understand their rights and obligations under the respective contracts – supply and connection, negotiated and standard form. Moreover, these provisions refer to fundamental elements of the overall product or service offered to customers and therefore they equip customers with the ability to assess and monitor the delivery of services by the retail supplier or DNSP. The key provisions contained in this schedule are as follows:

- ***Plain English*** – contracts must be expressed unambiguously, in plain English and in a format that is easy to read;
- ***Referenced documents*** – any codes and documents that either form part of the contract or are referenced in the contract must be listed in the contract;
- ***Discretions*** – to the extent that a retail supplier or DNSP specifies in the contract that it has discretion in making a decision regarding a contractual matter, the grounds on which that discretion would be exercised must be included in the contract;
- ***Description of charges*** – a description of all charges (including the amount or the basis on which they are calculated) must be set out in the contract and, to the extent that charges are not included, customers are not liable to pay for those charges;
- ***Description of standard services*** – the contracts must contain a description, and provisions as to the standard, of services to be provided to customers;
- ***Customer’s rights*** – a statement of the customer’s rights in relation to disputes, including procedures for referring complaints to an approved ombudsman scheme, must be included in contracts;
- ***Restrictions on disconnection*** – customers cannot be disconnected while an application has been made for assistance under any Government funded relief scheme, or payment plan that may be operated by a retail supplier¹¹;

¹¹ Note that standard retail suppliers are required as part of their standard supplier licence endorsement to operate payment plans that meet certain criteria and are approved by the Minister for Energy (see clause 6).

- **Security deposits** – customer contracts must specify the circumstances under which security deposits may be required, the form an amount of any required security, how that security may be used and when the security must be returned. Security deposits are advances required by licence holders in some circumstances to cover perceived risks of non-payment. This risk may arise for a number of reasons, including a customer’s payment record and existing outstanding debts.¹² The Regulation also places restrictions on the claims that a retailer/DNSP can make against a customer’s security deposit. For example, if a customer purchases both electricity retailing services and, say, insurance services, then the retailer is prevented from gaining access to the security deposit if a customer defaults on payments associated with their use of insurance services (unless the customer requests that payment be directed to those other services first); and
- **Negotiated contracts** – for negotiated contracts, the manner in which contracts may be varied from time to time must be explained and the terms and conditions applying to early termination of a contract outlined.

Schedule 2 – Requirements for supply contracts

The key (non-billing) requirements applying to supply contracts and which appear in Schedule 2 of the Regulation are described below.

- **Charges based on consumption** – the ‘default’ position is that charges are based on electricity consumption measured or estimated at a customer’s premises. That is, for standard form contracts and unless otherwise agreed in negotiated contracts, the charges payable by customers must be based on consumption. In these circumstances, a meter reading is required at least every six months so that a retail supplier can reconcile any charges that may have been paid by the customer in the interim. Nevertheless, customers can agree with retail suppliers when entering negotiated contracts to pay charges for electricity on a basis other than consumption;
- **Commencement** – allowance has been made in particular circumstances for specifying the date of commencement of supply under a contract. Specifically, where customers move into new premises (that are connected), customers may pay for their electricity on the basis of their chosen supplier’s contract provided that they enter into a contract and see through the cooling-off period within 14 days of the move-in date. This effectively allows customers a ‘grace’ period of about four days within which they can seek out a preferred supplier. Similarly, where a last resort event occurs, customers have up to one month (including the cooling-off period) to enter into a contract with a new retailer of choice and receive supply under the terms of that contract from the date of the last resort event;¹³

¹² IPART regulates the circumstances in which retailers are permitted to request refundable security deposits from customers under a standard form contract.

¹³ For further discussion of last resort supply arrangements, refer to section 7.4.

- **Cooling-off** – customers have the right to terminate a negotiated supply contract within a 10-day cooling-off period. This mechanism provides a strong incentive for retailers to ensure that customers are fully informed of their contract provisions prior to signing the contract to avoid costly reversals;
- **Terms following expiry**– in markets where full retail competition has been introduced there have generally emerged two types of negotiated supply contracts: (i) rolling or ‘evergreen’ contracts where contracts continue indefinitely, and (ii) fixed term contracts, which may require a cancellation fee for termination. Hence, in addition to the requirement that the basis of termination charges be included in the contract (discussed above), the Regulation requires that a negotiated fixed term contract also set out the basis for the charges that will apply for any subsequent period of supply. This ensures that in the event that a customer does not (or cannot) explicitly enter into arrangements before the end of a given supply period, they are aware of and have agreed up-front to the conditions that will apply. Nevertheless, to maximise the possibilities for customers to explore the options best available to them, retail suppliers are also required to notify customers no later than 21 days before the end of any agreed supply period that the contract is coming to its end (see clause 11);
- **Guaranteed customer service standards** – the Regulation lists ‘guaranteed customer service standards’. These standards include the provisions governing disconnection procedures (discussed below), as well as the provision of telephone hotlines and punctuality in keeping appointments. The Regulation requires the provision of two types of ‘hotlines’:
 - an emergency telephone hotline provision. In practice, this has been the responsibility of the DNSP with the retailer’s obligation extending only to informing customers of the telephone number. DNSP requirements have not changed and the DNSP is still required to provide this hotline. Given the importance of maintaining a safe and reliable electricity service there is also an obligation on the retailer to inform customers of a phone number that can receive notice of faults and difficulties; and
 - a customer billing enquiries hotline. Although retailers should have a strong incentive to provide this service, it is considered important to ensure that customers have access to their suppliers to have any queries addressed and resolved.

Regarding punctuality of appointments, it was considered important that retailers do not inconvenience customers when attending site visits. For this purpose, the standard requires that a retail supplier pay a customer at least \$25 for a delay greater than 15 minutes; and

- **Disconnection procedures** – disconnection of a customer’s premises for non-payment is the last option available to retail suppliers for providing customers with an incentive to pay their debts, and limiting their ongoing losses. The Regulation establishes the circumstances (including days and times) in which disconnection is allowed, sets out the process retailers must follow before arranging disconnection of a customer and details the information that must be contained in disconnection notices.

Schedule 3 – Requirements for connection contracts

In addition to the common provisions in Schedule 1 for all customer contracts, some additional requirements for connection contracts appear in Schedule 3 of the Regulation. The key requirements are as follows.

- ***accredited service provider scheme*** – connection contracts must inform customers of both the name of any scheme for the accreditation by the DNSP of other service providers who may provide contestable services and customers’ ability to decide who undertakes the contestable work;
- ***last resort supply*** – the contract must contain a statement to the effect that a customer authorises for supply to be transferred to another supplier where a last resort event occurs. This is the legal mechanism that ensures that transfers to a retailer of last resort can occur subsequent to a last resort supply event;¹⁴
- ***guaranteed customer service standards*** – as with supply contracts, there are a number of guaranteed customer service standards that must be included in the contract. These are:
 - timely provision of services – where a DNSP does not provide a connection service on an agreed date, it is required to pay a customer by way of compensation \$60 (up to a maximum of \$300) for each day between the agreed date and when the service is actually provided;
 - timely notice of planned interruptions – if a DNSP fails to provide at least two business days’ notice to customers of any planned interruptions or, the interruption is longer than the time specified to the customer in any such notice, the DNSP must pay the customers affected no less than \$20;
 - faults and difficulties hotline – as discussed above, a DNSP must operate a telephone service to which a person can be connected for the price of a local call that operates seven days a week and 24 hours a day to receive notice of (and give information concerning) faults and difficulties in the DNSP’s network;
 - repair of faulty street lights – where a DNSP fails to repair faulty street lighting which it owns or maintains by the date agreed with the customer, the DNSP must provide the customer no less than \$15 compensation for the loss of illumination;
 - punctuality in keeping appointments – as with retail suppliers, DNSPs must pay customers at least \$25 if they are more than 15 minutes late for an appointment;
 - disconnection procedure - the circumstances (including days and times) in which disconnection is allowed, the process DNSPs must follow before disconnecting a customer and the information that must be contained in disconnection notices are all prescribed. These requirements mirror those that apply to retail suppliers; and

¹⁴ Again, for further information, refer to section 7.4.

- timing requirements for reconnection – in the case of a ‘new connection service’ requested by a customer, the DNSP must connect the premises by the next business day if the request is made before 3.00 pm and, where the request is made after 3.00 pm, no later than the second business day following the request. The definition in the Regulation of a new connection service means that this requirement would apply both to premises that have never been connected to the network (provided the necessary equipment is in place), and where a customer has been involuntarily disconnected (e.g. where a customer was disconnected for non-payment but has subsequently rectified the grounds for disconnection).

Billing requirements – Division 3, Part 3 of the Regulation

This sub-section outlines the key billing provisions found in Division 4, Part 3 of the Regulation and, in particular, examines the following aspects:

- the basis and issuing of bills;
- information on bills;
- review of bills and corrections;
- payment methods; and
- treatment of historical billing information.

Basis of bills

As discussed earlier in the supply contracts section, the ‘default’ position is that retailers bill customers for the amount of electricity used during a billing period. However, requiring this in all circumstances could limit market innovations that would benefit customers. For instance, payment schemes could be introduced where customers agree to pay a fixed amount each month based on an estimate of consumption. At the same time, meters could be read less frequently, and customers would benefit from lower prices from reduced meter reading and billing costs. Alternatively, customers could pay one fixed charge for a number of bundled services.

Greater variety in billing options represents one of the best opportunities for retailers to innovate and therefore enhance competition. Hence, while standard form contracts require billing based on consumption, customers will be able to vary this arrangement by agreement in negotiated contracts. However, where bills are to be made with reference to consumption estimates, a prescribed estimation technique must be used (see clause 36(5)).

Issuing of bills

Prior to the current Regulation there were no conditions imposed on retailers regarding the frequency with which bills are issued, beyond a requirement that standard form customer contracts indicate “the frequency with which accounts are to be sent to the customer”. The question arose as to whether there should be a mandated billing cycle. The Government was concerned to ensure that customers are able to manage their payments, while allowing retailers some flexibility to cater for the particular needs of specific customers. For this reason, the Regulation requires that bills be issued to customers at least once every three months although retailers and customers can agree to a different billing cycle in the case of negotiated supply contracts.

Information on bills

The information provided on customers' bills is important in assisting customers' understanding of the pricing of electricity and their ability to make informed choices. Bills should therefore contain sufficient information to ensure that customers are able to verify bills against the offer made to them by their retailer and understand energy usage patterns and the effect these have on their costs of electricity supply. For this purpose, the Regulation requires that:

- where bills are based on consumption, the electricity consumption details that are relevant to the tariff(s) are shown; and
- in any case, electricity charges be clearly indicated (separate to any charges/prices for other services that may be provided).

Furthermore, in order for customers to better understand their bills, the Regulation requires other key information to be shown including the following:

- a customer's pre-allocated National Metering Identifier (NMI) to facilitate customer transfer between retailers;
- start and end dates for the billing period;
- due date for payment of the bill and the payment methods available to the customer;
- name, details of availability, and amount deducted under any Government funded rebate or relief scheme; and
- telephone number(s) which customers can call both for billing and payment enquiries and network faults and difficulties.

A further consideration was whether customers require a breakdown of tariffs into retail and network components and NEM fees. While greater information improves transparency for customers, too much information may simply confuse customers and make price comparisons difficult. Hence, the Regulation requires a breakdown in bills of network charges only where requested by a customer.

Review of bills and corrections

The issuing of accurate bills is important to ensure that customers are at all times being charged correctly and to enhance customers' confidence in dealing with different retail suppliers. In other utility and infrastructure markets, billing problems have sometimes arisen early on when competition is introduced as retailers refine and test business systems and processes to deal with the increased complexity of tracking customers and billing for incremental services (that may be provided by other suppliers). Hence, to sharpen suppliers' incentives for producing accurate bills, the Regulation requires that where overcharging is discovered, the customer must be reimbursed the amount that has been overcharged together with interest on that amount at the rate prescribed under section 95(1) of the *Supreme Court Act 1970* for payment of interest on a judgment debt.

Conversely, retailers are permitted to recover any undercharged amounts, however:

- amounts to be recovered is limited to the 12 months prior to the date when the customer is informed of the undercharging;
- interest cannot be charged on the amount to be recovered; and
- if requested by the customer, the retailer must allow the customer time (equivalent to the period over which the undercharging occurred) to pay the undercharged amount.

Payment methods

The Government wanted to ensure that accessible payment options are available for all customers under full retail competition. Consequently, in the case of standard form contracts there are mandated payment options that must be offered to customers. These minimum payment methods are:

- cash, cheque or credit card at an office or agent of the retailer;
- cheque or credit card through the post;
- credit card over the telephone; and
- direct debit from a cheque, savings or credit card account.

Moreover, to address any concerns with payment difficulties that may be faced by some customers, standard suppliers must also operate payment plans that need to meet certain prescribed criteria and be approved by the Minister. These arrangements are aimed at assisting customers experiencing genuine financial hardship and who are having difficulty paying their electricity bill. Retail suppliers are also obliged to inform customers of any payment plans they operate before commencing any disconnection procedures that would otherwise occur due to late or partial payment of an electricity bill.

In the case of negotiated contracts, it was considered that customers should be permitted to agree to their payment options as:

- competition would tend to reinforce incentives for retailers to make available accessible payment methods to attract customers; and
- mandating particular payment methods could create barriers to entry for new entrants, particularly niche retailers catering for relatively small groups of customers.

Historical billing information

The level and pattern of customer consumption of electricity can be an important input into structuring price offers for customers. Hence, the Regulation requires that retail suppliers be able to provide customers with billing information up to two years from the date of the customer's request. Other persons, such as marketers and prospective retailers, are also able to access this information but only if the customer has provided their written consent.

6.3.3. Alternative approaches to contract regulation

The key alternatives to the present Regulation are:

- self-regulation by industry; and
- co-regulation by government and industry.

A brief description of these follows while the costs and benefits of these two alternatives and the approach taken in the Regulation are outlined in section 7.2.4. An assessment of the alternatives on the basis of these costs and benefits is contained in section 7.2.5.

6.3.3.1. Self-regulation

Under this option, the Government would not actively develop the framework for transitioning between a monopoly/franchise environment and full retail competition. Instead, industry participants would be allowed to determine the level of information and the standard of service to be delivered through their contracts themselves. It is more likely, however, that self-regulation would involve the industry participants (perhaps through an industry association) developing ethical conduct and other standards on behalf of their members.

Also, under this option, the common law and existing statutes would operate to protect customer from any unfair conduct on the part of licensee (eg Trade Practices Act and Fair Trading Act).

Self-regulation is a model that is applied in other areas of the economy, for example, among professional associations (such as accountants). This form of regulation is generally more effective where members of the association or industry feel a sufficient degree of commonality of interest and where the market or business environment they operate in has matured. It also requires that the views of industry and the Government as to the scope and nature of regulations are not too divergent.

6.3.3.2. Co-regulation

Under this model, the industry could be permitted to develop the regulatory regime but there would be a role for Government in:

- acting as a 'co-signatory' to the regulatory controls developed by industry and perhaps specifying some of the key areas to be regulated; and
- enforcing sanctions jointly agreed with industry participants, particularly where the industry has insufficient capability to undertake enforcement action of its own accord.

Again, while this model is observed in other sectors of the economy, like self-regulation, it requires Government and industry to have common views as to the extent of required controls, the industry to be mature, and for industry participants to share a degree of commonality of interest.

6.3.4. Costs and benefits of alternative approaches

	Requirements for customer supply and connection contracts	
Current regulation	Benefits	Costs
Customers	<ul style="list-style-type: none"> ➤ Lower search costs ➤ Greater knowledge of contractual conditions and ability to make better informed decisions ➤ Clear procedures for dealing with billing and complaints management ➤ Enhanced customer protection that ensures an essential service – electricity – continues to be delivered on reasonable terms ➤ Greater opportunity for full retail competition to be successfully implemented, which in turn means that rivalry between competing retailers will be more robust and therefore greater benefits can be delivered to customers 	<ul style="list-style-type: none"> ➤ To the extent that business compliance costs increase, some of this might be borne by customers through higher prices ➤ Some delays could result initially as all parties are becoming familiar with the new arrangements
Government	<ul style="list-style-type: none"> ➤ Greater likelihood of successful transition to competition given the recognition of transaction costs that customers bear in searching for, selecting and monitoring their electricity supplier; ➤ Consideration of customer protection issues at the outset ensures a more robust and consistent framework is established compared to <i>ad hoc</i> responses to problems that might emerge under a less regulated model. ➤ There is scope for the level of prescription to be reduced as the market develops and industry demonstrates responsible conduct. 	<ul style="list-style-type: none"> ➤ Increased regulatory costs (more active monitoring required by IPART) ➤ Challenge to reduce customers' transaction costs while not disrupting the operation of the competitive market (through, for example, an artificially low-priced 'default' product)
Self-regulation	Benefits	Costs
Industry	<ul style="list-style-type: none"> ➤ Standardisation of key contract terms provides more consistent basis for the conduct of business and concentration on value-adding services; ➤ Possibly lower number of enquiries and complaints from customers; ➤ Greater confidence on the part of customers means that they will be more likely to seek out offers from alternative retail suppliers thereby facilitating the more active participation of non-incumbent retailers 	<ul style="list-style-type: none"> ➤ Key costs are the administration and compliance costs incurred by businesses including: <ul style="list-style-type: none"> - The additional training of staff - The development of new procedures - The requirement to develop knowledge of the new arrangements relatively quickly
Customers	<ul style="list-style-type: none"> ➤ Potential (in the long term) for innovative approaches to delivering customer protections ➤ Minimises compliance costs, which could be reflected in lower retail prices 	<ul style="list-style-type: none"> ➤ Large search and information costs because of lack of any standardisation ➤ Actual or perceived diminution of customer service standards (if customers do not have the requisite information to

		<p>form an objective view)</p> <ul style="list-style-type: none"> ➤ Customers could enter into contracts that might not suit their requirements (which would lead to higher electricity costs) ➤ Lack of understanding and awareness of rights and avenues for seeking redress for any problems that might arise ➤ Lack of compatibility between billing systems creating customer confusion and delays in the customer transfer process ➤ Lack of coverage among industry members resulting in inconsistent treatment of customers; ➤ Inadequate monitoring and enforcement mechanisms; ➤ In the case of connection contracts, exposure to potential abuses of monopoly power; ➤ Loss of any confidence in the ability of the market to operate fairly and deliver benefits to customers.
Government	<ul style="list-style-type: none"> ➤ If self-regulation were effective, reduced costs of administering and enforcing relevant legislation. 	<ul style="list-style-type: none"> ➤ Government likely to be required to regulate aspects of the industry which participants do not address ➤ Risk of failure of full retail competition policy to generate benefits for customers ➤ Calls from customer representatives for strong control of the electricity market (which paradoxically might result in more heavy-handed and intrusive regulation)
Co-regulation	Benefits	Costs
Industry	<ul style="list-style-type: none"> ➤ Electricity businesses are likely to feel they have greater ‘ownership’ over a framework that is developed from within the industry ➤ Maximises the potential scope of industry innovation 	<ul style="list-style-type: none"> ➤ Potentially higher levels of enquiries and complaints due to customer confusion and lack of information ➤ Increased costs for customers trying to assess the arrangements that best suit them might result in customer dissatisfaction with retail suppliers generally ➤ Businesses are less likely to agree on customer protections that could result in higher costs for the industry in the long run (e.g. in negotiating and developing some common protections or through the imposition of more heavy-handed regulation by Government consequent on calls for legislation from customer protection groups) ➤ Increased uncertainty as Government is likely to retain a reserve power to intervene where the self-regulatory framework is deficient or non-existent
Customers	<ul style="list-style-type: none"> ➤ Some legal remedies likely to be made available (given Government involvement) ➤ Intermediate level of compliance costs, which may be reflected in prices 	<ul style="list-style-type: none"> ➤ Similar costs to self-regulation: <ul style="list-style-type: none"> - higher search costs arising from lack of standardised information - risk of accepting contract terms that do not suit the customer’s needs - lack of customer awareness of rights ➤ Uncertainty over monitoring and

		<p>enforcement of industry agreements</p> <ul style="list-style-type: none"> ➤ Delays in developing and finalising codes could create opportunities for abuse by businesses in the interim
Government	<ul style="list-style-type: none"> ➤ A reduction in the size and scope of Government involvement – could develop mandatory requirements in ‘absolutely essential’ areas, while allowing industry the flexibility to determine standards for other areas 	<ul style="list-style-type: none"> ➤ Costs associated with endorsing industry codes (and possibly enforcing those codes) ➤ Likely to be held responsible for outcomes of the framework although Government cannot control key aspects of the regime ➤ Pressure for Government to become more actively involved (and perhaps develop ‘full’ regulation), particularly if the co-regulation regime is considered unworkable
Industry	<ul style="list-style-type: none"> ➤ Government involvement in enforcing the framework and possibly imposing sanctions provides certainty that all industry players have common customer protection obligations ➤ Could allow greater scope for innovation than current regulation 	<ul style="list-style-type: none"> ➤ Potentially higher levels of enquires and complaints due to customer confusion and lack of information ➤ Increased uncertainty as Government is likely to be required to intervene where the framework is considered deficient ➤ Diversion of significant resources from the delivery of core services to the development of codes and regulations

6.3.5. Assessment of alternatives

As discussed in earlier parts of this report, in implementing competition for small retail customers, the Government considered it important that this be done within a framework that:

- equips customers with the information necessary to understand their rights and obligations;
- maximises customers’ participation in the competitive market and safeguards their rights;
- furnishes customers with the information required to assess the service they receive and to make informed decisions as to their choice of retail supplier; and
- allows flexibility for retailers to value-add, particularly in the areas of billing and the bundling of electricity with other products and services.

The current Regulation provides clear guidance and protection for customers and clear standards within which industry can operate. The alternatives of self-regulation and co-regulation are unlikely to meet the Government's full retail competition objectives because:

- there is no guarantee that customers will not be exposed to onerous terms and conditions of supply;
- there are no obvious mechanisms for ensuring customers become fully informed about the content of their contracts, so as to understand their rights and obligations; and
- the industry does not appear to be well placed to agree to a minimum set of standards of supply and service, and standardised procedures for billing and contracts, to facilitate customers' entry in to the competitive market and manage the transition from monopoly/franchise arrangements to full retail competition.

While in the long run the market may develop in a way that permits for a less prescriptive regulatory framework, in the early stages of competition, self-regulation or co-regulation are not considered appropriate for managing this transition to a more mature market. As discussed above in the context of the Government's policy framework, the success of retail competition in other jurisdictions has largely depended on engendering sufficient confidence in small customers to encourage them to enter into negotiated supply contracts. Therefore, not only do regulated customer protections protect small customers in the immediate term, but they also help underwrite the take-up of negotiated arrangements and the success of the Government's reforms in the long term.

6.4. Dispute resolution for small retail customers

6.4.1. Background

The introduction of full retail competition should provide retailers with stronger incentives to ensure a high quality service to customers. For example, when a retailer does not deliver the expected quality of service, customers will be able to switch to the retailer that better satisfies their service needs. This would result in loss of customers, profits and reputation for the poorly performing retailer.

Nevertheless, dispute resolution mechanisms are required to ensure that customer complaints that may arise are resolved effectively. Disputes between customers and electricity businesses (retail suppliers and DNSPs) may arise in a range of areas, including:

- billing;
- administration of credit and payment services;
- disconnections; and
- security deposits.

The Government's objective was to establish a framework that ensures all small business and domestic customers have free access to an effective and independent dispute resolution mechanism.

6.4.2. Chosen regulatory approach

6.4.2.1. *Electricity Supply Act 1995*

The Act includes statutory rights for all small retail customers to refer complaints in relation to any matter arising under the contract (whether under a standard form or negotiated customer supply contract) in the first instance to the licence holder. If the dispute remains unresolved, the customer will have a right to refer the matter for resolution to an electricity industry ombudsman operating under a Ministerially approved scheme. All licence holders are required as a condition of licence to comply with any decision of the electricity industry ombudsman.

Recent amendments to the Act extend the operation of the electricity industry ombudsman scheme to other persons who take electricity supply or receive connection services otherwise than through a licensed retail supplier or DNSP (for example residential park residents, boarding house tenants and other tenants).

6.4.2.2. *Electricity Supply (General) Regulation 2001*

Part 5 of the Regulation provides for the review of decisions of licence holders (DNSPs and retailers) and sets out procedures for making appeals against their decisions. In the first instance, licence holders must make a determination on reviewing their original decision and, if the customer remains dissatisfied, the customer may apply to an approved Electricity Industry Ombudsman scheme for review.

The contractual requirements prescribed in the Regulation require licence holders to advise small retail customers that they may have a complaint or dispute referred to the Ombudsman when the licence holder has instituted disconnection/discontinuance procedures (see guaranteed customer service standards). In all other circumstances where there is a complaint or a dispute, there is also a regulatory obligation on the licence holder to advise the customer of external dispute resolution procedures.

Further, the Regulation specifies the additional categories of customers who may apply for a review of a decision under an approved electricity ombudsman scheme including (clause 50):

- a tenant of metered residential premises who is supplied with electricity by a landlord, including occupiers of residential and caravan parks; and
- any other person of residential metered premises who is supplied with electricity under an exempt arrangement e.g. those who are supplied through brokering arrangements.

Clause 54 of the Regulation compels landlords and all exempt electricity suppliers of the above customers to comply with the decisions of the ombudsman scheme, failing which can lead to financial penalties.

6.4.2.3. Industry based ombudsman scheme

The existing industry scheme, the Energy and Water Ombudsman of New South Wales (EWON), was first established as a voluntary scheme and was subsequently approved by the Minister under the Regulation. EWON is a company limited by guarantee and is constituted by all NSW DNSPs and retailers that supply small retail customers as well as Sydney Water and AGL. It consists of a board comprising representatives of the member businesses, a council with an equal representation of members and customer interests chaired by an independent chairperson, and an Ombudsman.

EWON charges no fee to customers for lodging a complaint and is fully funded by industry members in accordance with their usage of the scheme. All decisions by EWON are binding on members, while customers on the other hand, can elect whether or not to accept any decisions. Determinations for any single complaint can be made up to a value of \$20,000 or up to \$50,000 with the consent of the member company.

EWON is an industry-funded organisation with a total budget of about \$2.2 million for 2001-02 of which about 85 per cent relates to the electricity sector. There are currently five electricity members contributing to EWON – Australian Inland Energy and Water, Country Energy, EnergyAustralia, Integral Energy and TransGrid. EWON anticipates that its membership will increase in the near future as second tier electricity retailers prepare to enter the residential market.

Members contribute to EWON on the basis of a fixed fee payment and a variable caseload component. The fixed fee component represents about 25 per cent of the operating budget and is currently set at about \$5,000. Members are levied for the variable caseload component in accordance with the number of complaints that are dealt with involving their customers.

There are three stages that a case can proceed to with EWON, the first and the second stage incurring a maximum cost for member businesses of \$4,000 in 2001-02. A level one investigation involves relatively straightforward matters where problems can be resolved through discussion and negotiation. A level two investigation may involve mediation or the calling for expert advice. A level three investigation is a binding decision from the Ombudsman.

EWON has dealt with almost 13,000 complaints since it commenced operations in 1998. In 2000-01, EWON responded to 1,354 customer enquires and undertook 2,938 level one investigations and 50 level two investigations. The Ombudsman has only undertaken three level three investigations in the last two years.

Of all complaints received by EWON in 2000-01, 90 per cent of complaints were from domestic customers. Nine per cent of complaints were received from business customers, of which 32 complaints involved contestable electricity customers.

6.4.3. Alternative approach to dispute resolution – Fair Trading Tribunal

The Fair Trading Tribunal (the Tribunal) is established under the *Fair Trading Tribunal Act 1998* to hear and determine “consumer claims” arising under the *Consumer Claims Act 1998*. Electricity customers with supply and connection contracts would fall within the definition of customers under this latter Act. Consumers may make claims in relation to the supply of goods and services by a supplier, and “services” are expressly defined to include “the provision of gas or electricity or the provision of any other form of energy”.

The Tribunal is divided into four specialist Divisions: Consumer Claims, Motor Vehicle, Home Building and Commercial. The Consumer Claims Division has jurisdiction to hear claims valued at up to \$25,000. In 1999-2000, the Division finalised 6,189 matters of which 31 per cent were discontinued, 29 per cent were determined by the Tribunal, 27 per cent were settled by the parties and 13 per cent were dismissed.

The Tribunal uses a range of procedures to deal with applications and helps parties work together to find an acceptable settlement. Applications may be referred for mediation where an independent person assists the parties to achieve their own settlement. If agreement cannot be reached between the parties, the Tribunal conducts a hearing where both parties present their case and, based on the evidence presented, the Tribunal makes a decision.

The Tribunal’s expenditure for 2000-01 was \$8.4 million of which \$7.7 million was funded by the Government through a budget allocation. Tribunal application fees vary according to cases, the minimum amount being \$11 for a claim less than \$2,000 while the maximum is \$109 for claims over \$10,000. Costs and benefits of alternative approaches

6.4.4. Costs and benefits of alternative approaches

	Cost effective framework for dealing with customer complaints	
Current regulation	Costs	Benefits
Consumers	<ul style="list-style-type: none"> ➤ EWON costs add to business costs and may be passed through to customers 	<ul style="list-style-type: none"> ➤ Free and ready access for small retail customers regardless of location, ethnic background and financial status ➤ Extension of EWON scheme to all residential customers with metered supply ➤ Customers still able to pursue a dispute through the Tribunal or courts ➤ Customer representation on EWON Council
Government	<ul style="list-style-type: none"> ➤ Some costs incurred in approving the ombudsman scheme(s) and ensuring they continue to meet approval criteria 	<ul style="list-style-type: none"> ➤ Central source of information on customer complaint levels in electricity ➤ Efficient and expeditious dispute resolution for electricity customers ➤ Reduces workload of Tribunal
Industry	<ul style="list-style-type: none"> ➤ Compliance costs for businesses in having to review decisions ➤ Membership costs and funding of the ombudsman scheme 	<ul style="list-style-type: none"> ➤ Encourages businesses to resolve disputes internally ➤ Funding formula favours those with better complaints record ➤ Industry represented on EWON Board and Council.
Fair Trading Tribunal	Costs	Benefits

Consumers	<ul style="list-style-type: none"> ➤ Customers must prepare and present evidence to support case. ➤ The Tribunal is less experienced in electricity matters than EWON 	<ul style="list-style-type: none"> ➤ Generally a low cost approach for customers to resolve disputes and compensation claims ➤ Special discounts to students and pensioners
Government	<ul style="list-style-type: none"> ➤ Tribunal funding through Consolidated Fund (in the order of \$7.7m in 1999-2000) may need to be increased rather than industry funded 	<ul style="list-style-type: none"> ➤ A generally available, low cost mechanism for resolving a cross-section of customer complaints
Industry	<ul style="list-style-type: none"> ➤ Less expeditious process for resolving disputes 	<ul style="list-style-type: none"> ➤ Possibly reduced levels of complaints due to lack of customer awareness of Tribunal. ➤ Costs of dispute resolution borne by Government

6.4.5. Assessment of alternatives

Recourse through formal legal avenues (tribunals and courts) is likely to be costly and would be a deterrent to small customers for seeking external resolution of disputes. This in turn would provide minimal incentives for suppliers to resolve disputes fairly. Since electricity is an essential commodity, customers are not in a position to refuse service and therefore have very limited bargaining power. Therefore, it is appropriate to make external dispute resolution mechanisms available, particularly for smaller customers.

The approach adopted in the Regulation and in particular the use of the EWON model has a number of strengths compared to the alternatives including:

- while it is industry funded, there are a number of factors that ensure EWON's independence and impartiality such as direct customer representation on the council;
- the EWON scheme is easily accessible, as there is no cost to customers in lodging a complaint. Also, EWON has stated a commitment to ensure that there are no barriers such as geographic location, language, physical or mental capacity and financial status in accessing EWON;
- the EWON scheme is effective in that the Ombudsman may make determinations in relation to disputes with small retail customers, including the award of compensation, that are binding on scheme members;
- the Regulation extends the application of the EWON scheme to metered residential customers of exempt DNSPs and retailers; and
- the payment mechanism that is currently in place whereby industry members contribute to the cost of the NSW Ombudsman in proportion to respective complaints handled has the advantage of:
 - broadly encouraging industry members to resolve disputes internally; and
 - providing industry members with incentives to monitor the costs of the scheme.

In light of all the above, the Government believes the existing regulatory arrangements provide an effective avenue for redress for small retail customers.

6.5. Effective scheme for retailer of last resort supply – Part 7 of the Regulation

6.5.1. Background

‘Retailer of last resort’ is the generic name given to the entity responsible for continuing to supply customers of a retailer that becomes unable to supply its customers. Last resort supply refers to the arrangements under which that supply continues.

The fundamental purpose of a last resort supply scheme under the Regulation is to assure customers of continuity of supply on fair and reasonable, but economically sound, terms.

The essential circumstances that would give rise to a retailer’s inability to supply under clause 59 (2) are:

- suspension by NEMMCO from trading in the wholesale market under the terms of the Payment Default Procedure of the National Electricity Code; or
- cancellation of an existing Retail Supplier licence by the Minister for Energy for failure to comply with licensing requirements under the *Electricity Supply Act 1995* (cancellation in the jurisdiction also provides grounds for suspension by NEMMCO from trading in the wholesale market).

The National Electricity Code provides for transfers by NEMMCO of a suspended retail supplier’s customers to other retail suppliers. Immediate transfer is necessary to ensure the integrity of payments in the wholesale market and to obviate disconnection of customers for no fault of their own.

The National Electricity Law specifies procedures that must be followed in management and operation of the wholesale market to reach this outcome in an acceptable manner. Policy and legislative frameworks established by the Jurisdictions define the arrangements and allocation of this responsibility.

Prior to the most recent amendments to the Act, electricity distributors were obliged to ensure that electricity connection services and supply were provided within their districts for any customer who required them. The amended Act provides for separation of network and retail functions; accordingly, as supply for a growing number of customers becomes contestable, it is appropriate to make explicit provision for last resort supply.

6.5.2. Chosen regulatory approach

The amended Act allows the Minister for Energy to confer different classes of endorsement for specified purposes on a retailer's licence, and to set out conditions on those endorsements.

The Regulation establishes retailer of last resort as one such class of endorsement (clause 57). In the event that a customer's retail supplier of choice is suspended from the wholesale market or their licence is cancelled, all customers of that retailer will be transferred initially to their Retailer of Last Resort.

All customer connection contracts (excluding any that are negotiated with large customers) will include a provision to give the transfer legal effect (clause 5). The provision has the effect of making participation in the retailer of last resort scheme a condition of connection and supply, and authorise the transfer of customers consequent on a retailer of last resort event.

The Regulation also extends a range of customer protections for the affected customers (clause 62 and 63):

- small retail customers are entitled to the protection of standard supply and regulated tariffs, supported by the Electricity Tariff Equalisation Fund established in the Act for those customers;
- non-small retail customers, while not entitled to the benefit of the Fund, are protected against price gouging through limits on prices that they may be charged by retailers of last resort;
- all customers can, if they wish, immediately negotiate and agree alternative arrangements with a new supplier of choice;
- in any event, a retailer of last resort is obliged to continue last resort supply for three months from occurrence of the last resort supply event; and
- small retail customers are also protected against liability to the former retailer for the transfer.

6.5.2.1. Small retail customers

The Minister will confer a retailer of last resort endorsement on the licences of the four first-tier retail suppliers in New South Wales. These suppliers are also responsible for offering standard supply (including regulated tariffs) to small retail customers. For small retail customers, the terms and conditions of last resort supply, including tariffs, will be the same as standard form supply.

The Government introduced the Fund as the mechanism for managing wholesale price risk for electricity supplied to small retail customers on regulated arrangements. Accordingly, the Fund will manage the risk of supplying small retail customers that are transferred under last resort supply arrangements.

Small retail customers have the option of negotiating new supply arrangements with any licensed retailer if a retailer of last resort event occurs. However, immediate transfer to standard supply ensures that the customer has:

- continuity of connection and supply;
- time to shop around for an alternative retail supply contract if they so wish; and
- customer protection, even if the customer takes no action.

Commencement of an alternative supply contract, if effected by a customer within one month, will be backdated to the time of the retailer of last resort event.

6.5.2.2. Non-small retail customers

Non-small retail customers (annual consumption of more than 160 MWh) will also be transferred to the retailer of last resort if their retail of choice is suspended. If these customers do not arrange alternative supplies, the retailer of last resort must supply electricity to the premises of a transferred customer at a price that does not exceed the greater of:

- pool price plus a margin of 10 per cent (the margin is capped at \$20 per MWh of electricity and any permitted additional charges specified in the last resort supply arrangement); and
- published charges of the retailer of last resort for supply of electricity to customers other than small retail customers at the date that the last resort supply arrangements come into effect.

The Regulation allows for a retailer of last resort to plan (subject to approval of the Minister) for recovery of permitted additional costs of last resort supply (clause 58). This regulatory framework for large customers continues the terms and conditions of last resort supply of the previous voluntary code of practice.

6.5.2.3. Other requirements

Other obligations on retailers of last resort include:

- last resort supply arrangement plan (clause 58); and
- notification to affected customers (clause 61).

A retailer of last resort must prepare and maintain a plan for approval of the Minister setting out the arrangements to be implemented in the event that the retailer is required to supply electricity in its capacity as a retailer of last resort. The plan is to cover all aspects of last resort supply, including both the arrangements to be implemented and maintenance of the capacity to implement them.

As part of the planned arrangements, a retailer of last resort must give written notice to each customer who is subject to last resort supply arrangements of the terms and conditions of supply and the procedures for arranging alternative supply.

For small retail customers, any additional charge is to be justified in the retailer of last resort plan, and is subject to the Minister's approval. In any event, additional charges are limited to a regulated fee ceiling of \$50 per customer. The Minister will obtain advice from IPART before giving approval to imposition of any such fee. The fee is not automatically charged – where approved, however, it would allow for some recovery of abnormal costs that may be incurred, for example, for a special meter reading or customer service visit to the customer, administration, and management of special risk factors.

6.5.3. Alternative approaches to managing a retail suspension

6.5.3.1. No specific jurisdictional arrangements

If a retail electricity business experienced financial problems, the owners of that business may consider selling the business to another licensed retailer rather than becoming insolvent. Strict NEMMCO credit requirements should also contribute to a relatively low incidence of last resort events. Nevertheless, a volatile wholesale market, where prices in any half-hour can be as high as \$5,000 per MWh, does create an environment where business failures could occur.

In the absence of a scheme for a Retailer of Last Resort, the existing retailer's customers would be without a contracted retailer. In the absence of another market participant to assume responsibility for the obligations of the suspended retailer, NEMMCO is obliged to request NECA to seek an order for physical disconnection of the suspended retailer's market loads.

Until recently, the United Kingdom was without an effective Retailer of Last Resort scheme in its electricity market. If a retailer defaulted on its financial obligations to the Electricity Pool of England and Wales, the generators as creditors in the wholesale market would seek to draw on the retailer's financial bond or letter of credit to pay their debts for wholesale purchases. Once that was used up, the letter of the Pooling and Settlement Agreement of England and Wales would obligate the National Grid Company or the local distributors to physically disconnect customers to avoid further debts arising in the wholesale market. Disconnection of residential and small business customers that do not arrange alternative supply at short notice has obvious economic, political and welfare consequences.

Considerable confusion was created in the UK market when Independent Energy, a gas and electricity retailer with 240,000 customers, went into receivership in 2000. The business was sold to another licensed supplier before Ofgem took action to revoke the licence. Since then, Ofgem has developed proposals for standard licence conditions under the *Utilities Act 2000* that enable the appointment of one or more electricity Suppliers of Last Resort to supply a failed supplier's customers and requirements on domestic electricity suppliers to have security cover.

6.5.3.2. Continuation of arrangements that applied prior to the 2000 amendment of the Act

Prior to the 2000 Amendments to the Act, and the current Regulation, electricity distributors, who held both distribution network service provider and retail supplier licences and had the obligation to supply, adopted a voluntary code of practice for retailer of last resort.

The code was developed in response to the enactment of the *Electricity Supply Act 1995*, when distributors were faced with dual regulatory obligations that precluded them both from:

- disconnecting customers, except on specific grounds; and
- supplying customers without some basis for terms and conditions.

Accordingly, the industry, with facilitation by the Government, developed a code of practice that was subsequently recognised by the Director-General of the Ministry of Energy and Utilities. The code provided for terms and conditions of last resort supply to be incorporated as part of distributors' standard form customer connection contract, thereby giving statutory effect to the last resort supply scheme.

The code of practice provided for:

- up to three months last resort supply at either the general supply tariff, or the pool price plus a capped 10 per cent margin, whichever is greater; and
- notification of last resort supply arrangements to affected customers;

With their voluntary nature, these arrangements have suited the initial phases of retail competition, when distribution and retailing functions were operated jointly and dominated by the Government-owned businesses.

6.5.3.3. Establish a list of retailers of last resort

Under this option, the Government would establish a list of retailers that could provide a Retailer of Last Resort service should a retailer be suspended from the market for whatever reason. The Government could invite tenders from licensed retailers for the right to act as a retailer of last resort. The bids would set out the terms and conditions at which a retailer was prepared to supply customers as a Retailer of Last Resort and the number of customers that they would be able to serve. Based on the bids, a hierarchy of Retailers of Last Resort would be established.

Such a scheme could have the following advantages:

- if the nominated Retailer of Last Resort is suspended from the market, there are other Retailers of Last Resort in the hierarchy that can be called upon; and
- if the retailer that is suspended from the market has more customers than a single Retailer of Last Resort can handle, then its customers can be spread across a number of Retailers of Last Resort.

The implementation of such a scheme would involve administration costs. The depth of the market available to effectively carry out such a role given the system requirements for the mass market is questionable at this early stage of retail competition for smaller customers.

6.5.4. Costs and benefits of alternative arrangements

Providing an effective scheme for retailer of last resort supply		
Current Regulation	Benefits	Costs
Consumers	<ul style="list-style-type: none"> ➤ Guarantee of continuous supply ➤ No disruption to wholesale market ➤ Customers are made aware of supply arrangements and procedures for arranging alternative supply ➤ Customers can negotiate and agree alternative supply arrangements, with immediate effect ➤ Even if they do nothing, small customers are protected ➤ The pre-2001 position of large customers is preserved 	<ul style="list-style-type: none"> ➤ Safety net arrangement may discourage customers considering financial viability of retailer ➤ Charge to RoLR
Government	<ul style="list-style-type: none"> ➤ Automatic trigger of RoLR supply protocols if retailer suspended or has licence cancelled ➤ Well tailored to ETEF supply arrangements 	<ul style="list-style-type: none"> ➤ Administration and compliance costs for Government owned retailers (if not fully covered by customer charge – see above)
Industry	<ul style="list-style-type: none"> ➤ Maintain financial integrity of NEM ➤ No disruption to economy if retailer suspended ➤ Encourage customer churn in negotiated market 	<ul style="list-style-type: none"> ➤ Local retailers must maintain RoLR capability and RoLR implementation plans

No specific NSW scheme	Benefits	Costs
Consumers	<ul style="list-style-type: none"> ➤ Possibly lower charges due to lower costs on businesses 	<ul style="list-style-type: none"> ➤ Uncertainty with all customers facing disconnection ➤ Reduce the likelihood of churn to independent retailers ➤ No assurance of protection against price gouging
Government	<ul style="list-style-type: none"> ➤ Costs of administering a scheme are avoided 	<ul style="list-style-type: none"> ➤ Government will be held responsible for ensuring continuity of electricity supply ➤ Confusion if no RoLR arrangement could create costs for taxpayers and consumers ➤ Pressure to unwind full retail competition reforms
Industry	<ul style="list-style-type: none"> ➤ No RoLR implementation costs for business. 	<ul style="list-style-type: none"> ➤ Substantial adverse publicity if there is forced disconnection ➤ Pressure to unwind full retail competition reforms
Pre 2001 ROLR scheme	Benefits	Costs
Consumers	<ul style="list-style-type: none"> ➤ Simplicity of arrangements, while retailing is dominated by Government-owned retailers 	<ul style="list-style-type: none"> ➤ Dependence on uncertain voluntary arrangements for continuity of supply and fair terms and charges ➤ No protection for small customers against short-term market volatility
Government	<ul style="list-style-type: none"> ➤ Low costs for simple industry structure that includes: <ul style="list-style-type: none"> - Government ownership of major retailers; and - Joint holding of retailer and network service provider licences. 	<ul style="list-style-type: none"> ➤ Risk of ill-preparedness transferred to Government, having to step-in to: <ul style="list-style-type: none"> - Ensure continuity of electricity supply - Clarify responsibilities and protections - Rescue industry participants
Industry	<ul style="list-style-type: none"> ➤ Minimum costs in structuring voluntary scheme. 	<ul style="list-style-type: none"> ➤ Not suited to mandatory legal separation of retailer and network service providers.
List of last resort suppliers	Benefits	Costs
Consumers	<ul style="list-style-type: none"> ➤ Retailer may be willing to offer terms better than current price protections 	<ul style="list-style-type: none"> ➤ Uncertainty as to present depth of market
Government		<ul style="list-style-type: none"> ➤ Costs in administering new arrangements
Industry	<ul style="list-style-type: none"> ➤ Allows companies to bid for right to access customers if another retailer suspended ➤ Maintain financial integrity of NEM 	

6.5.5. Assessment of alternatives

The recent well-publicised insolvencies of Ansett, HIH Insurance and OneTel demonstrate the consequences for the community of business failures that affect many thousands of customers. The essential service nature of electricity and the possible coincidence of business failures if wholesale prices are exceedingly volatile, provide the rationale for the introduction of a scheme to manage retailer suspensions that may arise in a competitive retail market.

The Government has decided to appoint the local retail suppliers as the retailers of last resort supply in New South Wales. Local retail suppliers will have the systems and processes necessary to handle the transfer of possibly large numbers of customers. Local retail suppliers are also responsible for supplying electricity to small retail customers at regulated tariffs with the Fund managing the purchase price risk of supplying these customers. At least in the interim, there are advantages in having the same retailer responsible for standard supply and last resort supply, as participation in the Fund would be necessary in both circumstances.

Problems may arise if the suspended retailer happened to be the local retail supplier. However, the Regulation does allow the Minister to appoint a back-up retailer to the local retail supplier. The allocation of the retailer of last resort supply to the Government owned local retailer should minimise the scope of this problem. The fact that the retailer of last resort is protected from price risk through the operation of the Fund for small retail customers and is able to pass on wholesale costs to commercial customers should reduce the likelihood of a last resort event triggering the suspension of the local retailer.

The concept of retail suppliers tendering for the right to be endorsed as the retailer of last resort is worth exploring in the future. Competitive tendering on the basis of possible terms and conditions for supply to customers of a suspended retailer would elicit information on the value of acquiring new customers and would allocate the role to the retailer best equipped to manage a last resort event. The Minister would consider such matters as the financial strength and business systems of potential bidders. A ranking system of bidders would also overcome the problem of suspension of the nominated last resort supplier.

The Government is focussed on developing the systems and market operations rules to implement full retail competition for 1 January 2002. The allocation of the retailer of last resort to the local retailer is a low cost and effective way of implementing arrangements to guarantee supply, price and information to customers. More complex tendering arrangements are not of high priority with all of the changes under way and the mass market not yet contestable. However, the regulatory provisions are flexible enough to allow the Government to consider alternative mechanisms for allocation of last resort supply in the future. The review of standard supply arrangements at the end of the current determination of regulated retail tariffs at 30 June 2004 may provide such an opportunity.

6.6. Exempt arrangements

6.6.1. Protections for customers in exempt networks

There are a number of persons in NSW who do not receive their supply or connection services directly from a licensed retail supplier or licensed DNSP. Instead these customers receive supply and connection services from persons who are exempt from the requirement under the Act to hold a DNSP or retail supplier's licence. Exempt suppliers and DNSPs are typically owners of 'embedded' distribution systems found in caravan/residential parks, office buildings, residential flats, units, industrial parks and shopping centres. Owners of the exempt distribution systems effectively 'on-sell' electricity they purchase from licensed retail suppliers to persons occupying these premises. These are referred to as "on-supply" arrangements.

Persons who are supplied through on-supply arrangements are often limited in their capacity to be directly connected to the distribution network operated by the licensed DNSP. This is because costs of connection for these customers (which would be raised through "capital contribution charges") may be so high that it is uneconomic for the customer to request such a connection. Therefore, for these customers, statutory rights to supply and connection services cannot be cost-effectively delivered through licensed retailers and DNSPs.

Generally these persons receive supply under separate contractual arrangements with the on-supplier such as a lease or residential tenancy agreement or other less formal arrangements applying to short term occupancies. Although some of these arrangements may be regulated under other legislation (for example, the *Residential Tenancies Act 1987*), there is no direct obligations imposed in respect of the supply of electricity apart from the more general requirement that landlords provide premises that are "fit for habitation" by the tenant.

Additional requirements relating to electricity supply exist under section 37(1) of the *Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995*. This provision requires that a "dwelling site" must be supplied with electricity from a reticulated electricity service. Section 37(2) requires that long-term sites be separately metered.

6.6.2. Chosen regulatory approach

The Act provides for regulations to either unconditionally or conditionally exempt any specified person or class of persons from the operation of the following provisions of the Act (section 106(2) of the Act):

- Section 13, which requires a person to hold a DNSP's licence to operate a distribution system;
- Section 16, which requires a distribution system to be operated only for and on behalf of a retail supplier or other Code participant; and
- Section 98, which renders electricity supply "arrangements" unenforceable (except by the retail customer) unless the person was authorised by a retail supplier's licence to enter into the arrangement.

The now repealed 1996 Regulation prescribed certain arrangements that were exempt from the statutory licensing requirements. However, no conditions were prescribed to attach to these exemptions under that Regulation. The current Regulation has prescribed conditions applying to persons (“exempt persons”) who are exempt from the requirements of sections 13 and 98 of the *Electricity Supply Act 1995*.

These conditions apply whenever the exempt person is supplying electricity or providing connection services to a person:

- who occupies “residential premises”; and
- whose electricity supply is measured by a separate electricity meter.

To ensure that the protections will apply to persons living in residential and caravan parks, the definition of “residential premises” that applies in the *Residential Tenancies Act 1987* has been adopted.

The protections that apply to this group of customers through regulatory conditions of exemption are (see clause 70):

- the exempt person must provide connection services and supply electricity to the premises in accordance with any agreement relating to occupation of the premises;
- the amount charged for supply of electricity to premises cannot exceed the regulated retail tariff that would have applied to the customer under a standard form contract; and
- the exempt person is bound by and must comply with any decision of the electricity industry ombudsman in relation to any electricity related complaint or dispute referred to the Ombudsman by the ‘customer’.

In addition, the Regulation places constraints on the exempt person in the event that they were to disconnect persons in their network occupying residential premises that are separately metered (see clause 71). In particular, the Regulation requires that:

- an exempt person not disconnect a customer or discontinue supply where an application by the customer for some concession or relief scheme is pending and while any life support system relying on electricity is at use at the premises;
- a customer not be disconnected on a Friday, Saturday or Sunday, or on a public holiday (and the day preceding the holiday), or after 3.00 pm on any other day;
- an exempt person provide a minimum of 14 days written notice (specifying the grounds for the proposed action) to a person prior to disconnecting or discontinuing supply to premises;
- where the grounds for discontinuance or disconnection have been remedied, the customer must be reconnected and supply resumed within a reasonable time; and
- where the exempt person is to be disconnected (by a licence holder), written notice of the impending disconnection is immediately given to any person to whom the exempt network owner provides connection services or supplies electricity and would be affected by the disconnection.

6.6.3. Alternative approaches to protecting customers in exempt networks

6.6.3.1. No regulatory requirements

This option would effectively continue the position that applied under the now repealed 1996 Regulation where persons supplying electricity to these customers did so under a general unconditional exemption. This option delivered no rights to a person receiving supply under exempt arrangements.

The Government wanted to ensure that, to the extent feasible and desirable, customers of exempt networks receive levels of service commensurate with that provided to customers of licensed retail suppliers and DNSPs. However, in recognition of the fundamentally different nature of supply for exempt network customers it was not possible to mirror the broader contractual requirements that support service standards in the relationship between the customer and the exempt network owner. Nevertheless, the Regulation ensures that basic protections relating to price, dispute resolution and disconnection are now available to residential (and separately metered) customers in exempt networks. Retention of the previous arrangements would not have permitted the achievement of these important Government objectives.

6.6.3.2. Customer protections delivered as a condition of the tenancy agreement that applies to premises or Residential Parks Code of Practice

The option of delivering protections to customers supplied via exempt supply arrangements through requirements in regulated residential tenancy agreements was canvassed by the Government. However, this option was not considered suitable, as it would be difficult to confine the protections to electricity related matters and to not impinge on broader commercial considerations covered by such agreements.

The Code of Practice governing residential parks was another option, however, this would not extend protections to customers in other types of exempt networks. Nevertheless, the Code of Practice (which is currently being developed by the Department of Fair Trading in consultation with park owners and residents groups) can complement the basic protections in the Regulation by:

- ‘operationalising’ some of the elements of the framework (for example, detailing processes for the handling of complaints and disputes between owners and residents); and
- addressing matters of safety and quality of supply in relation to the network within the residential park.

6.6.3.3. Assessment of alternative options

The delivery of basic protections to customers taking supply from exempt persons has been a challenge for some time. In particular, it must be ensured that in delivering those protections, the framework does not inadvertently impinge on broader matters governing the relationship between exempt persons and their customers and/or that costs for exempt persons are not raised so that alternative accommodation cannot be cost-effectively provided to customers of such networks. The current regulatory requirements ensure this balance is maintained by delivering fundamental protections more cost effectively and with minimum complexity compared to any alternatives.

6.6.4. Other exempt arrangements – new occupants

6.6.4.1. Background

Change of occupancy at premises raises new challenges under a framework of full retail competition. With franchise arrangements, where all customers are on standard form contracts with the local retailer who is responsible for all connection points within its supply district, there are no real issues beyond establishing the change of occupancy date and apportioning the consumption of electricity in a particular billing period between the respective customers. This is because the identity of the retailer is always the same and the terms of supply are also identical. With competition, where different retailers may be responsible for particular connection points and premises, it is important to clarify at all times who is responsible for payment of electricity and on what terms.

Change of occupancy does not represent any particular problems *per se* but can be complicated if one of or both the outgoing and incoming customer fail to notify a retailer that they are moving out or have moved in respectively. Specifically, problems arise where:

- the outgoing customer notifies the current retailer that they will be leaving the premises but a new occupant moves in and takes electricity without entering into a supply contract immediately from the date of move-in; or
- a customer moves out of a property without notifying the current retailer and a new occupant moves in and takes supply of electricity at those premises but is not a party to a contract with the current retailer who remains financially responsible (for NEM settlement purposes) for the connection point at the premises or does not enter into a contract with another retailer.

More broadly, the following situations are contemplated under the banner of new occupancy:

- a new occupant physically moves into premises that are connected/energised and consumes electricity without having explicitly entered into a customer supply contract;
- vacation of premises by the old customer, leaving the existing occupant (who is not the customer) at the premises; and
- physical move-in by customer bringing pre-existing 'portable' supply contract.

6.6.4.2. Objectives

In developing the framework for dealing with change of occupancy issues, the Government wanted to achieve the following objectives:

- **Customer choice to be maintained as far as possible** – the arrangements should ensure as far as possible that persons moving into premises are not prevented from choice of retailer, including the ability to choose standard supply.
- **Non-interruption to supply** – persons who move into premises without having agreed to a contract for supply should be given adequate opportunity to enter into a supply contract with a retailer. Such customers should not be disconnected for a specified period after they have been informed that they need to agree to terms of a supply contract.
- **Competitive neutrality** – customers should not automatically be taken to be on standard terms with the standard retailer because to do so could give standard retailers a significant competitive advantage.

6.6.4.3. The Regulatory Framework

The approach to addressing these issues was to create a new category of ‘exempt arrangements’. This was required because, in the absence of a contract, a mechanism was required to ensure that certain rights could be delivered to customers (and that they are not taken to be stealing electricity) and also to allow for retailers to recover charges for electricity consumed at premises. The following principles outline the unified framework intended to accommodate the diverse situations listed above. (The key clauses in the Regulation are 11 and 72).

- **Information to customer** – Once aware of a change of occupancy, there is an obligation on the retail supplier to advise the occupant of their rights and obligations (including customer’s ability to access another supplier, rights to standard supply, customer’s obligation to obtain a supply contract, and retail supplier’s right to initiate disconnection if no contract is entered into);
- **Customer’s obligation to pay** – The occupant is liable to pay a bill validly issued by the retail supplier for electricity that the occupant has consumed. Valid issue of a bill requires, and the customer’s obligation to pay is the lower of, the following:
 - a bill in respect of electricity supply correctly issued under the old customer’s contract (this will occur if the retail supplier is unaware of the change of occupancy); or
 - a bill correctly issued on the basis of the retail supplier’s published tariff generally applicable to that class of customer (this will occur if the retail supplier has a public price list and is aware of the change of occupancy) or, a bill issued in accordance with the regulated retail tariff applicable in the occupant’s district (where the retail supplier is aware of the change of occupancy but has no published price list);

- ***New supply commencement*** – Retrospective commencement of supply under a new contract entered into within a 14-day grace period (with the same or another supplier, including entitlement to standard supply) is permitted;
- ***Protection against disconnection*** – a retail supplier cannot initiate a disconnection process within one month from when the occupant commenced use. Moreover, the customer must be given reasonable notice and reasonable time to remedy any ground for disconnection; and
- ***Dispute resolution*** – the occupant has access to the Ombudsman on all of the above items.

6.6.4.4. Discussion of alternatives

The alternatives to the framework in the Regulation for new occupant arrangements can be examined at two levels:

- The first is whether a framework that explicitly recognises the complications that could arise in new occupant situations should be established in the first place. The Government is of the view that in the absence of such a framework, there may be considerable confusion among consumers and businesses as well as disputation over liability to pay and other obligations. This would work against the Government's objective of delivering a framework that creates opportunities for customers to benefit from competition and which seeks to ensure that customers are no worse-off than they currently are under franchise arrangements;
- The second is, having decided on the need for such a framework, whether some of its elements could be different. In particular, the two key issues that arise are the length of the 'grace' period allowed to customers (and indeed whether there should be such a grace period in the first place), and what are the appropriate charges that should apply when a new occupant takes supply without a contract:

6.7. Delivery of social programs

6.7.1. Background

The Government provides Budget funding for three energy-related social programs that are currently delivered by the State-owned electricity businesses.

The **Electricity Pensioner Rebates program** is a \$54.1 million initiative through which eligible pensioners are paid a flat rebate on electricity bills. Currently, pensioners are entitled to rebates on their electricity bills, but the amount of rebates varies between retailers. From 1 January 2002, a single electricity and gas rebate of \$107 per annum will apply for all eligible pensioners regardless of whether a pensioner is supplied under regulated or negotiated contracts by their local retailer or an independent retailer. Responsibility for administering the program was transferred from the Department of Community Services to the Ministry for Energy and Utilities from 1 July 2001.

The **Life Support Rebate** is a \$1.4 million program with the objective of providing electricity rebates to users of certain life support devices to alleviate running costs. The applicants are required to produce written evidence from a medical practitioner that there is a user of one or more approved systems in the household.

Energy Accounts Payment Assistance (EAPA) is a \$7.5 million program, which provides a safety net for financially disadvantaged people living in New South Wales who, because of some form of crisis, cannot pay their electricity bill. It is an emergency assistance program designed to ensure continuing access to electricity as an essential of modern life and to avoid the consequences of disconnection. EAPA is in the form of \$30 vouchers, which are attached to the electricity account sent to the retail suppliers. The EAPA vouchers are distributed, and eligibility assessed by, non-government welfare agencies each year for payment of energy bills. The feasibility of extending the EAPA voucher scheme to the payment of gas bills is presently being investigated.

6.7.2. Current approach to program delivery

At present the energy concessions are delivered by the State owned electricity businesses in accordance with a direction under the *State Owned Corporations Act 1989* (SOC Act). Section 20(N) of the SOC Act sets out arrangements through which a portfolio Minister may notify the board of a statutory State owned corporation (SOC) of a public sector policy that is to apply to the SOC.

The SOC Act also requires:

- approval of the Treasurer for the making of the notification;
- prior consultation with the Board of the SOC;
- provision for reimbursement of the estimated net cost of complying with a notification; and
- publication of the notification in the Government Gazette.

The Government is of the view that eligible customers have the right to receive social programs even if their electricity is supplied through an independent retailer under negotiated supply arrangements. As the SOC Act only applies to State-owned businesses, the Government is working with industry to put in place alternative arrangements prior to 1 January 2002 to ensure that eligible recipients continue to receive the concessions.

6.7.3. Alternative approaches to program delivery

6.7.3.1. Chosen regulatory approach

Regulations under the *Electricity Supply Act 1995* have incorporated a mechanism for delivery of social programs by the electricity industry under full retail competition since June 1998. The Government has not used this framework to date, as the SOC Act has been sufficient for the delivery of social programs under franchise supply arrangements.

The current Regulation included some minor amendments to the existing regulatory framework to clarify the licence conditions that can be used to oblige all DNSPs and retail suppliers to facilitate the delivery of any aspect of the Government's social programs for electricity.

The Regulation allows a sponsoring Minister, with the concurrence of the Treasurer, to direct a DNSP or a retail supplier to undertake certain actions to implement social programs. It includes arrangements for the payment to DNSPs and retail suppliers of the estimated efficient costs for complying with the direction. Before making a direction, the Minister must consult with the businesses and must give them written notice of the criteria for estimating efficient costs. The Regulation also sets out a process for resolving disputes between a licence holder and a sponsoring Minister relating to a direction.

A preferred delivery mechanism known as the 'retailer model' has been developed. The model excludes DNSPs from the delivery process. The model would work as follows:

- Minister for Energy directs retailers to deliver pensioner rebates and comply with a number of policy and administrative arrangements. (Similarly, the Minister for Health issues the direction for life support rebates and the Minister for Community Services issues directions for EAPA vouchers);
- customer applies for pensioner rebate from retailer;
- retailer provides rebate on a pro-rata basis on each customer bill;
- retailer periodically validates pensioner data against Centrelink or Department of Veteran Affairs records;
- retailer investigates and acts on discrepancies emanating from validation exercise;
- retailer periodically invoices the Ministry for rebate amount and administrative costs incurred; and
- Ministry reimburses the retailer for rebate payments and administrative costs.

Industry has indicated its support for this retailer model. The main advantage of the model is that the Ministry only has to deal with one layer of industry on all facets of program delivery. Inclusion of DNSPs in any aspect of program delivery would result in the duplication of customer tracking systems. However, it will be necessary for retailers to keep DNSPs advised of customers on life support equipment to avoid disconnection during planned outages or for non-payment of bills.

6.7.4. Costs and benefits of alternative arrangements

Effective delivery of social programs for energy		
State Owned Corporations Act 1989	Benefits	Costs
Customers	➤ Customers remaining on standard form supply contracts not affected	➤ Creates disincentive for customers receiving concessions and rebates to switch to an independent retailer
Government	➤ Simplest solution for Government	➤ Inconsistent with full retail competition objective of maximising opportunities for all customers to choose their retail supplier
Industry	➤ Administratively simple	➤ Narrows the market for new retail suppliers
Electricity Supply (General) Regulation 2001	Benefits	Costs
Customers	<ul style="list-style-type: none"> ➤ No impediment to switching. ➤ Ensures the concession always 'follows' the customer 	
Government	➤ Consistent with objective of maximising choice for all customers	➤ Increased administrative work in dealing with all licensed retailers
Industry	<ul style="list-style-type: none"> ➤ Competitively neutral retail market ➤ Retailers are reimbursed efficient costs of delivery 	➤ Incremental system and administrative costs

6.7.5. Assessment of alternatives

The Government's policy regarding social programs is set out in the 2001-02 Budget Papers. Matters relating to eligibility and the quantum of funding are not within the scope of this Regulatory Impact Statement. Rather the purpose of this Statement is to assess the most cost-effective mechanism for delivering the Government's energy concessions.

The introduction of full retail competition in the electricity market should not affect continuity of access to electricity concessions. Those who are eligible to receive the concessions need to be able to receive them regardless of their retailer of choice.

Limiting the delivery of energy concessions to State-owned electricity businesses would effectively exclude customers who are eligible for energy concessions from the competitive retail market; hence the need to consider an alternative to the direction-making process under the SOC Act.

The current Regulation includes specific direction making powers for the delivery of social programs for energy. The Regulation allows the Minister to direct retailers and DNSPs to facilitate the delivery of the Government's social programs. The proposed retailer model has the advantage of allowing the payment of the concessions by any retailer, thereby allowing all customers to shop around for their retailer of choice.

There will be costs for new retailers in developing systems to deliver social programs. However, it is considered that the incremental costs of processing pensioner concessions over the capital cost of setting up the total business would be relatively small.

The Regulation also provides for the reimbursement of efficient costs associated with program administration and delivery. Retailers will be consulted on the methodology for calculating these costs. An independent consultant will advise the Ministry of Energy and Utilities on the amount of efficient costs to be reimbursed. This will not only provide a consistent framework between State-owned and independent retail suppliers, but will also provide an opportunity to redress differences in reimbursement arrangements between SOCs that have historically evolved.

6.8. Accreditation of providers of contestable services

6.8.1. History of the accreditation scheme

The *Electricity Supply Act 1995* established a framework for the contestability of works related to connection of customers to the electricity network (section 31). Under the framework established, if a customer (or builder) is required to fund such work, the customer/builder has the right to select an accredited service provider (ASP) to carry out the work. The *Electricity Supply (General) Regulation 1996* created a framework for accreditation which was intended to provide a clear and consistent set of requirements for organisations or individuals wishing to perform contestable customer connection works. Under this framework, provisions for accrediting service providers were created through the approved Electricity Association of New South Wales (EANSW) Accredited Service Provider Scheme (ASP scheme).

Connection services carried out by ASPs in New South Wales have included the installation of metering equipment for what were ‘franchise’ customers, since the inception of the ASP Scheme in April 1998. Prior to that, some electricity distributors operated independent schemes that provided for contestability of connection work.

The ASP scheme was designed in conjunction with the electricity distributors of New South Wales in order to maximise the efficiency of contestable connection services to customers, with an emphasis on timeliness, safety and cost effectiveness. EANSW has accredited approximately 1100 service providers throughout New South Wales, capable of providing connection and metering services as a single package to customers. The customer or building contractor funds these services.

The functions or services undertaken by ASPs are as follows:

- *Connection*: This refers to the physical connection of the customer’s installation to the DNSP’s network;
- *Metering*: Installation of metering equipment after an agreement for supply has been lodged by a customer with a retail supplier; and
- *Energising*: The process of actually allowing the installation to be made ‘live’ after the relevant regulatory safety tests or checks have been undertaken.

The ASP scheme has been successful in providing a framework within which contestable works can be efficiently provided to smaller customers in New South Wales. The scheme has broad support from customers, service providers and DNSPs.

6.8.2. Chosen regulatory approach

In the *Electricity Supply (General) Regulation 2001*, the framework under the previous Regulation was retained with little modification.

The Regulation provides for an accrediting agency to accredit and rate service providers. The accrediting agency may require undertakings that service providers will comply with various procedures and directions. The agency must publish a list of accredited persons and is empowered to suspend or cancel a service provider's accreditation if the service provider is no longer competent to perform the relevant functions. Whilst the accrediting agency is currently the EANSW, the Association is now winding down its involvement and discussing alternative arrangements for continuing the ASP scheme with the Ministry for Energy and Utilities.

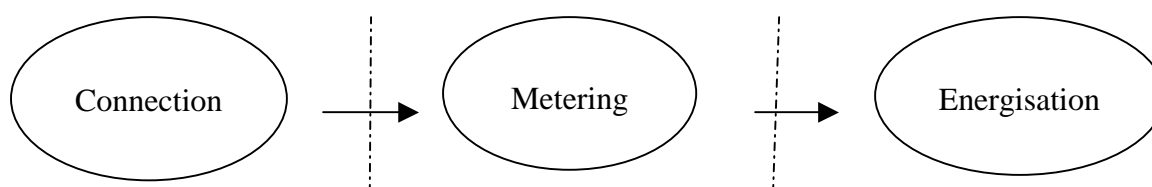
The Regulation provides that an accreditation scheme must make provision for a number of issues, including:

- qualifications, experience and training requirements;
- commercial prudential requirements, such as insurance;
- payments required for application to be accredited;
- any undertakings required for accreditation;
- procedures for inspection, auditing and assessment of an accredited person and their work;
- statement as to the extent that the scheme is related to or adopted from another accreditation scheme; and
- policy for consultation with stakeholders in designing or changing the scheme.

There are also detailed procedures for appeals from the accrediting agency's decisions and requirements for alternative dispute resolution and arbitration.

6.8.3. Consideration of alternatives

An obvious counterfactual to the continuation of the ASP scheme was the extension to small customers of metering arrangements that apply to large customers under the National Electricity Code (Code). The different processes can be understood by considering the three functional areas described earlier and the diagram and table below, which indicate who provides these services for large and small customers, respectively.



Large customers	Accredited Service Provider (Customer Funded and appointed)	Metering Provider (Retailer Funded and Appointed)	Distribution Network Service Provider (DNSP funded and Performed)
Small customers	Accredited Service Provider (Customer Funded and appointed)	Accredited Service Provider (Customer Funded and appointed)	Accredited Service Provider (Customer Funded and Appointed)

This table shows that the processes for connection/meter installation/energisation are far simpler for small customers than for large customers. The need different processes for large customers stems primarily from the more complex metering technologies used by larger customers (types 1-4 metering installations under the Code). ASPs are typically electricians who have been trained to install simple meters. They are not equipped to install more complex meters required by larger customers.

6.8.4. Assessment of alternatives

The application of connection processes presently applying to larger customers under the Code to smaller customers with simple metering installations would have the potential to remove many of the efficiencies presently available to small customers in New South Wales.

Under the Code, the customer could engage an ASP to connect a service line. The customer's retailer would then need to engage a separate Metering Provider to install the meter. Finally, the DNSP would need to energise the connection. The processes applying to small customers incorporate the provision of all three key services at the customer's request. This allows the customer to control the timeliness of the work as well as obtaining competitive quotes. Multiple visits to the customer's premises are avoided, as are co-ordination difficulties between several parties. The Code processes for metering could significantly delay customer connection for small customers and lead to confusion within the industry, particularly for new customers and builders. The overall effect would be likely to be to the detriment of small customers.

Part IV

Consultation

7. Consultation on the Regulatory Impact Statement

As noted in Section 2 of this Statement, the Government has already undertaken an extensive program of industry consultation during the preparation and introduction of the *Electricity Supply (General) Regulation 2001*. A key feature of the consultation program was the release of eight Discussion Papers canvassing public comment on a range of customer protection and market operation issues associated with full retail competition. The Government also established working groups made up of key industry and consumer stakeholders to consider and assess reform proposals.

NSW Treasury has published a notice of this Regulatory Impact Statement in the NSW Government Gazette, one metropolitan newspaper and nine regional newspapers. Treasury has also directly notified key consumer groups, government agencies and market participants of the release of this Statement.

All interested parties are invited to provide a written submission commenting on the information provided in this Regulatory Impact Statement.

The deadline for submissions is 19 October 2001.

Submissions should be sent to:

**NSW Treasury
Attention: Medha Gupta-Dibble
Governor Macquarie Tower
1 Farrer Place
Sydney NSW 2000**

Submissions may also be faxed to (02) 9228 3173, or e-mailed to:
[medha.guptadibble@mail.treasury.nsw.gov.au].

Following the receipt of submissions, Treasury will prepare a report for the Minister for Energy detailing the issues raised through the public consultation process. The report to the Minister will also identify areas of the Regulation that may require amendment to ensure the smooth implementation of full retail competition from 1 January 2002.