



National Energy Customer Framework

Queensland Implementation

Decision Paper

March 2011

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Acronyms and Abbreviations

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
Billing Code	Electricity (Retail Billing Guaranteed Service Level Scheme) Code
CAC Act	<i>Community Ambulance Cover Act 2003</i>
COAG	Council of Australian Governments
Electricity Act	<i>Electricity Act 1994</i>
EEQ	Ergon Energy Queensland
EWOQ	Energy and Water Ombudsman Queensland
Gas Supply Act	<i>Gas Supply Act 2003</i>
GSL	Guaranteed service level
JOG	Joint Implementation Group
MCE	Ministerial Council on Energy
MWh	Megawatt hours
NECF	National Energy Customer Framework
NEL	National Electricity Law
NER	National Electricity Rules
NERL	National Energy Retail Law
NERR	National Energy Retail Rules
NGL	National Gas Law
OTOS	Obligation to offer supply
p.a.	Per annum
QCA	Queensland Competition Authority
Regulations	National Energy Retail Regulations
ROLR	Retailer of Last Resort
SA	South Australian
SCCR	Small Compensation Claims Regime
SCO	Standing Committee of Officials

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1. Introduction

1.1 *The National Energy Customer Framework*

In 2006, the Council of Australian Governments (COAG) agreed to develop a new national framework governing the sale and supply of energy (electricity and natural gas) to retail customers. The COAG tasked the Ministerial Council on Energy (MCE) with responsibility for developing and implementing the National Energy Customer Framework (NECF).

The NECF involves the transfer of current state and territory responsibilities to a new national regulatory regime governing the sale and supply of energy to retail customers, including new connections to distribution networks. Implementation of the NECF is expected to provide efficiencies and reduce the regulatory burden for energy businesses that operate across various jurisdictions that are part of the national energy markets.

The NECF legislative package was endorsed by the MCE in October 2010. The legislative package was introduced to the South Australian (SA) Parliament, as lead legislature, on 27 October 2010 and was passed on 9 March 2011. Royal Assent was received on 17 March 2011. Copies of the final National Energy Retail Law (NERL) and associated amendments to the National Electricity Law (NEL), National Gas Law (NGL) and *Australian Energy Market Commission Establishment Act 2005* (SA) are available on the SA legislation website www.legislation.sa.gov.au. Copies of the final NECF Regulations, Rules and amendments to the Gas Retail Market Procedures are available on the MCE website www.mce.gov.au.

1.2 *Purpose and outline of this document*

The purpose of this document is to inform energy industry stakeholders and consumers on the outcomes of consultation undertaken on implementation of NECF in Queensland and provide advice on how and when the Queensland Government will implement the NECF.

On 21 June 2010, the Department of Employment, Economic Development and Innovation released the NECF Queensland Implementation Discussion Paper (Discussion Paper) seeking stakeholder feedback, via written submissions, on a variety of implementation and transitional issues. A public forum was held on 29 June 2010 to give stakeholders the opportunity to seek clarification and discuss issues relating to the implementation of the NECF in Queensland.

As noted in the Discussion Paper, the NECF will not commence in Queensland until it is applied under a law of this State – an ‘Application Act’ is required. When it commences, the NECF will replace existing Queensland provisions relating to the sale and supply of energy. As such, amendments to existing Queensland instruments will be required to remove matters that will be covered by the NECF Laws and Rules. Additionally, to ensure a smooth transition to the NECF for Queensland customers and energy businesses, a number of transitional measures and consequential amendments will need to be made to Queensland energy legislation.

This Decision Paper outlines both the scope of application of the NECF, timing of commencement and transitional arrangements. It has been prepared to assist energy industry stakeholders in planning their own transition to the NECF in Queensland. For ease of reference, its structure essentially mirrors that of the Discussion Paper.

2. Implementation of the NECF in Queensland

Subject to the scope of application and specific transitional issues identified in this paper, the NECF will commence in Queensland on 1 July 2012.

2.1 Timing

On 10 December 2010, MCE agreed that all participating jurisdictions would work towards a single target commencement date of 1 July 2012, although transitional provisions may extend beyond this date if required. This date is consistent with MCE's earlier agreement to implement the NECF between mid 2011 and mid 2013 and reflects both the desire to implement the NECF as soon as possible to start achieving the expected benefits of the national framework, while also giving industry participants and jurisdictions a reasonable period of time to undertake the necessary changes to implement the NECF.

All stakeholders supported a single implementation date across all jurisdictions, which is expected to ease the cost of implementation for national market participants. The benefits of a '1 July' date are that it aligns with the usual timing of tariff increases and the start of a new financial year, and facilitates transfer to new IT systems, management, financial and regulatory reporting.

2.2 Scope of implementation

As noted above, it is proposed that the NECF be fully implemented in Queensland, subject to the specific differences and transitional arrangements identified in this paper. These differences and transitional arrangements, which are discussed in more detail throughout this paper, are:

- non-application of two optional elements of the NECF – the small compensation claims regime (SCCR) and arrangements for supply to customers on pre-payment meter market retail contracts;
- specifications which ensure that notified prices (Queensland regulated electricity tariffs) continue to be set and revised by the Queensland Government and are available to small customers, and the continuation of existing obligations on retailers to offer supply to customers in regional Queensland;
- provisions which ensure that Ergon Energy Queensland continues its operations as a non-competing regional retailer under existing conditions;
- possible short term 'grace periods' for the transition to certain NECF contracts;
- delayed application of certain aspects of the new connections framework, and obligations on electricity distributors to give four business days notice of planned interruptions, to ensure a cost effective transition; and
- possible postponement of the commencement of the retailer of last resort (ROLR) arrangements for the failure of a gas retailer in Queensland.

2.3 National transitional issues

In October 2010 the MCE Standing Committee of Officials (SCO) established the Joint Implementation Group (JIG) to coordinate the implementation of the NECF (including the New Connections Framework or 'NCF') across participating jurisdictions and monitor the readiness of market bodies and national market participants for the commencement of the NECF.

The JIG, which reports to the MCE via the SCO, is comprised of representatives of the Energy agencies in the Commonwealth and each of the States and Territories that is participating in the NECF. Victoria is the lead jurisdiction for implementation of the NECF and is the Chair of the JIG.

The Discussion Paper listed three areas where it was expected that national transitional arrangements may be developed –

- national retailer authorisations;
- termination of current contracts and commencement of NECF retail and connection contracts; and
- a common framework/instrument relating to the performance of service orders.

The JIG is liaising with all retailers that currently hold a retail licence in one or more participating jurisdiction to manage the transition of these retailers to the NECF retailer authorisation regime.

In relation to existing customer contracts, the JIG has considered issues relating to the transition from these contracts to those under the NECF. However as it is likely that each participating jurisdiction will face different issues in their own transition, reflecting the nature and scale of the change from existing contractual requirements to those under the NECF, this matter will form part of each jurisdiction's transition to the NECF rather than national transitional arrangements. In managing the transition to NECF contracts, participating jurisdictions will be guided by common principles which seek to ensure the transition occurs in a timely manner with minimal disruption.

Further details on the proposed transition to NECF contracts in Queensland can be found in below section 2.5, in relation to new connection offers, and in section 4.1.

Decisions on these and any other national transitional arrangements will, if approved, be announced via SCO and MCE Bulletins and meeting Communiqué's on the MCE website.

Development of a common framework for service order performance matters is also no longer under consideration by the JIG for the purposes of NECF commencement, although the MCE may wish to consider the scope for consolidation or harmonisation of these in the future.

2.4 Other related work streams

The Discussion Paper noted that work was underway on a number of work streams related to the NECF, namely:

- proposed national regimes to introduce contestability of new energy connections and a reimbursement scheme to apply when new gas customer connections are made to mains extensions previously initiated by other customers;
- a national feed-in tariff regime; and
- new national electricity distribution network planning arrangements.

In relation to contestability for new connections and a gas reimbursement scheme – these proposals are still under development and have not yet been endorsed by the MCE. As such, they will not form part of the implementation of the NECF in Queensland and will continue as separate projects.

A national feed-in-tariff scheme is not under development at this stage and will also not be considered in the implementation of the NECF in Queensland.

On 8 October 2010 the MCE published its response to the Australian Energy Market Commission's (AEMC's) review of distribution network planning and expansion arrangements and will shortly submit a Rule change request to the AEMC relating to this. The request will ask the AEMC to consider commencing the national distribution planning arrangements at the same time as the NECF. Subject to the progress of the proposed Rule change, it is anticipated that changes to Queensland legislative instruments to implement these arrangements (essentially removing existing planning requirements that would be superseded by the new Rules) will be included in the package of changes to implement the NECF in Queensland.

2.5 Commencement of the new connections framework

Electricity

The Discussion Paper noted that full implementation of the NCF for Queensland's electricity distributors may not be appropriate until commencement of the distributors' next regulatory control period on 1 July 2015.

While ENERGEX and Ergon Energy have submitted that commencement of the entire NCF for electricity should be delayed until 1 July 2015, the Queensland Government has endorsed commencement of the NCF for electricity on 1 July 2012, subject to the following transitional arrangements:

- the connection charging aspects of the regime in Part E of new Chapter 5A of the National Electricity Rules (NER) will not apply until 1 July 2015, including the obligations on ENERGEX and Ergon Energy to comply with the connection charge principles of guidelines;
- ENERGEX and Ergon Energy will not be required to prepare and obtain approval for connection policies under new Part DA of Chapter 6 of the NER; and
- ENERGEX and Ergon Energy will be required to prepare and publish basic connection offers (and may also do so for any standard connection offers), but will not be required to obtain Australian Energy Regulator (AER) approval of any offers until 1 July 2015.

These arrangements seek to balance the benefits to customers of implementing the procedural aspects of the NCF, which provide greater certainty and transparency than current Queensland arrangements, as soon as possible, while seeking to minimise the costs of implementing those aspects of the NCF (i.e. connection charging), which are integrally linked to the distributor's regulatory determinations, by deferring these to coincide with the next regulatory control period. This approach also enables new connection offers to be 'integrated' with the NECF standard connection contract, as it relates to ongoing supply, without delay or the need for other transitional measures.

Gas

Gas distributors confirmed the view expressed in the Discussion Paper that the new connections framework contained minimal changes to the current processes for establishing connection charges.

As such, Queensland will adopt the NECF for covered gas distribution pipelines from the commencement of the NECF in Queensland on 1 July 2012. However, if required, a transition period of up to 12 months for AER approval of connection offers will be provided. During this time, if AER-approved connection offers are not available, offers of connection must be made in accordance with existing requirements under the *Gas Supply Act 2003* (Gas Supply Act) and in accordance with each distributor's current access determination.

The scope of the application of the NCF to the uncovered Maryborough-Hervey Bay and Bundaberg gas distribution networks (the 'Wide Bay network') is discussed in Table C below.

2.6 Key milestones for Queensland's implementation of the NECF

The following table outlines the key Queensland milestones for implementation of the NECF.

Table A: Key milestones for the implementation of the NECF in Queensland

Milestone	Target timeframe
Drafting of Queensland implementation legislation and other instruments <i>(targeted consultation will be undertaken with stakeholders as required)</i>	April to October 2011
MCE consideration of implementation legislation as required under the Australian Energy Market Agreement (AEMA)	Late 2011
Cabinet submission seeking 'authority to introduce' Queensland's implementation legislation into Queensland Parliament	Late 2011 or early 2012
Passage of Queensland legislation and finalisation of subordinate instruments	First half 2012
NECF commences in Queensland	1 July 2012

The Queensland Government recognises that full implementation of the NECF requires actions by a range of parties including the AER, which must prepare a number of guidelines to take effect from the commencement of the NECF and the Australian Energy Market Operator (AEMO) which is responsible for making necessary changes to retail market procedures and market operating systems to support the NECF. It is anticipated that these bodies will continue to keep industry stakeholders advised of their key milestones and process in implementing the NECF and the MCE (via the JIG) is monitoring the readiness of these market bodies for commencement of the NECF.

3. Response to specific issues raised in the Discussion Paper

Table B: Longer-term transitional arrangements for Queensland

Issues	Proposal in Discussion Paper	Stakeholder Response and Decision
<p>B1. Obligation to offer supply – business electricity customers</p>	<p>It was proposed that from the commencement of the NECF in Queensland:</p> <ul style="list-style-type: none"> ▪ all residential electricity customers and business customers consuming 1-40 megawatt hour per annum (MWh p.a.) will become subject to the NECF OTOS arrangements; ▪ business electricity customers consuming between 40-100 MWh p.a. will have the benefit of the OTOS on the standard retail contract and notified prices; and ▪ business electricity customers over 100 MWh p.a. will be subject to the arrangements equivalent to the current Queensland arrangements in sections 48D and 48E of the <i>Electricity Act 1994</i> (the 'Electricity Act'). 	<p><i>Stakeholder comments:</i> Stakeholders believed consideration should be given to large customer tariff policy in Queensland whereby large non-market customers continue to be supplied under the notified electricity prices.</p> <p><i>Decision:</i> The Queensland Competition Authority (QCA), in its <i>Review of Electricity Pricing and Tariff Structures – Stage 2</i> final report, recommended that all large customers in Queensland be supplied under market retail contracts and no longer have access to regulated electricity prices.</p> <p>The Queensland Government is currently considering the recommendation to remove access to notified prices for large customers (as defined by the NERL) in south-east Queensland as of 1 July 2012.</p> <p>Should this recommendation be endorsed, any legislative changes to implement this decision will be included in the changes to implement the NECF.</p> <p>Accordingly, for customers in south-east Queensland (the ENERGEX distribution area), the NECF OTOS arrangements will apply with the following modification:</p> <ul style="list-style-type: none"> ▪ designated retailers will <u>not</u> be permitted to satisfy their obligation to offer supply to small market offer customers (business customers consuming 40-100 MWh p.a.) by offering a market retail contract – all small customers will continue to have access to regulated tariffs. <p>For customers outside south-east Queensland, the existing Queensland OTOS arrangements will continue to apply, namely –</p> <ul style="list-style-type: none"> ▪ all small customers will be entitled to an OTOS and supply on the standard retail contract and notified prices (as above, a

Issues	Proposal in Discussion Paper	Stakeholder Response and Decision
		<p>market retail contract cannot be used to satisfy the obligation for small market offer customers);</p> <ul style="list-style-type: none"> ▪ large customers at new connections are entitled to the OTOS and the notified prices; and ▪ large customers at de-energised premises which have been the subject of a market retail contract are entitled to the OTOS, with the terms and conditions of sale to be negotiated with the designated retailer. <p>At this stage, there is not sufficient evidence that competition for small business customers in south-east Queensland, or business customers in regional Queensland, is sufficiently effective to support the removal of an OTOS and (where applicable) access to regulated prices for these customers. In its Stage 2 final report, the QCA also noted that this issue may be revisited following a review of effectiveness of competition in Queensland's electricity retail market by the AEMC.</p>
B2. Ergon Energy	<p>It was proposed that the existing restrictions on Ergon Energy Queensland Pty Ltd (EEQ) offering a market retail contract be retained when the NECF is implemented in Queensland.</p> <p>Due to the limited competition in regional Queensland, it was also proposed the minimalist transitioning approach will continue when the NECF is implemented.</p> <p>However, it was not clear that an exemption from the NECF marketing and reporting provisions is necessary.</p>	<p><i>Stakeholder comments:</i> Stakeholders confirmed that Ergon Energy's unique arrangements may require specific regulation however these should be kept to an absolute minimum. In the meantime, the NECF should be implemented across Queensland, wherever possible.</p> <p><i>Decision:</i> EEQ will continue in its role as a non-competing retailer whereby it may not offer market retail contracts (other than in those limited circumstances provided for by regulation) and market customers may not 'revert' to Ergon Energy.</p> <p>However the exemptions concerning retail marketing, explicit informed consent and retail market information will be removed as the application of these provisions will necessarily be very limited in accordance with the general restrictions on EEQ regarding market retail contracts.</p> <p>The minimalist transitioning approach for Ergon Energy Corporation Limited will continue.</p>

Issues	Proposal in Discussion Paper	Stakeholder Response and Decision
B3. Retailer of Last Resort – Gas	<p>It was proposed that Queensland would not participate in the ROLR scheme for gas and would continue to rely on existing Ministerial insufficiency of supply powers in the Gas Supply Act to deal with a major retailer failure.</p>	<p><i>Stakeholder comments:</i> Stakeholders suggested that non-participation in the gas ROLR scheme should be reconsidered in light of Cabinet support for the establishment of a Queensland gas short term trading market in 2011.</p> <p><i>Decision:</i> On the basis of the powers in NERL for the AER to resolve issues relating to access to gas supplies in a ROLR event, the impending establishment of a short term trading market and stakeholder support to participate in the NERL gas ROLR scheme, Queensland will adopt the NERL ROLR scheme administered by the AER for the Queensland gas retail market.</p> <p>Queensland's insufficiency of supply powers in the Gas Supply Act will be retained as these have application beyond the scope of the ROLR scheme</p> <p>It is intended that this scheme commence in Queensland along with the NECF generally on 1 July 2012, however a delay of up to one year for commencement of the gas ROLR arrangements may be considered to enable sufficient time for the development of Procedures and market and business systems to give effect to the ROLR arrangements. This will be determined following further consultation with AEMO and gas market participants.</p>
B4. Retailer of Last Resort – Electricity	<p>It was proposed that the NECF ROLR scheme, which will be administered by the AER, would be adopted for the Queensland electricity market.</p> <p>It was also proposed that EEQ be exempt from the scheme, as it is from the current Queensland scheme. This reflects the current role of Ergon Energy as a non-competing, government-owned retailer.</p>	<p><i>Stakeholder comments:</i> Retailers, in general, support the NECF ROLR scheme being introduced in Queensland. However, distributors raised concerns regarding the cost recovery arrangements for distributors.</p> <p><i>Decision:</i> Queensland will adopt the NECF ROLR scheme administered by the AER which includes the implementation of the NECF ROLR cost recovery payments.</p> <p>Amendments were made to the ROLR cost recovery arrangements for distributors in the NERL prior to its finalisation and endorsement by the MCE. The ROLR regime, including the cost recovery arrangements, is considered a robust regime to ensure the integrity</p>

Issues	Proposal in Discussion Paper	Stakeholder Response and Decision
		<p>of the wholesale market and ongoing supply to affected customers if a retailer fails.</p> <p>As it is a government-owned, non-competing retailer, EEQ will continue to be quarantined from appointment as a ROLR, unless the Minister decides otherwise and states this in an instrument.</p>
B5. Excluded Customers – Electricity	It was proposed that, consistent with existing arrangements, only local area retailers would be permitted to sell to excluded customers.	<p><i>Stakeholder comments:</i> Stakeholders support the current arrangements but indicated they should be reviewed in the future in order to reduce complexity.</p> <p><i>Decision:</i> While retailer choice will not be extended to excluded customers at this stage, meaning excluded customers will continue to be supplied by their local area retailer on standard retail contracts (for small customers) and notified prices, excluded customers will be brought within the NECF framework as follows –</p> <ul style="list-style-type: none"> ▪ the NECF, from a retail perspective, does not distinguish between customers connected to the national electricity grid or otherwise. Therefore, to the extent excluded customers are sold electricity by an authorised retailer, they will be sold energy in accordance with the NECF. ▪ Ergon Energy Corporation Limited will be ‘nominated’ as a distributor for its non-National Electricity Market networks (see below), meaning customers on these networks will also be supplied energy under the NECF arrangements with some necessary modifications. <p>Consistent with this, and despite the decision by the Queensland Government to deregulate prices for large customers in south-east Queensland, ‘large’ excluded customers will also continue to be supplied by their local area retailer (or another retailer where currently permitted by the Electricity Act) on notified prices.</p>
B6. Excluded gas customers – arrangements for Roma and Dalby gas networks	Four options were proposed for the future regulation of the sale and supply of gas to customers supplied by the Roma and Dalby networks.	<p><i>Stakeholder comments:</i> Stakeholder feedback and further consultation with Regional Councils has shown a preference for either Option C (exemption from the requirement to hold a retailer authorisation, subject to conditions, if applicable) or D (exclusion from the NECF and minimalist regulation under Queensland instruments).</p>

Issues	Proposal in Discussion Paper	Stakeholder Response and Decision
		<p><i>Decision:</i> After considering stakeholder feedback and in consultation with the Regional Councils, the retail activities of the Regional Councils will be transitioned into the exempt selling regime under the NERL.</p> <p>Each Regional Council will be deemed to hold an individual exemption under the NERL exempt selling regime, with conditions on each exemption similar to the existing requirements of the Gas Supply Act, Regulation and Gas Industry Code in relation to the sale of gas to their customers. However the details of these conditions will be determined in consultation with the Councils, the AER and other interested stakeholders. The Councils will continue to be required to be members of the Energy and Water Ombudsman Queensland (EWOQ) scheme.</p> <p>This approach allows for monitoring and lighter-handed regulation (compared to authorised retailers) of the Councils' retail operations by the AER and for differential treatment of each council's retail activities either initially upon commencement of the NECF or in the future. It is also intended to enable the AER to modify the regulation of each council's retail activities over time in accordance with the exempt selling regime.</p>

Table C: Nomination of retailers and distributors under the NECF

Issues	Proposal in Discussion Paper	Stakeholder Response and Decision
C1. Local area Retailers	It was proposed that the Queensland entities that currently hold area retail authorities, or are area retailers by virtue of a special approval, will be nominated as local area retailers under the NECF in respect of local retail areas comprising the associated distribution areas, with a slight 'expansion' of some gas retail areas to ensure they match existing distribution areas.	<p><i>Stakeholder comments:</i> Stakeholders support the proposed policy position under the NECF of aligning local area retailers based on distribution areas.</p> <p><i>Decision:</i> The intent of the NERL is that distributors' and retailers' obligations to customers should interact, therefore the retail areas of nominated local area retailers will in general correspond to distribution areas of associated distributors.</p> <p>The following energy retailers are to be nominated as local area retailers of electricity or gas under the NERL for stated retail areas:</p> <p>Electricity <i>Sun Retail Pty Ltd</i> (an Origin Energy Company) – for a retail area comprising the electricity distribution area of ENERGEX Limited; and</p> <p><i>EEQ</i> – for a retail area comprising the electricity distribution area of Ergon Energy Corporation Limited.</p> <p><i>The purchaser of the Country Energy retail business</i> (an Origin Energy Company) – for the area comprising the electricity distribution network of Essential Energy in Queensland.</p> <p>Gas <i>AGL Sales Pty Ltd</i> – for retail areas comprising APT Allgas Energy Pty Ltd's South East Queensland, Toowoomba and Oakey gas distribution areas; and</p> <p><i>Origin Energy Retail Ltd</i> – for retail areas comprising Envestra Limited's Brisbane North, Ipswich, Gladstone, Rockhampton and Wide Bay distribution areas.</p>
C2. Generation Authorities	Stakeholders were asked to provide feedback on the proposal that instead of state-based generation authorities, it is suggested that connection of generating plant to a transmission grid or supply network could be effectively regulated by a combination of the existing requirements under the NER and an explicit	<p><i>Stakeholder comments:</i> Some stakeholders support the removal of all obligations for licensing of generation, transmission and distribution entities.</p> <p>However, some stakeholders requested that the obligation under</p>

Issues	Proposal in Discussion Paper	Stakeholder Response and Decision
	<p>obligation (in the Electricity Act) for the operator of generating plant to obtain the written agreement of the operator of the grid/network is to be obtained before connecting generating plant to it.</p>	<p>the Electricity Act continue, whereby special approvals continue to apply to generators with a generating capacity of up to 30MW which connect and sell electricity to the grid to ensure the electricity provided is of suitable quality and to take into account the environmental impacts of its activities.</p> <p><i>Update:</i> NECF implementation provides a good opportunity to consider aspects of the Queensland's regulatory framework including the need and retention of generation authorities which currently authorise the wholesale 'sale' of electricity in Queensland.</p> <p>This issue is still under consideration. If a decision is made that generation authorities do not need to be retained, this may be implemented as part of the legislative amendments to implement the NECF. Further progress on this issue will be communicated to relevant stakeholders in due course.</p>
<p>C3. Special approvals</p>	<p>The discussion paper proposed that regulation of sale activities currently authorised by Queensland special approvals should be accommodated within the new national scheme, proposing that relevant special approval holders (other than the purchaser of Country Energy, which should be required to hold a national retailer authorisation) be exempt sellers when the NECF commences.</p>	<p><i>Stakeholder comments:</i> Stakeholders generally supported the proposed arrangements for the purchaser of Country Energy. However in relation to other special approvals, clarification was sought regarding the proposed exemption classes and period of transition and concern was raised about the proposed exemption from customer protection conditions during the transition period.</p> <p><i>Decision:</i> As a consistent approach to the regulation of electricity sales activities, the regulation of sale activities undertaken by special approval holders should be transferred to the NECF on implementation.</p> <p>As these special approval holders (other than the purchaser of Country Energy) generally provide electricity supply to customers where there is no other electricity supply network available, it is important to ensure that any conditions of sale are not so onerous that they result in the supplier withdrawing supply.</p> <p>Initially upon NECF commencement, the sale activities of all special approval holders will be permitted under individual exemptions.</p>

Issues	Proposal in Discussion Paper	Stakeholder Response and Decision
		<p>These will be deemed exemptions in Queensland legislative instruments that apply the NECF and, consistent with current arrangements, will not contain any sale-related conditions.</p> <p>From commencement, the AER will be responsible for administration and enforcement in relation to these exemptions and may seek to vary the conditions on any individual exemption in accordance with the exempt selling regime and with regard to the individual circumstances of each exempt seller. This will enable the AER to regulate these sellers on a case-by-case basis to ensure an appropriate level of regulation over time.</p> <p>Where applicable, special approval holders will continue to have a special approval for any generation or distribution activities they undertake. Where the special approval holder is also a 'distributor' under the NECF (i.e. a regulated distribution system operator under the NEL, or a 'nominated' distributor), it will be required to comply with the obligations on distributors under the NECF in the same way as Queensland's major electricity distributors).</p> <p>As was proposed in the Discussion Paper, it is expected that the purchaser of Country Energy will need to hold a national retailer authorisation under the NECF. Consistent with current arrangements, access to OTOS and notified electricity prices for customers in the Country Energy area will mirror those for other regional Queensland customers via specific arrangements in place between the Queensland Government and the purchaser of the Country Energy retail business.</p>
C4. On-supply arrangements	<p>It was proposed that on-suppliers will continue to be exempted from the requirement to hold a distribution authority in Queensland.</p> <p>However, in relation to the sale of energy to receivers, it was proposed that on-suppliers be required to comply with the NECF requirement to either be authorised or exempted from holding a retail authorisation—with the latter (exemption) more likely.</p> <p>Stakeholder feedback was also sought on whether the limitations on prices that currently apply to on-suppliers under the existing Queensland arrangements should continue when this</p>	<p><i>Stakeholder comments:</i> Stakeholders, in general, support the transition to the regulation of on-suppliers under the exempt selling regime in the NECF but raised some concerns regarding the responsibility for continued administration of pensioner rebates and/or community services, increased access to consumer protections and maintaining a nationally consistent approach to the pricing conditions for on-supply.</p> <p><i>Decision:</i> On-suppliers in Queensland will be captured in the exempt selling regime administered by the AER. The Queensland Government is</p>

Issues	Proposal in Discussion Paper	Stakeholder Response and Decision
	responsibility transfers to the AER.	<p>working with the AER in the development of the AER's Exempt Selling Guidelines, including the proposed and classes (both deemed and registrable) of exemptions to ensure they appropriately capture Queensland's on-supply arrangements. The development of these arrangements to date indicates on-suppliers will be subject to a limited range of conditions on the sale of energy.</p> <p>While on-supply will be captured by the NECF exempt selling regime, Queensland legislation will continue to place a restriction on the prices charged by electricity on-suppliers. Consistent with current arrangements, an electricity on-supplier in Queensland will be permitted to charge customers no more than the applicable regulated retail tariff. This ensures all on-supply customers are not financially disadvantaged in comparison to standard retail customers.</p> <p>The Queensland Government supports continued access to rebates and concessions for eligible receivers in on-supply arrangements. The implementation of the NECF in Queensland is not expected to impact on these arrangements.</p>
C5. Ergon Energy's isolated electricity networks	It was proposed that Ergon Energy Corporation Limited be nominated as a distributor under the NECF for all of its isolated electricity networks.	<p><i>Stakeholder comments:</i> Stakeholders support the application of NECF in isolated networks to the extent that they can be practically applied.</p> <p><i>Decision:</i> In relation to both Mt Isa-Cloncurry network and other Ergon Energy isolated networks –</p> <ul style="list-style-type: none"> ▪ Ergon Energy Corporation Limited will be nominated as distributor for these networks; and ▪ EEQ will be nominated as local area retailer for the area of that network, subject to relevant existing restrictions particular to that entity. <p>The NCF will also be applied to these networks to avoid duplication of processes, although provisions relating to connection charging arrangements, connection policies and approval of connection offers will not apply to any of the networks, other than Mt Isa-Cloncurry, as these networks are not subject to economic regulation under the NER.</p>

Issues	Proposal in Discussion Paper	Stakeholder Response and Decision
		<p>A modified definition of connection charges (used throughout the NECF to generally refer to charges a retailer collects from a customer on behalf of a distributor – both for use of the distribution system and user-initiated services) is also likely to be required for isolated networks other than Mt Isa-Cloncurry for the same reason.</p>
C6. Uncovered gas networks	<p>It was proposed that Envestra be a nominated distributor in relation to the Wide Bay network but that no other distributor be nominated for any other uncovered gas distribution network in Queensland.</p>	<p><i>Stakeholder comments:</i> Stakeholders agree with the proposed nominated distributors for Queensland's uncovered gas networks.</p> <p><i>Decision:</i> Wide Bay network – Envestra Limited will be nominated as distributor under the:</p> <ul style="list-style-type: none"> • NERL with a specified modification of a NERL definition relating to how connection charges are defined; and • National Gas Law with removal of the need for the AER to approve standing offers and specification of a simplified connection charging mechanism that does not rely on economic regulation. <p>This will ensure, to the extent possible, sale and supply to customers on Envestra's Wide Bay network is equivalent to that applying to the sale and supply of gas to customers on Queensland's other major gas networks where retail contestability exists.</p>

Table D: 'Optional' elements for Queensland's implementation of the NECF

Issues	Proposal in Discussion Paper	Stakeholder Response and Decision Rationale
D1. Pre-payment meters (card operated meters)	It was proposed that the NECF pre-payment market retail contract regime will not be implemented in Queensland.	<p><i>Stakeholder comments:</i> Stakeholders acknowledged that implementation of the NECF pre-payment meter market retail contract regime for pre-payment or card operated meters in Queensland is likely to be problematic. However concerns were raised that Queensland's pre-payment meter customers have the equivalent access to consumer protections as other customers.</p> <p><i>Decision:</i> Pre-payment meters as set out in the NECF are for customers on market contracts and pre-suppose specific pre-payment meter systems that are not currently available in Queensland. As such, Queensland will not apply the pre-payment meter framework in the NECF.</p> <p>As electricity users with pre-payment meters in Queensland are 'customers' for the purposes of the NECF, they will, in general terms, be subject to the same rights and obligations as other Ergon Energy customers, including access to Ergon Energy's hardship policy. However, to provide transparency as to how the NECF standard retail contract applies for these customers, a Queensland pre-payment meter standard retail contract will be developed by making minimum necessary modifications to the standard retail contract in the National Electricity Retail Rules (NERR). This contract will be developed in consultation with Ergon Energy and other interested stakeholders.</p>
D2. Small compensation claims regime	The Discussion Paper sought stakeholder feedback on whether the NECF SCCR should be implemented in Queensland.	<p><i>Stakeholder comments:</i> A variety of concerns were raised by stakeholders on the proposed NECF SCCR arrangements including:</p> <ul style="list-style-type: none"> ▪ did not support the adoption of the regime as it would provide no net benefit to customers (though the likely net cost was not quantified); ▪ support the adoption as it would provide greater transparency and public reporting on the claims than currently occurs; and ▪ undertake further analysis prior to making a decision of whether to adopt the regime. <p><i>Decision:</i></p>

Issues	Proposal in Discussion Paper	Stakeholder Response and Decision Rationale
		<p>Under the NECF, small customers will continue to have access to EWOQ, minimum service standards and guaranteed service levels (GSL) arrangements as these remain the responsibility of state governments as agreed in the Australian Energy Market Agreement. Additionally, Queensland's electricity distributors also voluntarily operate compensation arrangements for their customers.</p> <p>At this stage, Queensland will not opt in to the NECF SCCR as to do so would likely increase the regulatory burden on electricity distributors without providing any clear benefits for customers (as the existing ENERGEX and Ergon Energy informal compensation arrangements appear to be working well).</p> <p>This does not preclude the adoption of the more formalised SCCR in the future if it is warranted.</p>
D3. Price Comparator	It was proposed that Queensland apply the NECF price comparator.	<p><i>Stakeholder comments:</i> Stakeholders supported, or raised no concerns with, the implementation of the price comparator.</p> <p><i>Decision:</i> Queensland will opt in for the NECF price comparator. It is anticipated that the AER will have established the price comparator (in consultation with stakeholders) for a 1 July 2012 commencement. However, if this is delayed, Queensland's existing price comparator service administered by the QCA will continue to operate until the national price comparator commences operation.</p>

Table E: Consequential amendments

Issues	Proposal in Discussion Paper	Stakeholder Response and Decision Rationale
E1. Community Ambulance Cover (CAC) Levy	Under the NECF, the CAC levy will continue to be collected in Queensland via customers' electricity bills. It was proposed that all enforcement matters be included in the CAC Act, and Queensland Treasury monitor compliance.	<p><i>Stakeholder comments:</i> Feedback received was that the monitoring and enforcement provisions should be no more onerous than currently existing under the Electricity Act.</p> <p><i>Decision:</i> To ensure the CAC levy will continue to be collected in Queensland via customers' electricity bills consequential amendments in the CAC Act will be required such as changes to some definitions and amendments (e.g. section 10 of the CAC Act) to ensure that the new customer retail contracts under the NERL are relevant 'customer sale agreements' for the purposes of the CAC levy.</p> <p>New enforcement provisions (sanctions) will be provided in the CAC Act to take the place of existing licence-related sanctions under the Electricity Act.</p> <p>The Office of State Revenue will take carriage of the necessary amendments and will have the monitoring, reporting and enforcing responsibilities</p>
E2. Community Service Obligations and Rebate Programs	The Queensland Government community services and rebate schemes will continue. However, as national retailer authorisations will replace existing state licences, the assistance schemes will be administered by Queensland energy retailers through a direct regulatory obligation and not as a condition of their retail licence.	<p><i>Stakeholder comments:</i> Stakeholders support the regulatory framework of direct obligation on retailers to advise customers of available concessions and rebates as it is currently.</p> <p><i>Decision:</i> With the move to a national retailer authorisation regime, it is proposed that enforcement of the direct legislative obligations on Queensland retailers to provide community services be via a civil penalty regime.</p> <p>As license-related sanctions will no longer apply when the NECF commences, the following maximum penalty will apply if a retailer fails to comply with its obligations in relation to electricity or gas community services: 1,333 points (currently \$100 a point) for each breach.</p> <p>This is the current maximum penalty for a breach of a licence</p>

Issues	Proposal in Discussion Paper	Stakeholder Response and Decision Rationale
		condition under the Electricity and Gas Supply Acts.
E3. Notified electricity prices	The process for setting notified electricity prices, and eligibility for those prices, was not proposed to change under the NECF.	<p><i>Stakeholder comments:</i> Stakeholders noted that Queensland remains committed to the Uniform Tariff Policy which ensures all customers in Queensland, no matter where they live, pays no more than the regulated prices available.</p> <p>One stakeholder recommended that the Queensland tariff policy be reviewed to align with the national framework in particular in relation to the OTOS for larger customers.</p> <p><i>Decision:</i> Notified electricity prices remain the responsibility of the States and Territories. For those customers that continue to be entitled to notified prices (refer to item B.1 OTOS above), the 'standing offer price' under the NEERL will be the relevant notified price set under the Electricity Act.</p> <p>It should be noted that standing offer prices, as defined in the NEERL, include all fees and charges the retailer may charge in relation to the sale of energy. This means in Queensland the only fees charges and tariffs that may be charged to a customer under the standing offer are those included in the schedule of notified electricity prices No additional amounts may be charged, even where the notified price schedule is silent on a specific matter (other than charges for miscellaneous or user initiated services published by a distributor, which may be collected by the retailer on behalf of the distributor without mark up).</p> <p>As noted above, the Queensland Government is currently considering the recommendation that, as of 1 July 2012, large customers in south-east Queensland must be supplied under market retail contracts.</p>

Issues	Proposal in Discussion Paper	Stakeholder Response and Decision Rationale
E4. Guaranteed Service Levels	<p>The NECF interacts with jurisdictional GSL regimes by requiring distributors to make payments to customers in accordance with the relevant jurisdictional law where a distributor does not meet a jurisdictional GSL.</p> <p>It was proposed that Queensland will adopt the NECF requirement of giving customers four business days notice of planned interruptions. It is also proposed that this new requirement be a GSL (for electricity only) under Queensland law.</p>	<p><i>Stakeholder comment:</i> All distributors opposed the increase of four business days notice primarily due to the increased costs associated and suggested current business practices are sufficient.</p> <p>Stakeholders also encouraged a review of the Billing Code on the basis that it is no longer required in Queensland and the issues surrounding billing have been rectified.</p> <p><i>Decision:</i> Queensland will adopt the NECF requirement of four business days' notice of planned interruptions to electricity or gas supply and will amend its electricity GSL requirements to mirror this. Whilst this involves one-off system and process changes for distributors, no permanent network differences exist that would justify Queensland derogating from this national requirement. However, as the existing regulatory determinations and Service Target Performance Incentive Schemes operating for ENERGEX and Ergon Energy have been based on the existing two business days notice requirement, these distributors will not be required to comply with the new four business day requirement until their next regulatory determination commencing 1 July 2015.</p> <p>In addition, with the introduction of the NECF, the Billing Code will be revoked as any 'retail service standards' would form part of the national framework.</p>
E5. Meters for residential customers consuming over 100 MWh p.a.	<p>Stakeholder feedback was sought on metering issues resulting from the adoption of the NECF definition of small customer (which would include the small number of residential customers in Queensland that are currently classified as 'large' based on their consumption level).</p>	<p><i>Stakeholder comments:</i> Stakeholders noted that if large residential customers, currently under market contracts and supplied via remotely read interval meters, decide to move to notified prices the retailer would not be able to recover the costs of the meter and associated services. Distributors did not support an amendment to the metrology procedure to resolve any issues.</p> <p><i>Decision:</i> As uncertainty already exists whereby a large residential customer can elect to change retailer either during or at the end of their market retail contract, market contracts should consider the capital cost of the meter either through recovering the cost from the</p>

Issues	Proposal in Discussion Paper	Stakeholder Response and Decision Rationale
		<p>customers at commencement of the contract, during the contract or via early termination payments. No specific transitional action is required for retailers to manage this possible implication of a large residential customer reversion.</p> <p>However, to address possible concerns with the recovery of ongoing meter reading costs if a 'large' retail customer reverts to the standard retail contract and notified prices, relevant clauses of the National Electricity Market Metrology Procedure that apply to Queensland should be amended to enable a retailer to revert a large residential customer's remotely read interval meter to a manually read interval meter if the customer reverts to the standard retail contract and notified prices, and to require the distributor to become the responsible person for the meter.</p> <p>The Queensland government will continue to work with AEMO as it progresses changes to the Metrology Procedure (including this change) to implement the NECF.</p>
E6. Energy and Water Ombudsman Queensland	<p>It was proposed that EWOQ would continue to resolve disputes for small electricity and gas customers when the NECF is introduced.</p> <p>Substantial amendment to the <i>Energy and Water Ombudsman Act 2006</i> (the 'EWOQ Act') was not expected to be required to transition to the NECF, although some consequential changes will be needed.</p>	<p><i>Stakeholder comments:</i> Stakeholders noted the need for consequential amendments with the introduction of the NECF and have requested an opportunity to provide comment and feedback at the time.</p> <p><i>Decision:</i> No substantial amendments are expected to the role or jurisdiction of EWOQ when the NECF commences. Requirements on retailers and distributors to be member of the scheme will not change, although the EWOQ Act will need to apply to holders of national retailer authorisations.</p> <p>In addition, as the NECF small and large customer definitions will be applied in Queensland, the same definitions should apply in relation to EWOQ.</p> <p>The following consequential amendments are anticipated for the EWOQ Act –</p> <ul style="list-style-type: none"> ▪ definitional amendments to ensure NECF terminology is accommodated within the Act; ▪ removal of the express prohibitions on considering disputes

Issues	Proposal in Discussion Paper	Stakeholder Response and Decision Rationale
		<p>about:</p> <ul style="list-style-type: none"> ○ capital contributions (noting EWOQ will not be able to determine a different charge to that approved by the AER, and that EWOQ may receive advice from the AER on matters relating to capital charges); ○ matters that may be the subject of an access dispute under the National Electricity or Gas Laws (as it has been clarified in the NECF that retail customers may access these); and ○ disputes about 'fairness and reasonableness' under existing Queensland laws (as such disputes are not a feature of the NECF arrangements). <p>Further, it is theoretically possible that new parties will become 'exempt sellers' under the NECF exempt selling regime in the future, and in some cases it may be appropriate to require such future exempt sellers to be members of the EWOQ scheme. A mechanism will be developed for the Queensland Government to identify such parties and require them, where appropriate on a case by case basis, to be members of the scheme.</p>

4. Other issues

4.1 Transition of existing contracts to NECF contracts

As noted in section 2.3 above, for the purposes of decision making for the transition from existing customer energy contracts (entered into under current jurisdictional regulatory regimes) to the new contracts under the NECF Laws and Rules, each jurisdiction will be guided by the following policy principles:

- customer contracts should be made compliant with the NECF as soon as reasonably possible;
- the transition should be implemented with minimal disruption for customers and existing customer contracts; and
- where possible there should be no diminution of customers' existing/accrued contractual rights.

The following tables outline when the move from existing customer contracts to contracts that comply with the NECF will be required. However, as this matter has not yet been the subject of consultation with stakeholders, stakeholder feedback will be obtained to confirm the appropriateness of these arrangements prior to the introduction of Queensland's implementation legislation into the Queensland Parliament.

For the sale and supply arrangements identified in Table F below, compliance with the NECF will be required from 1 July 2012.

Table F: Contracts to transition on 1 July 2012

Current arrangement	Relevant NECF contract type	Rationale
Electricity Standard Retail Contract (Annexure B to the EIC)	Standard Retail Contract & deemed retail sale arrangements	There are minimal substantive differences between the terms of these contracts, they are both comprised of model terms and conditions and arise as a matter of law where there is no negotiated/market contract in place between the parties.
Electricity standard large customer retail contracts (residential customers)	Standard Retail Contract & deemed customer sale arrangements	The prices charged under these contracts will not change (retailers must charge the relevant notified electricity price), and the period to 1 July 2012 is considered adequate for retailers to advise affected customers of any changes to their rights and obligations from the transition to the NECF Standard Retail Contract.

Current arrangement	Relevant NECF contract type	Rationale
Gas standard retail contracts	Standard Retail Contract & deemed retail sale arrangements	While the terms of the NECF Standard Retail Contract are substantially different to the minimum terms required currently in Queensland standard gas retail contracts, these contracts both exist as a matter of law where no negotiated contract is in force between the parties. Existing obligations on retailers regarding notice of changes to their standard contract are expected to be adequate to manage the transition to NECF contracts on 1 July 2011.
Negotiated retail contracts with large business customers (both electricity and gas)	Market retail contracts (large customer)	Any existing negotiated retail contracts with large customers should be capable of complying with the requirements of the NECF without substantive modification.
Electricity Standard Connection Contract (Annexure A to the EIC)	Standard Connection Contract	There are minimal substantive differences between the terms of these contracts, they are both comprised of model terms and conditions and arise as a matter of law rather than agreement between the parties.
Negotiated electricity connection contracts	Negotiated connection contracts	Any existing negotiated connection contracts should be capable of complying with the requirements of the NECF without substantive modification.
Supply of gas arrangements (no existing contractual arrangements)	Standard Connection Contract & Negotiated connection contracts	There are no existing contracts to transition from. The NECF is underpinned by a tripartite relationship with a direct contractual relationship between a distributor and its customers.

The move from existing sale and supply arrangements to the new NECF contracts will not affect any rights or liabilities that have accrued between the parties under those arrangements prior to commencement of the NECF contracts.

For the sale and supply arrangements identified in Table G below, full compliance with the NECF may not be required from 1 July 2012. Instead, for a period of up to 12 months (to be confirmed), retailers may be able to comply with either existing Queensland arrangements for sale and supply, or the NECF.

This transition period is proposed to minimise the cost and disruption that may result from any necessary renegotiation of contracts to incorporate new or amended rights or obligations under the NECF.

Table G: Contracts that may transition later than 1 July 2012

Current arrangement	Relevant NECF contract type	Comments
Market retail contracts with small customers (gas and electricity)	Market retail contracts (small customer)	The transition period required may vary for different contracts. While transition to NECF market retail contracts for most small electricity customers may be possible on or shortly after 1 July 2012, a longer transition period may be required in relation to gas market retail contracts and contracts with existing 'large' residential customers as the implementation of the NECF represents a substantial change from existing minimum requirements for these latter two contract types.

As above, the move from existing sale and supply arrangements to the new NECF contracts will not affect any rights or liabilities that have accrued between the parties under those arrangements prior to commencement of the NECF contracts. The transition period required for each of these arrangements will be confirmed following consultation with stakeholders prior to introduction of Queensland's NECF implementation legislation in the Queensland Parliament.

Transitional issues relating to new connections offers have been addressed in section 2.5 above.

4.2 Prior notice of price changes under market contracts

One stakeholder queried whether Queensland's recently introduced requirements on retailers to provide advance notice to customers of price changes under market retail contracts would continue when the NECF commences.

In response to stakeholder submissions on the second exposure draft of the NECF legislative package, the final NERR approved by the MCE include express obligations on retailers to:

- set out, in a market retail contract, all tariffs and charges payable by the customer; and
- give the customer notice of any variation to the tariffs and charges as soon as practicable, but no later than in the customers next bill.

The AER may also choose to elaborate on these requirements in its Retail Pricing Information Guidelines where it is within the scope of those guidelines.

These obligations, coupled with the restrictions on unfair terms in contracts under the Australian Consumer Law, should ensure customers both receive advice about tariff changes and are not unfairly penalised for exercising their right to transfer to a different contract or retailer in response to a price change. As such, continuation of the existing Queensland provisions is not required and to do so would add regulatory complexity without any clear benefit for customers.