New South Wales Implementation

National Energy Customer Framework

September 2011
Contents

A. Background ...................................................................................................................................... 3
   NECF overview and national implementation............................................................................. 3
   Implementation of the NECF in NSW....................................................................................... 4
   Scope and Purpose....................................................................................................................... 5

B. Transitional Arrangements for Retail Price Regulation......................................................... 6
   Background.................................................................................................................................. 6
   Approach to Implementation....................................................................................................... 6
     Policy Positions:......................................................................................................................... 7
     Application:............................................................................................................................... 7
     Practical Effect:.......................................................................................................................... 8

C. Summary of key approach to applying and transitioning to NECF ................................. 9
   Application of NERL in NSW (opt-in/out provisions)............................................................... 9
   Consequential and Transitional Arrangements........................................................................... 11
   Policy Positions for Application of the NECF.......................................................................... 12
A. Background

NECF overview and national implementation

The National Energy Customer Framework (NECF) is the next major stage in the national energy reform process, as agreed by the Council of Australian Governments (COAG) under the Australian Energy Market Agreement (AEMA). The NECF harmonises the jurisdiction-based regulatory frameworks in relation to the sale and supply of energy. The focus of the NECF is on providing a regulatory framework for the relationship between energy customers and the energy retailers and distributors that supply them, and includes a range of energy-specific consumer protections.

Generally, the regulatory framework applying to retailers is predominantly implemented through State and Territory gas and electricity licence conditions. Under the NECF, retailers operating in the national electricity and gas markets will only need one retail licence to sell both gas and electricity in NECF participating jurisdictions (a national retailer authorisation issued by the Australian Energy Regulator) and will be subject to a consistent set of rules across all jurisdictions.

The NECF has been the subject of a comprehensive consultation and development process that began in 2006. The package of legal instruments known as the NECF Package has been finalised and the National Energy Retail Law (South Australia) Act 2011 (NERL) received Royal Assent on 17 March 2011 after passage through the South Australian Parliament.

The Ministerial Council on Energy (MCE) has agreed to work towards a common target commencement date for the NECF in participating jurisdictions of 1 July 2012. Implementation of the NECF concurrently in all jurisdictions is supported in principle by all stakeholders, including retailers, distributors and consumer groups.

The MCE Standing Committee of Officials (SCO) recognises that implementation of the NECF will affect a wide range of stakeholder groups, including national energy market bodies, market participants and end users. To provide direction on the initial stages of the transition to the NECF, SCO has agreed the following transitional matters as outlined in bulletins issued in March and April 2011:

1 The NECF Package consists of the following instruments:
National Energy Retail Law (South Australia) Act 2011 (NERL)
Statutes Amendment (National Energy Retail Law) Act 2011
National Energy Retail Regulations 2010 (to be made)
National Gas (South Australia) (National Energy Retail Law) Variation Regulations 2010 (to be made)
National Electricity (South Australia) (National Energy Retail Law) Variation Regulations 2010 (to be made)
National Energy Retail Rules (NERR) (to be made)
National Electricity (Retail Support) Amendment Rules 2010 (to be made)
National Gas (Retail Support) Amendment Rules 2010 (to be made)
National Electricity (Miscellaneous and Consequential) Amendment Rules 2010 (to be made)
National Gas (Miscellaneous and Consequential) Amendment Rules 2010 (to be made)
National Gas Retail Market Amendment Procedures 2010 (to be made)
National Electricity (Retail Connection) Amendment Rules 2010 (to be made)
National Gas (Retail Connection) Amendment Rules 2010 (to be made);
• policies and procedures for managing the transition of retailers holding a State or Territory retail licence of a NECF participating jurisdiction on 12 April 2011 to national retailer authorisations;

• retailers that currently have Retailer of Last Resort (ROLR) responsibilities in participating jurisdictions will be appointed, via transitional provisions, as initial default ROLRs when the NECF commences;

• retailers who wish to sell energy under the NECF will be required to have an approved Customer Hardship Policy in place for NECF commencement;

• activities carried out by the Australian Energy Regulator (AER) and the Australian Energy Market Operator (AEMO) in accordance with NECF requirements prior to NECF start (such as consultation, making instruments and decision-making) will be supported by appropriate transitional provisions enacted by participating jurisdictions to ensure instruments and decisions made as a result of these activities are validly made under the NECF Package when it commences; and

• the transition of existing customer retail and connection contracts to those under the NECF will be managed by each jurisdiction in a manner which seeks to ensure that contracts conform to the NECF regulatory regime as soon as possible, while ensuring minimum disruption for customers and preserving the important rights provided under the former jurisdictional regime prior to the date of transition.

Implementation of the NECF in NSW

Each participating jurisdiction is to determine the way in which the NECF will be implemented at a local level. The NSW Government is applying the following policy principles in implementing the NECF:

• support for harmonisation with an overarching approach that retail and distribution businesses will be NECF compliant from 1 July 2012;

• maintenance of best practice consumer protection arrangements; and

• minimisation of costs impacts on energy businesses and consumers.

The NSW Government’s overarching policy principle is that energy retail and distribution businesses must be NECF compliant from commencement. However, it is recognised that transitional arrangements will be required to ensure a smooth transition, minimise cost impacts on retailers and distributors, and to take into account existing commitments such as:

• the sale of the previously State-owned energy retail businesses;

• the timing and form of electricity and gas retail and network pricing determinations. The current determinations apply as follows:
  o regulated retail electricity and gas pricing to June 2013;
  o electricity networks to June 2014;
  o gas networks to June 2015;

• the form and timing of the transition to the carbon tax.

Consultation on the implementation of NECF in NSW was conducted in September 2010 and the feedback from this consultation has been taken into consideration in

**Scope and Purpose**

This document outlines the NSW Government's approach to the implementation of the NECF in NSW to give stakeholders guidance around how the transition to NECF will occur in NSW. It is recognised that the implementation task for all key stakeholders is substantial.

This paper covers the following areas:

- the transitional arrangements required to implement the NECF and fulfil retail price regulation commitments. This mainly affects the approach to the adoption of the financially responsible retailer model and the small customer threshold (Part B); and
- a table summarising approaches to applying and transitioning to the NECF (Part C). Whilst the NSW Government is deciding not to adopt certain elements of the NECF at commencement, it may adopt these elements at a later stage.

The NECF does not entirely displace NSW-specific energy legislation or general consumer protection frameworks, and jurisdictional energy laws will continue to supplement key aspects of the NECF through measures such as energy ombudsman schemes and social policies such as community service obligations, energy rebates, and other government financial assistance for the vulnerable and customers experiencing payment difficulties.

This paper does not examine issues related to ongoing NSW arrangements for regulating technical and safety matters or licensing of energy distribution businesses.
B. Transitional Arrangements for Retail Price Regulation

Background

The existing NSW retail price regulation arrangements are not consistent with the financially responsible retailer model under the NECF. In electricity, the arrangements apply to the two standard retail suppliers – TRUenergy through its EnergyAustralia customers and Origin Energy through its Integral Energy and Country Energy customers. In gas, the arrangements apply to AGL, ActewAGL, Country Energy and Origin Energy.

Under the NSW framework the responsibility for a standard retail supplier to offer supply applies to all small customers in its supply area, as defined by geographical boundaries which align with the distribution districts. Standard retail suppliers are required to offer to sell energy to these small customers under a standard form customer supply contract at prices that are regulated by the Independent Pricing and Regulatory Tribunal (IPART). IPART’s pricing decisions are based on these geographically-defined districts.

Under the NECF, the term ‘designated retailer’ is used for the purpose of identifying which retailer has the obligation to offer supply for a particular small customer connection point.

For existing connections, for example when a small customer moves into an existing house, the designated retailer will be the retailer who supplied energy to the previous occupant of the premises (i.e. the financially responsible retailer). This could be the standard retail supplier or a non-standard retail supplier, depending on which retailer last sold energy to the previous occupant of the premises. For new connections, for example where a customer constructs a house and connects to the distribution network for the first time, the designated retailer will be the jurisdictionally-designated local area retailer. In NSW, this would be the standard retail supplier.

Approach to Implementation

The consultation paper discussed a number of options for addressing the inconsistencies in approach to applying NSW retail price regulation under the NECF. Feedback on this issue was mixed although it was clear that it was not possible to extend retail price regulation to non-standard retail suppliers.

In this context, the NSW Government’s overarching approach is to adopt the financially responsible retailer model under the NECF for all retailers from NECF commencement, with transitional arrangements implemented to support retail price regulation in the context of NECF contracts. These arrangements are discussed in more detail below.

In retaining retail price regulation, the existing small customer (household and small business) threshold of 160 MWh for electricity will be retained and NSW will not be adopting the small market offer customer classification for electricity and gas while NSW price regulation arrangements remain in place. The NECF small customer threshold for gas will be adopted as the existing NSW threshold of 1 TJ as it is currently the threshold in NSW.
This approach will support harmonisation, minimise the regulatory burden on non-standard retail suppliers as they will not be required to apply retail price regulation, provide stronger consumer protection through the retention of existing obligations to supply at regulated retail prices as well as new NECF obligations to supply at standing offer prices (see below) and support a smoother transition to NECF in the absence of retail price regulation.

Policy Positions:

In summary, the high level policy positions are:

- the obligation on all retailers to have and publish a standing offer at standing offer prices (i.e. unregulated prices) under the NECF will be adopted in NSW;
- the standard retail suppliers' obligations to supply energy to small customers in their supply districts at regulated prices will be retained; and
- the small customer threshold which currently applies in NSW will be retained and the NECF thresholds will not be adopted.

Application:

The above policy positions will be applied as follows:

- local area retailers (as defined and nominated under the NECF) will be required to offer small customers in their local area the applicable regulated price under the terms and conditions of their standard retail contract (i.e. effectively a regulated offer) where:
  - the local area retailers will be the current NSW standard retail suppliers;
  - the local area will be the current supply districts of the standard retail suppliers;
  - the regulated offer will be an offer to provide customer retail services (as defined under the NECF) to small customers in their local area at regulated prices and under the retailer's standard retail contract; and
  - the regulated retail prices will be the tariffs and charges regulated in accordance with NSW energy legislation (i.e. for electricity, IPART determined prices and for gas, IPART agreed prices);
- the designated retailer will be required to advise a customer (for whom it is required to make a standing offer) of the customer’s right to a regulated offer from the local area retailer (which may also be the designated retailer in some instances);
- the local area retailer will be required to publish its regulated offer information in the same way as it is required to publish its standing and market offer information and include the regulated offer information in the price comparator/price disclosure arrangements;
- in relation to deemed customer retail arrangements, the designated retailer will be required to advise the customer of its right to a regulated offer; and
- all the above requirements will be "sunset clauses" linked to the NSW retail price regulation provisions so that the provisions will expire if and when the price regulation provisions expire/no longer apply.
Practical Effect:
The practical effect of the above arrangements will be that in NSW, a small customer will be entitled to:

- a regulated offer from the local area retailer (which is the supply of energy at regulated retail prices (or agreed prices in the case of gas) in accordance with the standard retail contract of the local area retailer);
- a standing offer from the designated retailer (which is the supply of energy at standing offer prices in accordance with the standard retail contract of the designated retailer);
- market offers from any retailer (which is the supply of energy at market offer prices in accordance with a market retail contract).

Where the local area retailer is the designated retailer, there may be no practical difference between the regulated offer and the standing offer (i.e. the local area retailer may offer the same prices).

It is noted that all existing regulated retail fee and charge arrangements will remain in place, consistent with the existing IPART determination.

The NECF introduces a new concept of a small market offer customer. A small market offer customer is a small customer who is a business customer who consumes between 40 MWh and 100 MWh of electricity per annum and between 400 gigajoules (GJ) and 1 terajoule (TJ) (1,000 GJ) of gas per annum. These customers will have access to most of the small customer consumer protections, for example minimum contract terms and conditions and access to energy ombudsman schemes but they will not have access to standing offer prices. In the case of NSW customers, this means that they would potentially not have access to regulated retail prices.

This is not consistent with the existing approach in NSW where small business customers consuming electricity up to 160 MWh and gas up to 1 TJ are entitled to be supplied at regulated retail prices. The existing price regulation framework uses the NSW thresholds in the retail electricity and gas determinations. Changing these thresholds during the existing determinations which operate until June 2013 would not be appropriate.

It is therefore proposed not to adopt the small market offer customer classification at NECF commencement. The adoption of this definition will be considered in conjunction with any NSW Government decision regarding the application of retail price regulation after 30 June 2013.
C. Summary of key approach to applying and transitioning to NECF

<table>
<thead>
<tr>
<th>Application of NERL in NSW (opt-in/out provisions)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Issue</strong></td>
</tr>
<tr>
<td>Distributor liability</td>
</tr>
<tr>
<td>Energy efficiency requirements for retailers in a customer hardship policy where required by a local instrument</td>
</tr>
<tr>
<td>Small compensation claims regime (SCCR)</td>
</tr>
<tr>
<td>Issue</td>
</tr>
<tr>
<td>-------------------------------------------</td>
</tr>
<tr>
<td>AER Price Comparator</td>
</tr>
<tr>
<td>Prepayment Meters</td>
</tr>
<tr>
<td>Declaration of an extreme weather event</td>
</tr>
<tr>
<td>Issue</td>
</tr>
<tr>
<td>--------------------------------------------</td>
</tr>
<tr>
<td>NSW retained programs</td>
</tr>
<tr>
<td>Connection offers</td>
</tr>
<tr>
<td>Connection Policy/connection charging</td>
</tr>
</tbody>
</table>
## Policy Positions for Application of the NECF

<table>
<thead>
<tr>
<th>Issue</th>
<th>Position</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Streamlined disconnection notification</td>
<td>Apply NECF arrangements</td>
<td>Under the NECF, small customers may potentially be provided with one less notice prior to disconnection. However, the NECF provisions do not apply to customers identified as experiencing payment difficulties and therefore do not lessen the level of protection afforded to these vulnerable customers. Consistent with the principle of harmonisation and minimising the cost impacts on retailers, the NECF arrangements will be applied.</td>
</tr>
<tr>
<td>Requirement to issue a notice to a customer after disconnection</td>
<td>Apply NECF arrangements</td>
<td>The current NSW arrangements require that customers receive a disconnection notice after the disconnection occurs. Depending on the basis for disconnection, retailers and distributors have obligations in this regard. The content of this disconnection notice is now captured under NECF in the information to the customer before disconnection. The NSW Government proposes to retain a requirement to require notice to be given to the customer after disconnection. It is proposed to impose this requirement on electricity and gas distributors and further consultation will take place with distributors on this proposal.</td>
</tr>
<tr>
<td>Advance notification of variation of prices under market retail contracts</td>
<td>Apply NECF arrangements</td>
<td>NECF requires retailers to provide advance notice to customers about price changes under market contracts, which may be complied with via a term in the contract that the customer agrees to at the beginning to the contract. Consistent with the principle of harmonisation and minimising the cost impacts on retailers, the NECF arrangements will be applied.</td>
</tr>
<tr>
<td>Gas Safety Awareness Plans</td>
<td>Apply NECF arrangements</td>
<td>Under NECF, gas distributors will have a direct contractual relationship with customers. It is therefore considered that the implementation of Consumer Safety Awareness Plans should no longer be an obligation on gas retailers. Consistent with the principle of harmonisation and minimising the cost impacts on retailers, the NECF arrangements will be applied.</td>
</tr>
<tr>
<td>Energy Bill Benchmarking Initiative (EBBI)</td>
<td>Apply transitional arrangements</td>
<td>Due to the retailer impact of this initiative, NSW will delay implementation of the EBBI until the end of the transitional service agreement periods established as a result of the sale of the previously State-owned retailers.</td>
</tr>
<tr>
<td>Issue</td>
<td>Position</td>
<td>Comment</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>---------------------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Prices for ‘deemed customers’</td>
<td>Apply NECF arrangements</td>
<td>The NECF limits the amount which deemed customers may be charged to the standing offer price. In NSW for customers supplied by a NSW standard retail supplier, the deemed customer price will be that retailer’s regulated retail tariff. Consistent with the principle of harmonisation and minimising the cost impacts on retailers, the NECF arrangements will be applied. However, the standard retailer will be required to inform the customer of its right to regulated prices.</td>
</tr>
<tr>
<td>Termination of a standard retail contract</td>
<td>Apply NECF arrangements</td>
<td>This has been a feature of standard retail contracts in other States for a number of years, and does not appear to have led to identifiable customer disadvantage. Consistent with the principle of harmonisation and minimising the cost impacts on retailers, the NECF arrangements will be applied.</td>
</tr>
<tr>
<td>Customer consultative groups in relation to retail matters</td>
<td>Apply NECF arrangements</td>
<td>Retailers can continue to appoint customer consultative groups on a voluntary basis. Consistent with the principle of harmonisation and minimising the cost impacts on retailers, the NECF arrangements will be applied for retailers.</td>
</tr>
<tr>
<td>Meter accuracy</td>
<td>Apply NECF arrangements</td>
<td>This is covered by the AEMO metrology procedures. Consistent with the principle of harmonisation and minimising the cost impacts on retailers, the NECF arrangements will be applied.</td>
</tr>
<tr>
<td>Notice requirements – availability of interpreter services for community languages</td>
<td>Apply NECF arrangements</td>
<td>The NECF places a general requirement on both retailers and distributors to refer a residential customer to a relevant interpreter service if a referral is necessary or appropriate to meet the reasonable needs of the customer, in addition to certain situations where retailers must provide information in community languages about the availability of interpreter services. These requirements are considered sufficient to protect customers therefore NSW will not be retaining specific obligations surrounding information in community languages and availability of interpreter services.</td>
</tr>
<tr>
<td>GreenPower obligations</td>
<td>Harmonisation with other jurisdictions</td>
<td>NSW intends to pursue a harmonised approach to GreenPower obligations in consultation with other jurisdictions.</td>
</tr>
</tbody>
</table>
## Policy Positions for Application of the NECF

<table>
<thead>
<tr>
<th>Issue</th>
<th>Position</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apportionment of bill payments</td>
<td>Apply NECF</td>
<td>Stakeholders noted that this was a cumbersome arrangement. Consistent with the principle of harmonisation and minimising the cost impacts on retailers, the NECF arrangements will be applied.</td>
</tr>
<tr>
<td></td>
<td>arrangements</td>
<td></td>
</tr>
<tr>
<td>Interest on overcharged amounts</td>
<td>Apply NECF</td>
<td>Retailers strongly supported the removal of the requirement to provide interest on overcharged amounts noting that this was a costly measure for small amounts. Overcharged amounts must be reconciled when the next actual meter read occurs. The NECF arrangements will be applied, consistent with the principle of harmonisation and minimising the cost impacts on retailers.</td>
</tr>
<tr>
<td></td>
<td>arrangements</td>
<td></td>
</tr>
</tbody>
</table>