



Tasmania

RETAIL COMPETITION IN THE TASMANIAN ELECTRICITY SUPPLY INDUSTRY

**Position Paper
Response to Submissions**

October 2004

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1 Executive Summary

Consultation was undertaken on four aspects of the retail contestability framework. The questions, and the Government's position on the issues raised is summarised below:

- 1 Two models were proposed for the preferred contractual relationship between customers, retailers and the distributor. They were the triangular model and the linear model.

Position:

Neither contracting model will be mandated in the Regulations, at least for the first three tranches. Further analysis will be undertaken as the market develops to review whether alternative arrangements are needed for smaller customers.

- 2 Should retailers be required to offer to enter into contracts with customers on standard terms approved by the Energy Regulator?

Position:

There will be no mandated requirement for retailers to offer standard contracts to larger customers (tranches 1, 2 and 3).

The need for standard contracts for smaller customers (tranches 4 and 5) will be reviewed as contestability progresses.

- 3 Should the Deemed Fallback Contract be put in place between the customer and the incumbent retailer, or the customer and the last retailer to have supplied the customer at the relevant premises?

Position:

The Deemed Fallback Contract will be in place between the customer and the last retailer to have supplied that customer.

- 4 Is the proposed pricing structure for the Deemed Fallback Contract appropriate?

Position:

For larger customers (tranches 1, 2 and 3), the price that may be charged under a deemed fallback contract will be the half hourly spot price, plus regulated network charges and any approved pass-through costs, plus a retail margin including charges incurred in relation to the provision of customer retail services.

2 Background

2.1 Release of the Information Paper

In April 2004, the Department of Treasury and Finance released an Information Paper on Retail Competition in the Tasmanian Electricity Supply Industry. The Information Paper was sent to peak bodies, key stakeholders, other jurisdictions and to a range of customers meeting the consumption threshold limits for the first two tranches of retail contestability. The Information Paper was also posted on Treasury's website.

Forums were held in Launceston and Hobart on 18 and 19 May 2004 respectively, to provide a further opportunity for consultation. Submissions were invited on the Information Paper, with particular focus on four specific issues:

- the Customer, Retailer and Distributor models in the Tasmanian electricity supply industry;
- whether retailers should be required to offer to enter into contracts with customers on standard terms approved by the Energy Regulator;
- whether the deemed fallback contract should be put in place between:
 - the customer and the incumbent retailer; or
 - the customer and the last retailer to have supplied the customer at the relevant premises; and
- whether the proposed pricing structure for the Deemed Fallback Contract is appropriate.

The purpose of this Paper is to summarise submissions made and to detail the Government's position. The paper should be read in conjunction with the Information Paper.

As outlined in the Information Paper, retail competition will be progressively phased in for classes of 'contestable' customers, commencing in July 2006 for those customers using more than 20 GWh a year (typically with an electricity bill of more than \$1 million). These contestable customers will be followed a year later by businesses using more than 4 GWh a year (typically with a bill of \$250 000). Businesses using more than 0.75 GWh a year will become contestable customers in July 2008, followed by those businesses using more than 0.15 GWh a year a year later.

TASMANIAN RETAIL CONTESTABILITY TIMETABLE SUMMARY

Date	Power Consumption (GWh/yr)	Approx no of eligible installations as at 30/06/2003
1 July 2006	Above 20 GWh/yr	19
1 July 2007	Above 4 GWh/yr	41
1 July 2008	Above 0.75 GWh/yr	293
1 July 2009	Above 0.15 GWh/yr	1 233
1 July 2010	Under 0.15 GWh/yr	244 000

The contestability of the final class of residential and small business customers (by far the most numerous being about 250,000), will be subject to review in 2009 by the Government based on an assessment of the public benefit of becoming contestable in light of the experience of the NEM to that time.

2.2 Responses to the Information Paper

Five written submissions were received. These were from Australian Bulk Minerals (ABM), Origin Energy, the Tasmanian Chamber of Commerce and Industry (TCCI), the Tasmanian Council of Social Service (TasCOSS) and the Office of the Tasmanian Energy Regulator (OTTER). In addition, a number of issues were raised at the Forums.

Section 3 of this Paper deals with responses to the specific questions raised in the Information Paper. Aspects of submissions relating to the general policy framework for the introduction of retail contestability are dealt with in Section 4. A further group of issues, outside the retail contestability framework, were also raised and these are considered in Section 5. In addition, there were a group of questions (mainly raised at the forums) that related to individual customer issues. These issues are being resolved directly with those customers.

3 Responses to the four questions raised in the Information Paper

3.1 Views in relation to the Customer, Retailer and Distributor models in the Tasmanian Electricity Supply Industry

3.1.1 Issue

The Information Paper raised the issue of the nature of the contractual relationship between retailers, distributors and end use customers, and the division of rights and obligations between them. Two models were offered for comment; the linear or straight-line model, where the customer has a contractual relationship with the retailer only and the triangular model, which involves the customer having direct contractual relationships with both the retailer and the distributor.

3.1.2 Summary of Submissions

Submissions reflected a general preference for a linear model, incorporating a preference for retailers to negotiate with the Network Service Provider. This was promoted as being easier for customers, as they would only have to negotiate with one party.

3.1.3 Comment on Submissions

A customer and a network service provider (NSP) are free to negotiate whatever connection arrangements are appropriate for the customer's facilities. No contractual model will be mandated.

A customer can negotiate the connection arrangements for the customer's facilities directly with the NSP or ask its retailer to do so on its behalf.

The retailer could conduct these negotiations:

- on behalf of the customer, so that the resulting connection contract is between the NSP and the customer; or
- on a “back to back” basis, so that the resulting connection contract is between the NSP and the retailer who “on-supplies” connection services to the customer.

However, where there is no negotiated connection contract in relation to customer facilities connected directly to the distribution network, a deemed connection contract will be put in place by regulations covering the provision of those connection services. The deemed connection contract will be between the customer and the distribution NSP. This deemed arrangement is inappropriate for those larger customers with facilities directly connected to the transmission grid.

The charges that an NSP makes for connection services are regulated (see the Information Paper). As well, the distribution NSP will need to obtain the approval of the Energy Regulator as to the terms of the deemed distribution connection contract.

The arrangements for smaller customers, in tranches 4 and 5, will be determined following an evaluation of how the market develops in the early stages, and consideration of the appropriate model for the differing needs of customers.

3.1.4 Position

Neither contracting model will be mandated in the Regulations, at least for the first three tranches. Further analysis will be undertaken as the market develops to review whether alternative arrangements are needed for smaller customers.

3.2 Whether retailers should be required to offer to enter into contracts with customers on standard terms approved by the Energy Regulator

3.2.1 Issue

The Information Paper noted that a Standard Customer Retail Contract is intended to be the base level contract for retail competition. Any retailer should be able to publish and offer to enter into a standard contract with contestable customers.

The question then arises as to whether retailers should be expressly required to offer to enter into contracts with customers on standard terms that are approved by the Regulator, and, if so, whether this obligation should apply to all contestable customers or only customers in the final tranches.

3.2.2 Summary of submissions

The responses to this question varied. From a retail perspective, it was argued that only the host retailer should be required to offer standard terms, and only to smaller customers, on the basis that larger customers would not need this level of customer protection to be prescribed.

There was some concern that not all large customers would be able to negotiate contracts on competitive terms.

3.2.3 *Comment on submissions*

Large (Extra High Voltage or “EHV”) customers are currently supplied outside any regulated tariffs. These customers are very few in number, and individually take substantial volumes and value. Their load profiles differ significantly and in effect any regulation would have to be on an individual customer basis. These customers do not use the distribution network, and consequently High Voltage (HV) tariffs (which include a distribution network component) are not appropriate. Even in a highly concentrated supply environment, including a retail franchise, these customers have significant bargaining power. The Regulator has reviewed the circumstances of such customers and has formed the view that regulatory intervention in contract negotiations is inappropriate.

A number of HV customers have also been able to negotiate contracts outside the regulated tariff regime. This reflects their ability to achieve favourable outcomes. It could reasonably be expected that the introduction of a market will improve the bargaining position of these customers and of others within the tranche who to date have relied upon tariffs.

A requirement on the incumbent retailer to supply electricity to large customers at a rate lower than that prevailing in the market would place that retailer at a significant disadvantage and potentially give undue preference to the beneficiary of the regulatory intervention as against competitors in another market. On the face of it, this outcome would be inconsistent with the public interest.

As noted above, some aspects of the regulatory framework as applicable to customers in tranches 4 and 5 will be reviewed and the issue of contracts on standard terms, particularly in relation to low income and welfare customers, will be considered as the market develops.

3.2.4 *Position*

There will be no mandated requirement for retailers to offer standard contracts to larger customers (tranches 1, 2 and 3).

The need for standard offers for smaller customers (tranches 4 and 5) will be reviewed as contestability progresses.

3.3 **Whether the deemed fallback contract should be put in place between the customer and the incumbent retailer; or the customer and the last retailer to have supplied the customer at the relevant premises**

3.3.1 *Issue*

Fallback arrangements are designed to cover a situation where a customer is taking supply at a connection point for which a retailer is financially responsible but where there is no retail contract covering that supply. The Information Paper noted that a deemed fallback contract would apply in this situation to ensure that the costs associated with maintaining supply of electricity can be recouped by the retailer.

3.3.2 *Summary of submissions*

Submissions received in relation to this question supported the view that the Deemed Fallback Contract should be between the customer and the last retailer to have supplied that customer.

3.3.3 *Comment on Submissions*

The approach supported by the submissions is consistent with metrology procedures in that the Financially Responsible Market Participant (FRMP) is the party to be held accountable for settlement at the relevant connection point. It is the FRMP whose claim against the end-user should be recognised.

3.3.4 *Position*

The Deemed Fallback Contract will be in place between the customer and the last retailer to have supplied that customer.

3.4 Whether the proposed pricing structure for the deemed fallback contract is appropriate

3.4.1 *Issue*

The pricing structure for the deemed fallback contract will be part of the standard terms and conditions for such a contract, as proposed by the retailer and approved by the Energy Regulator. It was proposed that for larger customers, the price would be the regulated network price plus the spot price plus a retail margin. For smaller customers, it was proposed that the price would be determined by reference to a schedule proposed by the retailer and approved by the Energy Regulator.

3.4.2 *Summary of Submissions*

In respect of larger customers, there was some support for the model of the spot price, plus approved margins, as this approach would be consistent with other jurisdictions. An alternative approach proposed was that the energy component of the price should be linked to the weighted average Tasmanian market energy price rather than the spot price. It was argued that this would avoid exposing “trapped” customers to unhedgeable market risk.

For smaller customers, it is anticipated that different arrangements may need to apply.

3.4.3 *Comment on Submissions*

Any reference to the spot price, whether a direct pass through of the half hour price, or some averaged price, will result in price volatility and risk for customers. The alternative is for the retailer to carry and manage this risk.

The purpose of the deemed fallback contract is a key consideration in determining a position on this matter. This type of contract is not designed as a substitute for a contract, and is not intended as a long-term approach. Rather, it is a mechanism to ensure that, where there is no contract in place, there is a method of defining the cost and other terms of the continuing supply of electricity.

The contestability framework as proposed assumes that customers will seek out the retailers whose offer best matches their requirements, and enter contracts for supply. The deemed fallback contracts are not intended to be a substitute for either freely negotiated contracts, or to provide a “safety net”. They provide the retailer with the option of maintaining supply to a customer rather than having disconnection as a first resort, which would necessarily be the case where there was no contractual relationship upon which to rely.

While the customer would not be able to hedge against the pool price volatility, it is not clear that the retailer would have a much better chance of doing so as the loads are generally small and the timing, load profile and duration are all uncertain.

On balance, it appears appropriate to allocate the price risk to be borne by the party who gains the benefit of continuing supply. It should be remembered that the customer can manage the risk by expeditiously entering into a retail contract with another retailer. The deemed fallback contract would be in place for a maximum of three months.

Retail margin component

The retail margin is to be proposed by the retailer and approved by the Energy Regulator. This retail margin will not cover the network services, the energy price or any relevant and approved pass-through costs, but will be confined to the margin required to cover the costs to service the customer.

This will be a transparent process, as it is the duty of the Energy Regulator in accordance with his responsibility for administrative fairness. To the extent that there are a number of customers who are sufficiently differentiated to form a class, it could be expected that the approved margin would reflect this difference.

During the 2003 Price Investigation, the Regulator was satisfied that there was no basis for setting differentiated retail margins for individual classes of customers. However this does not preclude a different conclusion if the relative costs can be demonstrated to be materially different. In a competitive market environment where the Regulator is assessing proposals put forward by competing retailers, different outcomes and approaches could be expected, reflecting the relative efficiencies and commercial focus of individual retailers.

Smaller customers

This pricing structure could well be different in relation to smaller customers. Consideration will be given to this issue and will be factored into the public benefit test to be undertaken prior to a decision on whether to proceed with the final tranche of contestability.

3.4.4 Position

For larger customers (tranches 1, 2 and 3), the price that may be charged under a deemed fallback contract will be the half hourly spot price, plus regulated network charges and any approved pass-through costs, plus a retail margin that is proposed by the retailer.

The price for smaller customers (tranches 4 and 5) will be determined at a later date.

4. Additional issues raised

A number of submissions included comments in relation to other aspects of the regulatory framework for retail contestability, and these are addressed below.

4.1 Concerns about the effectiveness of retail competition in Tasmania

4.1.1 Summary of Issue Raised

Concerns have been raised about the situation that may apply after customers become contestable, if no other retailer enters the market.

4.1.2 Comment on issue

Considerable effort is being made to ensure that a robust policy framework and appropriate structural arrangements are in place to support the introduction of retail competition in Tasmania. The Government is also ensuring that potential new entrant retailers are informed of the arrangements supporting the introduction of retail competition in Tasmania, and have opportunities for feedback as part of the consultation process. This includes liaison with the Energy Retailers Association of Australia.

There will be no legislative or regulatory barriers for the entry of new retailers. All participants in retail supply will be subject to the National Electricity Code, the ESI Act, the Tasmanian Electricity Code and their licences.

4.2 Aggregation

4.2.1 Summary of issues raised

The concept of aggregation refers to an electricity customer adding together electricity consumption at a number of separate points in order to reach a particular contestability threshold. The existing policy framework provides that aggregation for the purposes of meeting a particular threshold will only be permitted where an entity, due to the nature of the business undertaken, requires several separately metered connection points at a single location or site.

There was considerable interest in issues associated with aggregation, with a number of submissions promoting wider opportunity for aggregation of loads across geographically disparate sites, and over consortia of different customers.

4.2.2 Comment on Issue

One of the considerations underpinning the introduction of retail contestability is to develop an orderly transition to new market arrangements.

To have an orderly transition to contestability, it is important that customers and retailers can identify and predict with some certainty who is and who is not contestable, and when that status is due to change. The classifications have been developed because they are relatively simple to administer, and enable Aurora to provide more accurate forecasts of non-contestable loads during the transition period. This will help to ensure that the staged introduction of contestability will provide a predictable path for electricity industry participants and customers, minimise risk and volatility arising from uncertainty, and allow well planned and implemented investment decisions by the industry and customers.

It should be noted that the aggregation restrictions will only apply for the life of the contestability timetable. As the load at each separate site becomes contestable, a customer will be able to negotiate a single supply contract covering its contestable sites. Further, the aggregation restrictions are only for the purpose of determining the timing of contestability, and they do not

put into place any restrictions on billing or other contractual arrangements that may be negotiated between customers and Aurora as the incumbent retailer.

It is important to note that customers wishing to negotiate contracts with the incumbent retailer may do so at any stage. This means that, even though a customer may not yet be contestable, the customer can enter into a contract with Aurora for supply of electricity to a number of different sites. That contract could commence at any time.

4.3 Aggregation and additional loads

4.3.1 Summary of issues raised

Some further issues were raised about the ability of contestable customers to purchase “additional loads” from another retailer. An example of this could be where the owner of a facility currently supplied by Aurora under a long term contract wishes to expand the facility and have another retailer supply the additional quantity of electricity associated with the expansion.

4.3.2 Comment on issue

NEMMCO systems can only handle one Financially Responsible Market Participant for each connection point and National Metering Identifier (NMI) in the settlement process.

However, multiple retailers may supply a customer through separate connection points. The costs and benefits of this would be a matter for the customer when considering any investment required in establishing the connection point, as against the benefits of having a contract with another retailer.

Another approach may be to have one retailer taking a lead role for all energy related to a connection point and metering arrangements, and have a back-to-back contract for a portion of the energy. In this way, the NEMMCO settlement systems would see only one FRMP and the second retailer's responsibility would be settled off-market.

A customer seeking to negotiate supply from more than one retailer would need to evaluate the relative costs of achieving savings in energy price, and make a business decision based on that evaluation. This would include evaluating the technical and financial issues associated with pursuing any of these options.

4.4 Customer Protection

4.4.1 Summary of issue raised

Issues were raised in relation to customer protection, with particular reference to small business and domestic customers. Issues included the need for the Energy Regulator to maintain a watch on pricing issues, some tariff or pricing protection for tranche 4 customers, and the introduction of a “no disadvantage” provision. The need for consumer education was also raised.

4.4.2 Comment on issue

It has been recognised that the market design that is appropriate for larger industrial customers will not necessarily be the most appropriate for smaller customers. It is for this reason that the decision about extending contestability to the final tranche of customers has not yet been

made. The Government intends to conduct a review of the costs and benefits of extending contestability beyond the first four tranches.

As well, the impact of contestability on the first three tranches will be monitored and there is scope for some differences in the treatment of tranche 4 and 5 customers. The market will also be monitored closely when it commences, to ensure that the design of the market and the operation of competition delivers benefits to the community. It is noted that the NEM is in a continuing state of development, both through market developments and regulatory refinements. The market participants are gaining experience, there is greater depth in the financial market for risk management, and there is expected to be convergence of gas and electricity markets. All these matters suggest it is appropriate to review this as Tasmania moves closer to a decision on full retail contestability (FRC).

The Regulator retains the power to initiate price investigations in respect of “declared electrical services”. The test for whether a particular service ought to be declared remains the same i.e. that a declaration would be in respect of services where there is substantial market power and the declaration would promote competition, efficiency or be in the public interest.

The Government expects the Energy Regulator to monitor the development of competition. This would include seeking comment from interested parties where concerns may arise as to the effectiveness of competition as evidenced in pricing or other relevant dimensions of the provision of electrical services. The Regulator has the power to obtain the information necessary for it to do so.

It is recognised that customer awareness is an important factor in the success of retail contestability. The Government will be working with the Regulator, peak bodies and the incumbent and new entrant retailers to ensure that customers are aware of the choices available to them.

It was proposed in one submission that a “no disadvantage” clause be introduced in some manner. This was in respect of smaller customers and the maintenance of some form of tariff protection. It is noted that these present proposals are in respect of the first three tranches of competition.

The Government, with the Regulator and interested parties (especially customers), will assess the effectiveness of competition and the market outcomes, as contestability is phased in. This will include anticipating the impacts of each successive contestable tranche.

In particular, the Government, with the Regulator and interested parties (especially customers), will assess what additional protection measures will be required if a decision is made to extend contestability to the final tranche (FRC). It is recognised that other jurisdictions have had some level of regulatory intervention to ensure a regulated “standing offer” or similar mechanism is available for the equivalent of tranche 5 customers. Nevertheless, as the market develops, the need for this form of intervention may reduce.¹

¹ In this regard, see the Essential Services Commission (Victoria), Final Report to Minister – Special Investigation: Review of Effectiveness of Retail Competition and Consumer Safety Net in Gas and Electricity – 21 July 2004.

4.5. Deemed Fallback Contract

4.5.1 Summary of issue raised

The Information Paper stated that Deemed Fallback Contracts would only apply to distribution customers, and not to transmission customers. Submissions raised the issue of Deemed Fallback contracts being made available to all customers, including transmission (EHV) customers as well as distribution customers.

4.5.2 Comment on issue

Some of the comments in relation to Deemed Fallback Contracts, both here and in relation to pricing, seem to be based on the understanding that a deemed fallback contract is equivalent to an offer on standard terms. This is not so. As noted above, a deemed fallback contract is not intended to be a long-term arrangement, nor is it primarily a customer protection measure.

Deemed fallback contracts arise where a customer's contractual arrangements with an electricity retailer conclude, but where the physical supply of electricity has not yet been disconnected. It provides a mechanism for the retailer to recover the cost of that ongoing supply, with oversight by the Regulator as to the margin the retailer may charge, in addition to the cost of the electricity.

4.6 Timetable for contestability

4.6.1 Summary of Issues Raised

One submission suggested that the timetable for contestability was too protracted and that having a truncated timetable would benefit customers and encourage early entry of new retailers.

The threshold between tranche 4 and 5 was also raised, with a suggestion that a threshold of 0.16 GWh/yr, in accordance with other States would be more useful in terms of customer call centre inquiries and billing systems.

4.6.2 Comment on issue

The timetable is not significantly longer than that which applied in other States, and is shorter than some. The main point is that the timetable is designed to provide an orderly transition for customers and for both the incumbent and new retailers.

While the threshold for "small" customers in some jurisdictions is 0.16 GWh/yr, it is not envisaged that there will be a problem in relation to a 0.15 GWh/yr threshold for contestability. It should also be noted that Queensland has extended contestability below 0.16 (to 0.10 Wh/yr) as from 1 July 2004.

4.7 What happens if a retailer fails?

4.7.1 Summary of issue raised

This was raised in the context of a retailer either not having access to sufficient electricity to meet obligations to end users, or a retailer that fails financially. This was not a widespread

concern, but the question does raise aspects of the design of the market which are being addressed.

4.7.2 *Comment on issue*

There are two considerations in this matter:

- maintenance of supply in the event of retailer failure; and
- recovery of any damages or other remedies arise from failure to fulfil contract obligations.

These issues are addressed below.

(a) Retailer failure and maintenance of supply

In the first instance, NEMMCO imposes rigorous prudential conditions on retailers in an effort to ensure that they are able to meet their obligations in the wholesale market and thereby minimise the likelihood or effect of any retail failure. In the event that a retailer finds itself in financial difficulties (but prior to failure), it should be noted that the principal asset of a retailer is its retail contracts, and it is likely that this asset will be transferred in an orderly manner to another retailer.

In the event of precipitous failure, i.e. cessation of trading either by reason of corporate failure or suspension from the market, and consequent failure to fulfil contractual obligations, there will be a Retailer of Last Resort (RoLR) scheme.

Aurora Energy, as the holder of the distribution licence, will be the RoLR and will have responsibility for continuation of supply. This scheme is outlined in the Information Paper and will be in place prior to contestability. The RoLR will be established by regulation and supported by a licence condition with regulatory overview of the arrangements. The RoLR scheme will require a range of supporting contractual arrangements which will be deemed by legislation.

This scheme will ensure that the network and generation entities are paid for energy and network services, and there is no interruption to supply. The energy price embedded in the deemed contract will be the half hourly spot price, plus regulated distribution charges and any approved pass-through costs, plus a retail margin that is proposed by the retailer. The fixed costs of establishing and maintaining the scheme will be attributed to all customers, while the variable cost of actual implementation will go to the affected customers who directly benefit from the scheme.

Customers will need to secure another retail contract within 3 months of the RoLR scheme being invoked.

(b) Retail failure and contractual remedies

The usual contractual remedies will be available to a customer if its retailer fails to fulfil its obligations (eg damages, a court order to perform, etc).

To the extent that any failure arose from conduct which gave an actionable right to a customer arising from a failure to comply with the Electricity Supply Industry Act, the regulations or the

Tasmanian Electricity Code, then the Regulator may take an action on behalf of the customer or class of customers.

5 General Issues

These are questions that were raised mainly in the forums rather than formal submissions, and which relate to matters outside the retail contestability framework.

5.1 Who will I contact regarding planned and unplanned outages?

Outages, both planned and unplanned, fall within the responsibility of the Network Service Providers. This can either be Transmission or Distribution. The first point of contact for most customers will be the Distribution Network Service Provider, which is Aurora (Networks). Aurora (Networks) will be the contact whether your retailer is Aurora or another electricity retailer.

5.2 Will Aurora be able to maintain its distribution network if it loses its customer base?

Aurora (Networks) will remain the sole Distribution Network Service Provider. Aurora's distribution service revenues are regulated, and are accounted for separately from its retail functions. It is not dependent on Aurora's retail activities, as all retailers will be required to pay for the distribution services that they use.

5.3 Is there a cap on what Aurora (Networks) can charge for distribution?

The Regulator sets the revenue cap (ie the total amount the distributor can earn) and will set the pricing principles and approve the distribution tariffs (ie assure that the tariffs meet the principles and are designed to recover no more than the revenue cap).

The pricing policy of the distributor, which translates the revenue determination and pricing principles into actual prices, is at this time the subject of consultation with customers.

5.4 Who will oversee transmission augmentation projects to ensure that expenditure is prudent, and that expenditure contemplated by a revenue cap is actually made?

The ACCC is responsible for setting Transend's revenue cap and the amount of capital expenditure taken into the asset base. The ACCC's Statement of Regulatory Principles outlines how it will undertake price reviews. In addition, under the NEC a regulatory test for planned capital expenditure is required of the transmission service provider for major capital expenditure projects.

The Regulator is proposing that the transmission licence of Transend include an obligation to operate, maintain and develop the network consistent with specified network planning criteria. These planning criteria in effect provide a 'fat track' authority for network development linked to the licence obligation.

5.5 What arrangements have been put in place to ensure that Transend acts reasonably in negotiating transmission connection contracts (particularly in relation to reliability) and supply?

Transend has, and will continue to have, a pricing policy and is required to have a negotiation framework (clause 6.5.9 of the NEC). The negotiation framework must provide an outcome consistent with NEC objectives and the pricing principles of the Code. Compliance with this is enforceable under the NEC.

In respect of reliability and supply, the general network standards are established in the revenue determination as prescribed services and apply to all customers. To the extent that customers require higher standards that is a matter for negotiation as between the parties within the context of the negotiation framework. There may be agreed reduced charges for the prescribed services in some circumstances, as there may be for negotiable services.

The negotiation framework must include a dispute resolution as well as an obligation to negotiate in good faith.

There are provisions in National Electricity Law for enforcement of compliance with NEC provisions.

5.6 Adequacy of load – what guarantees are there that there will be sufficient local generation to meet local needs, rather than exporting electricity via Basslink? Will there be assistance for small business to use energy more efficiently?

Under the NEM arrangements, the load demands in all regions (including Tasmania) are supplied at the lowest prices offered by generators that will allow those demands to be met. If there are higher prices offered by generators to supply the load in some regions, power will flow from lower priced generators in other regions to allow the load in those higher priced regions to be supplied by these lower priced generators.

Thus if there was a prospective lack of supply in Tasmania, the local generator prices would be higher and power would be imported over Basslink to allow the local load demands to be met. Similarly exports from Tasmania over Basslink will only occur if local generation in excess of that needed to supply the local load is priced below the prices offered by mainland generators.

The market prices established as a result of these demand/supply interactions will indicate to consumers the value of energy efficiency measures. Thus, if there is a prospective lack of supply in Tasmania the local market prices will be higher and consumers may be encouraged to save energy. On the other hand, if there is a significant surplus of supply in Tasmania, the local market prices will be lower and consumers may be encouraged to use more energy.