

# Review of the National Energy Retail Law in Queensland

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Discussion paper

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# Glossary

<b>ACCC</b>	Australian Competition and Consumer Commission
<b>AEMC</b>	Australian Energy Market Commission
<b>AER</b>	Australian Energy Regulator
<b>COAG</b>	Council of Australian Governments
<b>CSO</b>	Community Service Obligation
<b>Department</b>	Queensland Department of Natural Resources, Mines and Energy
<b>Energy</b>	Electricity and natural gas
<b>EWOQ</b>	Energy and Water Ombudsman Queensland
<b>NECF</b>	National Energy Customer Framework
<b>NEM</b>	National Electricity Market
<b>NERL</b>	National Energy Retail Law
<b>NERL (Qld)</b>	National Energy Retail Law as it applies in Queensland
<b>NERL (Qld) Act</b>	The legislation that applies the National Energy Retail Law as a law of Queensland
<b>NERR</b>	National Energy Retail Rules
<b>QCA</b>	Queensland Competition Authority
<b>QPC</b>	Queensland Productivity Commission
<b>SEQ</b>	South East Queensland
<b>Small customers</b>	Residential and small business customers
<b>SMOC</b>	Small market offer customer

# Introduction

On 1 July 2015, new national regulatory arrangements for the retail energy market commenced in Queensland, referred to as the NECF. The NECF regulates the sale and supply of energy (electricity and natural gas) to consumers<sup>1</sup>, and supports energy customers through a range of customer protections (refer **Table 1** for more detail).

In order for the NECF to apply, each participating jurisdiction needs to pass its own legislation adopting the National Energy Retail Law (NERL) and the National Energy Retail Rules (NERR).<sup>2</sup> When they do this, a state or territory may also choose to change the way the NERL or the NERR apply, for example by creating additional customer protections and obligations for businesses in that state or territory.<sup>3</sup> However, any state-based amendments that affect the operation of the NERL or the NERR can only be made upon agreement of the Ministerial Council on Energy (now known as the Council of Australian Governments (COAG) Energy Council).<sup>4</sup>

The *National Energy Retail Law (Queensland)* (NERL (Qld)) contains a small number of state-specific modifications (derogations) to the NERL to ensure arrangements are appropriate for regional Queensland and support reforms in the Queensland electricity sector, including the introduction of price deregulation in South East Queensland (SEQ).

At the time, it was considered that the benefits to the community of these modifications, such as advanced notice of price changes and requiring retailers to offer at least one market contract with no early termination (exit) fee, outweighed the opportunity cost to retailers of not receiving the full efficiency benefits of a completely harmonised retail framework. In the majority of instances, the modifications were the continuation of existing arrangements in Queensland that applied prior to the commencement of the NECF and were not expected to impose any significant new cost on retailers.<sup>5</sup>

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1 Distribution provisions of the NECF only cover electricity connections to the national electricity grid or nominated networks, and similarly for natural gas. Retail provisions of the NECF cover all sales of electricity and natural gas to customers at premises, irrespective of grid connection.

2 The NERL is contained in a Schedule to the *National Energy Retail Law (South Australia) Act 2011* (NERL) of South Australia.

3 The *National Energy Retail Law (Queensland) Act 2014* (NERL (Qld) Act) applies the NERL as a law of Queensland. The Queensland specific modifications to the NERL are contained in a Schedule to the NERL (Qld) Act.

4 Refer s.6.7 of the Australian Energy Market Agreement.

5 As stipulated in the Explanatory Notes to the *National Energy Retail Law (Queensland) Bill 2014*, p.5.

**Table 1: Overview of the NECF<sup>6</sup>**

The NECF establishes a national regulatory regime for retailers and distributors selling and supplying energy to residential and small business customers (small customers), and to large customers in a limited way. Under the NECF, small customers are supported by a range of customer protections, which include:

- guaranteed access to an offer of supply for electricity and gas;
- requirements relating to information about, and marketing of, energy contracts;
- requirements relating to customer consent, including that customers must give explicit informed consent to enter into a market retail contract (as opposed to a standard contract or deemed contract);
- a customer hardship regime, requiring retailers to develop customer hardship policies that must be approved by the Australian Energy Regulator (AER);
- access to the AER's 'Energy Made Easy' website for impartial information and support to help consumers choose the best deal;
- limitations on disconnection, including the processes that must be followed and restrictions on when disconnections can occur;
- protections for customers in on-supply situations that are broadly equivalent to the protections provided to other customers;
- requirements relating to customers with life support equipment;
- information requirements for planned and unplanned interruptions;
- a requirement on retailers and distributors to have, and inform customers of, complaints procedures; and
- retailer of last resort arrangements, so that a customer can receive an energy supply from another retailer should the current retailer be unable to continue providing the service (for example, if it goes out of business).

The consumer protections in the NECF reflect that customers should be able to access a reliable, safe and high-quality supply of energy on fair and reasonable terms, and that this supply can only be withdrawn in specific circumstances and after appropriate procedures have been followed.

Parties are drawn into the NECF through a registration and exemption framework, depending on the products and services offered. If a business intends to sell electricity or gas for use at premises, it must have a retailer authorisation granted by the AER, or be exempted from needing an authorisation.

The NECF commenced in the Australian Capital Territory and Tasmania on 1 July 2012, followed by South Australia on 1 February 2013, New South Wales on 1 July 2013 and Queensland on 1 July 2015. Victoria has not adopted the NECF - its retail energy markets are governed by the Victorian Energy Retail Code.

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<sup>6</sup> Information is drawn in part from the Energy Market Reform Working Group, *New Products and Services in the Electricity Market*, Consultation on regulatory implications, December 2014, pp.7-8.

The customer protections provided under the NECF work in conjunction with the general protections provided through the Australian Consumer Law (ACL) and privacy legislation. The ACL offers protections for consumers in the areas of consumer rights when buying goods and services, product safety, marketing, unfair contract terms, and prohibits misleading, deceptive or unconscionable conduct. Small energy consumers in Queensland also have access to a free independent dispute resolution service provided by the Energy and Water Ombudsman Queensland (EWOQ).

An explanation of the NECF terminology referred to in this paper is in Table 2.

**Table 2: NECF terminology**

National Energy Customer Framework	NECF	The NECF includes the National Energy Retail Law (NERL), National Energy Retail Rules (NERR) and National Energy Retail Regulations. Together, these Laws and Rules set out key protections and obligations for energy customers and the businesses they buy their energy from.
National Energy Retail Law	NERL	The NERL establishes the NECF and is contained in Schedule 1 of the <i>National Energy Retail Law (South Australia) Act 2011</i> .
National Energy Retail Law (Qld)	NERL (Qld)	The NERL (Qld) is a reference to the NERL, as it applies in Queensland.
<i>National Energy Retail Law (Queensland) Act 2014</i>	NERL (Qld) Act	The <i>National Energy Retail Law (Queensland) Act 2014</i> (NERL (Qld) Act) applies the NERL as a law of Queensland. The way the NERL applies in Queensland is also subject to the state-specific modifications contained in the Schedule to the NERL (Qld) Act.

# This Review

Section 15 of the NERL (Qld) Act requires the responsible Minister to review the operation of the NERL no later than 1 January 2018 (the Review).<sup>7</sup> However, the commencement of the Review was deferred until after the Australian Competition and Consumer Commission's (ACCC) Retail Electricity Pricing Inquiry Review was completed in order to avoid duplicating stakeholder consultation on common issues, including customer protections and engagement in the market.

The overall purpose of the Review is to assess whether the NERL (Qld) has met its objectives in terms of increased efficiencies and consumer protection, and to ensure arrangements are delivering a net benefit to Queensland.<sup>8</sup> Specifically, the legislation prescribes that the Review:

- must focus on the impact of the NERL, including the state-specific modifications, on consumers of energy and whether the implementation of the Law has:
  - resulted in increased efficiencies; or
  - adversely affected customer protection in pursuit of national consistency; and
- may address any other matters the Minister considers appropriate.<sup>9</sup>

In relation to the Queensland specific modifications to the NERL, the Review will assess the effectiveness and ongoing need for these derogations, with a focus on the modifications designed to strengthen customer protections for Queensland consumers.

The Department of Natural Resources, Mines and Energy (the Department) is also interested in stakeholder feedback on further actions that could be taken by government, industry or consumer groups to maximise the benefits of the NERL and make it easier for consumers to engage in the market.

The Review will not include an assessment of the impact of retail price deregulation in SEQ, which occurred one year after the commencement of the NERL (Qld), or price regulation generally. While stakeholders may have views about deregulation or notified prices, these matters are outside the scope of this Review.

## Approach

As noted above, the Review will require an assessment as to whether the overall operation of the NERL (Qld) has furthered the interests of Queensland energy consumers. The requirement to assess the impact of the NERL (Qld) will necessitate a comparison of the overall operation of the legislation in Queensland with the equivalent state-based scheme that operated prior to 1 July 2015.<sup>10</sup>

In addition to stakeholder feedback, publicly available reports will be relied upon to the fullest extent possible, in an effort to limit data to be sourced directly from energy retailers and distributors. The information requirements for the Review, as referred to in this paper, are outlined in **Appendix 1**.

The Review will assess the operation of the NERL (Qld) for both residential and small business customers in the electricity and gas markets.<sup>11</sup> Large business customers will be excluded from the Review. The customer definitions and consumption thresholds, as prescribed under the NERL, are also outside the scope of this Review.

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7 As the NERL establishes the NECF, both terms are used interchangeably in this paper. Reference to the NERL should be read as including associated statutory instruments, such as the NERR.

8 As stipulated in the Explanatory Notes to the *National Energy Retail Law (Queensland) Bill 2014*, p.14.

9 Refer s.15 of the NERL (Qld) Act.

10 This approach is consistent with the method used by the Essential Services Commission of South Australia in conducting its 2015 review of the NERL in South Australia.

11 A small business electricity customer is a customer that consumes less than 100 megawatt hours (MWh) of electricity per year. A small business gas customer is a customer that consumes less than 1 terajoule (TJ) of gas per year. There is no consumption threshold for residential customers.

## Customer protection

In order to do a quantitative assessment to determine if customer protection has improved or not under the NERL (Qld), a set of core performance indicators have been chosen. A key consideration in selecting these indicators was the availability of a comparable set of data to enable pre-NERL (Qld) data (reported by the Queensland Competition Authority (QCA)) to be compared to post-NERL (Qld) data (reported by the AER). Where the AER reports on a broader range of indicators, there will be no comparable pre-NERL (Qld) data.

As such, customer protection will be analysed in two parts<sup>12</sup>:

- **Hardship indicators** – these aim to show the extent to which customers facing difficulty in paying their energy bills are identified and properly assisted in maintaining their energy supply; and
- **Customer service indicators** – these aim to show the extent to which customers are able to access their retailer and the extent to which customers in general are having their needs met.

Individual consumers and stakeholders are encouraged to make submissions that may raise qualitative issues with the operation of the NERL (Qld) and/or the previous framework.

While the Review will attempt to isolate the impact of the NERL (Qld), regard will also be had to any external factors that might be identified as having a material impact on changes in the selected customer protection measures. In addition to the level of competition in the Queensland retail energy market, the following external factors will be examined:

- retail energy price movements<sup>13</sup> – as an explanatory variable (e.g. trends in disconnection levels will be assessed within the context of movement in energy prices);
- changes in the level of energy concessions – state policy;
- average energy consumption – as a driver of bill changes, to complement analysis of price movements;

- household incomes, gross state product (GSP) and unemployment rate – as indicators of any potential deterioration in customer incomes.

As noted, the Review will not include an assessment of the impact of retail price deregulation in SEQ, which occurred one year after the commencement of the NERL (Qld), or price regulation generally.<sup>14</sup> While stakeholders may have views about deregulation or notified prices, this is outside the scope of this Review.

## Efficiency

A broad economic interpretation of the term ‘efficiency’ will be adopted to assess whether the commencement of the NERL (Qld) has resulted in any efficiency gains. To this end, the Review will attempt to examine the impact of the NERL (Qld) on retailer operating costs (*technical efficiency*) and the level of competition in the Queensland retail energy market (*allocative efficiency*).

To assess the extent of any improved technical efficiencies, retailers will be requested to provide feedback on any actions taken, or likely to be taken, as a result of the commencement of the NERL (Qld) that have or could result in efficiency gains, and the types of savings made, or anticipated to be made, as a result. Written submissions from retailers will also be used to inform this analysis.

The competitiveness of the Queensland retail energy markets will be used as the primary basis for assessing the extent to which the adoption of the NERL (Qld) has achieved allocative efficiency gains. To avoid duplication, external reviews and data sources will be relied upon to the fullest extent possible. The AEMC has undertaken an annual review of the competitiveness of the Queensland retail energy market since 2014 and these reports will be used as the primary evidence base.

<sup>12</sup> These indicators are outlined in more detail in section 3.3.

<sup>13</sup> Where possible, information will be based on publicly available data, including reports from the AER, AEMC and QCA.

<sup>14</sup> Prior to 1 July 2016, the QCA set the maximum prices electricity retailers in Queensland could charge for standard retail contracts. Following price deregulation in SEQ, the QCA now sets the standing offer prices for regional Queensland only.

## Other reviews

This Review is occurring at the same time as several other current or recently completed reviews relating to customer protections in the National Electricity Market (NEM) (refer **Table 3** for more detail). Where relevant, the results of this work will be taken into consideration.

Importantly, since the NERL (Qld) has only been in operation in Queensland since 2015, this Review is not intended to be an assessment of the general appropriateness of the NERL, or an examination of whether the customer protection framework that governs the NEM is fit for purpose in the context of new and emerging products and services. This work is being undertaken as part of a broader NEM-wide program of work under the COAG Energy Council.

**Table 3: Summary of other reviews relating to customer protections in Queensland**

Review	Body	Summary
Retail Energy Competition Review	AEMC	The AEMC undertakes an annual NEM-wide competition review for the COAG Energy Council. The purpose of the review is to assess the state of competition for small customers in electricity and gas retail markets in all NEM jurisdictions. The 2018 report was published on 15 June 2018.
Electricity Supply and Prices Inquiry	ACCC	On 11 July 2018, the ACCC released its Retail Electricity Pricing Inquiry Final Report which contains a wide range of recommendations aimed at improving electricity affordability and enhancing customer experiences and outcomes. In particular, the report proposes a number of measures designed to promote customer engagement by making it easier for consumers to understand and compare offers.
Reference Bill	AER	On 19 December 2018, the COAG Energy Council agreed to the adoption of a reference bill by 1 July 2019 in network regions that do not have a regulated standing offer price. This will help customers access a better deal by having a single reference bill against which they can compare other offers. The AER is currently developing a methodology for determining a reference bill for electricity prices, in consultation with jurisdictions.
Energy Market Transformation work program	COAG Energy Council	The Energy Market Transformation work program, which commenced in early 2016, aims to ensure regulatory frameworks are fit for purpose to cope with the effects of emerging technologies, enable customers to benefit from innovative services, and provide an appropriate level of protection while mitigating any risks. A key area of work is the development of an industry Behind the Meter Code to support customers in their decisions to purchase new products and services (e.g. batteries).
Electricity Pricing Inquiry	QPC	In 2015-16, the Queensland Productivity Commission (QPC) conducted an inquiry into electricity pricing in Queensland. As part of this inquiry, the QPC considered a range of issues, including whether consumer protections were sufficient to allow price regulation in SEQ to be removed. The final report and the Queensland Government's response were published in November 2016.

# Customer protection

## Core protections under the NECF

As noted, the NECF was originally implemented as a key means for protecting customers and driving retail market competition. Compared to pre-existing arrangements under the *Electricity Act 1994* and the *Gas Supply Act 2003*, the NECF aimed to increase customer protections in Queensland by:<sup>15</sup>

- placing regulatory obligations on retailers to operate programs to help small customers experiencing financial difficulty due to hardship to manage their energy costs on an ongoing basis;
- implementing a clearer and more effective price comparison service to help customers choose the most appropriate customer retail contract for their needs;
- establishing a comprehensive ‘exempt seller’ framework that gives small customers in on-supply situations (such as caravan parks and retirement villages) broadly equivalent protections to others customers;
- providing clearer processes and requirements for gas customers around billing and credit management; and
- applying a National Connections Framework that sets out clear processes for new connections, including response times to customer requests.

In particular, the NERL imposed a number of new obligations on retailers and distributors to strengthen consumer rights and entitlements. For example:

- bills must be issued to customers on standard retail contracts at least once a quarter – no exceptions;
- consumers on standard retail contracts have the right to ask for their bills to be smoothed to avoid summer ‘peak’ bills;

- distributors can no longer ask customers for security deposits;
- more relevant billing information must be provided – bills must include:
  - the value of any rebates and concessions or security deposits held by the retailer;
  - ‘benchmarking’ information to help households compare usage to others in their area;
- better marketing practices – retailers must hold and respect ‘no contact’ lists and must comply with ‘do not knock’ signs;
- more advanced notice of interruptions to supply; and
- distributors need to assess new connection applications faster.

The NERL also aimed to better support customers struggling to pay their energy bills. Prior to the NERL, Queensland retailers offered support to consumers experiencing financial difficulty due to hardship on a voluntary basis. The NERL formalised these arrangements with the aim of making sure this support was being delivered. Additional protections provided under the NERL include:

- an obligation on retailers to develop hardship policies aimed at helping consumers to manage their bills on an ongoing basis if they are experiencing financial difficulty due to hardship<sup>16</sup>;
- a requirement for all hardship policies to have strategies to proactively identify consumers experiencing financial difficulty due to hardship; and
- if there is a dispute over a portion of a bill, the customer is only required to pay the lesser amount until the dispute is resolved.

<sup>15</sup> As stipulated in the Explanatory Notes to the *National Energy Retail Law (Queensland) Bill 2014*, p.2.

<sup>16</sup> On 15 November 2018, the AEMC made a rule to help customers who are having trouble paying their bills due to hardship. The rule aims to further improve retailers’ hardship policies so customers can better understand their rights and get the help they need to pay their power bills.

## AER price comparison website

Under the NECF, consumers also gained access to the AER's *Energy Made Easy* website, which compares retail electricity and gas offers for customers in Queensland, New South Wales, South Australia, Tasmania and the Australian Capital Territory. It is one of a number of measures introduced by the NERL to help small energy customers understand and make more informed choices about energy.<sup>17</sup>

Price comparison websites, particularly independent government run sites, can provide benefits to consumers who use their services. For example, these websites:

- give a quick overview of the particular market (in this instance energy);
- keep track of prices and services – helping consumers to save time and money;
- compare product/contract details – allows the customer to more easily compare products;
- enable real choice between products/features and can help identify variety where possible;
- may outline or describe product/contract weaknesses – comparisons do just that, they compare weaknesses as well as strengths.

However, research by the AEMC indicates that awareness of independent government-run price comparison websites, such as *Energy Made Easy*, remains low.

The AER recently received government funding to redevelop the *Energy Made Easy* website by July 2020 so that it can incorporate the broader range of products and services now available, and likely to be developed in the foreseeable future. In August 2018, the AER made a number of changes to the website to make the process of searching and comparing offers simpler.

**Question 1:** Are there further actions that could be taken by government, industry or consumer groups to improve customer awareness and use of the AER's *Energy Made Easy* website?

**Question 2:** What more could be done to assist those customers who do not have internet access?

## Exempt seller framework

The NECF established a comprehensive 'exempt seller' framework<sup>18</sup> that gives small customers in on-supply situations (e.g. caravan parks, apartment buildings or businesses in shopping centres) broadly equivalent protections to other energy customers, including:

- access to flexible payment options if a customer is having trouble paying their bill, such as payment extensions and payment plans;
- clear and set timeframes for receiving and paying bills, including a regular bill at least once a quarter that shows how much energy the customer has used and the applicable tariffs, fees and charges; and
- improved access to government concessions.<sup>19</sup>

The NERL also provides a pricing protection for customers in on-supply situations, which ensures on-supply customers cannot be charged more than the relevant local area retailer's standard offer. However, a similar pricing protection existed in Queensland prior to the commencement of the NERL<sup>20</sup> and additional pricing protections for on-supply customers are contained in other Queensland legislation.<sup>21</sup> For these reasons, pricing protections for on-supply customers are outside the scope of this review.

To assist stakeholders, a summary of the legislative provisions underpinning the key customer protections in the NERL are contained in **Appendix 2**.

<sup>17</sup> Under the NERL, the AER may develop Retail Pricing Information Guidelines to assist customers to more easily compare standing and market offer prices offered by retailers. The Guidelines provide direction to retailers about providing data and information to the AER for the purposes of the *Energy Made Easy* website.

<sup>18</sup> The AER's Retail Exempt Selling Guideline sets out the AER's approach to retail exemptions. A list of the classes of retail exemption and the applicable conditions is available on the AER website - <https://www.aer.gov.au/retail-markets/retail-exemptions/classes-of-retail-exemption-applicable-conditions>

<sup>19</sup> In 2016, the AER amended its Retail Exempt Selling Guideline to impose a mandatory obligation on on-suppliers to claim energy concessions on behalf of their eligible customers, which took effect on 18 March 2016.

<sup>20</sup> Prior to 1 July 2015, under the *Electricity Act 1994* a residential on-supply customer could not be charged more than the standard regulated residential tariff (Tariff 11) set by the QCA.

<sup>21</sup> *Manufactured Homes (Residential Parks) Act 2003*; Body Corporate and Community Management (Standard Module) Regulation 2008.

## Queensland modifications to enhance customer protection

A number of state-based modifications to the NERL were also implemented to provide additional protection for Queensland energy customers. For example:

- retailers must give customers on retail market contracts at least 10 business days' notice of price increases;
- retailers must advise customers in advance of the expiry of benefits on retail market contracts<sup>22</sup>;
- retailers must offer at least one retail market contract with no early termination (exit) fee, and the exit fee for an electricity market contract cannot be more than \$20;
- barriers to lowering standing offer prices for SEQ customers were removed (allowing retailers to lower the price at any time);
- retailers must tell consumers about flexible payment options upfront, such as pay in advance;
- retailers must tell consumers about concessions and rebates in disconnection warning notices; and
- retailers cannot charge customers for meter tests upfront.

### Advance notice of price changes

In relation to the Queensland requirement for retailers to give market contract customers at least 10 business days' notice of any price increase, the AEMC has recently published a new rule determination which also requires retailers to provide advance notice of price changes on energy retail contracts<sup>23</sup>.

Under the new rule, which will commence on 1 February 2019, retailers will be required to give customers at least five business days' notice of any price change, with the notice to contain information on the date the price will change and a summary of existing and new price structures.

The government is amending the Queensland derogation to ensure the additional benefits of the new national rule, such as the requirement for retailers to inform customers that they can request their historical billing and usage data, and that the notice be delivered in the customer's preferred method of communication, also apply to Queensland customers.

**Question 3:** Should the Queensland 10 day advance notice requirement for price increases under market retail contracts be retained, or should Queensland adopt the new national requirement to provide five business days' notice?

A small number of derogations were implemented to support residential and small business customers in the newly deregulated SEQ retail electricity market, including:

- for the first year of deregulation (i.e. until 30 June 2017), retailers were not able to vary the prices charged to consumers on standard retail contracts (unless the price went down); and
- for the first four years of deregulation (i.e. until 30 June 2020), retailers will not be able to introduce any new types of fees and charges for consumers on standard retail contracts<sup>24</sup>.

A number of support measures were also introduced to assist regional and remote consumers. For example, the majority of customer protections under the NERL (Qld) were extended to consumers on the isolated Ergon Energy distribution networks.

A summary of the key protections under the NERL, including the Queensland specific modifications, are contained in **Appendix 2**. The extent to which these state-based derogations have resulted in a net benefit to Queensland energy consumers will be assessed as part of this Review. The effectiveness and ongoing need for the derogations will also be considered.

22 This derogation has been exceeded by a new national rule which requires retailers to notify small customers when benefits, such as price discounts, change. The AER has also published new *Benefit Change Notice Guidelines*, which detail how retailers should calculate and present information in the new Benefit Change Notice. As a result, the Queensland derogation is no longer required and is proposed to be removed.

23 Refer AEMC website for further information - <https://www.aemc.gov.au/rule-changes/advance-notice-price-changes>.

24 An amendment was made in September 2018 to extend this derogation from two years to four years – refer clause 13(4) of the *Electricity and Other Legislation (Batteries and Premium Feed-in Tariffs) Amendment Act 2018*.

**Question 4:** Do you believe that the commencement of the NECF has positively affected the level of *customer protection* or *customer service* provided to small energy customers in Queensland? Can you provide examples of what has worked well or poorly?

**Question 5:** Are any of the Queensland specific modifications to strengthen the customer protection framework considered important to be retained? Equally, should any of these modifications be amended or removed? Please explain your reasons.

- maintain access to a standard retail contract for electricity, and a standard or market retail contract for gas, for small market offer customers (SMOCs)<sup>26</sup>.

The above arrangements reflect Queensland Government policy and the Government is not considering reviewing these matters at this time. For this reason, these derogations will not be considered as part of this Review.

However, the legislation prescribing the Review does allow other matters the Minister considers appropriate to be considered. As such, the Department proposes to undertake an assessment of pre-payment meters as part of this Review.

When the NECF was applied, Queensland decided not to opt-in to the pre-payment meter regime<sup>27</sup>, the small claims compensation regime<sup>28</sup>, or arrangements for small market offer customers for electricity<sup>29</sup> under the NERL, preserving the existing policy position at the time. The Department is particularly interested in stakeholder feedback on pre-payment meters – this matter is discussed in more detail in ‘Future retail market reforms’.

## Queensland modifications to maintain existing arrangements

Other changes to the NERL were implemented principally to maintain existing Queensland policy and regulatory arrangements and ensure the NERL was appropriate for regional Queensland. For example, modifications were made to:

- maintain the restriction on state-owned retailer, Ergon Energy (Ergon) competing with market retailers, and continue the existing policy restricting Ergon from accepting customers back once they have gone to another retailer (i.e. the non-reversion policy). The non-reversion policy was removed for small customers in September 2018, giving households and small businesses in regional Queensland the option of returning to Ergon;<sup>25</sup>
- allow the Government to continue to regulate retail pricing for electricity in regional Queensland in accordance with its retail price powers; and

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25 Refer clause 13(2) of the *Electricity and Other Legislation (Batteries and Premium Feed-in Tariffs) Amendment Act 2018*.

26 Refer s.8 of the NERL. A ‘small market offer customer’ (or SMOC) for gas is a small business customer consuming between 400 GJ – 1 TJ per year for gas. Small business customers consuming gas below this threshold and residential customers have a right to a standard contract. SMOCs for gas may be offered a market retail contract in lieu of a standard retail contract. The SMOC regime was not adopted for electricity.

27 The NERL introduces an ‘opt-in’ pre-payment meter regime where retail market contracts must apply. Queensland currently has only one type of pre-payment meter (card operated meters) used by some Ergon retail customers in regional and remote Queensland.

28 In Queensland, small customers who suffer damage or loss due to network issues can apply to their distributor for compensation under informal arrangements. The NERL establishes a more formalised small customer compensation claims regime, which Queensland did not adopt.

29 A ‘small market offer customer’ (or SMOC) for electricity is a small business customer consuming between 40-100 MWh per year.

## Assessing the impact of the NECF

To determine the impact of NECF on customer protection in Queensland, a set of core performance indicators will be used to discern broad trends in consumer outcomes.

The following *customer protection indicators* will be adopted to assess energy retailer performance:

- hardship program customers;
- concession recipients;
- disconnection for non-payment;
- reconnection in the same name;
- instalment/payment plans; and
- security deposits.

Care will be taken not to assess hardship indicators in isolation. For example, an increase in the number of hardship program customers or payment plans might be a positive development if it means retailers have appropriate systems in place to identify vulnerable customers and offer assistance.

The following *customer service indicators* will be adopted to assess retailer and (where possible) distributor performance:<sup>30</sup>

- telephone and written performance; and
- complaints.

Other sources of data will also be considered, including the number of customer complaints to EWOQ. For comparison, the number of EWOQ complaints will also be compared with trends in the level of complaints to the Queensland Ombudsman and other industries (e.g. Telecommunications Industry Ombudsman).

To assist stakeholders to respond to the questions raised in this Discussion Paper, a set of time series data for the chosen indicators, presented in graphical format, are provided in **Appendix 3**.

**Question 6:** Are there any other considerations the Department should have regard to in making an assessment of the NECF on customer protection in Queensland?

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<sup>30</sup> Section 81 of the NERL requires every retailer and distributor to have a standard complaints and dispute resolution procedure. The Department expects to have access to distributor complaints data of sufficient quality for the Review.

# Efficiency

As noted above, a key objective of the NECF is to streamline regulatory requirements and increase efficiency through regulatory harmonisation.<sup>31</sup> Compared to the previous regulatory arrangements, the policy outcomes sought by the NERL include:

- increased retail competition through:
  - increased regulatory certainty (since changing the rules in any NECF jurisdiction requires consideration by all participant States);
  - implementing a national retailer authorisation allowing a retailer to obtain one authority to operate nationally across all participating jurisdictions, rather than separate licences for each state/territory; and
  - lowering barriers to entry in multiple markets which stimulates competition among retailers;
- increased efficiency through:
  - reduced costs to retailers through a harmonised regulatory regime, including compliance costs for retailers operating across State borders.

## Competition

The competitiveness of the Queensland retail energy market will be used as the primary basis for assessing the extent to which the commencement of the NERL (Qld) has achieved allocative efficiency gains.

As noted, the assessment of competition will rely on the outcomes of the AEMC's annual retail competition review and the Department does not propose to undertake its own independent competition analysis.

The AEMC's key findings from its most recent 2018 review are that:<sup>32</sup>

- while competition in the SEQ retail electricity market is strong and continues to evolve, there is more that could be done to ensure the market is delivering desired outcomes for consumers; and
- competition continues not to be effective in both the retail electricity and gas markets in regional Queensland.

A comparison of the findings of the AEMC's competition reviews are summarised in **Appendix 4**.

Since the AEMC's 2018 review indicates that the level of competition in SEQ is at least as high as it was pre-NERL, it is reasonable to conclude that the introduction of the NERL (Qld) has not diminished the level of competition-based efficiency in SEQ. It is less clear whether there is evidence of any increase in competition driven by the introduction of NERL (Qld).

However, the Department acknowledges that it may be difficult to determine whether competition has improved as a result of the NERL (Qld) given the challenges of assessing small changes in competition using standard market indicators, the short period of time since the NECF was introduced (three years), the difficulty in excluding the impact of price deregulation in SEQ from any assessment of the NERL (Qld), and the fact that the full national benefits of the NERL are yet to be realised as the framework is yet to be introduced in Victoria.

For regional Queensland, where competition remains limited, the AEMC concludes that this may be due to the application of the Government's Uniform Tariff Policy which remains a significant barrier to retailer entry in the retail electricity market.<sup>33</sup>

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31 *National Energy Retail Law (South Australia) Bill 2010*, Second Reading Speech, House of Assembly, Parliament of South Australia, 27 October 2010.

32 2018 AEMC Retail Energy Competition Review, Final Report, 15 June 2018.

33 2018 AEMC Retail Energy Competition Review, Final Report, 15 June 2018, p.42.

**Question 7:** Is there any evidence of a change in the level of competitiveness of the SEQ retail energy market as a result of the commencement of the NERL (Qld) (as distinct from the impact of price deregulation in the SEQ retail electricity market)?

**Question 8:** Is there any evidence that the NERL (Qld) has affected the level of competition in regional Queensland?

**Question 9:** Are there any other considerations the Department should have regard to in making an assessment on the extent to which the NERL (Qld) has increased the level of competition in the Queensland retail energy market?

## Operational costs

As most retailers in the NEM operate in more than one state or territory, a key objective of the NECF is to improve the efficiency of the operation of retailers. The underlying premise is that the application of different regulations across jurisdictions forces retailers to maintain state-specific processes, which results in higher costs for consumers and varying outcomes for consumers across the NEM.

The Regulation Impact Statement prepared for the NERL identified the potential for energy retailers to achieve significant savings from the adoption of the NERL.<sup>34</sup> This Discussion Paper seeks advice from retailers on the level of efficiencies achieved, or expected to be achieved, as a result of the adoption of the NERL in Queensland.

It is noted that the NECF has generally been introduced in each jurisdiction with modifications, which has the potential to reduce efficiency gains. The AEMC argues that the approach of jurisdictions adopting NECF with modifications can act to restrict entry where retailers seek to expand across multiple jurisdictions, through increasing compliance and systems costs. The ACCC has recommended that NECF jurisdictions review their derogations and unwind any derogations that are

not based on jurisdiction-specific characteristics or needs that cannot be met by NECF-wide rules.<sup>35</sup>

The Queensland specific modifications to the NERL were considered to represent a reasonable balance between the views of stakeholders. At the time, modifications were only included where they would provide a net benefit and were restricted to ensure the overall efficiency benefits of applying the regime are not undermined.<sup>36</sup> The Review will consider the extent of the derogations to the NERL to determine whether they have materially affected retailer operational costs. A summary of the state-specific modifications is provided in **Appendix 2**.

It could be considered that monitoring changes in retailer (profit) margins might also be a way of determining changes in retailers' costs. The ACCC undertook a comprehensive analysis of retail electricity cost components (network, wholesale energy, environmental, retail cost and retail margin) as part of its Retail Electricity Pricing Inquiry. The ACCC found that, on average, Queensland electricity prices have the lowest retail margin of any jurisdiction in the NEM, comprising only 3 per cent of the average residential customer bill in 2017-18.<sup>37</sup> Given the retail margin comprises only a small proportion of the total cost stack, any further analysis of retailer margins in Queensland is not considered necessary for this Review.

**Question 10:** Has the commencement of the NERL in Queensland led to efficiency gains for energy retailers?

**Question 11:** Is there any evidence that the state-specific modifications to the NERL have affected, positively or negatively, the potential efficiency gains sought through the NECF?

**Question 12:** Are there any other considerations the Department should have regard to in making an assessment on the extent and nature of efficiencies resulting from the implementation of the NERL (Qld)?

<sup>34</sup> Ministerial Council on Energy Standing Committee of Officials, Regulation Impact Statement, *A National Framework for Regulating Electricity and Gas (Energy) Distribution and Retail Services to Customers* (NERL RIS), July 2009, p.11.

<sup>35</sup> ACCC Retail Electricity Pricing Inquiry – Final Report, June 2018, recommendation 27, p.xxi.

<sup>36</sup> Explanatory Notes to the *National Energy Retail Law (Queensland) Bill 2014*, p.4.

<sup>37</sup> ACCC Retail Electricity Pricing Inquiry – Final Report, June 2018, p.8.

# Future retail market reforms

A range of actions and initiatives, at state and national level, are currently being, or have already been, undertaken to give customers increased transparency about their bills and make it easier to understand and compare offers.

This includes a range of recent regulatory changes, including:

- The AEMC has made a number of new national electricity rules which require retailers to give customers more information about future price changes and changes to fixed benefits on market contracts (e.g. price discounts). These requirements are designed to reduce bill shock for consumers and encourage customers to shop around.
- The AEMC has also made a new rule to prevent retailers from discounting off inflated market rates. The rule will make it less confusing for consumers to compare offers and determine whether they would be better off compared to what they are paying now.
- The AER has revised its *Retail Pricing Information Guidelines* to improve the way retailers present their offers. From 1 October 2018, retailers are required to publish a comparison pricing table for each offer, including estimated bills for three standard household usage profiles. These changes are designed to help customers more easily compare products, even where individual components vary.<sup>38</sup>
- The Commonwealth Government has directed the ACCC to monitor and report on prices, profits and margins in the supply of electricity in the NEM. Reports are to be provided at least every six months until 2025, with the first report due to government by 31 March 2019. This will increase transparency around prices and allow the ACCC to monitor whether the market is working in the interests of customers and assess whether policy changes are delivering benefits for consumers.<sup>39</sup>

The Department is interested in feedback from interested parties on options for further retail market reforms and actions that could be taken to maximise the effectiveness of the NECF and improve outcomes for consumers. Potential options the Department is keen to explore include:

- Additional ways to address public concern about the confusing nature of percentage-based discounting, which can make it difficult for some customers to compare offers.<sup>40</sup>
- Ways in which retailers could be more proactive in ensuring customers are on the best deal for their circumstances, particularly those that are still supplied on the higher-priced standing offers. For example:
  - Should retailers be required to contact all standing offer customers on an annual basis to provide updated advice on alternative lower cost market contracts?
  - Should the Victorian requirement for retailers to include their lowest generally available offer in customers' bills and notices be adopted?<sup>41</sup>
- Options to assist vulnerable customers to compare offers, in addition to consumer education and awareness campaigns. In particular, the Department is keen to explore the potential merits of a not-for-profit brokerage service to assist customers to find the best deal for them, and any other options to make information more accessible (for non-IT savvy customers).
- Pre-payment electricity meters and whether these could assist certain customers to better manage their electricity bills and usage.

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38 The current version of the AER *Retail Pricing Information Guidelines* is available on the AER website - <https://www.aer.gov.au/retail-markets/retail-pricing-information>.

39 <https://www.accc.gov.au/media-release/accc-to-monitor-and-report-on-electricity-prices>

40 The Department is keen to explore other options to address issues around percentage-based discounting other than the ACCC's recommendation to reintroduce a regulated price (default market offer).

41 The new rule will apply from 1 July 2019 – refer [www.esc.vic.gov.au](http://www.esc.vic.gov.au) for more information.

**Question 13:** Should retailers be required to contact all standing offer customers on an annual basis to provide updated advice on alternative lower cost market contracts?

**Question 14:** Would the Victorian requirement for retailers to include their lowest generally available offer in customers' bills and notices be of benefit to Queensland consumers?

**Question 15:** Are there any other options that the Department should consider to make it easier for customers to understand and compare offers?

**Question 16:** How could a 'not for profit brokerage service' work best in Queensland? How could it be funded? Should it only apply to vulnerable customers?

**Question 17:** Are there any other options or mediums (other than the internet) that could be used to provide a similar service to a broker arrangement?

**Question 18:** Are there other ways to make the energy market a more level playing field for low income and vulnerable or disadvantaged households?

## Not for profit brokerage service

A customer's ability to compare offers using a price comparison website is dependent on having internet access. Households that are least likely to have access to the web (or have limited data access), and therefore to comparison websites, are also often the most vulnerable: low income, vulnerable or disadvantaged households.

The energy market contains a complex array of prices, tariffs, discounts and contract terms and conditions. Without access to a comparator website, identifying the best market offer for a particular consumer's situation may require high level complicated data analysis available only to those customers who have the interest and skill levels required to undertake such assessments.

Vulnerable or disadvantaged households may find such assessments overwhelming. They may also find themselves excluded from more financially beneficial energy offers that may require a certain level of income, access to technology and/or credit to access (e.g. direct debit deals, internet-only deals and pay-on-time discounts). They may therefore be discouraged from investigating these types of options further.

A 'not for profit brokerage service' concept has been proposed as one way to address the disadvantages that low income and vulnerable or disadvantaged households may face when trying to find and access cheaper and more appropriate energy deals.

## Pre-payment meters

As mentioned, Queensland chose not to implement the NECF 'opt-in' pre-payment (pre-paid) meter regime. Queensland currently has only one type of pre-payment meter (card operated meters) used by some Ergon retail customers in regional and remote Queensland.

As the NECF has now been in place for three years, the government is keen to reassess the potential benefits and suitability of pre-payment meters for Queensland customers.

Pre-paid electricity meters work in a similar way to pre-paid phones, i.e. the consumer pays for a certain amount of credit and then uses electricity at a given rate until that credit is used up. The potential benefits to consumers of using pre-paid electricity meters include:

- the consumer can keep a track of exactly when they are using power and when their greatest needs are;
- their use can increase the consumer's knowledge of how and where they are using electricity making it easier to identify areas of savings and to improve their electricity-use practices;
- the potential exists to use systems that can alert the consumer (daily) to when their credit level is getting low or when their electricity consumption suddenly increases;
- the technology exists for payment to occur using tokens, or, via credit card or direct debit system.

There is also a potential benefit to electricity suppliers using pre-paid electricity meters where they may experience a reduction in outstanding debts owed by customers and therefore a reduction in the overheads associated with the administration and collection of such debts.

If Queensland was to 'opt in' to the pre-paid meter framework under NECF, the Department is interested in whether the existing protections framework is considered adequate, especially in relation to options available for vulnerable customers.

## Fast track digital meters to vulnerable households

From 1 December 2017, all new electricity meters for residential and small business customers are required to be digital meters. This means that older-style meters will be phased out and replaced over time until all meters are digital. While, the introduction of digital meters, is not part of NECF, these meters provide a stronger level of support to consumers. Retailers generally offer more frequent billing (monthly as opposed to current quarterly billing) enabling consumers to better understand and manage their energy usage. The ACCC Retail Pricing Inquiry Report notes the value of digital (smart) meters and have recommended<sup>42</sup> that the roll-out continues at an acceptable pace and that customers receive the full benefit of this technology.

**Question 19:** Do you think allowing the introduction of pre-payment meters in Queensland would assist customers to better manage their electricity bills and usage? And if so, why?

**Question 20:** Should the implementation of digital meters (and monthly billing) be fast-tracked for vulnerable customers?

## Overall assessment

The Review will attempt to make a finding as to whether the overall operation of the NECF has furthered the interests of Queensland energy consumers. The Review will also seek to identify any further action that could be taken by government, industry and/or consumer groups to maximise the benefits of the NECF and further improve outcomes for consumers.

**Question 21:** Do you consider that the overall operation of the NERL (Qld) has furthered the interests of Queensland energy consumers? If so, please specify why, or why not.

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<sup>42</sup> Recommendation 15

# Next Steps

Interested parties are invited to lodge a written submission in response to any or all of the questions raised in this Discussion Paper.

Stage	Timing
Discussion Paper released	25 January 2019
Public consultation	Until 22 March 2019
<b>Final Report tabled in Parliament</b>	Mid-2019

## Invitation for feedback

The Department invites written submissions from all interested parties and members of the community on the Discussion Paper. Written comments should be provided by **Friday, 22 March 2019**. The Department will take account of all submissions received by the due date.

You can send your comments to:

Energy.Reform@dnrme.qld.gov.au

[Subject line should read: Review of the NERL – Discussion Paper – <add name here>]

or

Review of the NERL in Queensland – Discussion Paper

Consumer Strategy and Innovation

Department of Natural Resources, Mines and Energy

PO Box 15456

City East Qld 4002

As this is a public consultation process, the Queensland Government is committed to openness in its considerations of public policy. For this reason, written comments and submissions may be published on the Department's website. Please mark clearly any comments or information you wish to be kept confidential.

# Appendix 1

## Information requirements for the Review

The quantitative information requirements for the Review are outlined in the following table. As indicated in the Discussion Paper, the majority of information is intended to be sourced from public reports, in an effort to limit data to be directly sourced from energy retailers and distributors.

Indicator	Publicly available	Source
<b>Customer Protection</b>		
Retailer:		
<ul style="list-style-type: none"> <li>hardship program customers</li> </ul>	Yes	QCA, AER
<ul style="list-style-type: none"> <li>number of concession recipients</li> </ul>	Yes <sup>43</sup>	Queensland Government
<ul style="list-style-type: none"> <li>disconnections</li> </ul>	Yes	QCA, AER
<ul style="list-style-type: none"> <li>reconnections</li> </ul>	Yes	QCA, AER
<ul style="list-style-type: none"> <li>instalment/payment plans</li> </ul>	Yes	QCA, AER
<ul style="list-style-type: none"> <li>security deposits</li> </ul>	Yes	QCA, AER
<ul style="list-style-type: none"> <li>telephone and written responsiveness</li> </ul>	Yes	QCA, AER
<ul style="list-style-type: none"> <li>complaints</li> </ul>	Yes	QCA, AER
Distributor:		
<ul style="list-style-type: none"> <li>complaints</li> </ul>	No	Distributors
External factors:		
<ul style="list-style-type: none"> <li>energy prices (electricity and gas)</li> </ul>	Yes	QCA, AEMC, AER
<ul style="list-style-type: none"> <li>level of concessions/rebates</li> </ul>	Yes	Queensland Government Gazette
<ul style="list-style-type: none"> <li>average energy consumption</li> </ul>	No	Distributors
<ul style="list-style-type: none"> <li>household incomes</li> </ul>	Yes	ABS
<ul style="list-style-type: none"> <li>Gross State Product</li> </ul>	Yes	ABS
<ul style="list-style-type: none"> <li>unemployment rate</li> </ul>	Yes	ABS
<ul style="list-style-type: none"> <li>complaints to EWOQ</li> </ul>	Yes	EWOQ Annual Report
<ul style="list-style-type: none"> <li>complaints to Queensland Ombudsman</li> </ul>	Yes	Queensland Ombudsman Annual Report
<ul style="list-style-type: none"> <li>complaints to Telecommunications Industry Ombudsman</li> </ul>	Yes	Telecommunications Industry Ombudsman Annual Report
<b>Efficiency</b>		
Efficiencies achieved by retailers	No	Retailers
Level of competitiveness in the Queensland retail energy market	Yes	AEMC, AER

<sup>43</sup> This figure is often publicly referred to by Government, but is not routinely published.

# Appendix 2

## Key small customer protections under the NERL and NERR<sup>44</sup>

Provision	Section	Queensland Modification <sup>45</sup>	Short Explanation
<b>National Energy Retail Law (NERL)</b>			
Obligation to make offer to small customer	22		A retailer must make an offer to a small customer for whom it is the designated retailer at the standing offer price.
Standing offer price for electricity to match notified price	22A(2)	Yes	If there are notified prices for small customers under the Electricity Act, a retailer's standing offer prices must be the notified prices.
New fees and charges on standing offers for electricity	22A(4)	Yes	No new types of fees and charges on standing offers for electricity for the first four years of deregulation in SEQ (i.e. until 30 June 2020).
Variations to standing offers	23		Sets out obligations on retailers in relation to publishing and varying standing offer prices.
	23(9)(a)	Yes	An electricity retailer cannot vary the standing offer price for one year following deregulation in SEQ, unless the variation is to lower the price.
	23(9)(b)	Yes	An electricity retailer must give customers at least 10 business days' notice of any standing offer price increase.
	23(9)(c)	Yes	An electricity retailer may reduce its standing offer price at any time.
Retailer may make market offer to certain small customers	31		A gas retailer may fulfil its obligation to make a standing offer to a small market offer customer (SMOC) by offering a market retail contract.

<sup>44</sup> Unless specified, the customer protections contained in this table relate to both electricity and gas.

<sup>45</sup> Core NECF provisions are contained in the *National Energy Retail Law (South Australia) Act 2011* of South Australia and the National Energy Retail Rules. The Queensland specific modifications are contained in the *National Energy Retail Law (Queensland) Act 2014* and the *National Energy Retail Law (Queensland) Regulation 2014*.

Provision	Section	Queensland Modification <sup>45</sup>	Short Explanation
Explicit informed consent for certain transactions	38		A retailer must obtain the explicit informed consent of a small customer for certain transactions, including entry into a market retail contract, or the transfer of a customer to the retailer from another retailer.
Customer hardship	43-49		Obligation on all retailers to have a customer hardship policy, and to inform a customer of the retailer's hardship policy where it appears that non-payment of a bill is due to financial hardship. <sup>46</sup>
Payment plans	50-52		Retailers must offer and apply payment plans. A retailer cannot commence debt recovery proceedings if the customer adheres to the payment plan or the retailer has not complied with the relevant requirements.
Card-operated meters	Part 2, Division 10A	Yes	Extends the terms and conditions for standard contracts to card-operated meter customers for electricity.
AER price comparator	62-63		Outlines the purpose and function of the AER's online price comparator.
Customer complaints and disputes	81		Every retailer and distributor must develop and publish on its website a set of procedures for handling small customer complaints and disputes.
Access to energy ombudsman	83		A small customer may make a complaint or refer a dispute about a relevant matter concerning the customer and a retailer or distributor, to the energy ombudsman.
Exempt seller regime	Part 5		Sets out the framework for the authorisation of retailers and the exempt seller (on-supply) regime.
<b>National Energy Retail Rules (NERR)</b>			
Bill smoothing	23		Bill smoothing arrangements for customers on standard retail contracts.
Frequency of bills	24(1)		Energy bills must be issued at least once every 100 days, for customers on standard retail contracts.

<sup>46</sup> On 15 November 2018, the AEMC released a final Rule to strengthen hardship provisions through binding hardship policy guidelines.

Provision	Section	Queensland Modification <sup>45</sup>	Short Explanation
Information on bills	25		Prescribes the information to be included on energy bills for standard and market retail contracts, including rebates and benchmarking information.
'Pay by' date for bills	26		For standard retail contracts, the 'pay by' date for an energy bill must not be earlier than 13 business days after the bill issue date.
Payment of bill the subject of a customer dispute	29(4)		A customer is only required to pay the lesser of (i) the portion of the bill not in dispute, or (ii) the equivalent of the average bill for the previous 12 months. This provision applies to standard and market contracts.
	29(5)		Prevents retailers from charging customers for meter tests upfront.
Variation to market offer price	46(4)	Yes	A retailer must give customers on a market retail contract at least 10 business days' notice of any price increase. <sup>47</sup>
Retailer notice of benefit change	48A		If a market retail contract includes a benefit change, the retailer must notify the small customer of each benefit change. Notice must be given no earlier than 40 business days and no later than 20 business days before the benefit change date.
Early termination fee for market contracts	49A(1)	Yes	Early termination charge (exit fee) for a fixed term market retail contract or a fixed benefit period can be no more than \$20.
Limit on early termination charge	49B	Yes	A retailer must offer at least one market retail contract that has no early termination charge.
Interruptions to supply	Part 4, Division 6		Outlines requirements for distributor interruptions to supply, including the requirement to provide at least 4 business days' notice for a planned interruption.

<sup>47</sup> The ongoing need for this derogation will be considered as part of this review.

<b>Provision</b>	<b>Section</b>	<b>Queensland Modification<sup>45</sup></b>	<b>Short Explanation</b>
Contents of disconnection warning notice	110(2)(c)	Yes	A disconnection warning notice for a small customer must include, among other things, information on government-funded energy rebates, concessions or relief schemes.
De-energisation of premises with life support equipment	116(1)(a)		A retailer cannot de-energise the premises of a small customer if the premises is registered as having life support equipment.

# Appendix 3

## Time series data for customer protection indicators

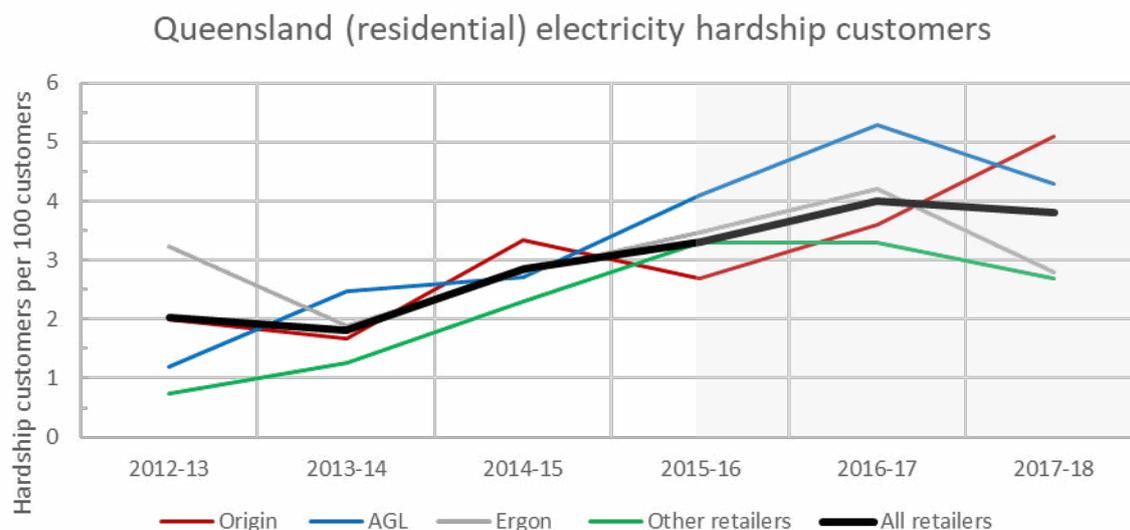
This appendix provides graphs for a selection of the customer protection indicators to be monitored for the Review. Each graph is based on publicly available information published by the Australian Energy Regulator (AER) and the Energy and Water Ombudsman Queensland (EWOQ).

To provide the greatest representation of customer experiences, the graphs are presented according to the following retail groupings:

- the two largest retailers in SEQ – Origin and AGL;
- the largest retailer in regional Queensland – Ergon;
- remaining retailers;
- all retailers combined.

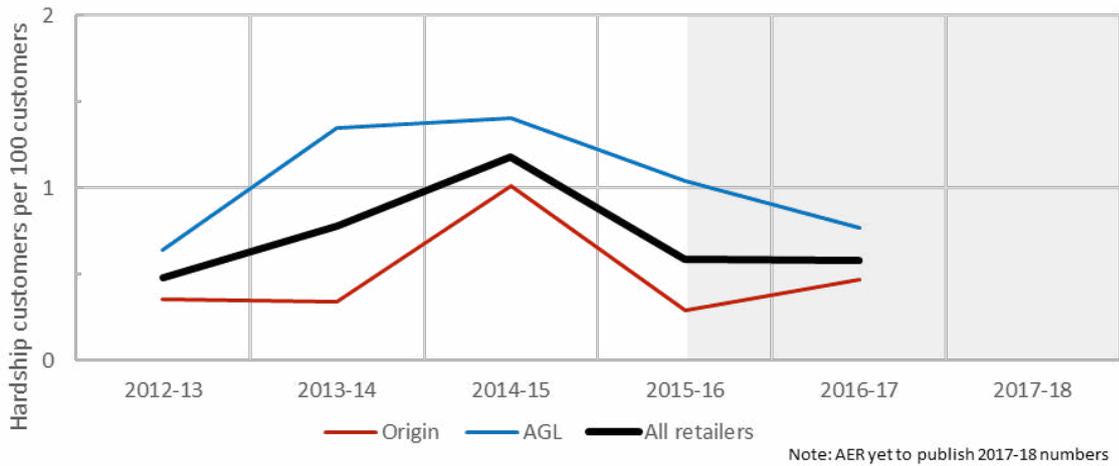
Shading on each graph indicates the post-NECF period in Queensland.

### Hardship indicators<sup>48</sup>

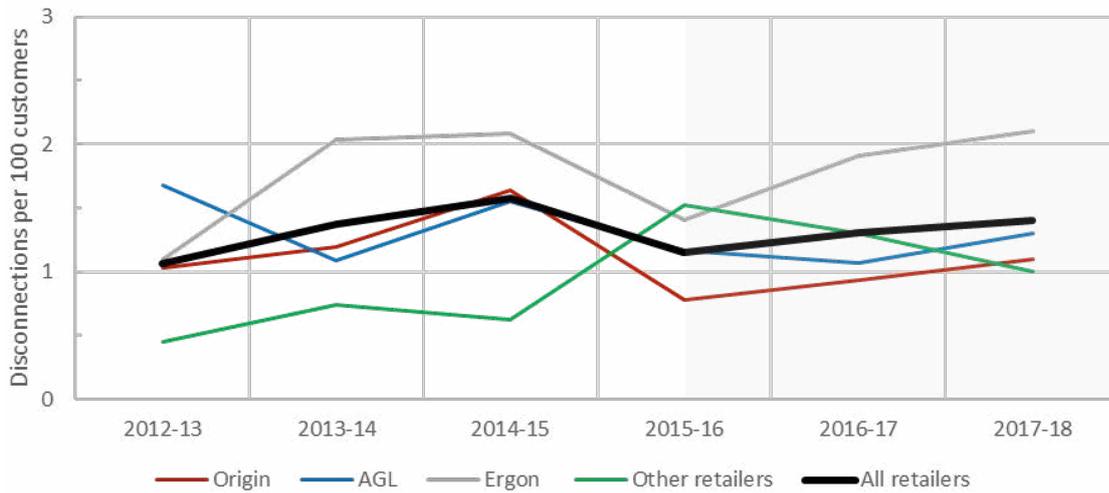


<sup>48</sup> Data for the 2016-17 financial year is based on the first three quarters only.

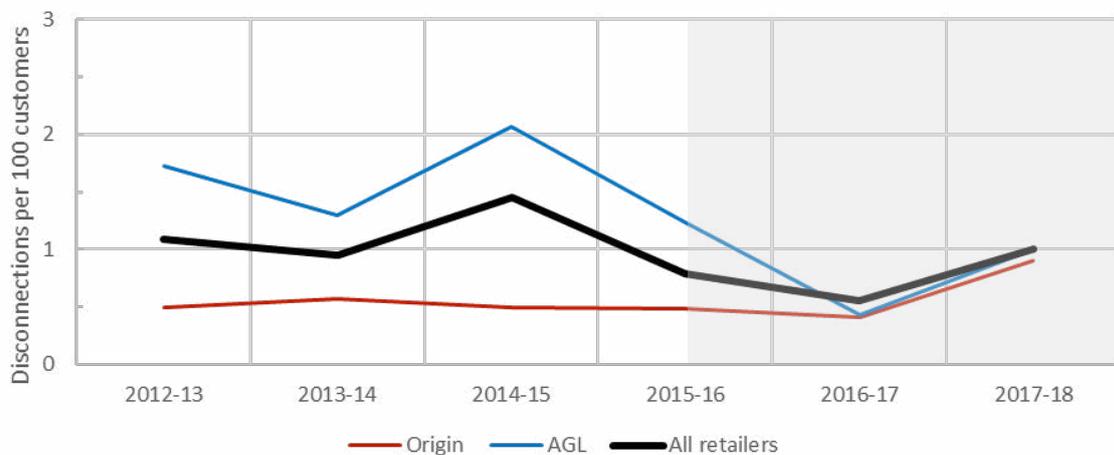
Queensland (residential) gas hardship customers



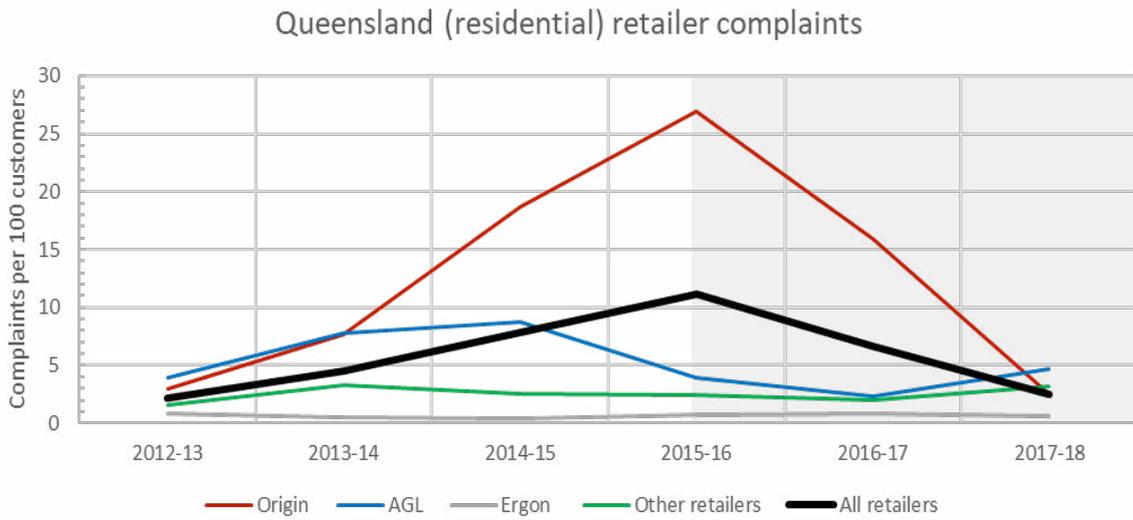
Queensland (residential) electricity disconnections



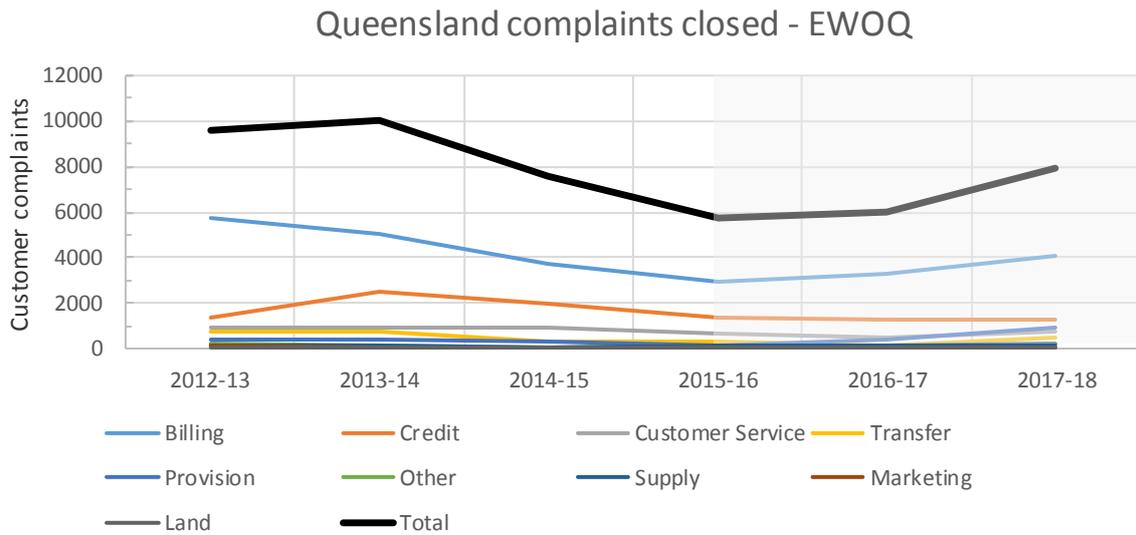
Queensland (residential) gas disconnections



**Customer service indicator**



**Energy and Water Ombudsman Queensland (EWOQ)**



# Appendix 4

## Summary of AEMC retail competition review findings

This appendix discusses the results of the AEMC's 2018 review of energy retail competition in the NEM in the context of the 2015 (pre-NECF) review of the level of competitiveness of the Queensland retail energy market. The summary focuses on those aspects of the reviews that are of most relevance to the review of the NERL.

The AEMC's retail competition reviews were initially undertaken to support the commitment made by jurisdictions in 2004<sup>49</sup> to deregulate retail energy prices where effective competition could be demonstrated.

The key competitive market indicators used by the AEMC in both the 2015 and 2018 reviews include:

- level of customer activity in the market;
- customer satisfaction with market outcomes;
- barriers to retailers entering, expanding or exiting the market;
- degree of independent rivalry; and whether retail energy prices are consistent with a competitive market.

Both analyses use market and retailer data, quantitative consumer research, a retailer survey and stakeholder feedback.

## Comparison of key findings

Prior to the commencement of the NECF in Queensland in 2015, the AEMC found competition was effective in the SEQ retail electricity market.<sup>50</sup> Competition was less intense in the retail gas market and due to the small size of the market and the tightening demand and supply conditions in the wholesale gas market, competition was not expected to materially improve. Effective competition was also yet to emerge in regional Queensland in both the retail electricity and gas markets. In the electricity market, competition was limited due to the means by which the Government's Uniform Tariff Policy (UTP) was implemented, making it difficult for other retailers to enter the market at a competitive price.<sup>51</sup>

Overall, the findings of the AEMC's 2018 Retail Energy Competition Review are similar to the 2015 review. While neither report identifies the NECF as an issue for the competitiveness of the Queensland energy market, the 2018 review found an increasing divergence away from national frameworks due to additional regulations being put in place by some jurisdictions. Retailers suggest that incremental changes across jurisdictions create costs and barriers, as they are required to operate under different rules and regulations. The AEMC notes that jurisdictions should consider harmonising their energy customer protection arrangements so barriers and costs for existing and new retailers are minimised.<sup>52</sup>

Below is a summary of the AEMC's findings according to the key competitive market indicators.<sup>53</sup> Care should be taken not to consider indicators in isolation, as no single measure captures all of the information about the effectiveness of competition in retail energy markets.

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49 Refer clauses 14.11 to 14.13 of the Australian Energy Market Agreement

50 2015 AEMC Retail Competition Review, Final Report, 30 June 2015

51 The UTP subsidy is provided to government-owned retailer, Ergon and is not available to other retailers.

52 2018 AEMC Retail Energy Competition Review, Final Report, 15 June 2018, p.31.

53 Unless it is stated that regional Queensland or the gas market is being referred to, all references in this summary are to the SEQ retail electricity market.

## Customer activity

Switching rates are often used as a measure of the effectiveness of competition however, it needs to be assessed in conjunction with other indicators. For example, high levels of switching combined with a lack of price dispersion and low consumer satisfaction would not point to an effectively competitive market delivering improved outcomes for consumers. For this reason, the AEMC considers data from the Australian Energy Market Operator (AEMO) on switching rates together with consumer responses to its survey.

Small customer switching numbers tend to vary up and down over time, responding to factors such as the level of market campaigning. In recent years, the average switching rate in SEQ has increased from around 15 per cent in 2015 to approximately 25 per cent in 2018, just below Victoria at 27 per cent. Victoria, where full retail competition and deregulation has been in place the longest, tends to have the highest switching rates in the NEM. However, the data alone does not show the extent to which customers were *actively* choosing new offers, as opposed to being shifted to a new contract by their retailer when their existing contract expired.

## Customer satisfaction

Competition is only effective when it leads to better outcomes for consumers compared to if no competition exists. The AEMC measures the effectiveness of competition as it relates to consumer outcomes by the level of, and changes in, consumer satisfaction and complaints, and by examining the margins of retailers.

Consumers are asked about their levels of satisfaction with competition, their retailer, value for money and customer service. Trends in customer complaints were also assessed.

In the AEMC's 2018 review, around 63 per cent of SEQ residential customers said they were satisfied with their current retailer, compared to 62 per cent in 2015. Around 53 per cent of residential customers said they were satisfied with the level of competition, compared to 48 per cent in 2015.

Customer satisfaction with value for money has increased. In 2015, 47 per cent of residential customers in SEQ rated the value for money provided by their retailers as 7 out of 10 or higher, which was slightly less than the NEM average. In 2018, 50 per cent of residential customers rated value for money as 7 out of 10 or higher.

## Barriers to entry and expansion

Competition will generally be high in markets where there are low barriers to retailer entry and expansion in the market, and a high degree of independent rivalry between service providers.

Prior to the 2015 review, the fact that the NECF had not been implemented in Queensland and the lack of clarity around the Queensland policy position on the NECF was considered a barrier for retailers looking to enter the Queensland market. In the AEMC's 2016 competition review, several retailers welcomed the adoption of the NECF in Queensland on 1 July 2015 as a positive step in reducing barriers to entry and expansion.

In the 2015 review, retail price regulation was also cited as a key factor affecting entry and expansion in the SEQ retail electricity market. In 2015, there was evidence of rivalry between the 11 retailers active in the SEQ market. The AEMC concluded that further retailer activity and product differentiation may occur over time if price regulation is removed.

By July 2018, two years after deregulation, a number of new energy service providers have entered the SEQ market utilising technology, digital platforms and software solutions to create simple service offers for consumers. There are now 20 retailers operating in SEQ, with eight new retailers entering the market since the removal of price regulation.<sup>54</sup> As a result, market concentration in SEQ has fallen slightly as smaller (second tier) retailers increased their market share from 8 per cent in 2015 to 14 per cent in 2017. Customer switching activity has also increased in Queensland, with higher switching rates from the three largest retailers to the smaller second tier retailers in 2017. This is a reversal of the trend observed in 2015. Despite this, the AEMC notes that volatile wholesale prices and a lack of liquidity in the contracts market remains a barrier to entry or expansion for some small retailers.

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54 Based on analysis of the AER's Energy Made Easy website in July 2018.

It is not clear the extent to which the adoption of the NECF may have contributed to an increase in retail competition in SEQ, as distinct from the impact of price deregulation. Many of the issues raised in the 2017 and 2018 reviews about wholesale market conditions were also raised in the years preceding NECF, indicating that these issues are unlikely to be NECF related.

For regional Queensland, as in previous years, the key barrier to entry remains the application of the Government's Uniform Tariff Policy.

## Information asymmetries

The AEMC's 2018 review found that the majority of Queensland energy customers are aware that they can choose their energy retailer and plan, however across jurisdictions there was very low awareness of price comparator websites, particularly independent ones maintained by governments or regulators, such as the AER's *Energy Made Easy* website.

Prior to July 2015, awareness of the QCA's price comparator website was also quite low. Even when prompted, only 14 per cent of residential customers and 8 per cent of small business customers in SEQ had heard of the QCA's comparison service.

In 2018, customer awareness of independent comparator websites still remains low at only 13 per cent in SEQ, although this is higher than the NEM average. The AEMC found that those customers who used a comparator website were significantly more aware of the choices available to them and were more confident they could find the right information to choose an energy plan, reinforcing the importance of price comparator tools in assisting customers to find the best deal for them.

The lack of awareness of independent comparator websites could be considered a surprising outcome given most consumers have access to the internet.<sup>55</sup> Type the words 'electricity price comparison Queensland' into a popular search engine and *Energy Made Easy* is the eighth web link listed, the fourth after paid advertisements. The Queensland Government also ran a mass market television, radio and digital advertising campaign during 2016-17 encouraging consumers to compare offers using the *Energy Made Easy* website.

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55 According to the ABS, only 14 per cent of Australian households do not have access to the internet (2016-17).

## Energy price movements

The level of energy prices is an important competition indicator. Generally, where competition is effective, retail prices reflect the efficient costs of supplying the product. These efficient costs decrease over time as retailers strive to improve their competitive position by making efficiency gains. However, retail price outcomes are not solely the result of competition – they are also influenced by the demand for the product, and the underlying cost of supply.

Retail margins, or the difference between retail prices and the marginal cost of supply, can also provide an insight into the state of competition, but margins are not easily identified or measured. The AEMC concedes it is difficult to estimate margins with any certainty, as it is heavily dependent on the assumptions used.

The 2018 ACCC inquiry into retail electricity supply and pricing did attempt to examine whether retail costs and (profit) margins are commensurate with the level of cost and risk faced by retailers throughout the NEM. The inquiry found that retail costs have increased in the past 10 years across the NEM, particularly the costs dedicated to acquiring customers. Fundamentally, these costs are driven by retailers' competitive efforts to win and retain customers, which ordinarily should be expected to drive efficiencies and lower costs, benefiting consumers and enable smaller retailers to compete. According to the ACCC, the challenge is to identify ways to promote competitive behaviour between retailers, driving lower prices for consumers, while also driving efficiencies in customer acquisition and retention costs.

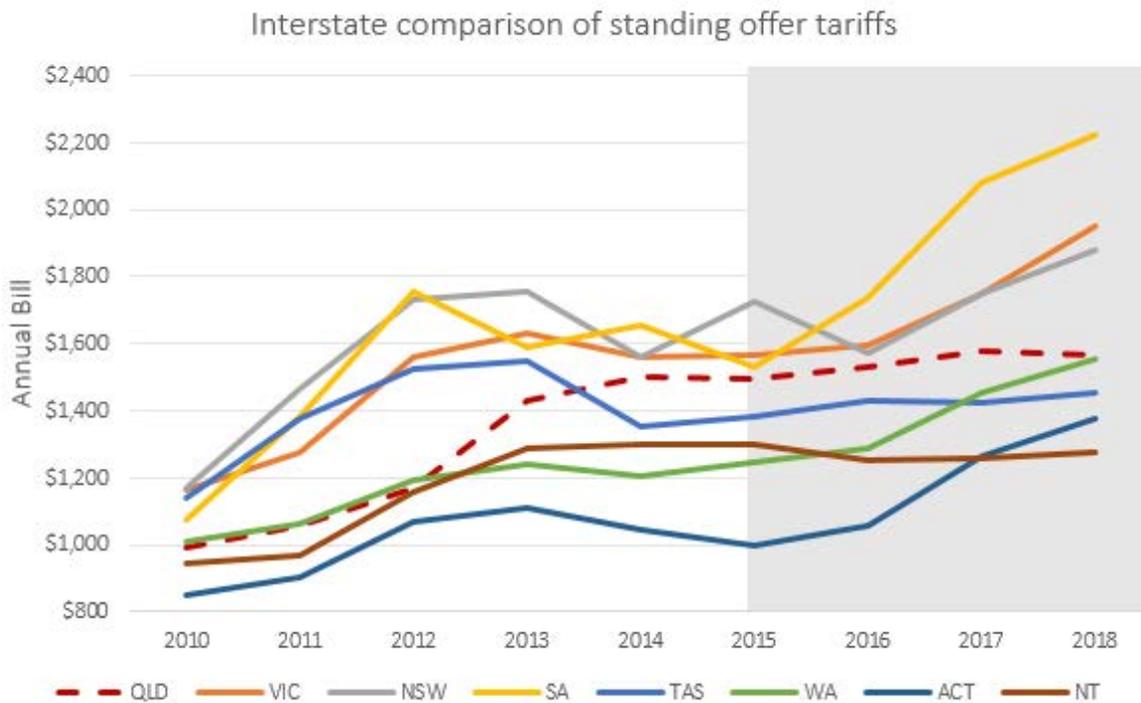
Market research indicates that most customers change retailer or plan primarily to obtain a better price, which is consistent with the AEMC's pre-NECF research findings. In 2015, the AEMC found evidence of strong price-based competition in SEQ. A customer comparing flat rate market offers through the QCA's price comparator website could find an offer that is as much as \$250 a year cheaper than the most expensive.

In 2018, discounting still remains the dominant form of price-based competition. According to the AEMC, other forms of discounting have been relatively slow to develop, partly due to the absence of digital metering. However, there are indications that retailers are diversifying and offering customers more varied products and better priced deals.<sup>56</sup>

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<sup>56</sup> 2018 AEMC Retail Energy Competition Review, Final Report, 15 June 2018, p.vi.

Of particular importance to the NERL Review is the movement in average prices around the start of the NECF in Queensland. In recent years, retail energy prices have been driven by increases in network and wholesale energy market costs that are unrelated to the state of competition within the retail energy sector itself.



Note: Annual load is based on a typical Queensland customer (4,184 kWh) on a standard domestic tariff (inc GST). The chart does not represent a comparison of bills paid in each state, rather a comparison of the rates paid. The standing offer rate for Queensland is based on the QCA's regulated regional rate, which is based on SEQ costs and broadly consistent with the standing offers of the two largest retailers in SEQ (AGL and Origin).



