

6 Electricity

Government electricity reform commitments are set out in the Agreement to Implement the National Competition Policy and Related Reforms, the Competition Principles Agreement (CPA) and other agreements on related reforms for the electricity sector (electricity agreements). Under the electricity agreements New South Wales, Victoria, Queensland, South Australia, Tasmania and the ACT have committed to establishing of a fully competitive national electricity market (NEM) featuring a national wholesale electricity market and an interconnected electricity grid. Specific objectives set out in the electricity agreements for a fully competitive NEM include:

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

The CPA obliges all state and territory governments to undertake structural reform and legislation review in the electricity sector.

Arising from the 2004 National Competition Policy (NCP) assessment, the major outstanding commitments for the NEM jurisdictions relate to addressing identified deficiencies in the NEM and to maximising the potential for competition in electricity retail markets. Some NEM jurisdictions also have specific outstanding electricity commitments: South Australia—inconsistent intra-NEM approval arrangements; Tasmania—entry into the NEM; and Queensland—full retail contestability. Western Australia and the Northern Territory have yet to complete all reforms which they committed to under the CPA in the area of structural reform and legislation review and reform.

The national electricity market: recent progress

On 30 June 2004, all Australian governments signed the Australian Energy Market Agreement. The agreement gives effect to the recommendations of the

Ministerial Council on Energy stemming from the COAG Energy Market Review 2002 (the Parer review). The following are key elements of the agreed reform package, along with progress to date:

- *Governance*—the Ministerial Council on Energy subsumed the National Electricity Market Ministers Forum to become a single energy market policy body.
- *Economic regulation*—the Australian Energy Market Commission with responsibility for rule making and market development, and the Australian Energy Regulator with responsibility for market regulation (other than retail pricing) and enforcement, have been created. By the end of 2006 these institutions will have replaced 13 (mainly state based) bodies.
- *Electricity transmission*—in May 2005, the Ministerial Council on Energy announced that it would provide the Australian Energy Market Commission with rule changes it had developed to implement a new NEM transmission planning function, a process for assessing wholesale market regional boundaries and principles concerning the regulatory test for transmission investment. The National Electricity Market Management Company (NEMMCO) developed and implemented the Annual National Transmission Statement. NEMMCO published its first statement in July 2004. A revised regulatory test for investment in transmission has also been implemented.
- *User participation*—the Ministerial Council on Energy released a User Participation Policy Statement in August 2004. Its aim is to improve efficiency in the energy sector by increasing end user participation through initiatives that include: improving consumer advocacy arrangements; removing regulatory, market and technical impediments to user participation; and improving end-user awareness of demand side opportunities. (For details on progress related to user participation issues see the section on retail market competition, p. 6.4.)

In addition to reforms coordinated at the national level, Victoria is seeking to remove unnecessary state-specific regulations. It is, for example, reviewing the rationale for its cross-ownership, based on evidence that vertical integration between generators and retailers in the electricity market can reduce the cost of risk management for companies and consumers without reducing the level of competition between generators and between retailers. Victoria released an issues paper on this matter in December 2004 and expects decide on the future of the cross-ownership laws in 2005.

Outstanding NEM related commitments relevant to South Australia and Tasmania are discussed below.

South Australia—licensing arrangements

In its 2003 and 2004 NCP assessments, the National Competition Council expressed concern about the potential for overlap between the NEM regulatory processes for new interconnects and South Australia's licensing requirements for new transmission companies. This issue arose in the context of the South Australia–New South Wales interconnect project, which was approved through NEM regulatory processes but also subject to a customer benefits test under South Australian licensing arrangements. The Council considered that implementation of the new governance arrangements and regulatory harmonisation under the Ministerial Council on Energy's reform program would likely address any potential problems. (As discussed, both the Australian Energy Market Commission and the Australian Energy Regulator have been established.)

South Australia considers that it does not need to change its licensing arrangements. The South Australian Government advised that it is continuing to work with other jurisdictions in relation to transmission policy at the national level, with transmission licensing remaining a state responsibility. The Essential Services Commission of South Australia (ESCOSA)—an independent regulatory body—is responsible for licensing. Under the *Electricity Act 1996* (SA), ESCOSA must ensure that licence holders are suitable to operate an electricity business and that their licensing proposals are compatible with public safety and network security requirements. The *Essential Services Commission of South Australia Act 2002* also requires it to determine whether a licensing proposal is in the long term interests of South Australian consumers in relation to the price, quality and reliability of essential services. ESCOSA's decisions on licensing matters are subject to appeal to the District Court of South Australia.

Differing approaches to regulation across jurisdictions can distort investment decisions and create unnecessary costs. In recognition of such costs South Australia and other NEM jurisdictions committed to harmonising regulatory arrangements across jurisdictions. The new regulatory arrangements, which will see the Australian Energy Market Commission and the Australian Energy Regulator take responsibility by the end of 2006 for most of the rule making, market development and regulation, will likely address regulatory inconsistencies such as that encountered in the South Australia–New South Wales interconnect.

Tasmania—national electricity market participation

On 29 May 2005, Tasmania entered the NEM after having met all 121 preconditions for its entry, which involved implementing a suite of structural, regulatory and transitional arrangements. Tasmania's active participation in the NEM will not occur until late April 2006, because damaged converter

station transformers essential to completing the Basslink interconnector between Tasmania and Victoria must be replaced.

Key reforms since the 2004 NCP assessment have included:

- the passing of legislation to effect the separation of the Bell Bay Power Station from Hydro Tasmania to allow for effective competition
- the establishment of principles for Hydro Tasmania to follow in relation to Basslink bidding and interregional revenues (Ministerial Notice under s36 of the *Electricity Supply Industry Act 1995* (Tas))
- the implementation of regulations requiring Hydro Tasmania to publish information on energy in storage.

The Council is satisfied with Tasmania's implementation of measures to participate in the NEM. While Basslink is yet to be completed, Tasmania is ready to participate.

Retail market competition

All NEM jurisdictions other than Queensland and Tasmania (which entered the NEM only in May 2005) have introduced full retail contestability. Each jurisdiction maintains some form of regulated tariff and/or prices oversight while markets are in transition to effective competition. The form of the pricing regulation and its potential impact on competition differs across each jurisdiction.

As noted, NEM jurisdictions have agreed that where full retail contestability is operating, retail price caps be aligned with costs and the need for the price caps should be reviewed periodically. Jurisdictions are not committed to a date for implementing reforms to retail price caps.

In the 2004 NCP assessment, the Council considered that decisions to extend retail price controls should be supported by independent reviews, as in New South Wales, South Australia and Victoria. Further, it is desirable to have an independent regulator investigate and determine regulated tariffs/revenue caps, as in New South Wales, South Australia, Tasmania and the ACT. In Victoria, the government has a reserve pricing power, although consultation with the state independent regulator has been usual. In Queensland, the government continues to determine regulated tariffs.

Community service obligations need to be delivered in a transparent and competitively neutral manner and not create barriers to entry for new retailers. Each NEM jurisdiction has rebate schemes intended to increase the affordability of electricity to particular sectors of the community, including pensioners, low income earners and those on life support systems. The government pays these rebates to either customers directly or retailers on

behalf of customers. Provided rebates to retailers are paid in a competitively neutral manner, this rebate delivery method is transparent and does not distort competition in the retail market.

New South Wales and Queensland have mechanisms to manage the government's risk of fluctuating wholesale prices stemming from the delivery of uniform retail tariffs. In the 2004 NCP assessment, the Council concluded that the Queensland approach does not have an anti-competitive effect, but it expressed continuing concern that the New South Wales mechanism—the Electricity Tariff Equalisation Fund (ETEF)—could raise barriers to entry to new generation and adversely affect emerging retail competition.

In relation to other retail market competition matters being considered by the Ministerial Council on Energy, the Standing Committee of Officials, among other things is undertaking a more detailed study of an aggregation facility, for pooling buyers who are able to reduce demand in response to high NEM prices. This could provide an alternative to insurance hedging products, potentially offering significant savings.

In August 2004 the Ministerial Council on Energy agreed that all NEM jurisdictions that have not done so should review the use of interval meters and assess the relative benefits of an interval meter rollout by 2007. To assist this task it has released a paper prepared by the User Participation Working Group aimed at establishing agreed principles for assessing the costs and benefits of interval meter rollout.

This 2005 NCP assessment reports on developments on retail market competition, with a focus on developments in retail prices oversight in each of the NEM jurisdictions. It also considers outstanding issues in relation to the ETEF arrangement in New South Wales and the implementation of full retail contestability in Queensland.

New South Wales

Regulation of retail tariffs

New South Wales uses regulated retail tariffs for small customers (those using less than 160 megawatt hours of electricity a year) supplied under a standard form contract. This is a transitional measure pending the development of effective retail competition. In September 2003, the government decided to extend regulated tariffs until 30 June 2007.

The Independent Pricing and Regulatory Tribunal (IPART) finalised its regulated retail tariff determination in June 2004 and set price paths to move prices closer to the cost of supply, so as to remove barriers to efficient competition and to provide signals for efficient investment in new generation capacity. The New South Wales Government considers that IPART's

determination provides a balance between better signalling the cost of supply and protecting small retail customers from significant price shocks.

In developing its energy policy white paper, the New South Wales Government reviewed how regulated tariffs are set and the impact of price regulation on investment. In its energy directions green paper, it canvassed three options for the form of retail price regulation to apply after 30 June 2007:

1. gradually reducing the small retail customer definition threshold, say, lowering it by 40 megawatt hours a year
2. discontinuing price regulation for electricity from 1 July 2007 where there is evidence that competition is sufficiently developed to protect small consumers
3. transferring responsibility for price regulation from the New South Wales Government to the Australian Energy Regulator (Government of New South Wales 2004b).

Other options the government is considering that relate to regulated retail tariffs include: mandating the roll out of interval meters for customers above a certain use threshold; and mandating step pricing (where customer must pay a higher electricity price once consumption goes above a certain electricity use threshold).

The New South Wales Government also provides an energy rebate to eligible pensioners and those people who need to use a life support machine, such as dialysis. The rebate is made available through all New South Wales retailers.

The Electricity Tariff Equalisation Fund

In its 2004 NCP assessment, the Council expressed concern about the New South Wales Government's decision to extend the ETEF until 30 June 2007 in support of its decision to extend regulated tariffs. The Council considered that the fund's operation is likely to reduce liquidity in the financial and physical hedged market. This may increase the price of such financial instruments and increase the costs for other retailers, raising barriers to retail market entry. The Parer review had similar concerns and recommended that the fund be withdrawn and that the government restructure its generation sector to provide genuine competition in New South Wales and across the NEM.

New South Wales considers the ETEF to be a transparent mechanism through which it delivers a community service obligation to price regulated electricity customers. It considers that the fund is less distortionary than other mechanisms for minimising the risk of providing regulated contracts. And it argues that there is no evidence that the ETEF has reduced energy related financial market trading activity. In this context, New South Wales extended the ETEF until 30 June 2007, in support of its decision to extend

regulated tariffs. In its 2005 NCP annual report, it noted that generators have not contributed to the ETEF since July 2002 (Government of New South Wales 2005a).

In its energy directions green paper, however, the New South Wales Government conceded that the fund may impede new investment. It stated that without the fund there would be strong incentives to invest in new generation capacity as the supply–demand balance tightened (Government of New South Wales 2004b). It considers, therefore, that it may be feasible and appropriate to allow the fund to expire on 30 June 2007. The government is yet to make a final decision on this matter.

Victoria

Under its reserve pricing powers, the Victorian Government can override the franchised customer tariffs set by retailers. It is not required to refer the matter to an independent regulator (such as the Essential Services Commission) for consideration before exercising its right of intervention. It has, however, sought the views of the Essential Services Commission in the past.

In its 2005 NCP annual report, the Victorian Government restated that its ‘goal is to have energy prices set by the market rather than regulation’ (Government of Victoria 2005, p. 3). It has previously noted that it does not automatically exercise its reserve pricing power to constrain retailers’ standard prices and that it has done so only where concluding that ‘market power is being exercised and proposed retailer pricing was not justified’ (Government of Victoria 2004, p. 18).

In December 2003, the Victorian Government announced a voluntary agreement with the privately owned energy retailers to lock in a pricing structure to the end of 2007 that delivers a real decrease in electricity prices over the four-year period. The government’s stated intent of the arrangement is to provide price certainty for Victorians, to strike a balance between protecting customers and ensuring a viable electricity industry, and to enable the continued development of retail competition.

In June 2004, the Essential Services Commission released a report on the effectiveness of retail competition and the consumer safety net in gas and electricity. It concluded that competition is likely to become effective for a much larger proportion of small energy customers in the next few years. Until such time, residential customers in particular should continue to have access to the minimum protections afforded by the retail code and a retail price benchmark such as that provided by the standing offer price arrangements. It further concluded that competition in the retail market overall has developed such that the government should consider a gradual rollback, and potentially the elimination, of retail price regulation. In response to the commission’s report, the Victorian Government passed legislation in spring 2004 to extend

its consumer protection arrangements until 31 December 2007. It anticipates that price regulation will continue until retail competition is fully effective.

The government also introduced several new consumer protection measures, including a prohibition on late payment fees; a penalty payment of \$250 per day by retailers to consumers where supply disconnection occurs contrary to the provisions of the Energy Retail Code; and reserve powers to regulate early exit fees and pre-payment meters.

Victoria has a number of community service obligation schemes for electricity, including a network tariff rebate (which is intended to close the gap between electricity prices paid by country and city areas, through the government's payment of a rebate to retailers on behalf of customers) that commenced on 1 April 2003. In addition, the government provides energy concessions and relief grants for electricity to low income groups, to help address fuel poverty. It also established a Committee of Inquiry into Financial Hardship of Energy Consumers, to develop an effective hardship policy framework and further address the issue of supply disconnection.

In July 2004, Victoria announced a mandatory rollout of interval meters for electricity customers in line with recommendations of the Essential Services Commission of Victoria. The rollout of new and replacement meters is expected to begin in 2006 based on a timetable related to customer size and meter type. The introduction of interval meters will facilitate the further introduction of cost-reflective tariffs and enable consumers to better understand and manage their energy consumption and spending. It may also facilitate customer aggregation arrangements.

Queensland

Full retail contestability

In the 2003 NCP assessment, the Council determined that Queensland had failed to meet its NCP obligation to introduce full retail contestability in electricity. Queensland agreed to consider the early introduction of contestability for customers consuming 100–200 megawatt hours a year (tranche 4A customers) and to undertake a further review of full retail contestability. The Council recommended a suspension of 25 per cent of Queensland's competition payments (10 per cent pending implementation of contestability for tranche 4A customers and 15 per cent pending the outcome of the wider review of full retail contestability).

In February 2004, the Queensland Government announced the extension of retail competition to tranche 4A customers, which commenced on 1 July 2004. In the 2004 NCP assessment, the Council thus recommended full release of the 10 per cent payment suspension tied to this matter. By the time of that assessment, however, Queensland had not reviewed the costs and benefits of

full retail contestability in accord with its 2003 commitment. The Council thus recommended that the 15 per cent suspension of 2003-04 competition payments be deducted permanently; it also recommended a new suspension of 15 per cent of 2004-05 competition payments, pending Queensland's completion of the review of full retail contestability and implementation of its findings. The Australian Government accepted this recommendation.

Queensland has recently completed a new cost–benefit analysis of full retail contestability conducted by independent consultant GHD. The study indicates that full retail contestability could generate net benefits of up to \$624 million over a five year period by removing the wholesale energy purchasing arrangement. The study also estimates that the cost of implementing FRC can be reduced from \$184 million to \$55 million by using a simpler approach, such as maintaining shared IT support arrangements and using the capacity developed by the NEMMCO to support FRC.

On 28 September 2005, the Queensland Premier announced that full retail contestability would be introduced for small businesses and households from 1 July 2007 (Beattie 2005). The Electricity Amendment Regulation (No.2) 2005 was passed on 6 October 2005 to give effect to the July 2007 starting date.

The Council assesses that Queensland has now met its NCP obligations in relation to full retail contestability, thereby satisfying the conditions for release of the suspended 2004-05 NCP payments.

Regulation of retail tariffs

The minister determines electricity retail prices for non-contestable customers charged by the three retailers operating in Queensland (ENERGEX, Ergon Energy and Country Energy). Customers within a particular class pay the same tariff across the state. In addition, the tariff structure includes special conditions for customers who are farmers in a drought declared area or whose properties are individually drought declared.

In its 2005 NCP annual report, the Queensland Government noted the requirement to align retail caps with costs and periodically review the need for price caps does not apply to it. It is examining the issue, however, as part of the current review of full retail competition.

Other community service obligations include electricity rebates to eligible pensioners and seniors (administered by the franchise retailers on behalf of the Department of Communities), and to those on home based life support machines (administered directly by the Department of Communities).

South Australia

Full retail contestability commenced in South Australia on 1 January 2003. As part of the consumer protection measures introduced to support the introduction of contestability, the South Australian Government conferred retail pricing powers on the ESCOSA. The commission has the power to require that retailers justify any price increases for small customers on regulated tariffs, and it has reserve powers to cap such retail prices if it considers that electricity tariffs are excessive and unjustifiable. Further, the Electricity Act introduced the concept of a standing contract, which applies to small customers (those consuming less than 160 megawatt hours) unless they elect to transfer to a market contract.

Initially, the standard contract provisions were to apply until July 2005. Following a review by IPART in March 2004 of ESCOSA's method in setting the standard contract price, however, the government extended the expiry date for the standing contract provisions from 1 July 2005 to a date to be fixed by proclamation. The current ESCOSA price determination allowed for an average price increase of 1.2 per cent on 1 January 2005 for small customer's bills, and provides for further price changes each July over the 2005–2007 period on the basis that AGL will achieve annual real decreases in its controllable costs.

Customer transfer numbers published by ESCOSA indicate that small customers are taking advantage of retail competition. Around 270 000 small customers (or 37 per cent) have transferred or are transferring to market contracts (ESCOSA 2005). This figure includes 75 000 energy concession recipients who took advantage of the one-off \$50 electricity transfer rebate offered by the government for switching from the standard contract to a market contract before 13 August 2004. Eligible concession recipients on market contracts receive a concession on their energy bills of about 33 cents a day, or \$120 a year. The government reimburses the energy retailer for the amount of the concession.

Tasmania

Full retail contestability

Tasmania proposes that the first tranche—covering around 19 customers consuming in excess of 20 gigawatt hours a year—will be introduced on 1 July 2006. The remaining stages are scheduled to occur at annual intervals, with full retail contestability scheduled from 2010 following a positive cost–benefit assessment. Table 6.1 sets out the timetable for retail competition. Regulations that set the framework and structural arrangements for the introduction of retail contestability commenced on 1 August 2005.

Table 6.1: Tasmania's retail contestability timetable

<i>Introduction of contestability</i>	<i>Electricity consumption (gigawatt hours a year)</i>	<i>Approximate number</i>	<i>Indicative customer type</i>
1 July 2006	≥20	19	Mineral processors and heavy manufacturing plant
1 July 2007	≥4	41	Food processing plant and multi-storey office complexes
1 July 2008	≥0.75	293	Supermarkets, engineering workshops and smaller commercial complexes
1 July 2009	≥0.15	1 233	Fast food restaurants, service stations and restaurants
1 July 2010	Less than 0.15	244 000	Small businesses and households

Source: Government of Tasmania 2005.

Regulation of retail tariffs

In terms of transition arrangements and customer protection measures Tasmania proposed the following:

- Tariff customers, as they become contestable, may remain on their existing tariff arrangements for a maximum of 12 months.
- All retailers will be required to maintain base levels of consumer protection (prescribed by the Tasmanian Energy Regulator) in their retail contracts.
- Retail contracts may provide for rolling over the existing supply arrangements at the end of the contract if a replacement contract is not put in place.
- A deemed fallback contract will apply where a customer is taking supply at a connection point for which a retailer is financially responsible but where there is no contract or tariff covering that supply.
- On the introduction of retail contestability, a 'retailer of last resort' scheme will be introduced to protect customers in the event of an unplanned exit by a retailer. (Aurora Energy in its capacity as the holder of a licence authorising the distribution of electricity will be the designated retailer of last resort.)
- Distribution charges will continue to be regulated. (Retailers are subject to revenue cap and prices oversight by the Tasmanian Energy Regulator.)

The ACT

The ACT introduced full retail contestability on 1 July 2003. The ACT Government announced that it will allow a three-year transition period, during which customers can remain with their existing supplier, ActewAGL Retail, on a regulated tariff.

The Independent Competition and Regulatory Commission determines the regulated tariff for franchise customers (those who do not have the right to choose their electricity supplier). In May 2003, the commission issued its final determination on retail prices for franchise customers, which remains in force until 30 June 2006. The ACT Government has advised the Council that it intends to extend the arrangement until mid-2007 to coincide with a planned review of full retail contestability. The review will consider the competition and social impact of removing the regulated tariff.

In the electricity sector, community service obligations under the ACT Concessions Program are delivered via a direct customer rebate. Rebates are payable to customers groups, including pensioners and those on life support systems.

Structural reform and legislation review and reform

Western Australia and the Northern Territory are the only jurisdictions with outstanding electricity structural reform and legislation review commitments.

Western Australia

In its 2003 NCP assessment, the Council noted that the Western Australian Government had endorsed all of the recommendations of the independent Electricity Reform Task Force, including the indicative reform timetable. The agreed program and timetable included:

- the vertical disaggregation of Western Power into generation, network (transmission and distribution) and retail entities, and the establishment of a fourth entity, the Regional Power Corporation, with responsibility for electricity supply in the north west interconnected system and Western Power's non-interconnected systems, by 1 July 2004
- the establishment of a bilateral contracts market with an associated residual trading market
- the mitigation of Western Power's generation market power through the auctioning of its capacity, a requirement that it participate in the residual

trading market, and restrictions on its ability to invest in new or replacement fossil fuelled generation plant

- the retention of uniform tariffs and retail price caps
- the implementation of retail contestability for all customers above 50 megawatt hours a year from 1 January 2005, then full implementation once the other reforms have been completed
- the development of an electricity access code (to be administered by an independent regulator) by 1 January 2004 and the operation of the new access framework and licensing regime by 1 January 2005.

The *Electricity Industry Act 2004* was proclaimed in September 2004. This Act along with the *Electricity Legislation Amendment Act 2003*, implements most of the reform initiatives that the government has committed to, including the following:

- *An industry licensing regime.* The independent Economic Regulation Authority commenced on 1 January 2004. It is responsible for utilities regulation in Western Australia. The Electricity Industry Act specifies procedures for granting licences, including terms and conditions that the authority may impose, licence exemption conditions, and licence amendment, transfer, enforcement and cancellation procedures.
- *Third party access.* The Electricity Networks Access Code 2004, which provides for third party access to electricity networks in Western Australia commenced on 30 November 2004. Western Australia is currently seeking certification that the code is an effective access regime under s44M of the *Trade Practices Act 1974* (Cwlth).
- *A wholesale market.* The wholesale electricity market is scheduled to commence from July 2006. The market rules were proclaimed on 30 September 2004.
- *The Independent Market Operator.* This independent statutory corporation was established on 1 January 2005 to administer and operate the wholesale electricity market. It may conduct a reserve capacity auction to meet expected additional capacity requirement during peak periods.
- *Ability to 'top up' and 'spill'.* During the transition to the operation of the wholesale market independent generators can 'top up' (buy) or 'spill' (sell) electricity with Western Power to balance load capacity with demand requirements.
- *Consumer protection.* Consumer protection measures will include the implementation of a customer service code, standard supply contracts, consumer connection policies and an energy ombudsman scheme, and the imposition of 'retailer of last resort' obligations on Western Power.

Western Australia is progressively lowering retail contestability thresholds for electricity. In July 2001, it lowered the threshold from an average load of at least 1000 kilowatts (or 8760 megawatt hours a year) to an average load of 230 kilowatts (or 2000 megawatt hours a year) at a single site. On 1 January 2003, it extended contestability to customers using an average load of at least 34 kilowatts (or 300 megawatt hours a year).

The government initially aimed to introduce full retail contestability from 1 January 2005. In its 2004 NCP annual report, however, Western Australia noted that the Electricity Reform Task Force recommended delaying the implementation of full retail contestability until competition develops in the generation and wholesale markets. The task force proposed that the threshold for contestability be reduced to an average load of 5.7 kilowatts (50 megawatt hours a year) on 1 January 2005. In the 2004 NCP assessment, the Council accepted that it is appropriate for other key reforms (including the establishment of a wholesale market) to precede the introduction of further contestability.

Western Australia implemented the first tranche reduction of threshold for contestability on 1 January 2005, in line with the task force recommendation. This increased the number of contestable customers to around 12 500 and equates to approximately 60 per cent of Western Power's current load in the south west interconnected system (Government of Western Australia 2005a).

In 2003, the government introduced the Electricity Corporations Bill 2003. If passed, this Bill would have implemented an essential aspect of the reform package recommended by the Electricity Reform Task Force and accepted by the government—namely, the structural separation of Western Power into generation, network and retail entities in the south west interconnected system, and the establishment of a regional power entity for Western Power's north west interconnected system and non-interconnected system. In its final report to government, the task force referred to the recommendations for Western Power's disaggregation and for the establishment of the wholesale market as 'the most significant recommendations of the Task Force' (Electricity Reform Task Force 2002, p. vii). It noted too that 'central to the proposed structural change is the disaggregation of Western Power' (Electricity Reform Task Force 2002, p. vii).

The Electricity Corporations Bill 2003 progressed to a second reading in the Legislative Council before being withdrawn, with the government stating that publicised opposition made it evident that the Bill would not pass a third reading. Nevertheless, the government stated in its 2004 NCP annual report that it continued to be committed to the disaggregation of Western Power and would re-introduce the disaggregation legislation following the next election. The Electricity Corporations Bill 2005 was passed by Parliament on 22 September 2005. The new Act provides for Western Power to be split into four independent corporations by 31 March 2006, thus providing separate generation, retail, network and the regional electricity supply services.

In addition, on 7 April 2005 the Minister for Energy issued a direction to the Western Power Corporation Board to cap the Western Power's generating

capacity at 3000 megawatts. This direction is in line with the recommendations of the Electricity Reform Task Force and aims to mitigate problems that could arise from Western Power's dominance of the wholesale electricity market from it controlling about 90 per cent of the electricity generating capacity. The government considers that the capacity cap provides an incentive for private investment in the electricity generating sector while giving Western Power sufficient flexibility to replace ageing and/or inefficient plant. Its intent of the direction, therefore, is pro-competitive. The government intends to maintain the cap until sufficient competition has developed in the market (projected to be some time around 2013-14).

Western Australia has completed the structural reforms recommended by the Electricity Reform Task Force. It has also made substantial progress in implementing other key aspects of the reform program. The Council therefore assesses that Western Australia has satisfied its CPA clause 4 obligations in relation to electricity reforms.

The Northern Territory

Following the 2003 NCP assessment, the Northern Territory had one outstanding legislation review matter relating to electricity—namely, s19 of the *Power and Water Corporation Act 2002*. The section provides the Power and Water Corporation with an exemption from the payment of local government rates. The Northern Territory did not repeal this section because of complexities regarding local government funding arrangements. Since 1 July 2001, however, the corporation has paid local government rate equivalents through the Northern Territory's tax equivalent regime.

The Northern Territory Treasury is currently developing options for repeal of s19 of the *Power and Water Corporation Act*, which it expects to be ready for the government to consider in late 2005. It further noted that the territory has no intention of removing the requirement for Power and Water Corporation to pay either local government rates or rates equivalents.

The Northern Territory considers that the current rates equivalent regime satisfies national competition policy requirements. The Council accepts that the arrangements instituted by the government satisfy competitive neutrality requirements and are an appropriate transitional reform measure, pending repeal of s19.

Table 6.2: Review and reform of electricity related legislation

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
New South Wales	<i>Electricity (Pacific Power) Act 1950</i>	Contains constitution of Pacific Power.	Not for review. The government established new state owned corporations from Pacific Power's generation and transmission businesses.	Act repealed.	Meets CPA obligations (June 2003)
	<i>Electricity Safety Act 1945</i>	Contains requirements relating to the authorisation and inspection of electrical products, and regulates the sale and hiring of electrical apparatus.	Review completed in March 2002. The review recommended retaining anticompetitive provisions in the public interest.	The government approved the review's recommendations in May 2002.	Meets CPA obligations (June 2003)
	<i>Electricity Supply Act 1995</i>	Regulates the supply of electricity in the wholesale and retail markets.	Review will be undertaken after trends in the fully contestable retail market become clear.	Extensive amendments were made to the Act in late 2000 to facilitate the introduction of full retail contestability for all electricity customers in New South Wales from 1 January 2002.	Meets CPA obligations (June 2003)
	<i>Electricity Transmission Authority Act 1994</i>	Contains the constitution of the New South Wales Electricity Transmission Authority.		Act repealed.	Meets CPA obligations (June 2001)
	<i>Energy Administration Act 1987</i> (electricity related provisions)	Contains the constitution of the Energy Corporation of New South Wales.	Review completed.	Licence and approval requirements repealed.	Meets CPA obligations (June 2001)

(continued)

Table 6.2 continued

Jurisdiction	Legislation	Key restrictions	Review activity	Reform activity	Assessment
Victoria	<i>Electricity Industry Act 1993</i>	Implements electricity industry reform.	Review completed.	Act replaced by the <i>Electricity Industry Act 2000</i> . The <i>Electricity Industry (Residual Provisions) Act 1993</i> contains remaining provisions relevant for historical purposes.	Meets CPA obligations (June 2001)
	<i>Electricity Industry Act 2000</i>	Implements electricity industry reform.	The Act was assessed against NCP principles at introduction. The Act's provisions underpin existing competition and facilitate the introduction of competition for domestic and small business customers consistent with NCP principles.		Meets CPA obligations (June 2001)
	<i>Electric Light and Power Act 1958</i>			Act repealed and replaced by the <i>Electricity Safety Act 1998</i> .	Meets CPA obligations (June 2001)

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Table 6.2 continued

Jurisdiction	Legislation	Key restrictions	Review activity	Reform activity	Assessment
Victoria (continued)	<i>Electricity Safety Act 1998</i>	Contains safety standards for equipment, and provides for licensing of electrical workers.	The Act was assessed against NCP principles at introduction. The assessment found the Act's restrictions are justified on public safety and consumer protection grounds. The Act addresses consumers' inability to detect hazardous products and assess the competency of tradespeople.	Restrictive provisions retained.	Meets CPA obligations (June 2001)
	Electricity Safety (Equipment) Regulations 1999	Sets standards and approval requirements for electrical equipment.	The Act was assessed against NCP principles at introduction. The assessment found the Act's restrictions are justified on public safety and consumer protection grounds. Regulations address consumers' inability to detect hazardous products.	Restrictive provisions retained.	Meets CPA obligations (June 2001)
	<i>Snowy Mountains Hydro-Electric Agreements Act 1958</i>			Act repealed.	Meets CPA obligations (June 2001)
	<i>State Electricity Commission Act 1958</i>		Scoping study showed that the Act does not restrict competition.		Meets CPA obligations (June 2001)

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Table 6.2 continued

Jurisdiction	Legislation	Key restrictions	Review activity	Reform activity	Assessment
Queensland	<i>Electricity Act 1994</i>	Contains licensing requirements, conduct restrictions on trading activities, Ministerial pricing powers.	A review of safety related provisions recommended retention of anticompetitive provisions in the public interest. A review of non-safety provisions was completed in April 2002 by ACIL Consulting. The review found the Act to be pro-competitive, but recommended legislative amendments and further departmental reviews.	Safety related anticompetitive provisions separated into the <i>Electrical Safety Act 2002</i> . Legislative amendments to effect recommendations relating to non-safety provisions were assented to in May 2003 in the <i>Electricity and Other Legislation Amendment Act 2003</i> .	Meets CPA obligations (June 2003)
Western Australia	<i>Electricity Act 1945 (part 1 of 2)</i>	Contains regulations concerning mandated supply, the determination of interconnection prices, restrictions on the sale/hire of non-approved electrical appliances, and uniform pricing.	Initial review completed in 1998. The review recommendations have been superseded by wider reform of the electricity industry.	Repealed by the <i>Electricity Legislation Amendment Act 2004</i> .	Meets CPA obligations (October 2004)

(continued)

Table 6.2 continued

Jurisdiction	Legislation	Key restrictions	Review activity	Reform activity	Assessment
Western Australia (continued)	<i>Electricity Corporation Act 1994</i>	Provides for exclusive retail franchise of Western Power, entry restrictions for generation, and competitive neutrality restrictions.	Initial review completed. Further review was conducted as part of wider electricity sector reform.	Some minor restrictions related to competitive neutrality were removed by the <i>Statutes (Repeals and Minor Amendments) Act 1998</i> . Generator entry restrictions were removed by the establishment of the electricity market, licensing regime and access code under the <i>Electricity Industry Act 2004</i> and <i>Electricity Legislation Amendment Act 2004</i> . Retail contestability restrictions to be gradually removed.	Meets CPA obligations (October 2004)
South Australia	<i>Electricity Act 1996</i>	Restricts market entry and market conduct.	Review completed in September 2000. No reforms were recommended because the Act facilitates regulation of electricity supply in conjunction with other national electricity market reforms.	No reform required.	Meets CPA obligations (June 2003)

(continued)

Table 6.2 continued

Jurisdiction	Legislation	Key restrictions	Review activity	Reform activity	Assessment
South Australia (continued)	<i>Electricity Corporation Act 1994</i>	Restricts market entry and market conduct.	Review completed in September 2000. No reforms recommended because the Act facilitates the establishment of state owned corporations in South Australia in conjunction with other national electricity market reforms.	No reform required.	Meets CPA obligations (June 2003)
	<i>National Electricity (South Australia) Act 1996</i>	Restricts market entry and market conduct.	Review completed in September 2000. No reforms recommended because the object of the Act is to implement a national electricity market.	No reform required.	Meets CPA obligations (June 2003)
Tasmania	<i>Electricity Supply Industry Act 1995</i>	Contains conduct requirements, exclusive retail provisions, and tariff-setting procedures.	Review completed in late 2001.	Review recommendations were either enacted or are redundant following passage of legislation enabling Tasmania's entry into the NEM.	Meets CPA obligations (June 2003)
	<i>Electricity Consumption Levy Act 1986</i>			Act repealed.	Meets CPA obligations (June 2001)

(continued)

Table 6.2 continued

Jurisdiction	Legislation	Key restrictions	Review activity	Reform activity	Assessment
Tasmania (continued)	<i>Hydro-Electric Commission Act 1944, Hydro-Electric Commission (Doubts Removal) Act 1972 and Hydro-Electric Commission (Doubts Removal) Act 1982</i>	Contains the constitution of the Hydro-Electric Commission of Tasmania.		Acts repealed and replaced by the <i>Electricity Supply Industry Act 1995</i> and the <i>Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995</i> .	Meets CPA obligations (June 2001)
ACT	<i>Utilities Act 2000</i>	Contains licensing requirements and restrictions on business conduct.	In consultation with the public, the ACT reviewed both the existing regulatory arrangements and principles for effective regulation.	Restrictive provisions retained. Other Acts amended or repealed include the <i>Electricity Supply Act 1997</i> , the <i>Electricity Act 1971</i> , the <i>Energy and Water Act 1988</i> and the <i>Essential Services (Continuity of Supply) Act 1992</i> .	Meets CPA obligations (June 2001)
Northern Territory	<i>Electricity Act</i>		Act reviewed as part of a broad review of the Power and Water Authority, and under a departmental review.	Act repealed and replaced by the <i>Electricity Reform Act</i> , the <i>Electricity Networks (Third Party Access) Act</i> and the <i>Utilities Commission Act</i> .	Meets CPA obligations (June 2001)

(continued)

Table 6.2 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Northern Territory (continued)	<i>Power and Water Authority Act</i>		Review completed.	The Power and Water Corporations Act replaced the Act from 1 July 2002. All electricity related amendments made except for the removal of GOC's local government rate exemption (s19). This was retained because of complexities regarding local government funding arrangements that are yet to be resolved. There is no specific timetable for repeal of s19. GOC has been paying local government rate equivalents since 1 July 2001.	Does not meet CPA obligations (June 2003)

