



# ELECTRICITY STANDING CONTRACT PRICE

## DRAFT PRICE DETERMINATION

**November 2004**

**ELECTRICITY**



## REQUEST FOR SUBMISSIONS

The Essential Services Commission of SA (the Commission) invites written submissions from interested parties in relation to this draft price determination. Written comments should be provided by **Wednesday 15 December 2004**. It is highly desirable for an electronic copy of the submission to accompany any written submission.

It is Commission policy to make all submissions publicly available via its website ([www.escosa.sa.gov.au](http://www.escosa.sa.gov.au)), except where a submission either wholly or partly contains confidential or commercially sensitive information provided on a confidential basis and appropriate prior notice has been given.

The Commission may also exercise its discretion not to exhibit any submission based on their length or content (for example containing material that is defamatory, offensive or in breach of any law).

Responses to this draft determination should be directed to:

### **Electricity Standing Contract Price: Draft Price Determination**

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### ***Public Information about ESCOSA's activities***

Information about the role and activities of the Commission, including copies of latest reports and submissions, can be found on the ESCOSA website at [www.escosa.sa.gov.au](http://www.escosa.sa.gov.au).



## GLOSSARY OF TERMS

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ACT	Australian Capital Territory
AGL SA	AGL South Australia Pty Ltd (ABN 49 091 105 092)
COMMISSION	Essential Services Commission of South Australia
CPI	Consumer Price Index
ESCOSA	Essential Services Commission of South Australia
ESIPC	Electricity Supply Industry Planning Council
ETEF	Electricity trading equalisation fund
ETSA UTILITIES	Partnership comprising 5 companies (ie CKI Utilities Development Ltd, HEI Utilities Development Ltd, CKI Utilities Holdings Ltd, HEI Utilities Holdings Ltd, CKI/HEI Utilities Distribution Ltd), trading as ETSA Utilities (ABN 13 332 330 749)
GST	Goods and services tax
MWH	Megawatt hours
NEM	National Electricity Market
NEMMCO	National Electricity Market Management Company Ltd.
NSW	New South Wales
ROC	Retail operating cost (\$ per customer)
WEC	Wholesale energy cost (\$ per MWh)

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**PART A**  
**- STATEMENT OF REASONS -**

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# 1 INTRODUCTION

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## 1.1 Power to Make Price Determination

The Commission is established under the *Essential Services Commission Act 2002* (“the Act”).

Part 3 of the Act concerns Price Regulation.

Section 25(1) states that the Commission may make determinations regulating prices, conditions relating to prices and price-fixing factors for goods and services in a regulated industry. Section 25(2) states that the Commission may only make a price determination if authorised to do so by a relevant industry regulation Act.

Division 1 (Section 6A(1)) of the *Electricity Act 1996* states that the Commission has (in addition to its functions and powers under the Act) the licensing, price regulation and other functions and powers conferred by the Electricity Act.

More specifically, Division 2A (Section 35A(1)(a)) of the Electricity Act states that the Commission may make a determination under the Act regulating prices, conditions relating to prices and price-fixing factors for the sale and supply of electricity to small customers.

Finally, Division 3AA (Section 36AA(4a)) of the Electricity Act states that, in relation to the fixing by the Commission of a standing contract price, the Commission may fix the price by a determination under Section 35A(1)(a), but the determination must provide for its expiry at the end of a period of not less than 3 years and may provide for prices that vary at specified times according to a formula specified in the determination.

Accordingly, the Commission is empowered to make this draft price determination.

## 1.2 Factors to Consider

Section 25(4) of the Act states that, in making a price determination, the Commission must have regard to the following (but subject to the provisions of the Electricity Act):

### 1.2.1 Factors specified in Part 2 of the Act

Section 6(1) states that the Commission must:

- (a) have as its primary objective protection of the long term interests of South Australian consumers with respect to the price, quality and reliability of essential services; and
- (b) at the same time, have regard to the need to-
  - (i) promote competitive and fair market conduct; and



- (ii) prevent misuse of monopoly or market powers; and
- (iii) facilitate entry into relevant markets; and
- (iv) promote economic efficiency; and
- (v) ensure consumers benefit from competition and efficiency; and
- (vi) facilitate maintenance of the financial viability of regulated industries and the incentive for long term investment; and
- (vii) promote consistency in regulation with other jurisdictions.

### **1.2.2 Factors specified in Part 3 of the Act:**

Section 25(4) states that the Commission must have regard to:

- (a) the particular circumstances of the regulated industry and the goods and services for which the determination is being made;
- (b) the costs of making, producing or supplying the goods or services;
- (c) the costs of complying with laws or regulatory requirements;
- (d) the return on assets in the regulated industry;
- (e) any relevant interstate and international benchmarks for prices, costs and return on assets in comparable industries;
- (f) the financial implications of the determination;
- (g) any factors specified by a relevant industry regulation Act or by regulation under this Act;
- (h) any other factors that the Commission considers relevant.

Section 25(5) states that, in making a price determination under the Act, the Commission must ensure that:

- a) wherever possible, the costs of regulation do not exceed the benefits; and
- b) the decision takes into account and clearly articulates any trade-off between costs and service standards.

Section 25(6) states that all of the Part 2 and 3 factors are subject to the provisions of the relevant industry regulation Act for that industry (in this case, the Electricity Act 1996).

### 1.2.3 Factors specified in the Electricity Act

Sections 25(6) and 25(4)(g) of the Act require the Commission to consider any factors specified by the Electricity Act.

Section 6A(4) of the Electricity Act states that the Commission must (in addition to having regard to factors specified in the Electricity Act and the Essential Services Commission Act) have regard to the provisions of the National Electricity Code and the need to avoid duplication of, or inconsistency with, regulatory requirements under the Code.

Section 3 of the Electricity Act states that its objects are:

- (a) to promote efficiency and competition in the electricity supply industry; and
- (b) to promote the establishment and maintenance of a safe and efficient system of electricity generation, transmission, distribution and supply; and
- (c) to establish and enforce proper standards of safety, reliability and quality in the electricity supply industry; and
- (d) to establish and enforce proper safety and technical standards for electrical installations; and
- (e) to protect the interests of consumers of electricity.

Apart from the above, there are no factors specified in the Electricity Act relating to price determinations to which the Commission is required to have regard.

The above Electricity Act factors do not conflict in any way with the factors set out in Parts 2 and 3 of the Act, and hence the potential restriction in Section 25(6) of the Act (that is, that the Part 2 and Part 3 factors are subject to the Electricity Act provisions) is not relevant.

The Commission will comply with the legislative provisions if it has regard to the factors specified in Part 2 and Part 3 of the Act (set out in 1.2.1 and 1.2.2 above).

### 1.2.4 Other Factors

Finally, Section 25(4)(h) of the Act states that the Commission can also have regard to any other factors that the Commission considers relevant. The Commission will outline those additional factors elsewhere in this draft price determination (and they generally relate to certain Terms of Reference of a recent inquiry into standing contract prices).



### **1.3 The Determination Procedure**

The Commission is not required to consult in the process of making a price determination. However, Section 26(1) of the Act states that the Commission may send a draft price determination to relevant parties such as Ministers, the electricity entity and interested parties.

The Commission must send a copy of the final price determination to Ministers, the regulated entity and other interested parties, and must ensure copies of the price determination are available for inspection and purchase by the public. In addition, a notice of the making of the price determination must be published in the Gazette, a newspaper and the Commission's website.

The notice must include a brief description of the nature and effect of the price determination, details of when it takes effect, and how a copy may be inspected or purchased.

A price determination takes effect on the date on which the notice of its making is published in the Gazette or a later date of commencement specified in the determination.

### **1.4 The Determination**

As indicated, a price determination may regulate prices, conditions relating to prices, or price-fixing factors for standing contract prices for small customers in any manner the Commission considers appropriate.

In making a price determination, Section 25(5) of the Act requires the Commission to ensure that (wherever possible) the costs of regulation do not exceed the benefits, and the decision takes into account and clearly articulates any trade-off between costs and service standards.

Section 26(1) of the Act states that the price determination must include a summary of the information on which the determination is based and a statement of the reasons for the making of the determination.

In making a price determination, the Commission must balance and weigh all relevant evidence available to it, and have regard to all relevant factors and objectives.

The draft price determination is informed by all representations and submissions made to the Commission by stakeholders and interested parties, the advice and analysis of specialist consultants and auditors, and work undertaken by the Commission's own staff.

This draft price determination is not a judgment of the merits or otherwise of anyone's proposal or submission; it is the Commission's view, having regard to all of the material available to it, on the appropriate form of regulation and price control for AGL SA in meeting its standing contract obligations in South Australia for the period 1 January 2005 to 31 December 2007.

## **2 DETERMINATION PROCESS**

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In May 2004, the Commission received a Notice of Referral from the Minister for Energy, requiring the Commission to undertake an inquiry into a standing contract price path proposal to be submitted by AGL SA.

The Commission has used the Inquiry to gather information and to inform itself on each of the factors relevant to making this determination.

The Commission released an Issues Paper in June 2004, and a Discussion Paper in September 2004, together with two consultant reports on matters relevant to the Inquiry. The Commission received AGL SA's price path proposal in late August 2004, and released a public version for stakeholder comment.

The Commission received 9 submissions in response to its Issues Paper, and 11 submissions on the Discussion Paper.

It held a public hearing on 20 October 2004 to allow those parties who made a submission on the Discussion Paper to present to the Commission and to answer queries relating to their submission: four parties elected to make a presentation. Twenty four people attended, and all four Commissioners were present.

The Commission engaged a number of specialist consultants to provide advice. They were:

- ▲ Allen Consulting Group - wholesale electricity cost;
- ▲ Electricity Supply Industry Planning Council - long run marginal cost and demand forecasts; and
- ▲ NERA Consultants - retail operating costs, margins and benchmarks.

The Commission's officers and consultants met with AGL SA on a number of occasions to review information relevant to the Inquiry.

The Commission provided its Draft Report on the Inquiry to the Honourable the Minister for Energy on 30 November 2004. That Draft Report provides considerable detail on the evaluations undertaken by the Commission and the information received from consultants and stakeholders. It also presents the Commission's consideration of each of the factors to which it was required to have regard.

This draft price determination takes into consideration the relevant information gained during the Inquiry. The following sections present a summary of the Commission's conclusions and the information to which it has had regard.



### **3 CONCLUSIONS REGARDING CONTROLLABLE COSTS**

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The Commission has noted that there are five cost components of the standing contract price charged to small customers. They are:

- ▲ Wholesale energy cost (\$/MWh).
- ▲ Network charges.
- ▲ Retail operating costs (\$/customer).
- ▲ Retail margin (% of costs).
- ▲ GST.

There are two components which are exogenous to AGL SA's controllable costs: they are the network charges and GST. Those components are not part of this draft price determination, other than that they must be added to the other three components to determine the allowable standing contract tariffs. This process is discussed later in Section 5.

The draft price determination focuses initially on the three remaining cost components, referred to collectively as the “retailer controllable costs”.

#### **3.1 Wholesale Energy Cost**

The Commission has had regard to a number of different approaches in estimating a wholesale energy cost for each year of the price path. In particular, it has considered:

- ▲ AGL SA actual contract costs.
- ▲ Current market contract rates for future supply.
- ▲ Long run marginal cost of supply to the small customer load.
- ▲ Contract prices achieved by large customers in recent years.
- ▲ Estimates of new entrant generation costs.

The above information was used by consultants for the Commission to construct a sophisticated model of contract cover designed to minimise the risk to the standing contract retailer of variations in load and customer numbers. A number of different scenarios were modelled, and an appropriate weighting applied to produce an estimate of wholesale energy cost for standing contract supply out to December 2007.

The costs reported below include allowances for market and Government charges, as well as network losses.

The model and cost assumptions were discussed with AGL SA and other stakeholders. While AGL SA does not necessarily agree with the Commission's calculation, the model



has been adjusted where necessary to incorporate AGL SA's views as agreed with the Commission and its consultants.

The wholesale energy costs for the standing contract retailer have been determined as follows:

**Wholesale Energy Costs – Standing Contract Retailer**

WHOLESALE ENERGY COST (\$/MWH) (REAL \$MAR 05, EXCLUSIVE OF GST)		
YEAR	PERIOD	WHOLESALE ENERGY COST
2005	Jan – Mar	92.03
	Apr – Jun	59.50
	Jul – Sep	61.86
	Oct – Dec	63.79
2006	Jan – Mar	98.11
	Apr – Jun	63.43
	Jul – Sep	59.79
	Oct – Dec	61.67
2007	Jan – Mar	92.37
	Apr – Jun	61.70
	Jul – Sep	60.35
	Oct - Dec	62.92

### 3.2 Retail Operating Costs

The Commission has had regard to three main sources of information in determining the allowable retail operating cost for the standing contract retailer:

- ▲ a review of AGL SA's actual costs for 2003;
- ▲ a review of AGL SA's budgeted costs for 2005/06 based on estimated 2004/05 costs;
- ▲ costs used by other regulators and previously by the Commission.

The Commission, with the assistance of AGL SA's independent auditor, has reviewed the actual operating costs from audited accounts and determined which costs were attributable to standing contract customers, and whether these were prudent.

The Commission's review of benchmark values from interstate regulatory decisions showed a range (for 2004) of between \$70 in NSW up to about \$92 in Victoria, ACT and Tasmania. The Commission noted that these numbers were not based on actual assessments of retail businesses nor on any detailed consideration of the prudent costs of a standing contract retailer.



The Commission notes that a significant proportion of retail operating costs are attributable to salaries. It further notes that many of the remaining costs are fixed, and will not fall in direct proportion to the number of customers (eg billing system, call centre). However, the costs of these systems can be spread by AGL SA over its market contract gas and electricity customers.

Accordingly, the Commission has determined that the allowable retail operating costs will be as follows:

**Retail Operating Costs – Standing Contract Retailer**

RETAIL OPERATING COST (\$/CUSTOMER) (Real \$Mar 05, exclusive of GST)		
YEAR	PERIOD	RETAIL OPERATING COST
2005	Jan – Mar	84.41
	Apr – Jun	84.83
	Jul – Sep	85.25
	Oct – Dec	85.67
2006	Jan – Mar	86.10
	Apr – Jun	86.53
	Jul – Sep	86.96
	Oct – Dec	87.39
2007	Jan – Mar	87.82
	Apr – Jun	88.26
	Jul – Sep	88.70
	Oct- Dec	89.14

### **3.3 Retail Margin**

The Commission has reviewed benchmark margins adopted by interstate regulators and previously by the Commission. It has also undertaken an evaluation of a justifiable margin based on first principles, determining a fair rate of return for funds invested in the retail business (including working capital).

The Commission has consulted widely on this evaluation, and received comments on the appropriateness of its assumptions.

Having reviewed its approach, and considered the impact of setting a margin on the financial viability of the retail business and on customers, the Commission has determined that the appropriate margin should be set as 10% of AGL SA's total controllable costs for standing contract retailing (ie covering its wholesale energy costs and retail operating costs) for each of the three years from 1 January 2005 to 31 December 2007.



**Retail Margin – Standing Contract Retailer**

RETAIL MARGIN (% OF WEC AND ROC)		
YEAR	PERIOD	RETAIL MARGIN
2005	Jan – Mar	10
	Apr – Jun	10
	Jul – Sep	10
	Oct – Dec	10
2006	Jan – Mar	10
	Apr – Jun	10
	Jul – Sep	10
	Oct – Dec	10
2007	Jan – Mar	10
	Apr – Jun	10
	Jul – Sep	10
	Oct - Dec	10

## **4 FACTORS CONSIDERED BY THE COMMISSION**

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Section 1.2 outlined the factors the Commission is required to have regard to in making a price determination. This Section comments on the consideration given by the Commission to each factor.

### **4.1 Section 6(1)(a): Protection of consumer long-term interest**

The Commission's analysis has determined the prudent level of costs that AGL SA would be expected to incur in meeting its standing contract retailer obligations. It has comprehensively reviewed AGL SA's costs, and independently determined the costs that a prudent retailer would be expected to incur. It has set a fair return based on AGL SA's investment in the business and the risks it faces.

Consumers' long-term interests are protected by ensuring the prices charged are based on efficient and prudent costs, while maintaining the financial viability of the retailer and encouraging its continued investment in the industry. The Commission has sought to ensure that this balance of consumer and AGL SA interests is achieved through its draft price determination.

### **4.2 Section 6(1)(b)(i): Promote competitive and fair market conduct**

The Commission has sought to encourage competition between retailers as one way of protecting consumers' long-term interests. In setting the wholesale electricity price (the major component of AGL SA's controllable costs) the Commission has incorporated AGL SA's actual contract costs for swap and cap contracts, many of which were entered into in 2001 and 2002 when market prices were higher than in recent years.

The Commission's consultant advised it that these higher prices were prudent, in that they were seen to be market rates at that time and the market did not expect prices to fall (as they subsequently did). These higher prices from earlier years' contracting have increased the allowable wholesale electricity cost relative to a level based on more recent contracting (2003 and 2004).

Accordingly, a retailer purchasing contracts in recent years to supply market contract customers should be able to secure a wholesale electricity price below that allowed for in the standing contract price.

Even without a specific allowance for headroom (which the Commission has not provided for in this draft price determination), there should be sufficient margin to encourage ongoing competition between retailers and an ability to offer prices below the standing contract price.

The Commission believes that its draft price determination promotes competitive and fair market conduct by retailers.



#### **4.3 Section 6(1)(b)(ii): Prevent misuse of monopoly or market power**

Although AGL SA no longer has a monopoly in the sale of electricity to small customers, it continues to serve over 80% of such customers in South Australia and therefore clearly continues to have market power. Many consumers will remain on the standing contract supply, no matter what potential there is to achieve savings by transferring to a market contract.

The Commission therefore needs to ensure that its price determination prevents AGL SA from abusing this position. The prices set must attempt to replicate a truly competitive market and ensure AGL SA's prices are at a level which provides an appropriate risk adjusted return (and no more).

The Commission's draft price determination, based as it is on AGL SA's actual costs and the costs of a prudent retailer with its responsibilities, should ensure that the potential for abuse of market power is minimised.

#### **4.4 Section 6(1)(b)(iii): Facilitate entry into markets**

For the reasons set out in section 4.2 concerning wholesale energy prices, the Commission's determination should provide an opportunity for other retailers to join the market and offer competitive prices to consumers.

#### **4.5 Section 6(1)(b)(iv): Promote economic efficiency**

The Commission has considered interstate benchmarks in determining prudent costs for a retailer, and this gives some guide as to efficient costs. The wholesale energy cost has been determined in a model which optimises contract cover so as to minimise risk, and this is considered to produce an economically efficient outcome.

#### **4.6 Section 6(1)(b)(v): Ensure consumers benefit from competition and efficiency**

The Commission has determined the efficient costs of operating as the standing contract retailer. While it has also had regard to AGL SA's actual costs, it has used them primarily to check that its prudent and efficient cost estimates are credible.

Accordingly, benefits arising from competition and efficient practices have been passed through to consumers in the standing contract prices.

Further, as mentioned in section 4.2, the standing contract prices also provide an opportunity for retailers to offer market contracts to consumers at even lower prices: the existence of strong competition between retailers should also lead to benefits to those consumers who take up the opportunity to switch.

#### **4.7 Section 6(1)(b)(vi): Facilitate maintenance of financial viability and incentive for long-term investment**

The Commission has undertaken a comprehensive evaluation of the investment of funds by AGL SA in the standing contract retail business, and considered the risk-adjusted return appropriate for such an investment. The retail margin set by the Commission provides for a return which supports the investment and other costs incurred by the retailer.

Further, the other cost components (wholesale energy cost and retailer operating costs) have been set at a level reflecting retailer risks and operating costs.

The Commission's draft price determination should therefore provide an appropriate return to an efficient retailer, and support further investment in generation, network and retailing businesses. This will facilitate the ongoing financial viability of the industry, and protect consumers' long-term interests.

#### **4.8 Section 6(1)(b)(vii): Promote consistency in regulation**

The arrangements for a price path set by the Commission are unique to South Australia, given the price path is applied to a privately owned business. In NSW, the regulator sets prices for the government-owned retailers over a period of some years, but the NSW government has other arrangements to manage the impact on retailers (such as the ETEF arrangement between generators and retailers). In Victoria, the price path is negotiated between the retailers and the government, and the regulator is not involved.

It is therefore difficult for the Commission to promote consistency when the legal and administrative arrangements are so different.

Nevertheless, the Commission has had regard to cost benchmarks from other jurisdictions, and sought to be consistent with decisions of other regulators where they are appropriate for South Australia.

#### **4.9 Section 25(4)(a): Particular circumstances of regulated industry and goods being regulated**

The Commission has specifically focussed its evaluation on the provision of standing contract services in the South Australian electricity market. Further, it has had regard to AGL SA's specific circumstances and costs.

#### **4.10 Section 25(4)(b): Costs of supplying the services**

The Commission has, through the Inquiry process commenced in May 2004, sought to obtain specific information on the costs to AGL SA of providing standing contract services. It has (with the assistance of consultants and AGL SA's auditor) reviewed historical costs



and projections, and modelled future wholesale energy costs based on actual contract prices.

Through other work, the Commission has sought to obtain information on the costs of operating as a standing contract retailer, including by a review of benchmark costs from other jurisdictions.

While it is difficult to estimate future costs when the actual future costs depend on such factors as the weather, NEM outcomes and the behaviour of other participants, the Commission has used expert advice and modelled a number of different scenarios in producing its best estimate of the future costs of supply. Further, the Commission released reports and discussion papers which outlined its assumptions and approach, and sought comment on them from stakeholders (including AGL SA).

The Commission has considered these comments in reaching its draft price determination. It believes that its conclusions are based on the actual costs of providing standing contract supply.

#### ***4.11 Section 25(4)(c): Cost of complying with laws and regulations***

The Commission has included in its estimate of the wholesale electricity cost the costs of market participation and environmental charges. The retailer operating costs also include a provision for legal and regulatory compliance.

#### ***4.12 Section 25(4)(d): Return on assets in the regulated industry***

The Commission, in determining the appropriate retail margin, has reviewed the return on assets that an investor might expect for investing funds in the retail industry. While there was limited information available on a benchmark return for retailing, the Commission's draft price determination has included consideration of this factor.

#### ***4.13 Section 25(4)(e): Relevant interstate benchmarks***

The Commission has considered the equivalent of standing contract prices in interstate jurisdictions, particularly Victoria and NSW. It has also had regard to the different components of prices in these jurisdictions, and confirmed reasons for differences with South Australian costs.

The Commission believes that the interstate benchmarks confirm the credibility of its own draft determinations on input costs and standing contract prices.

#### **4.14 Section 25(4)(f): Financial implications**

In setting the relevant cost components for determining the standing contract prices, the Commission has had regard to AGL SA's costs and the financial implications of this price determination on its viability (see section 4.7).

The Commission has also had regard to the financial implications for consumers, and has sought to protect consumers' interests with respect to price (see section 4.1).

The draft price determination seeks to balance the financial implications between the interests of consumers and the retailer.

#### **4.15 Section 25(4)(g): Factors specified by Act or regulation**

As indicated previously in section 1.2, there are a number of other factors specified in the Electricity Act including consistency with the National Electricity Code; promoting efficiency and competition; promoting the establishment and maintenance of an efficient system of electricity generation and supply; establishing proper standards of reliability and quality of supply; and protecting the interests of consumers.

These additional factors are already covered in the previous discussion (sections 4.1 to 4.14 above). There is potentially the added requirement to consider the establishment of efficient and reliable systems of generation and supply; but the Commission believes that its price determination provides the necessary funding and price signals to support investment in generation, network and retail operations.

In basing its draft price determination on an assessment of efficient costs, the Commission is ensuring the maintenance of a safe and reliable electricity industry and protecting the interests of consumers.

#### **4.16 Section 25(4)(h): Any other relevant factors**

The Terms of Reference of the Inquiry into the standing contract price path required the Commission to examine AGL SA's actual costs and how those costs were allocated between market contract and standing contract customers.

The Commission has had regard to this information in making this price determination.

#### **4.17 Section 25(5)(a): Costs and benefits of regulation**

The Commission does not believe there would be any significant costs of regulation imposed on AGL SA if this draft price determination were to become finalised in its current form. AGL SA will need to substitute the new prices for those now published, but that should be a reasonably straightforward matter through the computer system. There are no major ongoing or compliance costs associated with the determination, apart from those required by law.



#### **4.18 Section 25(5)(b): Articulate trade-off between costs and standards**

With regard to the trade-off between costs and service standards, the Commission has been keen to ensure that AGL SA's existing service standards (as spelt out in the Retail Code) are maintained, and have not been reduced. The allowance of \$84.41 (escalating at two percent above CPI) per customer for retail operating costs, and the 10% retail margin, ensure that service standards can be maintained at current levels. The Commission will continue to monitor and report on AGL SA's performance in this regard.

#### **4.19 Summary: Factors Considered**

As indicated, in making a price determination, the Commission must have regard to the factors outlined above.

The Commission has given careful consideration to these factors in making its draft price determination. The particular circumstances of the electricity industry require the Commission to be conscious of the financial risks borne by retailers, and the implications of setting price caps at levels below the input costs. As the only first tier retailer in South Australia, AGL SA is financially responsible to NEMMCO and ETSA for all costs not allocated specifically to second tier retailers – if it is unable to meet these payments, it will be removed from the market.

In particular, in coming to its decision on this draft price determination, the Commission has had regard to the costs incurred by AGL SA in supplying electricity to small customers, the costs of complying with the legislative and regulatory framework, the return on assets or retail margin relevant to retailers, benchmark costs for retailers operating in the market, and the financial implications of any alteration to AGL SA's proposed prices. It has decided not to accept AGL SA's proposed prices primarily because of the changes identified in the underlying cost components on which AGL SA's prices were based. It has not sought to lower the prices because of a general desire from many stakeholders for lower prices – it has only changed prices in response to identified changes in the underlying costs, and has provided an appropriate retail margin for the retailer obliged to supply small customers under standing contract prices.

The draft price determination has sought to deliver to consumers the lowest possible price (and hence the maximum benefit) commensurate with a fair return to AGL SA for the risks and costs it incurs in carrying out its role in the South Australian market. The draft price determination seeks to ensure AGL SA's financial viability, to promote competition where this benefits consumers, and to protect consumers' long-term interests through the creation of an efficient and competitive market.



## 5 PRICE CONTROLS

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Section 25(3) of the Act says that the Commission may regulate prices, conditions relating to prices or price-fixing factors in any manner the Commission considers appropriate; it also includes a list of possible approaches to fixing a price.

The Commission has given consideration to the most effective form of price control for the standing contract price path.

At the present time, there are nine different tariffs covering supply to small customers under standing contract terms and conditions. Options available to the Commission therefore included the application of a price control to:

- ▲ each tariff individually;
- ▲ the total of all tariffs combined;
- ▲ a weighted basket of individual tariffs; or
- ▲ selected (key) tariffs.

Other possibilities, such as providing guidelines or pricing principles to AGL SA and price monitoring, were dismissed as being too general and light-handed for this stage of development of the competitive market.

The Commission, as previously reported, has determined the justified level for wholesale energy cost, retail operating cost and retail margin for each quarter of 2005, 2006 and 2007. In addition, the Commission has estimated the number of consumers and level of demand (MWh) for each tariff (and in total) for each of the above periods, based on ESIPC forecasts and AGL SA assumptions regarding customer churn.

As a result of this work, the Commission has determined justified price components, for each quarter of the price path (on a real pricing basis) for each of the following:

- ▲ wholesale energy cost;
- ▲ retail operating cost;
- ▲ retail margin; and
- ▲ average revenue per MWh.

The Commission has considered how suitable this information is for application of a price control to the different options above (individual tariffs, total revenue, weighted basket of tariffs).

### 5.1 Price Control System

Having considered the relative merits of the different approaches, the Commission has determined to apply the average price cap for “retailer tariffs” (ie the retailer controllable cost components) to the total basket of standing contract tariffs, in conjunction with tight



side-constraints on individual tariff changes. This will provide AGL SA with some flexibility in adjusting tariffs over the three years to reduce cross-subsidies across customer classes, but will prevent major step-changes in prices to individual consumers.

The price control system is as follows:

- ▲ there are four separate “regulatory periods” covered by the draft price determination (the term of which is known as “the price path period”):
  - the initial regulatory period covering the period 1 January 2005 to 30 June 2005;
  - two regulatory periods covering the financial years 2005-06 and 2006-07; and
  - the closing regulatory period covering the period 1 July 2007 to 31 December 2007.
- ▲ the Commission has set initial standing contract prices for the initial regulatory period, the retailer tariff components of which are set at 2.5% above those currently applied by AGL SA (the distribution tariff components remain fixed at the current distribution tariff levels applied by ETSA Utilities);
- ▲ in May of 2005, 2006 and 2007, AGL SA will be required to submit to the Commission information on the forecast number of standing contract customers and total consumption for each standing contract tariff for the following regulatory period, and demonstrate:
  - that the total revenue (from the “retailer tariffs” component of the standing contract tariffs, exclusive of any pass-through amounts, see section 5.2), divided by total consumption, is less than or equal to the average retailer price cap permitted for the regulatory period in accordance with the price path. The permitted average retailer price cap in each regulatory period is calculated by reference to the average retailer price cap fixed for the previous regulatory period (and in the case of the May 2005 review, by reference to the initial average retailer price cap of \$91.51 per MWh fixed by the Commission under the price determination) multiplied by (CPI minus an x-factor of 1.05%);
  - that the charge at any level of annual consumption for each “retailer tariff”:
    - ▶ for residential and off-peak controlled load customers, is no more than (CPI plus four percent) above the charge applying at that time; and
    - ▶ for all other customer types, is no more than the greater of CPI + four percent above or \$40 more than the charge applying at that time;
  - the Commission will review both the AGL SA proposed charges, and the ETSA Utilities network charges and, by summation of those amounts, confirm the new prices (GST exclusive) for each standing contract tariff category, to apply from 1 July each year for the following regulatory period;
- ▲ AGL SA will then be required to publish the final standing contract tariffs (GST exclusive and inclusive) before 30 June each year;

- ▲ after 1 July 2005, AGL SA will be entitled to seek to introduce new tariffs and close existing tariffs from the start of any regulatory period, subject to the Commission's approval. The revenue outcomes from any new or closed tariffs must be such that the average retailer price cap controls set in this draft price determination are not breached by the tariff's introduction or closure, and customers' allocation to the new tariff must be protected by the retailer tariff side-constraint relative to the previous tariff to which they were assigned.

This price control system, with its associated retailer tariff side-constraint, is set out in Part B of this draft price determination.

## **5.2 Pass-through Events**

The Commission has determined that there should be four events which will result in a pass-through of net additional costs to the approved retailer controllable costs, and ultimately to standing contract prices. The relevant pass-through events are:

- (i) a change in taxes event, affecting only the electricity industry;
- (ii) a regulatory reset event, which imposes different obligations on AGL SA as standing contract retailer;
- (iii) a Reserve Trader event; and
- (iv) a NEMMCO directions event.

In addition, changes in network charges will be treated as a pass-through to standing contract prices.

Pass-through amounts are stand-alone amounts representing the occurrence of exogenous events. The amounts will not, therefore, be incorporated into the price path controls or assessed against those controls during the annual price path confirmation of AGL SA's proposed prices. The pass-through amounts will be the subject of separate assessment and controls at the time that AGL SA or the Commission initiates a pass-through approval process.

Importantly, there are strict time limitations surrounding pass-through events. AGL SA must make an application within 60 business days of an event occurring, or else an application will not be permitted. The Commission, in turn, will be required to approve or reject an application within 30 business days of receipt of an application. These timelines conform with the requirements of section 36AA of the Electricity Act.

## **5.3 Price Path Variation**

Due to the mismatch of timing in the making of the final price determination and the release of the Commission's Final Report to the Minister for Energy in respect of the Inquiry into AGL SA's price path proposal, scheduled for March 2005, the draft price determination allows for a one-off variation to the price path. This variation may, subject to Commission approval, be permitted in accordance with a finding or recommendation of



the Commission that the values of the inputs to the price control system, or the value of the x-factor, should vary in a material manner from the values specified in the final price determination.

In providing for such an occurrence, the Commission is recognising the right of AGL SA and other interested persons to make further representations to the Commission on the appropriate values to assign to those inputs, and thereby affords all interested parties the right to be further heard on these important matters.

Such a finding or recommendation may constitute a “price path variation event” and may permit an alteration (either positive or negative) of the values set for the price path components and the “x-factor” of the “CPI-x” price control mechanism. A variation will not permit the introduction of new price path components or the removal of any of the price path components existing as at the commencement of the price determination. Variation due to a price path variation event will, as a result of the consequential positive or negative change in the xfactor, necessarily result in a consequential variation to the average retailer price cap permitted.

In adopting this limited approach, the Commission has had regard to section 36AA(4a)(d) of the Electricity Act, which will come into operation from 1 July 2005. That section permits the Commission to make a new determination if “special circumstances” are determined to exist.

The Commission considers that “special circumstances” will generally be events of a magnitude such as to disturb the fundamental basis of an existing price determination so much as to require a new determination to be made. The Commission, AGL SA or any other interested party should have the ability under the Electricity Act to ask the Commission to consider whether special circumstances have arisen such that the determination should be reviewed and possibly replaced.

The Commission has not, therefore, sought to displace the operation of the Electricity Act through this draft price determination, limiting the price path variation to one specified and objective event.

The Commission therefore expects that if an unexpected event occurs which can be shown to have a material impact on the credibility of the average retailer price cap, a review would be initiated under section 36AA(4a)(d) to determine if the event was unable to be predicted, planned for or reasonably insured against, and whether it had a material impact on AGL SA’s prudent costs, such that the average retailer price cap set in this determination is no longer credible.

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**PART B**  
**- PRICE DETERMINATION -**

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# 1 GENERAL

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## 1.1 Authority

This *Standing Contract Price Determination* is made by the *Commission* under Part 3 of the Essential Services Commission Act 2002 as authorised by sections 36AA and 35A(1)(a) of the Electricity Act 1996.

## 1.2 Objective

In furtherance of the *Commission's* primary objective of the protection of electricity consumers' long-term interests in respect of the price, quality and reliability of electricity, by making this *Standing Contract Price Determination* the *Commission* has established an electricity retail *standing contract price path* for the *price path period* which establishes the lowest possible *standing contract price* consistent with:

- 1.2.1 the costs that an efficient electricity retailer would be expected to incur in meeting the responsibilities of a *standing contract* retailer to *small customers* in South Australia over the *price path period*;
- 1.2.2 encouraging the development of competition amongst electricity retailers for the benefit of all electricity consumers in South Australia;
- 1.2.3 encouraging ongoing, efficient investment to meet electricity consumers' long-term requirements; and
- 1.2.4 providing for an appropriate return for an efficient *standing contract* electricity retailer.

## 1.3 Term

This *Standing Contract Price Determination* takes effect on 1 January 2005 and ceases to have effect on 31 December 2007.

## 1.4 Definitions and interpretation

- 1.4.1 Words and phrases in italics in this *Standing Contract Price Determination* are defined in clause 6.1 and the *Price Path Schedule*.
- 1.4.2 This *Standing Contract Price Determination* must be interpreted according to the principles in clause 6.2.



## **1.5 Application of standing contract price determination**

This *Standing Contract Price Determination*:

- 1.5.1 regulates the maximum *standing contract prices* which *AGL SA* can charge *standing contract customers* during the *price path period*;
- 1.5.2 specifies the principles, procedures and formulae which apply to *AGL SA* during the *price path period* for altering, varying, opening or closing *standing contract prices*; and
- 1.5.3 provides for the pass through of certain changes in the costs incurred by *AGL SA* to *standing contract customers*.

## **1.6 Prices exclude GST**

In this *Standing Contract Price Determination*, all references to prices, tariffs or tariff components that are or may be charged are references to those prices, tariffs or tariff components exclusive of GST.

## **1.7 Application of standing contract prices**

Once a *standing contract price* has been set under this *Standing Contract Price Determination*, the *standing contract price*:

- 1.7.1 cannot be varied except as provided for in this *Standing Contract Price Determination*; and
- 1.7.2 continues to apply until the earliest of:
  - (a) the date (if any) specified in this *Standing Contract Price Determination* on which the *standing contract price* ceases to apply;
  - (b) the date the *standing contract price* is varied under this *Standing Contract Price Determination*; and
  - (c) the date this *Standing Contract Price Determination* ceases to have effect.

## **1.8 Publication of standing contract prices**

- 1.8.1 *AGL SA* must publish a notice in accordance with clause 1.8.2 setting out the relevant *standing contract prices* and *standing contract price components* (GST exclusive and inclusive), and the criteria for assignment

to those *standing contract prices*, applicable to *standing contract customers* at relevant *connection points*:

- (a) on or before the *commencement date*; and
- (b) after the *commencement date*, whenever:
  - (i) a *standing contract price* is altered in accordance with Chapter 2, Chapter 3, Chapter 4 or Chapter 5;
  - (ii) a new *standing contract price* is introduced or a *standing contract price* is closed in accordance with Chapter 3,at least 10 *business days* prior to the commencement of the *standing contract prices*.

1.8.2 A notice required to be published under clause 1.8.1 must be:

- (a) in the case of a notice required under clause 1.8.1(a) or clause 1.8.1(b):
  - (i) published on *AGL SA's* website; and
  - (ii) made available for inspection by members of the public; and
- (b) in the case of a notice required under clause 1.8.1(b), published in the *Gazette* and in a newspaper circulating generally in the State.

## **1.9 Modification of time periods**

1.9.1 If requested in writing by *AGL SA*, the *Commission* may, by written notice to *AGL SA*, extend:

- (a) the time by which a thing required to be done by *AGL SA* under this *Standing Contract Price Determination* must be done; or
- (b) the period within which a thing required to be done by *AGL SA* under this *Standing Contract Price Determination* must be done.

1.9.2 If the *Commission* makes a request for information for the purposes of making a decision or determination or exercising any of its powers under this *Standing Contract Price Determination*, any time period within which the *Commission* is required to make a decision or determination, notify any person or exercise any of its powers under this *Standing Contract Price Determination*:



- (a) stops running on the date the request is made; and
  - (b) starts to run again on the date that the *Commission* notifies *AGL SA* in writing that the *Commission* is satisfied that the requested information has been provided.
- 1.9.3 If the *Commission* makes a request for information under clause 1.9.2, it will notify *AGL SA*:
- (a) as soon as practicable after the request for information has been made, of the date the relevant time period stopped running; and
  - (b) as soon as practicable after the *Commission* has decided that any information received satisfies the request for information, of the date the time period started to run again.

## **1.10 Reviews of decisions or determinations**

- 1.10.1 An application may be made to the *Commission* by *AGL SA* for review of a decision or determination made, or deemed to have been made, by the *Commission* under this *Standing Contract Price Determination*.
- 1.10.2 The only grounds for a review under this clause 1.10 are that a decision or determination made, or deemed to have been made, by the *Commission* under this *Standing Contract Price Determination*:
- (a) was not made in accordance with the requirements of this *Standing Contract Price Determination*;
  - (b) is unreasonable having regard to all the relevant circumstances; or
  - (c) is based wholly or partly on an error of fact in a material respect.
- 1.10.3 An application for a review of a decision or determination must:
- (a) be in writing; and
  - (b) set out the decision or determination made, or deemed to have been made, by the *Commission* under this *Standing Contract Price Determination*, to which the application relates; and
  - (c) set out in detail the grounds on which the applicant seeks review and the decision sought on the review; and
  - (d) be accompanied by any information that the applicant considers should be taken into account by the *Commission* on the review; and

*Part B – Price Determination*

- (e) be lodged with the *Commission* within 10 *business days* after the decision or determination made, or deemed to have been made, by the *Commission* under this *Standing Contract Price Determination*, is published.
- 1.10.4 The *Commission* will not enter into a review of a decision or determination made, or deemed to have been made, by the *Commission* under this *Standing Contract Price Determination* where it believes that:
- (a) the application for review is vexatious; or
  - (b) the subject matter of the application is trivial, misconceived or lacking in substance.
- 1.10.5 If an application is made for a review of a decision or determination made, or deemed to have been made, by the *Commission* under this *Standing Contract Price Determination*:
- (a) the *Commission* will publish a copy of the application on its website; and
  - (b) invite submissions on the matter the subject of the review in a manner and within a period specified by the *Commission*.
- 1.10.6 The *Commission* may, at its absolute discretion, stay the operation of a decision or determination or deemed to have been made which is the subject of a an application for review under this clause 1.10.
- 1.10.7 A review will be decided within 6 weeks of the application being lodged with the *Commission*.
- 1.10.8 If a review is not decided within that period, the *Commission* will be taken to have confirmed the decision or determination made, or deemed to have been made, by the *Commission* under this *Price Determination* on the same grounds on which the original decision or determination was made.
- 1.10.9 After considering the application, the *Commission* may confirm, vary or substitute the decision or determination.
- 1.10.10 The *Commission* will give the applicant and any other person who provides a submission to the review written notice of the *Commission's* decision under clause 1.10.9 and the reasons for that decision.
- 1.10.11 A decision of the *Commission* made under clause 1.10.9 may not be the subject of an application for review under this clause 1.10.



## 2 STANDING CONTRACT PRICE

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### 2.1 *Maximum standing contract price*

AGL SA must not charge a *standing contract customer* a *standing contract price* in respect of a *connection point* which is greater than an amount calculated in accordance with this Chapter 2.

### 2.2 *Initial standing contract prices at the commencement date*

The maximum *standing contract price* which AGL SA may charge a *standing contract customer* in respect of a *connection point* at the *commencement date* must be calculated in accordance with the *initial standing contract prices* as set out in the *Initial Standing Contract Price Schedule*.

### 2.3 *Standing contract price components*

2.3.1 The *standing contract prices* set under this *Standing Contract Price Determination* are comprised of the following *standing contract price components*:

- (a) the *prescribed distribution services tariff* charges applicable to each relevant *connection point* in accordance with clause 2.4;

summed with,

- (b) the *retailer tariff* charges applicable to each relevant *connection point* in accordance with clauses 2.5 and 2.6 and Chapter 3, calculated in accordance with the formulae and principles set out in the *Price Path Schedule*;

summed with,

- (c) any *pass through amounts* approved by the *Commission* under Chapter 5.

2.3.2 AGL SA must ensure that the amount of each *standing contract price* is greater than or equal to the amount of each comparable *prescribed distribution services tariff component*.



## **2.4 Pass through of prescribed distribution services tariffs**

AGL SA must, as agent for *ETSA Utilities*, for each relevant *connection point*, pass through to a *standing contract customer* the *prescribed distribution services tariff* charges applicable to that *connection point* as fixed from time to time in accordance with:

- 2.4.1 until 30 June 2005, the *Electricity Pricing Order*; and
- 2.4.2 on and from 1 July 2005, the *Electricity Distribution Price Determination*.

## **2.5 Standing contract price assignment**

- 2.5.1 At the *commencement date*, AGL SA must assign each of its *standing contract customers* to a *retailer tariff* and associated *standing contract price* as set out in Schedule 1.A of the *Initial Standing Contract Price Schedule* in respect of each of the *standing contract customer's connection points* in accordance with the criteria set out in Schedule 1.B of the *Initial Standing Contract Price Schedule*.
- 2.5.2 After the *commencement date*, AGL SA must assign each of its *standing contract customers* to a *retailer tariff* and associated *standing contract price* in respect of each of the *standing contract customer's connection points* in accordance with the criteria set out in the notice last published under clause 1.8.1.
- 2.5.3 In determining which *retailer tariff* and associated *standing contract price* a *standing contract customer* should be assigned to in respect of a *connection point*, AGL SA must:
  - (a) take into account the *standing contract customer's* load and connection characteristics at that *connection point*; and
  - (b) treat *standing contract customers* in similar situations in a similar manner.
- 2.5.4 Nothing in this clause 2.5 will prevent a *standing contract customer* from exercising its right under clause 6.8 of the Energy Retail Code to apply to AGL SA for assignment to a different *retailer tariff* and associated *standing contract price*.

## **2.6 Annual alteration of retailer tariffs**

- 2.6.1 AGL SA must, for each *regulatory period* after the *initial regulatory period*, give the *Commission* for approval a statement in accordance with clause 2.6.2 that:



- (a) sets out *AGL SA's proposed retailer tariffs and retailer tariff components* for the *regulatory period*; and
  - (b) demonstrates and explains the compliance of the proposed *retailer tariffs and retailer tariff components* with this Chapter 2 and the relevant principles and formulae set out in the *Price Path Schedule*.
- 2.6.2 A statement referred to in clause 2.6.1 must be given to the *Commission* at least 40 *business days* but not more than 60 *business days* before the start of the *regulatory period*.
- 2.6.3 The *Commission* will publish a statement received under clause 2.6.1 on its website within 5 *business days* of receipt of the statement from *AGL SA*.

## **2.7 Commission approval**

- 2.7.1 The *Commission* will not approve a statement given by *AGL SA* under clause 2.6.1 if:
- (a) the statement does not demonstrate compliance of the proposed *retailer tariffs or retailer tariff components* with this Chapter 2 and the relevant principles and formulae in the *Price Path Schedule*; or
  - (b) a forecast or estimate included in the statement is not satisfactory to the *Commission*; or
  - (c) a *retailer tariff component* exceeds the maximum price which may be set for that *retailer tariff component* in accordance with this Chapter 2 or the *Price Path Schedule*.
- 2.7.2 In determining whether or not to approve a statement given by *AGL SA* under clause 2.6.1, the *Commission* will have regard to whether:
- (a) the proposed revenue outcomes are consistent with the *price path formula* set out in the *Price Path Schedule*;
  - (b) the individual *retailer tariffs* are consistent with the *tariff rebalancing formula* set out in the *Price Path Schedule*; and
  - (c) the individual *retailer tariff components* are consistent with the requirements of clause 2.3.2.
- 2.7.3 If the *Commission* approves a statement given by *AGL SA* under clause 2.6.1, it will:



- (a) notify *AGL SA* of that approval in writing within 25 *business days* of the *Commission* receiving the statement; and
- (b) publish a notice on its website advising of the approval of the statement.

2.7.4 If the *Commission* does not notify *AGL SA* of the *Commission's* decision regarding a statement given by *AGL SA* under clause 2.6.1 within 25 *business days* of the *Commission* receiving the statement, the *Commission* is deemed to have approved the statement with effect from the 26<sup>th</sup> *business day* after the *Commission* receives the statement.

## **2.8 Replacement statement**

2.8.1 If the *Commission* does not approve a statement given by *AGL SA* under clause 2.6.1, the *Commission* may allow *AGL SA* to replace the statement within such time as specified by the *Commission*.

2.8.2 A replacement statement under clause 2.8 will be taken to be a statement given under clause 2.6.1, except that:

- (a) clause 2.8 does not apply to the replacement statement; and
- (b) the time period in clause 2.7.4 will run from the date the *Commission* receives the replacement statement.

## **2.9 Required annual alteration**

2.9.1 If *AGL SA* does not provide to the *Commission* the statement required under clause 2.6.1 in relation to a *regulatory period* or the statement required under clause 2.6.1 is provided but not approved by the *Commission*, then the *Commission* may vary the relevant *retailer tariffs* and *retailer tariff components* for the *regulatory period* in a manner in which the *Commission* could have approved the *retailer tariffs* and *retailer tariff components* if included in a statement given by *AGL SA* under clause 2.6.1.

2.9.2 The *Commission* will:

- (a) notify *AGL SA* in writing; and
- (b) publish a notice on its website,

advising of any *retailer tariffs* or *retailer tariff components* varied by the *Commission* under clause 2.9.1.

## 2.10 Forecasts and estimates

2.10.1 For the purposes of a statement prepared by AGL SA under this Chapter 2:

- (a) forecasts of demand, energy and revenue for a *regulatory period* must be based on the best forecasts available at the time the statement is prepared; and
- (b) estimates of demand, energy and revenue for a *regulatory period* must be based on the actual results for that part of the *regulatory period* that are available at the time the statement is prepared and the best forecasts available for the rest of the *regulatory period*.

## 2.11 Application of annual alterations

2.11.1 The *retailer tariffs* and *retailer tariff components*:

- (a) in the statement given by AGL SA under clause 2.6.1 which have been or are deemed to have been approved by the *Commission*; or
- (b) varied by the *Commission* under clause 2.9.1,

must apply from the start of the *regulatory period* in which the *retailer tariffs* are to apply.

2.11.2 Following any alteration to *retailer tariffs* under this Chapter 2, the maximum *standing contract price* which AGL SA may charge a *standing contract customer* in relation to a *connection point* will comprise:

- (a) the *prescribed distribution services tariff* charges which AGL SA is required to pass through to that *standing contract customer* in relation to that *connection point* in accordance with clause 2.4;

summed with,

- (b) the *retailer tariff* charges applicable to that *standing contract customer* in relation to that *connection point* as varied in accordance with this Chapter 2 and Chapter 3;

summed with,

- (c) any *pass through amounts* approved by the *Commission* under Chapter 5.



### **3 ALTERING, INTRODUCING AND CLOSING STANDING CONTRACT PRICES**

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#### **3.1 *Altering, introducing and closing standing contract prices***

3.1.1 For any *regulatory period* after the *initial regulatory period*, AGL SA may seek the *Commission's* approval to:

- (a) introduce a new *standing contract price* from the commencement of that *regulatory period* as a result of the introduction of a new *retailer tariff* in accordance with clause 3.2;
- (b) close a *standing contract price* from the commencement of that *regulatory period* as a result of the closure of a *retailer tariff* in accordance with clause 3.3.

#### **3.2 *New retailer tariffs***

3.2.1 AGL SA may introduce a new *retailer tariff* subject to the *Commission's* approval in accordance with clause 3.4.

3.2.2 To seek the *Commission's* approval to introduce a new *retailer tariff* under clause 3.2.1, AGL SA must give the *Commission* a statement at least 60 *business days* before the commencement of the *regulatory period* setting out:

- (a) a description of the service to which the new *retailer tariff* is to apply;
- (b) details of the comparable *prescribed distribution service tariff*;
- (c) the proposed new *retailer tariff* and criteria for assignment to that *retailer tariff*;
- (d) if the new *retailer tariff* is intended to replace an existing *retailer tariff*, details of the relevant existing *retailer tariff*;
- (e) the effect of the proposed new *retailer tariff* on *standing contract customers*;
- (f) information as to which of the *standing contract customers* who are currently assigned to the relevant existing *retailer tariff* are eligible to be assigned to the new *retailer tariff*;



- (g) which classes of *standing contract customers* who are currently assigned to the relevant existing *retailer tariff* AGL SA proposes to assign to the new *retailer tariff*;
- (h) how AGL SA proposes to calculate and present the *retailer tariff components* of the new *retailer tariff*;
- (i) the revenue outcomes resulting from the introduction of the new *retailer tariff*, which must be consistent with the *average retailer price cap* control for the *regulatory period* as specified in the *Price Path Schedule*; and
- (j) the compliance of the new *retailer tariff* with the principles and formulae specified in Schedule 2.E of the *Price Path Schedule*.

3.2.3 The Commission will publish a statement received under clause 3.2.2 on its website within 5 *business days* of receipt of the statement from AGL SA.

3.2.4 If the *Commission* approves, or is deemed to have approved under clause 3.4, the introduction of the new *retailer tariff* in the statement given by AGL SA under clause 3.2.2, AGL SA must ensure that:

- (a) all *standing contract customers* who are to be assigned to the new *retailer tariff* are notified of that assignment; and
- (b) a notice is published in accordance with the requirements of clause 1.8.1(b); and
- (c) the new *retailer tariff* must only apply to a *standing contract customer* from the latest of:
  - (i) the commencement of the *standing contract customer's* next *billing cycle* following an *actual meter reading*; and
  - (ii) such other date as specified by the *Commission*.

### **3.3 Closing a standing contract price**

3.3.1 AGL SA may close a *retailer tariff* subject to the *Commission's* approval in accordance with clause 3.4.

3.3.2 To seek the *Commission's* approval to close a new *retailer tariff* under clause 3.3.1, AGL SA must give the *Commission* a statement at least 60

*business days* before the commencement of the *regulatory period* setting out:

- (a) details of the *retailer tariff* which it proposes to close;
- (b) the effect of the proposed closure on *standing contract customers*;
- (c) the *retailer tariff* to which *standing contract customers* will be eligible to be assigned after the closure of the existing *retailer tariff*;
- (d) the revenue outcomes resulting from the closure of the *retailer tariff*, which must be consistent with the *average retailer price cap* control for the *regulatory period* as specified in the *Price Path Schedule*; and
- (e) the compliance of the outcomes resulting from the closure of the *retailer tariff* with the principles and formulae specified in Schedule 2.E of the *Price Path Schedule*.

3.3.3 The Commission will publish a statement received under clause 3.3.2 on its website within 5 *business days* of receipt of the statement from AGL SA.

3.3.4 If the *Commission* approves or is deemed to have approved under clause 3.4 the closure of the *retailer tariff* in the statement given by AGL SA under clause 3.3.2 AGL SA must ensure that:

- (a) all *standing contract customers* affected by the closure and are to be assigned to a different *retailer tariff* are notified of that assignment and the date from which that assignment will be effective; and
- (b) a notice is published in accordance with the requirements of clause 1.8.1(b); and
- (c) the different *retailer tariff* to which a *standing contract customer* is assigned under clause 3.3.4(a) must only apply from the latest of:
  - (i) the commencement of the *standing contract customer's* next *billing cycle* following an *actual meter reading*; and
  - (ii) such other date as is specified by the *Commission*.



### **3.4 Commission approval**

- 3.4.1 The *Commission* will only approve a statement given under clause 3.2.2 or clause 3.3.2 if:
- (a) the statement demonstrates compliance of the proposed *retailer tariffs* and *retailer tariff components* with the relevant principles and formulae in the *Price Path Schedule*; and
  - (b) all the forecasts and estimates included in the statement are satisfactory to the *Commission*; and
  - (c) no *retailer tariff component* exceeds the maximum price which may be set for that *retailer tariff component* in accordance with clause 2.3.2; and
  - (d) no *retailer tariff* exceeds the maximum price which may be set for that *retailer tariff* in accordance with the principles and formulae set out in the *Price Path Schedule*.
- 3.4.2 If the *Commission* approves a statement given by *AGL SA* under clause 3.2.2 or clause 3.3.2, it will:
- (a) notify *AGL SA* of that approval in writing within 40 *business days* of the *Commission* receiving the statement; and
  - (b) publish a notice on its website advising of the approval of the statement.
- 3.4.3 If the *Commission* does not notify *AGL SA* of the *Commission's* decision regarding a statement given by *AGL SA* under clause 3.2.2 or clause 3.3.2 within 40 *business days* of the *Commission* receiving the statement, the *Commission* is deemed to have approved the statement with effect from the 41<sup>st</sup> *business day* after the *Commission* receives the statement.
- 3.4.4 If the *Commission* does not approve a statement given by *AGL SA* under clause 3.2.2 or clause 3.3.2, the *Commission* may allow *AGL SA* to replace the statement within such time as specified by the *Commission*.
- 3.4.5 A replacement statement under clause 3.4.4 will be taken to be a statement given under clause 3.2.2 or clause 3.3.2, except that:
- (a) clause 3.4.4 does not apply to the replacement statement; and
  - (b) the time period in clause 3.4.3 will run from the date the *Commission* receives the replacement statement.



### **3.5 *Forecasts and estimates***

- 3.5.1 For the purposes of a statement prepared by *AGL SA* under this Chapter 3:
- (a) forecasts of demand, energy and revenue for a *regulatory period* must be based on the best forecasts available at the time the statement is prepared; and
  - (b) estimates of demand, energy and revenue for a *regulatory period* must be based on the actual results for that part of the *regulatory period* that are available at the time the statement is prepared and the best forecasts available for the rest of the *regulatory period*.



## 4 PRICE PATH VARIATION

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### 4.1 *Price path variation event*

4.1.1 Until 1 July 2005, the value of a *price path component* or the value of the *x-factor* may be varied in accordance with this Chapter 4 as a result of the occurrence of a *price path variation event*.

### 4.2 *Variation by the Commission*

4.2.1 If the *Commission* decides that a *price path variation event* has occurred the *Commission* may vary the value of a *price path component* or the value of the *x-factor*.

4.2.2 If the *Commission* varies the value of a *price path component* under clause 4.2.1 it will:

- (a) determine in accordance with clause 4.6 whether the value of the *x-factor* requires consequential variation, and, if so, vary the *x-factor* accordingly;
- (b) notify *AGL SA* in writing of the variation to the *price path component* and, if applicable, the variation to the *x-factor*; and
- (c) publish a notice on its website advising of the variation to the *price path component* and, if applicable, the variation to the *x-factor*.

4.2.3 If the *Commission* varies the value of the *x-factor* under clause 4.2.1 it will:

- (a) notify *AGL SA* in writing of the variation to the *x-factor*; and
- (b) publish a notice on its website advising of the variation to the *x-factor*.

### 4.3 *Application by AGL SA*

4.3.1 If a *price path variation event* occurs and the *Commission* does not undertake variation in accordance with clause 4.2, *AGL SA* may seek the *Commission's* approval to vary the value of a relevant *price path component* and/or the *x-factor*.

4.3.2 To seek the *Commission's* approval under clause 4.3.1, *AGL SA* must give the *Commission* a statement at least 40 *business days* before the start of the *regulatory period* specifying:

- (a) details of the *price path variation event*;



- (b) the estimated financial effect of the *price path variation event* on the provision of *retail services* by *AGL SA*; and
- (c) the proposed variation to the value of the *price path component* and/or the *x-factor* arising from the *price path variation event*.

4.3.3 The Commission will publish a statement received under clause 4.3.2 on its website within 5 *business* days of receipt of the statement from *AGL SA*.

#### **4.4 Commission approval**

4.4.1 The *Commission* will not approve a statement given by *AGL SA* under clause 4.3.2 if:

- (a) the *Commission* decides, having regard to the matters specified in clause 4.6.2, that the impact of the *price path variation event* on the *price path component* and/or the *x-factor* would not be material; or
- (b) a forecast or estimate included in the statement is not satisfactory to the *Commission*; or
- (c) the statement does not include some or all of the information required under clause 4.3.2; or
- (d) the information contained in the statement is otherwise not satisfactory to the *Commission*.

4.4.2 If the Commission approves a statement given by *AGL SA* under clause 4.3.2 seeking only to vary the value of a relevant *price path component*, it will:

- (a) determine in accordance with clause 4.6 whether the value of the *x-factor* requires consequential variation, and, if so, vary the *x-factor* accordingly;
- (b) notify *AGL SA* in writing of the variation to the *price path component* and, if applicable, the variation to the *x-factor*;
- (c) publish a notice on its website advising of the variation to the *price path component* and, if applicable, the variation to the *x-factor*.

4.4.3 If the Commission approves a statement given by *AGL SA* under clause 4.3.2, other than a statement of the type referred to in clause 4.4.2, it will:

- (a) notify *AGL SA* in writing of the variation to the *price path component* and, if applicable, the variation to the *x-factor*;
  - (b) publish a notice on its website advising of the variation to the *price path component* and, if applicable, the variation to the *x-factor*.
- 4.4.4 If the *Commission* does not notify *AGL SA* of the *Commission's* decision regarding a statement given by *AGL SA* under clause 4.3.2 within 25 *business days* of the *Commission* receiving the statement, the *Commission* is deemed to have approved the statement with effect from the 26<sup>th</sup> *business day* after the *Commission* receives the statement.
- 4.4.5 Where the *Commission* is deemed under clause 4.4.4 to have approved a statement given by *AGL SA* under clause 4.3.2 seeking only to vary the value of a relevant *price path component*, the *Commission* will determine within 30 *business days* following the receipt of the statement whether the value of the *x-factor* requires consequential variation in accordance with clause 4.6, and, if so, vary the *x-factor* accordingly.

## **4.5 Replacement statement**

- 4.5.1 If the *Commission* does not approve a statement given by *AGL SA* under clause 4.3.2, the *Commission* may allow *AGL SA* to replace the statement within such time as specified by the *Commission*.
- 4.5.2 A replacement statement under clause 4.5.1 will be taken to be a statement given under clause 4.3.2, except that:
- (a) clause 4.5 does not apply to the replacement statement; and
  - (b) the time period in clause 4.4.4 will run from the date the *Commission* receives the replacement statement.

## **4.6 Variation to x-factor**

- 4.6.1 When the *Commission* approves a variation to a *price path component* under clause 4.2.1, clause 4.3.1 or clause 4.4.5, the *Commission* will determine whether a consequential variation is required to the *x-factor* in accordance with clause 4.6.2.
- 4.6.2 In determining whether to vary the *x-factor* under clause 4.2.1, clause 4.3.1 or clause 4.4.5, the *Commission* will have regard to:
- (a) the change in the present value of the *Commission's* estimates of the costs incurred by *AGL SA* in providing *retail services* during the *price*



*path period* as a result of the variation to the *price path component* under clause 4.2.1, clause 4.3.1 or clause 4.4.5; and

- (b) the need to ensure that the present value of the *Commission's* estimates of the revenues received by *AGL SA* from the provision of *retail services* during the *price path period* matches the changed present value of the *Commission's* estimates of the costs incurred by *AGL SA* in providing *retail services* during the *price path period*.

#### **4.7 Application of price path variation**

- 4.7.1 A variation under this Chapter 4 of the value of a *price path component* and/or the *x-factor* will apply from the date on which the variation was made under 4.2 or approved or deemed to have been approved under clause 4.4 (as the case may be).

## 5 REGULATED PASS THROUGH

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### 5.1 *Relevant pass through event*

5.1.1 A *relevant pass through event* is a:

- (a) *change in taxes event*, or
- (b) *regulatory reset event*, or
- (c) *reserve trader event*, or
- (d) *NEMMCo directions event*.

### 5.2 *Application by AGL SA*

5.2.1 If a *relevant pass through event* occurs, AGL SA may seek the *Commission's* approval to pass through a *pass through amount* in relation to the amounts that AGL SA is otherwise permitted to charge as a *retailer tariff* pursuant to Chapter 2.

5.2.2 To seek the *Commission's* approval to pass through a *pass through amount* under clause 5.2.1, AGL SA must give the *Commission* a statement within 60 *business days* of the *relevant pass through event* occurring, specifying:

- (a) details of the *relevant pass through event* concerned;
- (b) the date the *relevant pass through event* took or takes effect;
- (c) the estimated financial effects of the *relevant pass through event* on the provision of *standing contracts* by AGL SA;
- (d) the pass through amount AGL SA proposes in relation to the *relevant pass through event*;
- (e) the basis on which AGL SA proposes to apply the *pass through amount* to *retailer tariffs*; and
- (f) the date from, and period over which, the AGL SA proposes to apply the *pass through amount*.

5.2.3 The Commission will publish a statement received under clause 5.2.2 on its website within 5 *business days* of receipt of the statement from AGL SA.



### **5.3 Approval by Commission**

5.3.1 If the *Commission* receives a statement under clause 5.2.2 in relation to a *relevant pass through event*, the *Commission* will decide whether the *relevant pass through event* occurred and, if the *Commission* decides the *relevant pass through event* occurred, the *Commission* will:

- (a) decide the *pass through amount*;
- (b) decide the basis on which the *pass through amount* may be applied to *retailer tariffs*;
- (c) decide the date from, and period over which, the *pass through amount* may be applied,

and,

- (d) notify *AGL SA* of those decisions in writing within 30 *business days* of the *Commission* receiving the statement; and
- (e) publish a notice on its website advising of the *Commission's* decisions.

5.3.2 If the *Commission* does not give a notice to *AGL SA* under clause 5.3.1 within 30 *business days* of receiving a statement from *AGL SA* under clause 3.2.2 on the 31<sup>st</sup> *business day* after receiving *AGL SA's* statement, the *Commission* is deemed to have notified *AGL SA* of its decision that the *pass through amount* and the basis on, date from and period over which the *pass through amount* may be applied are as specified in *AGL SA's* statement.

### **5.4 Required pass through**

5.4.1 If a *relevant pass through event* occurs, and *AGL SA* does not give the *Commission* a statement under clause 5.2.2 concerning the *relevant pass through event*, the *Commission* may require *AGL SA* to pass through a *pass through amount* in relation to the amounts that *AGL SA* is otherwise permitted to charge as *retailer tariffs* pursuant to Chapter 2.

5.4.2 If the *Commission* decides to require *AGL SA* to pass through a *pass through amount*, the *Commission* will decide:

- (a) the *pass through amount*;
- (b) the basis on which the *pass through amount* may be applied to *retailer tariffs*; and



- (c) the date from, and period over which, the *pass through amount* must be applied,

and notify *AGL SA* in writing of the *Commission's* decision and the reasons for the *Commission's* decision.

## 5.5 Relevant factors

5.5.1 In making a decision under clause 5.3, the *Commission* will take into account the matters and proposals set out in *AGL SA's* statement.

5.5.2 In making a decision under clause 5.3 or clause 5.4, the *Commission* will seek to ensure that the financial effect on *AGL SA* associated with the *relevant pass through event* concerned is economically neutral, taking into account:

- (a) the relative numbers of *standing contracts customers* subject to each *retailer tariff*;
- (b) the time cost of money for the period over which the *pass through amount* is to be applied;
- (c) the basis on and period over which the *pass through amount* is to be applied;
- (d) the financial effect on *AGL SA* associated with the provision of *retail services* directly attributable to the *relevant pass through event* and the time at which the financial effect arises;
- (e) any *pass through amount* applied under this Chapter 5 relating to a previous *relevant pass through event* in the same category, which resulted in *AGL SA* recovering an amount either more or less than the financial effect on *AGL SA* of that previous *relevant pass through event*;
- (f) in relation to a *change in taxes event*.
  - (i) any change in the way or rate at which another tax is calculated, or the removal or imposition of another tax, which, in the *Commission's* opinion, is complementary to the *change in taxes event* concerned; or
  - (ii) the effect of any other previous *change in taxes event* that has occurred since the later of the *Commencement Date* and the last



decision made under this Chapter 5 in relation to a *change in taxes event*; and

- (iii) any other factors the *Commission* considers relevant.

## **5.6 Application of pass through amount**

5.6.1 AGL SA may, after:

- (a) receipt or deemed receipt of a notice under clause 5.3, or receipt of a notice under clause 5.4, allowing or requiring AGL SA to pass through a *positive pass through amount*; and
- (b) ensuring its *standing contract customers* are notified of:
  - (i) the *positive pass through amount* which the *Commission* has approved or is deemed to have approved; and
  - (ii) the circumstances giving rise to the *positive pass through amount*; and
  - (iii) the basis on, date from and period over which the *positive pass through amount* will be applied to the *standing contract prices*,

apply the *positive pass through amount* on the basis, from the date and over the period specified or deemed to be specified in the notice from the *Commission*.

5.6.2 AGL SA must, after:

- (a) receipt or deemed receipt of a notice under clause 5.3, or receipt of a notice under clause 5.4, allowing or requiring AGL SA to pass through a *negative pass through amount*; and
- (b) ensuring its *standing contract customers* are notified of:
  - (i) the *negative pass through amount* which the *Commission* has approved or is deemed to have approved; and
  - (ii) the circumstances giving rise to the *negative pass through amount*; and
  - (iii) the basis on, date from and period over which the *negative pass through amount* will be applied to the *standing contract prices*,

apply the *negative pass through amount* on the basis, from the date and over the period specified or deemed to be specified in the notice from the *Commission*.

- 5.6.3 The effect of any *pass through amount* must be notified to *standing contract customers* in a manner approved by the *Commission*.

## **5.7 Price path calculations**

5.7.1 A *pass through amount* applied by *AGL SA* under this Chapter 5 will not be:

- (a) taken into account in deciding:
  - (i) *AGL SA's revenues, retailer tariffs or retailer tariff components* used in the *Price Path Schedule*; or
  - (ii) whether *AGL SA's retailer tariffs or retailer tariff components* comply with the principles and formulae in the *Price Path Schedule*, or
- (b) subject to the procedures specified in Chapter 2.



## 6 DEFINITIONS AND INTERPRETATION

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### 6.1 Definitions

In this *Standing Contract Price Determination*:

“**actual meter reading**” means the physical collection of energy data by way of a meter reading.

“**average retailer price cap**” means the maximum amount which AGL SA may earn per Megawatt hour of electricity sold to *standing contract customers*, as calculated in accordance with clause 6.2.7 and the *Price Path Schedule*.

“**billing cycle**” means the regular recurrent period for which a *standing contract customer* receives a bill from AGL SA in relation to a *standing contract*.

“**business day**” means a day on which banks are open for general banking business in Adelaide, other than a Saturday or a Sunday.

“**change in taxes event**” means:

- a) a change in (or change in application or official interpretation of) a *relevant tax* or the way in which a *relevant tax* is calculated;
- b) the removal of a *relevant tax*; or
- c) the imposition of a *relevant tax*,

applicable only to the Australian electricity supply industry to the extent that the change, removal or imposition applies to the provision of *retail services* by AGL SA or services supplied to AGL SA in respect of the provision of *retail services* by AGL SA as a result of which AGL SA would incur materially higher or lower costs in providing *standing contracts* than it would have incurred but for that event.

“**closing regulatory period**” means the period 1 July 2007 to 31 December 2007.

“**Commission**” means the Essential Services Commission established under the Essential Services Commission Act 2002.

“**commencement date**” means 1 January 2005.

“**connection point**” means the point of connection between a *standing contract customer's* electrical installation and the distribution network.



“**Electricity Distribution Price Determination**” means the price determination made by the *Commission* under the Essential Services Commission Act 2002 regulating the amounts which *ETSA Utilities* can charge for the provision of prescribed distribution services during the period 1 July 2005 to 30 June 2010.

“**Electricity Pricing Order**” means the pricing order issued by the Treasurer on 11 October 1999 under section 35B of the Electricity Act 1996, as varied from time to time.

“**ETSA Utilities**” means CKI Utilities Development Limited (ARBN 090 718 880), HEI Utilities Development Limited (ARBN 090 718 951), CKI Utilities Holdings Limited (ARBN 091 142 380), HEI Utilities Holdings Limited (ARBN 091 142 362) and CKI/HEI Utilities Distribution Limited (ARBN 091 143 038).

“**Gazette**” means the South Australian Government Gazette.

“**GST**” means the tax imposed under *GST Law*.

“**GST Law**” has the meaning attributed in the A New Tax System (Goods and Services Tax) Act 1999, and terms related to GST such as “ABN”, “Input Tax Credit”, “Taxable Supply” and “Tax Invoice” have the meaning attributed in the *GST Law*.

“**initial regulatory period**” means the period 1 January 2005 to 30 June 2005.

“**initial average retailer price cap**” means the value fixed in Schedule 2.D(b).

“**initial standing contract prices**” means the *standing contract prices* listed in the *Initial Standing Contract Price Schedule* which *AGL SA* may charge *standing contract customers* from the *commencement date* until the *standing contract price* is first varied in accordance with Chapter 2.

“**Initial Standing Contract Price Schedule**” means Schedule 1 of this *Standing Contract Price Determination*.

“**negative pass through amount**” means, in relation to a relevant *pass through event*:

- a) an amount that *AGL SA* is required to pay its *standing contract customers*; or
- b) the amount by which payments by *standing contract customers* to *AGL SA* are reduced.

“**NEMMCo**” means the National Electricity Market Management Company Limited A.C.N. 072 010 327, the company which operates and administers the wholesale energy market in accordance with the National Electricity Code

“**NEMMCo directions event**” means *NEMMCo* has issued a direction under clause 4.8.9 of the National Electricity Code as a result of which *AGL SA* would incur materially higher or lower costs in providing *standing contracts* than it would have incurred but for that event.

“**non-residential customers**” means *standing contract customers* other than *residential customers*.

“**pass through amount**” means a *positive pass through amount* or a *negative pass through amount*.

“**positive pass through amount**” means, in relation to a *relevant pass through event*:

- a) an amount that *standing contract customers* are required to pay *AGL SA*; or
- b) the amount by which payments by *standing contract customers* to *AGL SA* are increased.

“**prescribed distribution services tariffs**” means the tariffs for distribution services provided by *ETSA Utilities* which are classified and regulated as prescribed distribution services in accordance with the *Electricity Distribution Price Determination* or the *Electricity Pricing Order* (as the case may be).

“**prescribed distribution services tariff component**” means an individual price element comprising part of a *prescribed distribution services tariff*.

“**price path component**” means each of Wholesale Energy Costs, Retail Operating Costs and Retail Margin, the values for which are specified in Schedules 2.A, 2.B and 2.C of the *Price Path Schedule*.

“**price path formula**” means the *average retailer price cap* control formula specified in Schedule 2.D of the *Price Path Schedule*.

“**price path period**” means the period 1 January 2005 to 31 December 2007.

“**price path variation event**” means a finding or recommendation of the *Commission* in relation to a *price path component* in a final report of the Inquiry undertaken by the *Commission* under Part 7 of the Essential Services Commission Act 2002 in accordance with the Notice of Inquiry from the Minister for Energy dated 26 May 2004 entitled “Standing Contract Prices of AGL from 2005”, which finds or recommends that the value of a *price path component* or the *x-factor* should vary in a material way from the values specified in Schedules 2.A, 2.B, 2.C or 2.D(c) of the *Price Path Schedule* of this *Standing Contract Price Determination*.



**“regulatory reset event”** means:

- a) a material change in the obligation imposed under section 36AA of the Electricity Act 1996 for AGL SA to offer to retail electricity to *small customers*; or
- b) a decision made by the National Electricity Code Administrator Limited, NEMMCo or the Australian Competition and Consumer Commission imposing a set of minimum standards on AGL SA in respect of the provision of *standing contracts* that are different from the set of minimum standards imposed on AGL SA in respect of the provision of *standing contracts* at the *commencement date*;

as a result of which AGL SA would incur materially higher or lower costs in providing *standing contracts* than it would have incurred but for that event.

**“regulatory period”** means, during the *price path period*:

- a) the *initial regulatory period*; and
- b) after that, each period of 12 months ending on 30 June; and
- c) after 30 June 2007, the *closing regulatory period*.

**“relevant pass through event”** has the meaning given in clause 5.1.

**“relevant tax”** means any tax imposed by or payable directly or indirectly to any Authority of the Commonwealth of Australia, (including a goods and services tax), but excluding any:

- a) income tax (or State equivalent income tax), fringe benefits tax or capital gains tax;
- b) payroll tax;
- c) fees and charges paid or payable to the *Commission* for licences under the Electricity Act 1996, or any other membership, contributory or other charge payable to other regulatory bodies in the electricity industry;
- d) land tax or any other tax on the ownership or occupancy of premises;
- e) customs and import duties;
- f) municipal rates, taxes and other charges imposed by local authorities;
- g) stamp duty, financial institutions duty, bank accounts debits tax or similar taxes and duties;
- h) penalties and interest for late payments relating to any tax; or
- i) any tax that replaces any of the taxes referred to in (a) to (h).



“**reserve trader event**” means the payment of an amount to *NEMMCo* or the receipt of an amount from *NEMMCo* calculated in accordance with clause 3.15.9 of the National Electricity Code, as a result of which *AGL SA* would incur materially higher or lower costs in providing *standing contracts* than it would have incurred but for that event.

“**residential customers**” means *standing contract customers* whose electricity consumption relates to premises used wholly or principally as private residences.

“**retail services**” means the services provided by *AGL SA* in respect of the provision of *standing contracts* to *small customers*.

“**retailer tariff**” means the tariffs *AGL SA* may charge a *standing contract customer* at a *connection point* in relation to *retail services* calculated in accordance with Chapter 2.

“**retailer tariff components**” means an individual price element comprising part of a *retailer tariff*.

“**small customer**” has the meaning given to that term in the Electricity Act 1996.

“**standing contract**” means a contract for the sale of electricity entered into by *AGL SA* and a *small customer* in accordance with section 36AA of the Electricity Act 1996.

“**standing contract customer**” means a *small customer* who has entered into a *standing contract* with *AGL SA* in accordance with section 36AA of the Electricity Act 1996.

“**standing contract price**” means the prices fixed under this *Standing Contract Price Determination* for the purposes of section 36AA of the Electricity Act 1996.

“**standing contract price components**” means each of the price elements of a *standing contract price* specified in clause 2.3.

“**Standing Contract Price Determination**” means this price determination made by the Commission under the Essential Services Commission Act 2002 as authorised by sections 36AA and 35A(1)(a) of the Electricity Act 1996.

“**standing contract price component**” means *prescribed distribution services tariff* charges, *retailer tariff* charges and *pass-through amounts* as set out in clause 2.3.

“**tariff rebalancing formula**” means the formula specified in Schedule 2.E of the *Price Path Schedule*.

“**x-factor**” means the factor specified in Schedule 2.D(c) of the *Price Path Schedule*.



## 6.2 Principles of Interpretation

Unless the contrary intention appears, these principles of interpretation apply to this *Standing Contract Price Determination*:

- 6.2.1 Words denoting persons include corporations, unincorporated associations, firms, governments and governmental agencies.
- 6.2.2 A reference to a person includes that person's agents, successors and permitted assigns, persons who have control over any assets of a person and receivers, managers, trustees, administrators and liquidators and similar persons appointed over:
  - (a) a person; or
  - (b) any assets of a person;
- 6.2.3 Headings are only included for convenience and do not affect the interpretation of this *Standing Contract Price Determination*.
- 6.2.4 A reference to a clause, Chapter, Part or Schedule is to a clause, Chapter or Part of or Schedule to this *Standing Contract Price Determination*.
- 6.2.5 A reference to an agreement, document or regulatory instrument is a reference to that agreement, document or regulatory instrument as varied or replaced from time to time and includes any Schedules or attachments to the agreement, document or regulatory instrument.
- 6.2.6 A reference to legislation or to a provision of the legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- 6.2.7 For the purposes of calculating the *average retailer price cap*:
  - (a) energy volume should be measured to thousands of Megawatt hours (000's of MWh);
  - (b) maximum revenue in dollars per Megawatt hour must be measured to a minimum of two decimal places; and
  - (c) a consistent approach to rounding must be used in each *regulatory period*.
- 6.2.8 All *standing contract prices* calculated under this *Standing Contract Price Determination* must be rounded to the accuracy, in terms of the number of decimal places, required by the AGL SA's charging and billing systems.

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- 6.2.9 A *standing contract price* that has been calculated and rounded under the principles in clause 6.2.8 must not be rounded to a different level of accuracy when utilised in calculations made under this *Standing Contract Price Determination*.
- 6.2.10 CPI is to be calculated in accordance with clause 2.F of the *Price Path Schedule*.
- 6.2.11 When a calculation is required under this *Standing Contract Price Determination*:
- (a) *Regulatory period "t"* is the *regulatory period* in respect of which the calculation is being made; and
  - (b) *Regulatory period "t-1"* is the *regulatory period* immediately preceding *regulatory period "t"*.



**SCHEDULE 1 INITIAL STANDING CONTRACT PRICE SCHEDULE**

**1.A Initial standing contract prices**

ALL TARIFFS ARE GST EXCLUSIVE	PRESCRIBED DISTRIBUTION SERVICE TARIFF	RETAILER TARIFF	STANDING CONTRACT PRICE
<p><b>DOMESTIC LIGHT/POWER 110/</b></p> <p><u><i>From 1 Jan - 31 Mar</i></u> First 300 kWh/qtr (c/kWh) Thereafter (c/kWh) Supply Charge (\$/qtr)</p> <p><u><i>From 1 Apr - 30 June</i></u> First 300 kWh/qtr (c/kWh) Thereafter (c/kWh) Supply Charge (\$/qtr)</p>	<p>Note: All tariffs to be set in final Price Determination</p>		
<p><b>CHARITABLE 112</b></p> <p>For all consumption (c/kWh) Supply Charge (\$/qtr)</p>			
<p><b>OFF PEAK CONTROLLED LOAD 116</b></p> <p>For all consumption (c/kWh) Supply Charge (\$/qtr)</p>			
<p><b>GENERAL SUPPLY 126</b></p> <p><u><i>From 1 Jan - 31 Mar</i></u> First 7,500 kWh/qtr (c/kWh) Thereafter (c/kWh) Supply Charge (\$/qtr)</p> <p><u><i>From 1 Apr - 30 June</i></u> First 7,500 kWh/qtr (c/kWh) Thereafter (c/kWh) Supply Charge (\$/qtr)</p>			
<p><b>GENERAL SUPPLY 126M</b> (Monthly Meter Read)</p> <p><u><i>From 1 Jan - 31 Mar</i></u> First 7,500 kWh/qtr (c/kWh) Thereafter (c/kWh) Supply Charge (\$/qtr)</p> <p><u><i>From 1 Apr - 30 June</i></u> First 7,500 kWh/qtr (c/kWh) Thereafter (c/kWh) Supply Charge (\$/qtr)</p>			
<p><b>GENERAL SUPPLY TIME OF USE 128</b></p> <p><u><i>From 1 Jan - 31 Mar</i></u> First 7,500 kWh/qtr (c/kWh) Thereafter (c/kWh) Supply Charge (\$/qtr)</p> <p><u><i>From 1 Apr - 30 June</i></u> First 7,500 kWh/qtr (c/kWh) Thereafter (c/kWh) Supply Charge (\$/qtr)</p> <p><b>Off Peak</b> For all consumption (c/kWh)</p>			



ALL TARIFFS ARE GST EXCLUSIVE	PRESCRIBED DISTRIBUTION SERVICE TARIFF	RETAILER TARIFF	STANDING CONTRACT PRICE
<b>GENERAL SUPPLY TIME OF USE 128M</b> <i>From 1 Jan - 31 Mar</i> (Monthly Meter Read) First 7,500 kWh/qtr (c/kWh) Thereafter (c/kWh) Supply Charge (\$/qtr) <i>From 1 Apr - 30 June</i> First 7,500 kWh/qtr (c/kWh) Thereafter (c/kWh) Supply Charge (\$/qtr)  <b>Off Peak</b> For all consumption (c/kWh)			
<b>OBSOLETE 140</b>  First 7,500 kWh/qtr (c/kWh) Thereafter (c/kWh) Supply Charge (\$/qtr)  <b>Off Peak</b> For all consumption (c/kWh)			
<b>OBSOLETE 140M</b> (Monthly Meter Read)  First 7,500 kWh/qtr (c/kWh) Thereafter (c/kWh) Supply Charge (\$/qtr)  <b>Off Peak</b> For all consumption (c/kWh)			

## 1.B Standing contract price assignment principles

- (a) *Standing contract price* categories only apply to *standing contract customers* in accordance with the following principles:
- (i) Domestic Light/Power110 is applicable to all *residential customers* where consumption (excluding Off-Peak Controlled Load Tariff 116) relates to premises used wholly or principally as private residences.
  - (ii) Charitable Institutions 112 is available to charitable institutions that have been endorsed by the Australian Taxation Office as an income tax exempt Charitable Entity under Subdivision 50-B of the Income Tax Assessment Act 1997.
  - (iii) Off Peak Controlled Load 116 is for electricity used in permanently installed storage water heaters with a rated delivery of not less than 125 litres, storage space heaters and other approved thermal storage applications. The hours of application are fixed from time to time by

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AGL SA with control by time switch or other means. This price is only available in conjunction with Tariff 110, 112, 126, 128, or 140.

- (iv) General Supply 126 is available only to *non-residential customers*.
  - (v) General Supply Time of Use 128 is available only to *non-residential customers* and includes *standing contract customers* previously on tariffs 120 + 121 and 130 + 131.
  - (vi) Obsolete Tariff 140 (formerly Farm Tariff 140) only applies to *standing contract customers* that were taking supply under this tariff, or who had applied to do so, as at 30 June 1997. Conditions applicable at that date apply.
- (b) Peak period is 0700 hours to 2100 hours from Monday to Friday (Central Standard Time).
  - (c) Off peak period is all times other than peak period.
  - (d) Where prices change during a *billing cycle* the bill for that *billing cycle* will be calculated on the pro-rata basis using:
    - (i) the old price up to and including the date of change, and
    - (ii) the new price from the date of change to the end of the *billing cycle*.





## SCHEDULE 2 PRICE PATH SCHEDULE

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### 2.A Wholesale Energy Cost

Wholesale Energy Cost is a *price path component* for the purpose of this *Standing Contract Price Determination*.

The values for the Wholesale Energy Cost determined by the *Commission* as at the *commencement date* for the purpose of this *Standing Contract Price Determination* are set out in Table 1 and may not be varied other than in accordance with Chapter 4.

**Table 1 Wholesale Energy Cost Values**

WHOLESALE ENERGY COST (\$/MWH) (REAL \$MAR 05, EXCLUSIVE OF GST)		
YEAR	PERIOD	WHOLESALE ENERGY COST
2005	Jan – Mar	92.03
	Apr – Jun	59.50
	Jul – Sep	61.86
	Oct – Dec	63.79
2006	Jan – Mar	98.11
	Apr – Jun	63.43
	Jul – Sep	59.79
	Oct – Dec	61.67
2007	Jan – Mar	92.37
	Apr – Jun	61.70
	Jul – Sep	60.35
	Oct - Dec	62.92

### 2.B Retail Operating Cost

Retail Operating Cost is a *price path component* for the purpose of this *Standing Contract Price Determination*.

The values for the Retail Operating Cost determined by the *Commission* as at the *commencement date* for the purpose of this *Standing Contract Price Determination* are set out in Table 2 and may not be varied other than in accordance with Chapter 4.



**Table 2 Retail Operating Cost Values**

RETAIL OPERATING COST (\$/CUSTOMER) (Real \$Mar 05, exclusive of GST)		
YEAR	PERIOD	RETAIL OPERATING COST
2005	Jan – Mar	84.41
	Apr – Jun	84.83
	Jul – Sep	85.25
	Oct – Dec	85.67
2006	Jan – Mar	86.10
	Apr – Jun	86.53
	Jul – Sep	86.96
	Oct – Dec	87.39
2007	Jan – Mar	87.82
	Apr – Jun	88.26
	Jul – Sep	88.70
	Oct - Dec	89.14

## 2.C Retail Margin

Retail Margin is a *price path component* for the purpose of this *Standing Contract Price Determination*.

The values for Retail Margin determined by the *Commission* as at the *commencement date* for the purpose of this *Standing Contract Price Determination* are set out in Table 3 and may not be varied other than in accordance with Chapter 4.

**Table 3 Retail Margin Values**

RETAIL MARGIN (% OF WEC AND ROC)		
YEAR	PERIOD	RETAIL MARGIN
2005	Jan – Mar	10
	Apr – Jun	10
	Jul – Sep	10
	Oct – Dec	10
2006	Jan – Mar	10
	Apr – Jun	10
	Jul – Sep	10
	Oct – Dec	10
2007	Jan – Mar	10
	Apr – Jun	10
	Jul – Sep	10
	Oct - Dec	10

## 2.D Price Path Formula

- (a) The *standing contract prices* for the *initial regulatory period* are set out in the *Initial Standing Contract Price Schedule*.
- (b) The *initial average retailer price cap* is \$91.51/MWh.
- (c) The *average retailer price cap* (\$/MWh) for any *regulatory period t* is calculated as follows:

$$ARPC_t = ARPC_{t-1}(CPI_t(1-x))$$

where,

$ARPC_{t-1}$  = for the *regulatory period* 1 July 2005 to 30 June 2006 is the *initial average retailer price cap*; and

for any *regulatory period* after 30 June 2006 is the *average retailer price cap* (\$/MWh) fixed for the *regulatory period t-1*.

$CPI_t$  = *CPI* as defined in clause 2.F.

$x$  = 1.05%.

## 2.E Tariff Rebalancing Formula

### (a) **Obligation for residential customers and off-peak controlled load**

AGL SA must ensure that

- (i) the charge to a *residential customer* under each *retailer tariff*,
- (ii) the charge to a *standing contract customer* under an off-peak controlled load *retailer tariff*,

at any level of annual consumption in *regulatory period t* is no more than  $CPI + 4\%$  greater than the charge under that *retailer tariff* (or, where the *retailer tariff* has been closed or a new equivalent *retailer tariff* has been introduced under Chapter 3, the most comparable *retailer tariff*) at the same level of annual consumption in *regulatory period t-1*, such that:

$$RTC_t \leq RTC_{t-1}(CPI + 0.04)$$

where, for the same *retailer tariff*,



$RTC_t$  = the total charges payable by a *residential customer* in *regulatory period t* for any level of annual consumption.

$RTC_{t-1}$  = the total charges payable by a *residential customer* in *regulatory period t-1* for the same level of annual consumption being considered for *regulatory period t*.

$CPI$  =  $CPI$  as defined in clause 2.F.

**(b) Obligation for *standing contract customers* other than *residential customers***

AGL SA must ensure that the charge to a *standing contract customer* under each *retailer tariff*, other than a charge referred to in Schedule 2.E(a), at any level of annual consumption in *regulatory period t* is no more than the greater of  $CPI + 4\%$  or \$40 more than the charge under that *retailer tariff* (or, where the *retailer tariff* has been closed or a new equivalent *retailer tariff* has been introduced under Chapter 3, the most comparable *retailer tariff*) at the same level of annual consumption in *regulatory period t-1*, such that:

$RTC_t$  is no more than the greater of:

(i)  $RTC_t \leq RTC_{t-1}(CPI + 0.04)$ ; and

(ii)  $RTC_t \leq RTC_{t-1} + \$40$

where, for the same *retailer tariff*,

$RTC_t$  = the total charges payable by a *standing contract customer* in *regulatory period t* for any level of annual consumption.

$RTC_{t-1}$  = the total charges payable by a *standing contract customer* in *regulatory period t-1* for the same level of annual consumption being considered for *regulatory period t*.

$CPI$  =  $CPI$  as defined in clause 2.F.

**2.F CPI**

(a) Where  $t$  is the *regulatory period* 1 July 2005 to 30 June 2006,  $CPI$  is calculated as follows:

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- (i) the Consumer Price Index, All Groups Index Number (weighted average of eight capital cities) published by the Australia Bureau of Statistics for the March Quarter of 2005;

divided by

- (ii) 144.8, being the Consumer Price Index, All Groups Index Number (weighted average of eight capital cities) published by the Australia Bureau of Statistics for the June Quarter 2004.

- (b) Where *t* is the *regulatory period* 1 July 2006 to 30 June 2007, *CPI* is calculated as follows:

- (i) the Consumer Price Index, All Groups Index Number (weighted average of eight capital cities) published by the Australia Bureau of Statistics for the March Quarter of 2006;

divided by

- (ii) the Consumer Price Index, All Groups Index Number (weighted average of eight capital cities) published by the Australia Bureau of Statistics for the March Quarter of 2005.

- (c) Where *t* is the *closing regulatory period*, *CPI* is calculated as follows:

- (i) the Consumer Price Index, All Groups Index Number (weighted average of eight capital cities) published by the Australia Bureau of Statistics for the December Quarter of 2006;

divided by

- (ii) the Consumer Price Index, All Groups Index Number (weighted average of eight capital cities) published by the Australia Bureau of Statistics for the March Quarter of 2006.