AUSTRALIAN COMPETITION & CONSUMER COMMISSION

Inquiry into the National Electricity Market

Supplementary report—impact of COVID-19 and ACCC monitoring and enforcement activities

21 September 2020

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Australian Competition and Consumer Commission

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Executive Summary

Overall demand reduced by only 2 per cent during COVID-19 pandemic but increase in residential consumption adds to financial strain

The COVID-19 pandemic has significantly affected electricity customers. Overall, demand across the National Electricity Market (NEM) was down just 2 per cent in Q2 2020 compared to Q2 2019 with increased residential consumption largely offsetting the decrease in business consumption. In Victoria, for example, households consumed between 10 and 30 per cent more electricity between April and May this year compared with last year. This is due to the combination of colder weather this year and the COVID-19 restrictions keeping people at home. Victorian Small and Medium-sized enterprises (SME) consumed between 10 and 20 per cent less during the same period.

Many customers are experiencing reduced incomes. Data from the Australian Energy Regular (AER) suggests more customers are falling a month behind in bill payments while others are further increasing existing debts.[1] Organisations such as the Australian Energy Market Commission (AEMC) have noted the likelihood that more customers will face difficulty paying their energy bills in the months ahead.[2] There are indications that more consumers are shopping around for better deals with a Consumer Policy Research Centre (CPRC) survey in July finding that 10 per cent of respondents had switched energy plans or providers compared to 4 per cent in the CPRC's June survey.[3]

Regulators and rule makers are responding with increased monitoring and consumer protections and facilitating industry co-operation where there is a public benefit

In response to the pandemic, the AER has set firm expectations for how retailers should treat consumers experiencing financial stress. The AER also increased monitoring and reporting on indicators of financial stress, which are published weekly. An AER-initiated change to the National Electricity Rules (NER) that defers retailer payments of charges to network businesses until 6 February 2021 is now in effect. The changes relieve retailers from some of the burden of customer non-payment so they may continue to provide assistance to customers experiencing financial difficulties.

The ACCC has authorised industry cooperation to protect system security in the NEM. We also authorised retailers to co-ordinate on customer relief.

The Essential Services Commission (Victoria) (ESCV) has made changes to consumer protections in response to the pandemic. The changes require retailers to proactively support customers experiencing payment difficulties.

The ACCC supports changes that assist consumers experiencing financial difficulty in response to the pandemic.

Recommendations to prevent 'cascading insolvency across the sector'

The AEMC has made recommendations that focus on ensuring the retail market can withstand the financial impacts of the pandemic and avoid unnecessary consolidation in the sector. These recommendations aim to preserve competition by:

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1. AER, Weekly retail market dashboards – COVID-19, www.aer.gov.au/retail-markets/performance-reporting/weekly-retail-market-dashboards-covid-19.
2. AEMC, *Final report: 2020 Retail energy competition review*, 30 June 2020, p. iii, www.aemc.gov.au/market-reviews-advice/2020-retail-energy-competition-review.
3. Consumer Policy Research Centre, *Consumers and COVID-19: from crisis to recovery, Monthly Insights Report*, July 2020, p. 9, www.cprc.org.au/consumers-and-covid-19-from-crisis-to-recovery.

- establishing an emergency fund to reduce the likelihood that retailers will fail
- increasing the number of businesses that act as a Retailer of Last Resort (RoLR) should a retailer be unable to continue to supply electricity to its customers
- continuing to monitor retailer financial stress.

The AEMC is concerned that under the current arrangements, the failure of a large retailer or multiple smaller retailers could result in ‘cascading insolvency across the sector’.[4]

The ACCC supports changes that strengthen market resilience in response to the pandemic. The ACCC is particularly supportive of the AEMC’s recommendation to move the RoLR provisions into the National Energy Retail Rules (NERR). This will assist any further updates required to ensure these provisions deliver the best possible outcome for consumers in an evolving market.

Wholesale prices have dropped to their lowest in years, with expectations that they will remain low

Wholesale prices have reduced significantly over the past year largely due to lower fuel costs for generators and increased renewable generation. This year’s average winter prices in the NEM range between $36 per MWh in Queensland and $59 per MWh in Victoria, with reductions of 38 per cent to 51 per cent compared to the same time last year.[5] These are the lowest levels we have seen for a number of years.[6] Contract prices suggest wholesale prices will remain low in coming years. The significant reduction in wholesale costs represents an opportunity to bring down the cost of electricity to more affordable rates for consumers and increase the competitiveness of Australian businesses.

Retailers need to pass on these cost reductions if they are sustained

New provisions in the *Competition and Consumer Act 2010* (Cth) (CCA) will ensure that retailers pass on these significant reductions in wholesale costs if the reductions are sustained.

The electricity industry must comply with the new electricity market prohibitions that aim to ensure retailers pass on sustained and substantial cost reductions to their residential and small business customers. They also aim to prevent generators from inflating wholesale prices or blocking access to critical contracts, which could increase retail prices.

Wholesale prices have fallen significantly and are expected to remain low for some time. Network costs have reduced in South Australia and Tasmania but have increased in other states.

Retailers and other participants across the supply chain need to continue to take action to reduce pressures on energy consumers, especially during the challenges of the COVID-19 pandemic. The ACCC is monitoring compliance with the new prohibitions of the CCA to ensure that cost reductions are passed through to customers.

The ACCC is disappointed that the Queensland Government has decided not to extend a subsidy that removes costs associated with its Solar Bonus Scheme from network charges. This has prevented a fall in network costs for residential and SME customers in Queensland that has likely resulted in higher bills for those customers. However, residential customers will benefit from the Queensland Government’s COVID-19 household utility rebate and an

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4 AEMC, *Final report: 2020 Retail energy competition review*, 30 June 2020, p. vi, www.aemc.gov.au/market-reviews-advice/2020-retail-energy-competition-review.

5 See table 1, on page 16 of this report.

6 AER, *Wholesale Markets Quarterly Q2 2020*, p. 5, www.aer.gov.au/wholesale-markets/market-performance/wholesale-markets-quarterly-q2-2020.

additional electricity rebate from the proceeds of Queensland's publicly-owned electricity assets.

The ACCC actively monitors and enforces protections that cap prices and make it easier for customers to identify cheaper deals for electricity

Most customers on standing offers will benefit from reductions in the price caps applying to those offers. New price caps set by the AER came into effect on 1 July 2020 and these now apply to a greater number of tariff types.

Retailers are also required to compare their market offers to a common reference price so that consumers can easily compare offers.

The ACCC monitors compliance with these provisions and has taken action where we believe a breach has occurred. We will continue to take action where appropriate.

List of abbreviations

ACCC	Australian Competition and Consumer Commission
ACL	Australian Consumer Law—schedule 2 to the *Competition and Consumer Act 2010* (Cth)
ACT	Australian Capital Territory
AEC	Australian Energy Council
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
C&I	commercial and industrial
CCA	*Competition and Consumer Act 2010* (Cth)
COAG	Council of Australian Governments (now replaced by the National Cabinet)
CPRC	Consumer Policy Research Centre
COVID-19	coronavirus disease of 2019
DMO	Default Market Offer
Electricity Retail Code	Competition and Consumer (Industry Code—Electricity Retail) Regulations 2019 —a mandatory code prescribed under the *Competition and Consumer Act 2010* (Cth)
ESCV	Essential Services Commission (Victoria)
LNG	liquefied natural gas
MWh	megawatt hour
NEM	National Electricity Market
NERL	National Energy Retail Law—a schedule to the National Energy Retail Law (South Australia) Act 2011
NERR	National Energy Retail Rules
NSW	New South Wales
Electricity Market Prohibitions	Part XICA of the *Competition and Consumer Act 2010* (Cth)
RoLR	Retailer of Last Resort
SA	South Australia
SEQ	South East Queensland
SME	small and medium enterprise

Contents

1. Introduction

The ACCC is holding an inquiry into the National Electricity Market (NEM) (the Inquiry) due to concerns about high electricity prices that have led to a lack of confidence that the market is working for consumers (both individuals and businesses). We periodically release reports on our findings from the Inquiry. This is the first time we have released two reports concurrently; this report on recent market developments and a larger report detailing findings from our analysis of over eight million customer bills.

The most notable developments in the market this year have been the significant fall in wholesale electricity prices and the efforts of government and the energy sector to contain the impacts of the COVID-19 pandemic. This report on recent market developments looks at the effect of the pandemic on the electricity market as well as the ACCC's efforts to make the market work for consumers through our new and expanded roles in monitoring and enforcement.

2. Impact of COVID-19 pandemic on the electricity sector

The COVID-19 pandemic has impacted the community and all sectors of the Australian economy. Australian governments introduced a number of measures to contain the virus in late March and early April, including international and domestic travel restrictions and business closures for non-essential services. Australians were encouraged to work from home where possible and students have undertaken home-based learning for certain periods.

These measures have affected electricity demand patterns. The closure of businesses and the shift to home-based work and learning has resulted in an increase in residential electricity consumption and a decrease in business consumption.

At the same time, COVID-19 has had a significant effect on many consumers' finances. The unemployment rate increased from 5.2 per cent in March 2020 to 7.5 per cent in July.[7] The rate is forecast to peak at around 9.25 per cent by December 2020.[8] Some of those in employment are on reduced wages. With more Australians staying at home, increased residential usage will result in larger than normal winter bills that will add further strain on consumers.

Business closures and consumer financial hardship have resulted in retailers taking on more debt, as customers struggle to pay their bills.

The ACCC has been involved in the regulatory response to the pandemic's effects on the electricity industry. The ACCC gave authorisation to the Australian Energy Market Operator (AEMO) and energy market participants to allow them to coordinate their responses to COVID-19 related issues, and also to the Australian Energy Council (AEC) and retailers to cooperate in the delivery of customer relief packages.

This section focuses on the following impacts of the COVID-19 pandemic:

- changes in consumption
- signs of consumer financial stress
- regulatory action and response.

Recent changes in wholesale electricity prices are covered in the discussion of the new CCA electricity market prohibitions (pages 16–18).

Changes in consumption

Overall demand for electricity reduced marginally during COVID-19 lockdowns in April and May 2020. Electricity demand across the NEM was down 2 per cent in Q2 2020 compared to Q2 2019, with increased consumption for heating off-setting much of the impact of COVID-19. Excluding the effect of weather, the AEMO estimates that COVID-19 accounted for a 2.1 per cent reduction in demand and that the increase in rooftop solar reduced demand by a further 1.2 per cent.[9] However, weather in Sydney, Melbourne, Adelaide and Hobart was generally cooler than both the previous year and the 10-year average, increasing the amount

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[7] ABS, Labour Force, Australia, July 2020—Additional analysis, 13 August 2020, www.abs.gov.au/ausstats/abs@.nsf/mf/6202.0.

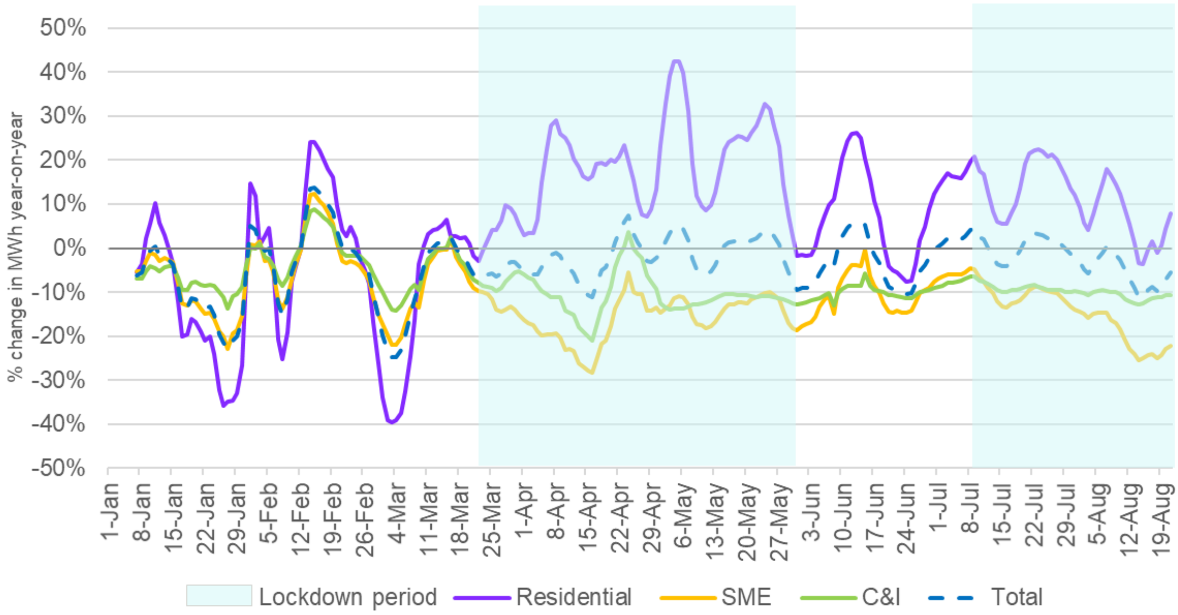
[8] Frydenberg, J. (Treasurer of Australia) and Cormann, M. (Minister for Finance), *Economic and Fiscal Update*, July 2020, p. 2, www.budget.gov.au/2020-efu/downloads/JEFU2020.pdf.

[9] AEMO, *Quarterly Energy Dynamics Q2 2020*, p. 3, www.aemo.com.au/energy-systems/major-publications/quarterly-energy-dynamics-qed.

of electricity used in heating.[10] If Q2 2020 temperatures had been equal to Q2 2019 temperatures, the decrease in demand during the COVID-19 lockdowns in April and May would have been more pronounced.

Usage patterns have shifted heavily towards residential use. The roll out of smart meters in Victoria means usage by customer type is available for that state. Figure 3.1 shows the year-on-year change in total Victorian consumption by residential, SME and C&I customers.[11]

Figure 3.1: Year-on-year percentage change in total consumption in Victoria



Source: AusNet Services, Vic DNSP weekly energy consumption data, 28 August 2020.

In the period from January to late March, consumption across all consumer types track closely together. The first lockdown period started with the closure of 'non-essential businesses' on 23 March. From this point, consumption change patterns across the three different consumer types start to diverge. Residential consumption was much higher than the previous year and business consumption, particularly SME consumption, was much less than the previous year.

The Victorian Government removed a number of lockdown restrictions in June, meaning that businesses such as bars, cafes, restaurants and gyms could begin to welcome customers back onto their premises. Consumption change patterns across the different customer types track more closely in June, although residential consumption was still high compared to last year. Restrictions were reintroduced in early July and then tightened further in early August, so we would expect to see consumption change patterns diverging significantly again.

Victorian households have generally consumed between 10 and 30 per cent more electricity during April and May than last year due to the combination of colder weather this year and the COVID-19 restrictions keeping people at home. SME customers generally consumed between 10 and 20 per cent less during the same period as lockdown restrictions reduced onsite commercial activity.

10 ibid., p. 6.

11 For each customer type, the 7-day moving average in total consumption for each date in 2019 is compared to the 7-day moving average in total consumption for the corresponding date in 2020 to calculate the year-on-year percentage change.

While recent data is only available for Victoria, AEMO modelling for other NEM areas indicates similar shifts in consumption during COVID-19 restrictions with differences due to local factors such as heating requirements.

Signs of consumer financial stress

The significant increase in residential consumption levels is reflected in research by the CPRC on COVID-19 consumer impacts, which found 30 per cent of consumers surveyed were spending more on energy in May than before the COVID-19 pandemic.[12] This has translated into greater concerns about paying energy bills, which has increased over the course of the CPRC's study. The CPRC estimates 34 per cent of Australians were concerned about energy costs in July, which was up from 27 per cent in May.[13] The number of surveyed consumers missing bill payments also increased from 2 per cent in June to 5 per cent in July but the increase was much greater for young people with 2 per cent missing payments in June and 10 per cent in July.[14]

The CPRC also found signs of increasing consumer engagement resulting from this concern:

- 10 per cent of respondents in July had switched energy plans or providers compared to 4 per cent of respondents in June.[15]
- 17 per cent of respondents in July were more active in managing their energy bills compared to 10 per cent of respondents in June. This includes actions such as switching plan or provider, asking for payment assistance or applying for a government concession.[16]

The increase in residential consumption, combined with the general decline in household income because of COVID-19, is starting to flow through to retailers as increased debt.

The AER has been collecting data from retailers more regularly since the start of the COVID-19 pandemic to monitor its impact on consumers and the retail market. The debt figures could indicate customers with existing debt have been accumulating more debt. There has also been an increase in customers a month behind in their bill payments but it appears that many have been able to pay off the debt before entering a second month of arrears.

In addition, some customers are on COVID-19 specific payment arrangements to defer their debt. Retailers have offered temporary payment freezes in addition to the payment plans usually offered to customers in financial difficulty. On 17 August 2020 retailers supplying approximately 75 per cent of customers across the NEM informed the AER they were carrying $28.5 million in deferred debt from residential customers and $14.5 million from SME customers.[17]

The ESCV has also been reporting information on the impact of COVID-19 on Victorian energy customers. So far, those retailers who have volunteered information have reported a

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12 Consumer Policy Research Centre, *Consumers and COVID-19: from crisis to recovery*, June 2020, p. 49, www.cprc.org.au/consumers-and-covid-19-from-crisis-to-recovery.

13 Consumer Policy Research Centre, *Consumers and COVID-19: from crisis to recovery, Monthly Insights Report*, July 2020, p. 6, www.cprc.org.au/consumers-and-covid-19-from-crisis-to-recovery.

14 Young people are defined by the CPRC as those aged 18 to 34 years. ibid., pp.15.

15 ibid., p. 9.

16 ibid., p. 8.

17 Corrected data for 17 August included in dashboards for 31 August 2020. See AER, *Retail market data dashboard – 31 August 2020 – COVID-19*, www.aer.gov.au/retail-markets/performance-reporting/weekly-retail-market-dashboards-covid-19.

deferred debt of approximately $5.4 million and $5.9 million for Victorian residential and SME customers respectively.[18]

Origin reports that the $80 million it allocates annually to covering customer non-payment is forecast to be exceeded by $25-35 million in the 2020-21 financial year.[19]

It is likely that the AER and ESCV debt figures do not reflect the full economic impact of COVID-19. There is typically a lag in debt figures as they only accumulate once a customer has been billed for previous consumption and then failed to pay by the required date. Larger debts may be seen in coming months, especially once winter bills fall due. Many customers will also have used the enhanced government support payments introduced early in the COVID-19 pandemic to assist with energy bills. Such support may be less in coming months.

Regulatory action and response

There have been a number of regulatory responses to combat the effects of the pandemic on the electricity market and electricity consumers. Regulators and rule makers have:

- set firm expectations for industry on enhanced consumer protections
- facilitated industry cooperation to protect system security and administer debt relief programs for customers
- worked with industry to increase monitoring and reporting on indicators of financial stress
- proposed and progressed regulatory changes to defer payment of network charges to provide relief to retailers and their customers, and to improve the Retailer of Last Resort (RoLR) safeguards.

AER Statement of Expectations

The AER published a Statement of Expectations of energy businesses on 27 March 2020 that strongly discouraged disconnections for non-payment and referrals to debt collection agencies until 31 July 2020. The AER later extended this protected period until 31 October 2020 for customers who engage with their retailer.[20] No disconnections for non-payment were reported in the period from the start of the lockdowns to 31 July 2020.[21] The AER's stated expectations until 31 October 2020 are that retailers make every effort to reconnect customers as soon as possible once contacted.

Network charge deferral rule change

In addition to the Statement of Expectations and COVID-19 retail market data dashboard mentioned above, the AER proposed a rule change to allow retailers to defer for six months the payment of network charges for customers affected by the COVID-19 pandemic. On 6 August 2020 the AEMC published a final determination giving effect to the new rule, which aims to provide some cost relief to retailers who are expected to keep consumers supplied

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18 Retailers that volunteered the most recent information supply roughly 92 per cent of Victorian residential customers. Totals calculated from the data published and confirmed by ESCV. Essential Services Commission (Victoria), *Observations on energy customers during coronavirus pandemic – data up to 26 July 2020*, 20 August 2020, www.esc.vic.gov.au/electricity-and-gas/market-performance-and-reporting/energy-customer-support-during-coronavirus-pandemic.

19 Macdonald-Smith, A., Bad debts inflate hit to Origin earnings, Australian Financial Review, 15 July 2020, www.afr.com/companies/energy/bad-debts-inflate-hit-to-origin-earnings-20200715-p55c6h.

20 AER, Statement of Expectations of energy businesses: Protecting customers and the energy market during COVID-19, www.aer.gov.au/publications/corporate-documents/aer-statement-of-expectations-of-energy-businesses-protecting-customers-and-the-energy-market-during-covid-19.

21 AER, Weekly retail market dashboards – COVID-19, www.aer.gov.au/retail-markets/performance-reporting/weekly-retail-market-dashboards-covid-19.

with electricity at a time more customers are likely to have difficulty paying their bills. The deferrals only apply to the network charges of residential and SME customers on a payment plan, hardship program or deferred debt arrangement. Retailers must pay an annual interest of 3 per cent on deferred network charges to compensate network businesses for temporary loss of revenue. Government-owned retailers and those registered as a RoLR are not eligible.[22]

The new rule does not apply in Victoria but the State's distribution network businesses have extended an industry initiated network charge relief package until 31 January 2021.[23]

ACCC authorisation of industry cooperation

The ACCC can authorise businesses to undertake conduct that may breach prohibitions in the CCA.[24] The ACCC received two applications for authorisation early in the pandemic from energy market participants that wished to organise collective responses to the impacts of the pandemic on system security, and to provide relief packages to consumers.

System security

On 30 March 2020 the AEMO lodged an application with the ACCC to coordinate with energy market participants to respond to system security issues arising from the COVID-19 pandemic. The application noted potential disruption to the energy system from extended outages or maintenance due to an inability to access key skilled labour or parts.

The ACCC granted interim authorisation to allow the AEMO and relevant participants to coordinate and resolve potential conflicts in maintenance of generators in Queensland and Victoria. This conduct has already ensured that more generation capacity will be available to meet demand over the peak summer months. We issued our final determination on 17 September 2020 granting a conditional authorisation until 31 May 2021.

Information about the AEMO application is available on the ACCC's public register: www.accc.gov.au/public-registers/authorisations-and-notifications-registers/authorisations-register/australian-energy-market-operator-aemo.

Financial relief packages

On 17 April 2020 the AEC lodged an application with the ACCC to share information between retailers and enter arrangements to provide relief to energy users financially impacted by COVID-19.

On 1 May 2020 the ACCC granted interim authorisation to allow the AEC to begin discussions with industry participants. In September 2020 we issued our determination granting conditional authorisation until 30 June 2021.

Information about the AEC application is available on the ACCC's public register: www.accc.gov.au/public-registers/authorisations-and-notifications-registers/authorisations-register/australian-energy-council-limited.

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22 AEMC, Deferral of network charges, www.aemc.gov.au/rule-changes/deferral-network-charges.

23 Dillon, A. (ENA CEO), Energy Networks Extend Customer Support, media release, ENA, 31 July 2020, www.energynetworks.com.au/news/media-releases/2020-media-releases/energy-networks-extend-customer-support.

24 The ACCC cannot authorise businesses to engage in conduct that may breach the electricity market prohibitions under Part XICA of the CCA.

AEMC recommendations to improve retail market financial stability

The AEMC considered the effects of COVID-19 on the retail market in its 2020 Retail Energy Competition Review. The final report highlights the risks to competition in the retail market if an increased proportion of consumers are unable to pay for their electricity usage. It makes several recommendations to improve retail market financial stability during the COVID-19 pandemic including:[25]

- establishing some form of financial assistance for retailers to draw upon in exceptional circumstances. The AEMC suggests that this is a role for the Council of Australian Governments (COAG) Energy Council (or the National Cabinet Reform Committee that will replace it)
- amending the RoLR provisions and moving the provisions out of the legislation and into the National Energy Retail Rules (NERR)
- formalising the AER's COVID-19 monitoring to provide permanent indicators of risk to retailers' financial stability.

The RoLR provisions set out the process by which customers can be transferred to a Retailer of Last Resort in the event that their current provider becomes insolvent. Currently only the largest three retailers function as RoLRs in most NEM regions.[26]

The AEMC intends more retailers to become last resort retailers to prevent a 'domino effect' of retailer failure should a large number of non-paying consumers be transferred from a failing retailer to a RoLR resulting in the RoLR's failure. The AEMC recommends retailers be provided with greater clarity on the available cost recovery for the sudden and unplanned acquisition of a large number of customers. The AEMC also recommends allowing the AER more time after a retailer fails to designate retailers as RoLRs.

The AEMC hopes that retailers will compete with each other to offer favourable terms to consumers in the push to be selected as a last resort retailer by the AER. The AEMC recommends retailers be allowed to place small customers on a market offer approved by the AER. Currently customers must be transferred to the RoLR's standing offer which is usually one of the retailer's highest priced offers.

Moving the RoLR provisions out of the legislation and into the NERR will expedite the process for subsequent amendments. The ACCC recognises this as a positive step towards ensuring the RoLR provisions deliver the best possible benefits for consumers.

ESCV enhancement of consumer protections

On 24 August 2020 the ESCV released a final decision to make changes to the Energy Retail Code (Victoria) and issue new guidelines.[27] For SME customers, the changes require retailers to abide by a new guideline and provide 'assistance that is reasonable' for those experiencing financial stress due to the COVID-19 pandemic. For residential customers, the changes require retailers to assist customers in completing utility relief grant application forms and contacting those who have missed a bill payment to discuss moving to a better

[25] AEMC, *Final report: 2020 Retail energy competition review*, 30 June 2020, www.aemc.gov.au/market-reviews-advice/2020-retail-energy-competition-review.

[26] The 'local area retailer' for each distribution area is the default RoLR for all customers within that particular distribution network. Aurora is the default RoLR for Tasmania, Ergon Energy is the default RoLR for the South East Queensland and ActewAGL is the default RoLR for the ACT. All the other distribution areas in the NEM are assigned one of the three largest retailers (AGL, EnergyAustralia and Origin) as a default RoLR.

[27] Essential Services Commission (Victoria), *Supporting energy customers through the coronavirus pandemic: final decision*, 24 August 2020, www.esc.vic.gov.au/electricity-and-gas/inquiries-studies-and-reviews/supporting-energy-customers-through-coronavirus-pandemic-2020.

tariff. The changes, other than assistance completing utility relief grant application forms, are temporary measures applying for six months from 1 October 2020.

3. ACCC electricity market monitoring and enforcement responsibilities

The ACCC is responsible for monitoring and enforcing two sets of electricity specific provisions:

- New requirements under the CCA prohibit electricity market misconduct (the Electricity Market Prohibitions).[28] These prohibitions aim to protect consumers and businesses from excessive electricity prices. They require retailers to pass on certain cost reductions to their small customers and prohibit generators from behaviour that may increase wholesale electricity costs.
- The Electricity Retail Code aims to limit the higher prices paid by less engaged consumers and make it easier for consumers to compare electricity offers. It specifies how prices and discounts must be advertised, published or offered and caps the price of standing offers.[29]

Competition and consumer issues arising from the pricing and selling of essential services such as energy is an ACCC compliance and enforcement priority.

New Electricity Market Prohibitions

On 10 June 2020 the ACCC commenced a new enforcement role in electricity markets under the Electricity Market Prohibitions of the CCA. There are three prohibitions:

- The 'retail pricing prohibition' prohibits electricity retailers from failing to make reasonable adjustments to the price of market offers when there are sustained and substantial reductions in the underlying cost of procuring electricity.
- The 'electricity financial contract liquidity prohibition' prohibits generators from restricting access to electricity financial contracts for the purpose of substantially lessening competition in any electricity market.
- The 'electricity spot market prohibition' prohibits generators from engaging in bidding behaviour that is fraudulent, dishonest or in bad faith and/or for the purpose of distorting or manipulating prices in an electricity spot market.

The new prohibitions are in force until 1 January 2026. We will be actively monitoring compliance with the prohibitions. We also encourage anyone with complaints or information about electricity conduct prohibited under the CCA to contact us.

The ACCC has published guidelines to assist electricity retailers and generators to comply with the new prohibitions. The guidelines outline the general approach that the ACCC will take when investigating alleged contraventions of the new prohibitions and provide examples to illustrate the types of conduct that the ACCC considers are likely or unlikely to contravene the prohibitions.

The guidelines are available on the ACCC's website at www.accc.gov.au/publications/guidelines-on-part-xica-prohibited-conduct-in-the-energy-market.

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28 Part XICA of the CCA. Part XICA was introduced into the CCA by the *Treasury Laws Amendment (Prohibiting Energy Market Misconduct) Act 2019* (Cth).

29 The Electricity Retail Code applies to all retailers that supply electricity to small customers in the applicable distribution regions of New South Wales, South Australia and South-East Queensland.

Monitoring and enforcing compliance with the Electricity Market Prohibitions

The ACCC is actively monitoring compliance with the Electricity Market Prohibitions. Where we identify potential breaches we will investigate.

For the retail pricing prohibition, we are actively monitoring changes in relevant retailer costs as well as changes to the prices of retailers' offers to residential and SME customers. We do not intend to publish detailed findings of our monitoring activities for the purpose of the Electricity Market Prohibitions, but some general observations are set out below regarding:

- wholesale prices
- network costs
- recent retail pricing announcements.

Wholesale prices

Average winter spot market prices have reduced significantly compared to last year (see table 1 below). This continues a trend of declining prices over the last year across all NEM jurisdictions (see figure 3.2 below). As at 1 July 2020 future contract prices appear to have largely stabilised at comparatively low levels compared to previous quarters (see figure 3.3 below).

Lower gas prices, coal prices and more rainfall in southern states have put continued downward pressure on wholesale prices. Coal generators, hydroelectric generators in southern states, and gas generators in northern states have been offering lower prices due to reduced input costs or more plentiful production resources.[30] The ACCC's Gas Inquiry continues to monitor gas prices. Our July 2020 Interim Report notes that Australian gas is still being sold into international LNG spot markets at prices substantially below domestic east coast gas prices and recommends further action be taken to address this.

The ACCC's Gas inquiry July 2020 interim report is available on our website at www.accc.gov.au/publications/serial-publications/gas-inquiry-2017-2025/gas-inquiry-july-2020-interim-report

The growth in both small scale and large scale renewable generation has also added downward pressure to spot market prices as rooftop solar continues to reduce daytime demand and more low-priced renewable generation becomes available.[31]

Table 1: Volume Weighted Average winter month (June, July, and August) spot price per NEM region

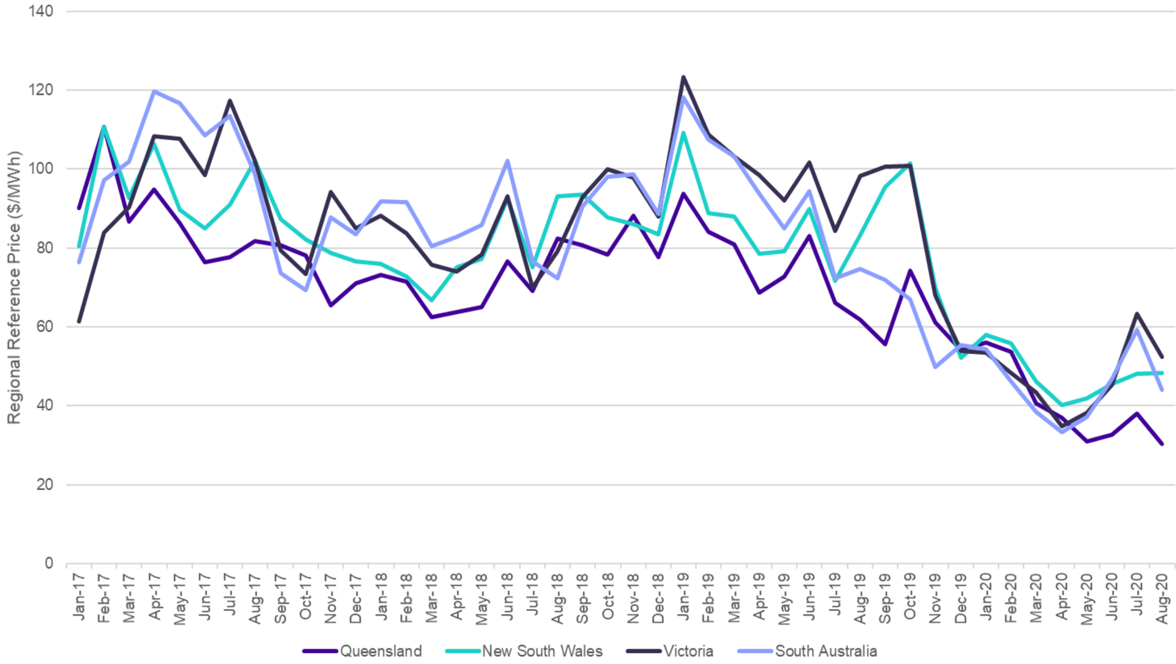
	Qld	NSW	Vic	SA	Tas
2020 winter ($/MWh)	36.18	50.96	58.53	55.37	50.06
2019 winter ($/MWh)	74.08	85.61	102.22	88.62	82.60
Difference ($/MWh)	37.90	34.65	43.69	33.25	32.54
% change	51%	40%	43%	38%	39%

Source: NEM market data.

30 AER, *Wholesale Markets Quarterly – Q2 2020*, p. 15–22, www.aer.gov.au/wholesale-markets/market-performance/wholesale-markets-quarterly-q2-2020.

31 ibid., p. 14.

Figure 3.2: Monthly average underlying (sub $300/MWh) regional reference prices ($/MWh)[32]



Source: NEM market data.

Figure 3.3: Comparative quarterly base forward future prices

Source: AER wholesale statistics.[33]

32 'Underlying' prices remove prices of $300/MWh and above to filter out occasional price spikes.

33 AER website: www.aer.gov.au/wholesale-markets/wholesale-statistics.

While some retailers may not immediately benefit from wholesale cost reductions, due to their individual hedging arrangements, we expect wholesale cost reductions to be passed through to customers progressively. We will seek further information from retailers if prices do not appear to have been reduced appropriately.

Network costs

Recent changes in network prices may also be relevant to the retail pricing prohibition, particularly in South Australia where there will be decreases to the typical annual bill for both residential and SME customers (see table 2 below).

Table 2: AER approved network prices for 2020–21

State	Network business	Residential customers Change to typical annual bill since 2019-20	SME customers Change to typical annual bill since 2019-20
South Australia	SA Power Networks	$31.65 lower	$57.64 lower
New South Wales	Ausgrid	$13.78 higher	$33.93 higher
	Endeavour Energy	$21.62 higher	$86.72 higher
	Essential Energy	$16.61 higher	$56.73 higher
South East Queensland	Energex	$8.53 higher	$29.84 higher

Source: AER.[34]

The Queensland Government's decision not to extend a subsidy for the Solar Bonus Scheme has added costs back into network charges. The ACCC previously encouraged other state governments to adopt the approach of the Queensland Government in funding its Solar Bonus Scheme in its budget for three years. We also called on the Queensland Government to make this funding arrangement permanent.[35] Failure to extend funding through the State's budget will prevent a fall in network costs in Queensland, adding an estimated $62.98 to the typical annual residential bill and $180.62 to the typical annual SME bill.[36] However, we note the Queensland Government's COVID-19 household utility rebate of $200 will assist residential consumers.[37] Queensland households will also receive a further $50 electricity rebate from the dividends of government-owned electricity assets.[38]

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34 AER, *Statement of reasons: SA Power Networks Initial Pricing Proposal*, June 2020, pp. 3–4, www.aer.gov.au/system/files/Statement%20of%20reasons%20SA%20Power%20Networks%20Electricity%20Initial%20Pricing%20Proposal%20%281%29.pdf; AER approves 2020-21 distribution tariffs for NSW electricity customers, media release, AER, 20 May 2020, www.aer.gov.au/communication/aer-approves-2020-21-distribution-tariffs-for-nsw-electricity-customers; AER, *Statement of reasons: Energex Electricity Distribution Initial Pricing Proposal*, June 2020, pp. 3–4: www.aer.gov.au/system/files/Statement%20of%20reasons%20Energex%20Electricity%20Distribution%20Initial%20Pricing%20Proposal.pdf.

35 ACCC, *Restoring electricity affordability and Australia's competitive advantage: Retail Electricity Pricing Inquiry–Final Report*, 11 July 2018, p. 219, www.accc.gov.au/publications/restoring-electricity-affordability-australias-competitive-advantage.

36 AER, *Statement of reasons: Energex Electricity Distribution Initial Pricing Proposal*, June 2020, pp. 3–4, www.aer.gov.au/system/files/Statement%20of%20reasons%20Energex%20Electricity%20Distribution%20Initial%20Pricing%20Proposal.pdf.

37 Queensland Government, COVID-19 household utility relief, www.qld.gov.au/community/cost-of-living-support/concessions/energy-concessions/covid-19-household-utility-relief.

38 Queensland Government, Electricity asset ownership dividend, www.qld.gov.au/community/cost-of-living-support/concessions/energy-concessions/asset-ownership-dividend.

Retail prices

The ACCC is actively monitoring changes in retail prices to ensure retailers comply with the Electricity Market Prohibitions. For example, EnergyAustralia and Origin have announced changes to their market offers that represent reductions in prices for customers in a number of regions (see Table 3 below).

Table 3: Retailer price change announcements for 2020-21 (% change)

State/Territory	EnergyAustralia Residential	EnergyAustralia SME	Origin Residential	Origin SME
South Australia	-2.7	-2.5	-5.6	-5.5
New South Wales	-1.0	-0.9	-0.6	-0.7
Queensland	-1.3	-0.9	-5.1	-4.4
ACT	-1.7	-1.4	-0.4	-0.1

Source: Retailers' websites[39]

Both retailers explained that the change in prices was due to a fall in wholesale costs, but that some wholesale cost reductions were offset by increases in network charges.[40]

The ACCC is undertaking its own assessment of whether these publicly announced changes in prices are reasonable given the reduction in wholesale prices, and will also be looking at the price changes of other retailers.

Electricity Retail Code developments

The ACCC promotes, monitors and enforces compliance with the Electricity Retail Code.

We periodically calculate if retailers' standing offer prices comply with the relevant price cap and assess if retailers' communications of offers to consumers clearly provide the information required under the Electricity Retail Code.[41] We also consider compliance against the general advertising rules contained in the Australian Consumer Law (ACL).

In July 2020 the ACCC took its first enforcement action against a retailer for an alleged breach of the Electricity Retail Code.[42] Locality Planning Energy (LPE) paid a penalty of $10 500 after the ACCC issued it with an infringement notice. The ACCC alleged that LPE breached the Electricity Retail Code by publishing an offer on its website without comparing the offered price against the reference price, without stating the yearly price that an average

39 Collette, M. (Chief Customer Officer Energy Australia), Power prices to ease for Energy Australia customers, media release, Energy Australia, 29 July 2020, www.energyaustralia.com.au/about-us/media/news/power-prices-ease-energyaustralia-customers); Origin, We've changed our NSW electricity and natural gas prices, www.originenergy.com.au/for-home/electricity-and-gas/pricing/nsw-price-change.html; Origin, We've changed our SA electricity prices, and some natural gas prices, www.originenergy.com.au/for-home/electricity-and-gas/pricing/sa-price-change.html; Origin, We've changed our ACT electricity and natural gas prices, www.originenergy.com.au/for-home/electricity-and-gas/pricing/act-price-change.html; Origin, We've changed our QLD electricity and natural gas prices, www.originenergy.com.au/for-home/electricity-and-gas/pricing/qld-price-change.html.

40 ibid.

41 The ACCC Guide to the Electricity Retail Code includes information about the presentation of the Code information (see part 7): www.accc.gov.au/publications/guide-to-the-electricity-retail-code.

42 Sims, R. (ACCC Chair), Locality Planning Energy pays penalty for alleged breach of Electricity Retail Code, media release, 29 July 2020, www.accc.gov.au/media-release/locality-planning-energy-pays-penalty-for-alleged-breach-of-electricity-retail-code.

customer would expect to pay on the offer, and the distribution region and type of small customer to which the offer applied.

The ACCC will continue to take enforcement action where we identify non-compliance with the Electricity Retail Code or ACL.

On 1 July 2020 amendments to the Electricity Retail Code expanded the application of the price cap to solar and residential Time of Use standing offers, and to solar standing offers for small business customers.

On 26 June 2020 the ACCC published updated guidance designed to help electricity retailers understand their responsibilities under the Electricity Retail Code.

Our Guide to the Electricity Retail Code is available on the ACCC's website at: www.accc.gov.au/publications/guide-to-the-electricity-retail-code

Conclusion

2020 has been a dramatic year with the COVID-19 pandemic affecting many aspects of people's lives and wellbeing. In the electricity sector, it has changed consumption patterns and affected the ability of customers to pay their electricity bills.

As Australia's competition and consumer law regulator, the ACCC will continue to advocate and take action to benefit consumers. Our electricity specific monitoring and enforcement responsibilities enhance our ability to deliver consumer benefits in electricity markets. This is particularly important as a greater number of Australians experience financial stress.

The ACCC, along with other regulators, is working to lessen the economic impacts of COVID-19 on consumers and the electricity market. A positive change for consumers is the substantial fall we have seen in wholesale prices and this needs to flow through to reduced prices for consumers. We will be watching the market closely for any signs of non-compliance with Electricity Market Prohibitions and the Electricity Retail Code and will take action where we identify non-compliance.