



## *Express law* fast track information for clients

21 September 2011

### **New national electricity and gas retail supply arrangements to be applied by the Commonwealth**

The [Australian Energy Market Amendment \(National Energy Retail Law\) Bill 2011](#) was passed on Monday by the Parliament. The Bill will apply the National Energy Retail Law (NERL) in the Commonwealth's offshore area and will provide for the Australian Energy Regulator to exercise functions, powers and duties under the NERL.

The NERL is part of a cooperative Commonwealth, State and Territory regime known as the National Energy Customer Framework (the NECF), under which the non-economic distribution and retail regulation of gas and electricity will come under the national energy institutional framework and regulatory arrangements.

The NERL is the third national applied law regime in the energy sector and, along with the National Electricity Law (NEL) and the National Gas Law (NGL), completes the major reform of Australia's national energy market.

#### **Australian Energy Market Amendment (National Energy Retail Law) Bill 2011**

The Australian Energy Market Amendment (National Energy Retail Law) Bill 2011 will amend 3 Commonwealth Acts:

- the *Australian Energy Market Act 2004*:
  - to apply the NERL, set out in the schedule to the *National Energy Retail Law (South Australia) Act 2011* of South Australia, as Commonwealth law in the offshore area, along with the National Energy Retail Rules (NERR) and the National Energy Retail Regulations (national regulations) made under the NERL
  - to provide for the conferral of functions, powers and duties under the NERL, the NERR and the national regulations, on the Australian Energy Regulator, the Australian Energy Market Commission, the Australian Competition Tribunal and the Commonwealth Minister
- the *Competition and Consumer Act 2010*:
  - to empower the Australian Energy Regulator and the Australian Competition Tribunal to exercise functions, powers and duties conferred under the NERL, the NERR and the national regulations, when applied as State or Territory law

- the *Administrative Decisions (Judicial Review) Act 1977*:
  - to provide for judicial review of relevant decisions under the new NERL regime.

The Bill is expected to receive Royal Assent in the next few weeks, but its commencement will be in accordance with the commencement of the NERL nationally, which is expected to be on 1 July 2012.

### ***National Energy Customer Framework***

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The primary aims of the NECF (including the NERL) are to streamline regulatory requirements relating to the retail sale and supply of energy; increase efficiency through regulatory harmonisation; and maintain best-practice consumer protection. The NERL will also provide for a national retailer authorisations framework and a national Retailer of Last Resort framework.

The NECF legislative package consists of:

- the *National Energy Retail Law (South Australia) Act 2011 (SA)*, which contains as its schedule the NERL
- the *Statutes Amendment (National Energy Retail Law) Act 2011 (SA)*, which contains consequential amendments to the NEL and the NGL.

Other legislative instruments forming part of the NECF package will include the national regulations and the NERR when they have been made by the South Australian Minister. The NECF also includes proposed amendments to the National Electricity Rules and the National Gas Rules. Together these rules will:

- establish a retail support framework for the regulation of the relationship between distributors and retailers (to be known as the Retail Support Rules)
- establish a national framework for the establishment of new connections for the supply of energy (to be known as the National Connections Framework)
- make other necessary amendments consequential upon the enactment of the NERL.

In addition to being applied by the Commonwealth, the NERL (and the NECF more broadly) will be applied in all jurisdictions that are part of the National Electricity Market: the Australian Capital Territory, New South Wales, Queensland, South Australia, Tasmania and Victoria.

AGS was closely involved with the Department of Resources, Energy and Tourism in the development of the Australian Energy Market Amendment (National Energy Retail Law) Bill 2011 and also the NECF legislative package.

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