



# ICRC

independent competition and regulatory commission

**Price Direction**  
**Standing offer prices for the supply**  
**of electricity to small customers**

**1 July 2020 to 30 June 2024**

**Report 10 of 2020**

The Independent Competition and Regulatory Commission is a Territory Authority established under the Independent Competition and Regulatory Commission Act 1997 (the ICRC Act). The Commission is constituted under the ICRC Act by one or more standing commissioners and any associated commissioners appointed for particular purposes. Commissioners are statutory appointments. Joe Dimasi is the current Senior Commissioner who constitutes the Commission and takes direct responsibility for delivery of the outcomes of the Commission.

The Commission has responsibilities for a broad range of regulatory and utility administrative matters. The Commission has responsibility under the ICRC Act for regulating and advising government about pricing and other matters for monopoly, near-monopoly and ministerially declared regulated industries, and providing advice on competitive neutrality complaints and government-regulated activities. The Commission also has responsibility for arbitrating infrastructure access disputes under the ICRC Act.

The Commission is responsible for managing the utility licence framework in the ACT, established under the Utilities Act 2000 (Utilities Act). The Commission is responsible for the licence determination process, monitoring of licensees' compliance with their legislative and licence obligations, and determination of utility industry codes.

The Commission's objectives are set out in section 7 and 19L of the ICRC Act and section 3 of the Utilities Act. In discharging its objectives and functions, the Commission provides independent robust analysis and advice.

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# Part A Preliminary

## 1 Price Direction

This Price Direction is set out in accordance with the *Independent Competition and Regulatory Commission Act 1997* (ICRC Act or the Act) and the terms of reference issued by the referring authority for an investigation into, and the making of, a Price Direction for standing offer prices for the supply of electricity to small customers consuming under 100 MWh per consumption period of 12 consecutive months.<sup>1</sup> The terms of reference further set out that this Price Direction is to apply to ActewAGL for the period stipulated below in clause 2.

The Price Direction consists of parts A through C, including the clauses, subclauses and tables in those parts.

The parts are set out as follows:

- Part A – Preliminary
- Part B – Price regulation method
- Part C – Legislative provisions

Part A sets out the preliminary information to the Price Direction.

Part B sets out the formula for the form of price control to apply for the regulatory period. It then sets out the determination of the minimum average percentage decrease in prices (Y<sup>1</sup>) for 2020–21 and the regulatory method to recalibrate the weighted average price change on an annual basis for the years 2021–22, 2022–23 and 2023–24. The regulatory method includes provisions for the inclusion of pass-through costs at the time of the annual recalibrations.

Part C sets out reset principles and trigger mechanisms for variation of the Price Direction once in force.

## 2 The regulatory period

This Price Direction determines, within the meaning of the ICRC Act, the annual weighted average price changes to apply for the period 1 July 2020 to 30 June 2024. This Price Direction does not prevent ActewAGL from increasing its weighted average prices by less than a maximum average increase determined by the Independent Competition and Regulatory Commission (Commission) for a particular year or

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<sup>1</sup> Terms of reference: DI2019-72 (<http://www.legislation.act.gov.au/di/2019-72/default.asp>).

decreasing its weighted average price by more than an average decrease determined by the Commission for a particular year, as applicable.

### 3 Application of the Price Direction

Pursuant to the terms of reference and section 15(4) of the ICRC Act, this Price Direction applies to **ActewAGL Retail ABN 46 221 314 841** (the partnership of Icon Retail Investments Ltd ABN 23 074 371 207 and AGL ACT Retail Investments Pty Ltd ABN 53 093 631 586), hereafter referred to as ActewAGL.

### 4 Section 20(2) of the ICRC Act

Under section 20(4) of the ICRC Act, the Commission is required to indicate in the Price Direction the extent to which it has had regard to the matters referred to in section 20(2) of the ICRC Act. The table **Error! Reference source not found.** in the final report indicates the extent to which the Commission has had regard to the matters referred to in section 20(2).

### 5 Notes and interpretation

#### *Business days*

Business days are all days other than Saturday, Sunday and ACT public holidays.

Dates outlined in the Price Direction that require a specified action that fall on a non-business day will be deemed to fall on the first business day following the non-business day.

#### *Monetary values*

All monetary values in the Price Direction are in Australian dollars.

#### *National Energy Retail Law (ACT)*

As defined in section 6(1)(b) of the *National Energy Retail Law (ACT) Act 2012*.

#### *Reference to clauses*

Unless otherwise stated, a cross-reference to a clause in the Price Direction includes the subclauses in that clause.

#### *Reference to years*

A reference to a year in the form 2020–21 (as an example) means the financial year from 1 July to 30 June. A reference to a calendar year means the year from 1 January to 31 December.

***Small customer***

Defined in the terms of reference as being a customer of ActewAGL who pays the standing offer price for the supply of electricity and consumes less than 100 MWh of electricity over any consecutive 12-month period.

***Standing offer prices***

Has the same meaning as in the *National Energy Retail Law (ACT)*.

***Standard retail contract***

Has the same meaning as in the *National Energy Retail Law (ACT)* for small customers paying the standing offer price.





## Part B Price regulation

### 6 Standing offer prices

ActewAGL must ensure that its standing offer prices for each year of the regulatory period comply with the following price control formula. The formula restricts the weighted average price change, subject to an upper bound side constraint that restricts the weighted average price for each individual regulated tariff to be within two percentage points above the weighted average price change. The formula is:

$$1 + Y^t \geq \frac{\sum_{i=1}^n \sum_{j=1}^m P_{ij}^t Q_{ij}^{t-1}}{\sum_{i=1}^n \sum_{j=1}^m P_{ij}^{t-1} Q_{ij}^{t-1}}, \text{ for all } i \text{ and } j; \text{ subject to } 1.02 + Y^t \geq \frac{\sum_{j=1}^m P_{ij}^t Q_{ij}^{t-1}}{\sum_{j=1}^m P_{ij}^{t-1} Q_{ij}^{t-1}}, \text{ for each } i.$$

where:

ActewAGL has  $n$  standing offer tariffs that each have up to  $m$  price components;

$t$  denotes a financial year;

$i$  denotes a regulated tariff and  $j$  denotes a component of tariff  $i$ ;

$Y^t$  is the percentage change in average standing offer prices determined in accordance with the cost-index model;

$P_{ij}^t$  is the price that ActewAGL proposes to charge for component  $j$  of standing offer tariff  $i$  for year  $t$ ;

$P_{ij}^{t-1}$  is the price that ActewAGL charges for component  $j$  of standing offer tariff  $i$  in the year  $t-1$ ;

$Q_{ij}^{t-1}$  is the reference quantity for component  $j$  of the standing offer tariff  $i$  defined as the actual quantity (in customer numbers or megawatt hours as appropriate) as reported by ActewAGL for the 12-month period ending 31 March in year  $t-1$ ; and

the constraint  $1.02 + Y^t \geq \frac{\sum_{j=1}^m P_{ij}^t Q_{ij}^{t-1}}{\sum_{j=1}^m P_{ij}^{t-1} Q_{ij}^{t-1}}$ , for each  $i$  is known as the upper bound side constraint.

For the 2020–21 regulatory year,  $Y^t$  is set out in clause 7. For the 2021–22, 2022–23 and 2023–24 regulatory years,  $Y^t$  is calculated in accordance with clause 8.

### 7 Determination of $Y^t$ for 2020–21

$Y^t$  for the 2020–21 regulatory year is -2.56 per cent. The side constraint means that the weighted average price for each individual tariff must decrease by at least 0.56 per cent.

Approval of the schedule of standing offer prices for  $Y^t$  will occur as per steps (e) to (g) in clause 8.1.

## 8 Annual recalibration

For the 2021–22, 2022–23 and 2023–24 regulatory years, the Commission will make annual recalibrations as per the timeline set out in Table 8.1 to ascertain the  $Y^t$  that will apply in the price control formula for each year. As part of the recalibration of  $Y^t$  the Commission will consider pass-through applications as set out in clause 9 and its sub-clauses.

**Table 8.1 Annual recalibration timeline**

|                             | Assessment process         | Period price change applies |
|-----------------------------|----------------------------|-----------------------------|
| First annual recalibration  | 10 May 2021 to 7 June 2021 | 1 July 2021 to 30 June 2022 |
| Second annual recalibration | 10 May 2022 to 7 June 2022 | 1 July 2022 to 30 June 2023 |
| Third annual recalibration  | 10 May 2023 to 7 June 2023 | 1 July 2023 to 30 June 2024 |

### 8.1 The assessment process

Clause 8.1 sets out the assessment process for an annual recalibration. The dates set out relate to the year of the relevant assessment process. The assessment process occurs prior to the relevant regulatory year for which the weighted average price change is set.

The assessment process will occur as follows:

- (a) On or before 8 May, ActewAGL must submit to the Commission the following information:
  - (i) Calculation of costs associated with achieving environmental objectives for the year in question, including Large-scale Renewable Energy Target (LRET), Small-scale Renewable Energy Scheme (SRES) and ACT Energy Efficiency Improvement Scheme costs, and any proposed adjustments.
  - (ii) Calculation of costs associated with smart meters, both the forecast and the actual from the previous year.
  - (iii) Full accounting of all proposed pass-through event costs that may be claimed under clause 9 and its sub-clauses.
- (b) ActewAGL must submit to the Commission for verification the updated network cost allowance for the regulated customer load as soon as Evoenergy's network charges are approved by the Australian Energy Regulator (AER).
- (c) As per clause 8.4, the Commission will determine the energy purchase cost component based on data available up to 30 April.
- (d) As per clause 8.2, the Commission will determine the value of  $Y^t$ , which is the percentage by which the weighted average price may change. The Commission will provide its determination to ActewAGL on or before 7 June, although this date may be extended if approved network charges have not been published by the AER in time for the Commission to adhere to this date.

- (e) ActewAGL must provide the Commission with its proposed schedule(s) of standing offer prices including the associated weighted average price change calculations.
- (f) ActewAGL must demonstrate to the Commission that the changes of weighted average price of every standing offer tariff comply with the upper bound side constraint set out in clause 6.
- (g) Subsequent to clauses 8.1(e) and (f) occurring, the Commission will – subject to an assessment that the proposals are consistent with the Price Direction – approve the proposed prices within two business days of receipt of the proposed schedule(s).

### 8.1.1 Interim prices may apply

In the event the AER does not publish approved network charges in time to allow the Commission to determine  $Y^t$  for the approved standing offer prices to apply on 1 July in a regulatory year, ActewAGL's schedule of standing offer prices as at 30 June in the same calendar year will be the standing offer prices until the new standing offer prices are approved.

## 8.2 The value of $Y^t$

For the regulatory years 2021–22, 2022–23 and 2023–24, the Commission will determine  $Y^t$  to be the percentage change in the cost index calculated from the components listed in Table 8.2.

**Table 8.2 Components of the cost-index model**

| Component                                | Method   |
|--|--|
| Wholesale energy purchase cost (\$/MWh)  | As determined by the Commission using the Commission's energy purchase cost model discussed in section 8.4.  |
| Volatility allowance (\$/MWh)            | The volatility allowance is \$0.302/MWh in each year of the regulatory period.   |
| National green scheme costs (\$/MWh)     | As determined by the Commission using the method described in section 8.5.   |
| Energy losses (\$/MWh)                   | As determined by the Commission at the time of the recalibration using the Commission's energy loss formula and information from the AEMO. The method is described in section 8.6. |
| NEM fees (\$/MWh)                        | Previous year's value adjusted by the change in CPI.   |
| Network costs (\$/MWh)                   | As determined and approved by the AER and applied by ActewAGL to the standard retail contract customer load, and subsequently verified by the Commission.                          |
| Retail operating costs (\$/MWh)          | Adjust previous year's value by the change in CPI and convert this to a per MWh allowance based on customer numbers and energy usage at each annual price recalibration exercise.  |
| ACT Energy Efficiency Improvement Scheme | Estimates from ActewAGL for the 2021–22, 2022–23 and 2023–24 year as relevant, subject to verification and a prudence and efficiency assessment by the Commission.                 |

|                            |   |
|----------------------------|---|
| AEMC Power of Choice costs | Depreciate the remaining capital expenditure of \$2,009,210 over 2021-22 and 2022-23 as relevant using straight line depreciation and adjust the depreciated value for the change in CPI in each relevant year. There will be no Power of Choice cost allowance in 2023-24 as the cost recovery period ends in 2022-23. |
| Smart meter costs          | Estimates from ActewAGL for the 2021-22, 2022-23 and 2023-24 year as relevant, with any adjustment required to account for the difference between forecast and actual costs in the previous year.   |
| Cost pass-through (\$/MWh) | Cost pass-through verified by the Commission in current dollars as adjusted by the change in CPI.   |
| Retail margin (%)          | Determined by the Commission as 5.6 per cent of cost components (equivalent to 5.3 per cent of the total cost stack) for the 2020-24 regulatory period  |

Note: Change in the CPI is calculated as per clause 8.3.

### 8.3 Calculation of the change in CPI

The Commission will calculate the percentage change in the consumer price index for any relevant year  $t$  using the following formula, populated with the Australian Bureau of Statistics all groups index for the weighted average of eight capital cities.

$$\Delta CPI_t = \frac{CPI_{June(t-2)} + CPI_{Sept(t-1)} + CPI_{Dec(t-1)} + CPI_{March(t-1)}}{CPI_{June(t-3)} + CPI_{Sept(t-2)} + CPI_{Dec(t-2)} + CPI_{March(t-2)}} - 1$$

### 8.4 Calculation of energy purchase costs

The Commission's approach to estimating energy purchase costs in any given year of the regulatory period involves four steps:

- Step 1: Determine the appropriate contract position.
- Step 2: Determine contract prices.
- Step 3: Develop a half-hourly profile of load and spot prices.
- Step 4: Calculate settlement payments and difference payments.

The contract position is the number of base swap, peak swap and base cap contracts which is determined using following method:

- The base contract volume is set to equal a percentile of the entire half-hourly demand for a quarter calculated using data from the Australian Energy Market Operator (AEMO).
- The peak period contract volume is set to equal a percentile of the peak period half-hourly demand calculated using AEMO data, less the base contract volumes for the third quarter.
- The base cap contract volume is set to equal the quarterly peak demand calculated using AEMO data for the quarter less the base and peak contract volumes.

The percentiles used to determine base swap and peak swap contract volumes are as shown in Table 8.3.

**Table 8.3 Contract level percentiles**

| Quarter   | Base swap contracts, percentile of total load | Peak swap contracts, percentile of peak load |
|-----------|---|--|
| September | 70  | 65   |
| December  | 65  | 80   |
| March     | 80  | 85   |
| June      | 70  | 65   |

The Commission uses a 23-month averaging period ending 30 April and Australian Stock Exchange (ASX) market data to calculate the forward prices for each contract type.

The Commission uses AEMO data for the half-hourly profile of load and spot prices for the latest five complete calendar years.

## 8.5 Calculation of national green scheme costs

The Commission’s approach to estimating costs associated with LRET and SRES are as follows.

### Method to calculate the LRET costs:

The LRET cost for a financial year, using 2020–21 as an example, is calculated using the below formula.

$$\begin{aligned} \text{LRET cost}_{2020-21} &= LW_{2020} \times RPP_{2020} \times [LGCspot_{2020} \times (1 + HC)] \\ &+ LW_{2021} \times RPP_{2021} \times [LGCspot_{2021} \times (1 + HC)] + CA_{2019-20} \end{aligned}$$

where the following are defined for each year:

LW denotes the half-yearly load weight for the calendar year.

RPP denotes the renewable power percentage for the calendar year.

LGCspot denotes the average large-scale generation certificates (LGC) spot price for the calendar year (dollars per LGC), calculated as the 11-month average ending 31 May in the prior year.

HC denotes the holding cost percentage based on half of the cost of debt parameter. The cost of debt is 2.00 per cent per annum for the regulatory period.

CA denotes the LRET cost adjustment from the previous financial year.

### Method to calculate the SRES costs:

The SRES cost for a financial year, using 2020-21 as an example, is calculated using the below formula.

$$\begin{aligned} \text{SRES cost}_{2020-21} = & LW_{2020} \times STP_{2020} \times [STC_{\text{spot}}_{2020} \times (1 + HC)] \\ & + LW_{2021} \times STP_{2021} \times [STC_{\text{spot}}_{2021} \times (1 + HC)] + CA_{2019-20} \end{aligned}$$

where the following are defined for each year:

LW denotes the half-yearly load weight for the calendar year.

STP denotes the small-scale technology percentage for the calendar year.

STCspot denotes the average small-scale technology certificates (STC) spot price for the calendar year (dollars per STC), calculated as the 11-month average ending 31 May in the prior year.

HC denotes the holding cost percentage based on half of the cost of debt parameter. The cost of debt is 2.00 per cent per annum for the regulatory period.

CA denotes the SRES cost adjustment from the previous financial year.

## 8.6 Calculation of energy losses

The Commission determines the energy losses component by applying AEMO's transmission and distribution loss factors to the energy purchase cost component, LRET and SRES costs, and the NEM fees. The current energy loss component of the wholesale energy cost category is calculated as follows in dollars per MWh:

$$\begin{aligned} \text{Energy loss allowance} = & EPC^t \times (MLF^t \times DLF^t - 1) \\ & + (LRET \text{ and } SRES^t + NEM \text{ fees}^t) \times (DLF^t - 1) \end{aligned}$$

where the following are defined for each financial year t:

EPC denotes the energy purchase cost (in dollars per MWh).

LRET and SRES denotes the total costs to meet LRET and SRES requirements calculated according to clause 8.5 (in dollars per MWh).

NEM fees denote the National Electricity Market fees (in dollars per MWh).

DLF denotes the distribution loss factor applicable to the ACT.

MLF denotes the marginal loss factor applicable to the ACT.

## 9 Pass-through events

### 9.1 Application for a pass-through event

ActewAGL may make an application to the Commission for consideration of a pass-through event as part of the annual recalibration process as per clause 8. Applications may be made for the following events:

- (a) Regulatory change event (clause 9.5); and
- (b) Tax change event (clause 9.6).

### 9.2 Commission may accept, reject or amend the application

Consideration by the Commission under clause 9 and its sub-clauses of an application for a pass-through event may result in a pass-through event application being accepted, rejected or amended. If the Commission amends a pass-through application, the amended costs are those that are passed through in the annual recalibration. The Commission will provide a statement of reasons if it rejects or amends a pass-through event.

### 9.3 Commission may initiate pass-through event

The Commission may initiate one or more pass-through events set out under clauses 9.5 and 9.6 without an application from ActewAGL. The following steps will be taken in relation to a pass-through event initiated by the Commission:

- (a) The Commission will advise ActewAGL that it is intending to initiate a pass-through review as part of an annual recalibration process.
- (b) The Commission will provide ActewAGL with a document outlining the Commission's proposed decision, including relevant material on which the decision is based.
- (c) ActewAGL will be given the opportunity to respond to the Commission's proposed pass-through decision before the Commission determines and provides the value of  $Y^t$  to ActewAGL under clause 8.1.

### 9.4 Further information

The Commission may seek further information from ActewAGL in relation to an application for a pass-through event or a Commission initiated pass-through event.

## 9.5 Regulatory change event

A regulatory change event is an event that occurs on or after 31 May 2020 and before 30 June 2024 by any ACT or Commonwealth ‘Authority’<sup>2</sup> that has the effect of varying the nature, scope, standard or risk of providing services to small customers, or the manner in which those services are provided. A regulatory change event may result from a decision, or passing of legislation or regulation, that took effect prior to 31 May 2020, but the material effect of the change being applied varies the nature, scope, standard or risk on or after 31 May 2020 and before 30 June 2024. A regulatory change event may include obligations in respect of:

- any customer hardship program;
- retailer of last resort events;
- environmental schemes including the LRET and SRES schemes and the Energy Efficiency Improvement Scheme; or
- changes in distribution or transmission charges.

## 9.6 Tax change event

A tax change event means the imposition of or a change in a relevant tax, the removal of a relevant tax, or a change in the way a relevant tax is interpreted or calculated where the outcome of the change affecting ActewAGL occurs on or after 31 May 2020 and before 30 June 2024. A relevant tax is any tax, levy, impost, deduction, charge, rate, duty or withholding tax that is levied on ActewAGL by any Authority (as defined above) and is payable by ActewAGL, other than:

- income tax and capital gains tax;
- stamp duty;
- AEMO fees;
- fees payable by ActewAGL in respect of its retail licence;
- penalties, charges, fees and interest on late payments, or deficiencies in payments, relating to any tax; or
- any tax that replaces or is equivalent or similar to any of the taxes referred to above (including any state or territory-equivalent tax).

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<sup>2</sup> Authority means any government or any minister, agency or directorate, instrumentality or other authority of government and the Commission, the AEMC, the AER, or AEMO.



## **9.7 Calculation of a regulatory change or tax change event**

### **9.7.1 General matters**

The Commission will calculate the pass-through amount when considering a pass-through event as part of an annual recalibration process having regard to the following matters:

- the implications for the efficient costs of ActewAGL's actions, including whether ActewAGL has taken or omitted to take any action where such action or omission has increased the magnitude of the costs incurred;
- the need to ensure that ActewAGL does not recover costs to the extent that provisions have already been made or otherwise taken into account;
- the need to ensure that ActewAGL only recovers any actual or likely increment in efficient costs to the extent that such an increment is solely as a consequence of a pass-through event from the date the event occurred;
- in the case of a regulatory change event, any costs that ActewAGL has incurred prior to, but in preparation for, the occurrence of that regulatory change event; and
- in the case of a tax change event, any change in the way another tax is calculated or the removal or imposition of another tax which in the Commission's opinion is complementary to the tax change event concerned.

In considering any pass-through event, the Commission may consult with affected stakeholders to the extent the Commission considers appropriate.

### **9.7.2 Regulatory change and tax change event pass-through mechanism**

For a regulatory change or tax change pass-through event that occurs on or after 31 May 2020 and before 30 June 2024, the Commission will include, if approved as per clause 9, the value of the pass-through event, which can be either negative or positive, in the cost-index model when determining the maximum average price change.



## Part C Legislative provisions

Nothing in this Part C limits the provisions of the ICRC Act.

### 10 Price Direction variation trigger events

Pursuant to sections 20A(3)(c) and 24F(2) of the ICRC Act, the following events are price variation trigger events, the occurrence of which allows the Commission to initiate, at its discretion, a reference for the variation of the Price Direction:

- (a) an act of terrorism;
- (b) a major natural disaster;
- (c) a significant change to ActewAGL's financial or corporate structure;
- (d) an unforeseen or *force majeure* event that severely restricts ActewAGL's ability to provide services; or
- (e) the cost-index model, its components or the determination of  $Y^t$  under clause 8 becoming unworkable due to a legislative provision, government policy or other cause (or any number or combination of the aforementioned).

### 11 Reset principles

Pursuant to section 20B of the ICRC Act, the future reset principles are:

- (a) The Commission will seek a reference from the relevant minister regarding services covered by this Price Direction 18 months prior to the expiry of the regulatory period set out in clause 2 of this Price Direction.
- (b) If the Commission receives an industry reference to investigate and regulate standing offer prices for the supply of electricity to small customers from 1 July 2024, the Commission will consider pass-through events that occur during 2023–24 as part of its investigation.
- (c) During the 2020-2024 regulatory period, the Commission will conduct a review of the form of price control used to regulate standing offer prices for the supply of electricity to small customers for the regulatory period from 1 July 2024. As part of the review, the Commission will consider current and expected regulatory and market developments that may have implications for the effectiveness of the form of control. The Commission must call for submissions from interested parties and post its final report on the Commission's website.

## Abbreviations and acronyms

|            |  |
|------------|--|
| ABN        | Australian Business Number   |
| ACT        | Australian Capital Territory   |
| AEMC       | Australian Energy Market Commission  |
| AEMO       | Australian Energy Market Operator  |
| ASX        | Australian Stock Exchange  |
| AER        | Australian Energy Regulator  |
| CARC       | Customer acquisition and retention cost                                    |
| Commission | Independent Competition and Regulatory Commission                          |
| CPI        | Consumer Price Index   |
| EEIS       | Energy Efficiency Improvement Scheme                                       |
| ICRC       | Independent Competition and Regulatory Commission                          |
| ICRC Act   | <i>Independent Competition and Regulatory Commission Act 1997</i><br>(ACT) |
| LGC        | Large-scale generation certificate   |
| LRET       | Large-scale Renewable Energy Target  |
| MWh        | megawatt hours   |
| NEM        | National Energy Market   |
| SRES       | Small-scale Renewable Energy Scheme  |
| STC        | Small-scale technology certificate   |