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REMCo

13 September 2013

Economic Regulation Authority
Inquiry into Microeconomic Reform in Western Australia
By e-mail: publicsubmissions@erawa.com.au

**Re: Inquiry into Microeconomic Reform in Western Australia**

Please find attached the Retail Energy Market Company Limited ("REMCo") submission regarding the Economic Regulation Authority's Inquiry into Microeconomic Reform in Western Australia.

REMCo is the market operator for Western Australia's contestable gas retail market. REMCo is a public company limited by guarantee, and is a not-for-profit company. REMCo commenced operation on 31 May 2004, and Membership in REMCo is open to all gas retailers, gas network operators, and self-contracting users in Western Australia. REMCo's current Members are:

- Alinta Sales — Retailer;
- Kleenheat — Retailer;
- Perth Energy — Retailer;
- Synergy (Electricity Retail Corporation) — Retailer;
- ATCO Gas Australia — Network Operator; and
- Geraldton Bricks — Self-Contracting User.

REMCo is a strong proponent of competition, and believes that competitive energy markets are the most appropriate way to deliver gas and electricity for the benefit of end-use customers. REMCo encourages the Economic Regulation Authority to recommend microeconomic reforms that will promote competitive energy markets to the greatest extent possible.

I can be contacted at (08) 6212 1829 or stephen.eliot@remco.net.au if you have any questions or would like to discuss this submission.

Yours sincerely

STEPHEN ELIOT
Chief Executive Officer

# REMCo SUBMISSION TO THE INQUIRY INTO MICROECONOMIC REFORM IN WESTERN AUSTRALIA

On 8 August 2013, the Economic Regulation Authority (the "Authority") announced the commencement of the *Inquiry into Microeconomic Reform in Western Australia* (the "Inquiry"). The Authority has released an "Issues Paper" for the Inquiry and requested public submission by 13 September 2013.

REMCo supports the Inquiry, as it has the potential to recommend valuable reforms to Government that could deliver real benefits to the people of Western Australia ("WA"). REMCo's comments will focus on the WA energy markets.

## KEY MESSAGES

Australia's energy markets have demonstrated that effective energy market competition will deliver efficient, reliable, and safe supplies of energy; and will maintain the balance between energy supply and demand over the long-term. Therefore, REMCo is a strong proponent of competition. REMCo encourages the Authority to recommend microeconomic reforms that will promote competitive energy markets to the greatest extent possible; and recommends that the Authority consider recommending the following microeconomic reforms to Government:

(1) Implementation of electricity full retail contestability ("FRC") should be considered to ultimately give residential and small business customers access to the benefits of competition and the benefits from the WA Wholesale Electricity Market ("WEM").
- Electricity FRC should be implemented concurrent with retail tariffs being made to reflect of the costs of an efficient retailer.
- REMCo and the Australian Energy Market Operator ("AEMO") are conducting an analysis of the costs of implementing electricity FRC in WA. REMCo will share this analysis with the Authority, which it could then use as an aid to determine whether to recommend electricity FRC to Government as a near-term microeconomic reform.

(2) The Gas Market Moratorium should be lifted once electricity FRC is implemented.

(3) The Authority should be given oversight of gas and electricity retail tariffs with the goal of ensuring that they are moved to, and maintained at efficient cost-reflective levels:
- A tariff cap should be maintained for gas retail tariffs, with CPI increases to the cap, and direct pass-through of network and regulatory costs. The Authority should be responsible for independent reviews of the tariff cap over time.
- Timing for giving the Authority responsibility for setting electricity retail tariffs can be deferred until the prospects for electricity FRC are better understood.

(4) The Authority should investigate other aspects of tariff reform once it has been handed responsibility for setting gas and electricity retail tariffs, in consultation with retailers, including the retail tariff structure and removal of cross-subsidies.

(5) Government should address social impacts from any tariff increases by providing direct subsidies to consumers in need, not by holding tariffs below cost.

(6) The Authority should recommend a review of WA energy market governance structures based upon the principles and proposed structures indicated in this submission.

## PURPOSE OF THE INQUIRY

The Hon Troy Buswell, MLA, defined the Terms of Reference for the Inquiry to target the following outcomes (emphasis added):

- improved productivity and <u>flexibility</u> of the WA economy;
- <u>increased choice</u> for consumers and business that leads to net economic benefits to WA;
- increased opportunities for WA businesses to effectively compete for national/international market share; and
- the removal or <u>streamlining</u> of unnecessary regulation.

REMCo's recommended microeconomic reforms clearly target the specified outcomes for the Inquiry, in that they will increase flexibility of the energy markets, increase choice and competition, and will streamline regulations by making them clearer and more predictable.

The Authority indicated in the Issues Paper that it would consider two broad criteria when assessing potential reforms:

- the likely benefits of the reform; and
- the ease of implementation (including considerations such as cost, legislative requirements, and other practicalities).

The Authority noted in the Issues Paper that the benefits from microeconomic reform come from:

- increased efficiency, which includes providing goods and services at least cost, allocating resources to their most productive use, and ensuring that investments are optimal over the long-term; and
- increased flexibility and resilience in the face of economic and technological change.

REMCo's recommended microeconomic reforms will allow any market participant to deliver energy to end-use customers, and will allow customers to choose their energy retailer and their desired energy products. As the electricity generation, and the electricity and gas retail functions do not exhibit natural monopoly characteristics, promoting competition in these sectors of the energy value chain will clearly improve economic efficiency and flexibility in the energy markets.

Finally, the Authority indicated in the Issues Paper that the Inquiry is intended to assist Government in identifying and assessing opportunities for reform, and noted some broad areas where Government has the authority to implement reforms, including (amongst others):

- rules and regulations that govern the regulation of markets in which private businesses operate;
- rules and regulations that impact the way Government-created markets operate; and
- rules that determine how Government facilities and Government-owned businesses (such as Synergy) operate.

Clearly REMCo's recommended microeconomic reforms fall under the WA Government's authority.

# RECOMMENDED MICROECONOMIC REFORMS

REMCo recommends that the Authority recommend microeconomic reforms that will promote competitive energy markets to the greatest extent possible. REMCo's recommendations fall into three broad categories:

(1) reforms to increase competition in the WA energy markets;

(2) gas and electricity retail tariff reforms; and

(3) energy market governance reforms.

## Reforms to Increase Competition in the WA Energy Markets

The WA gas retail market has been open for competition since May 2004 (although Synergy is prevented by the Gas Market Moratorium from competing for customers that consume ≤180 GJ/a), and there has been active competition in the large customer segment of the market since that date. In addition, Kleenheat has recently entered the WA gas retail market, and is targeting residential and small business customers, so the benefits of competition are now flowing to small gas consumers.

The following table indicates the market share for each of the four active gas retailers on the Mid-West/South-West Distribution System, based on customer numbers, segmented into the large and small customer markets, over a 30 month period from January 2011 to June 2013.

| | **Total Market** | | **Large Customer Market** (those consuming >1 TJ/a) | | **Small Customer Market** (those consuming ≤1 TJ/a) | |
|---|---|---|---|---|---|---|
| | **January 2011** | **June 2013** | **January 2011** | **June 2013** | **January 2011** | **June 2013** |
| Alinta | 99.93% | 98.89% | 50.87% | 70.39% | 99.97% | 98.93% |
| Kleenheat | 0.00% | 1.06% | 0.00% | 2.03% | 0.00% | 1.06% |
| Perth Energy | 0.00% | 0.00% | 2.09% | 1.12% | 0.00% | 0.00% |
| Synergy | 0.05% | 0.05% | 47.04% | 26.15% | 0.00% | 0.02% |

This table shows that:

- Alinta has a very high market share in the WA gas retail market as a whole, when measured by customer numbers. This is because 99.9% of gas customers in the State are small customers, and until recently, Alinta had a virtual 100% market share in the small customer segment.
- Competition is active in the large customer segment of the market – it is clear that all four retailers are active in this segment of the market, as the market share of all retailers has changed over time.
- Competition is ramping up in the small customer segment of the market – residential and small business customers have been reacting quickly to the increase in competition, with over 1% of all customers in the State changing retailers in the first 3 months since Kleenheat entered this market segment. This customer transfer rate is slightly lower than rates currently observed in the eastern States, but is an extremely strong result in the early stages of market development.

In addition, the new entrants to the market (Kleenheat, Perth Energy, and Synergy) have obtained a significant market share if measured by volume – as high as 40%. This indicates that Alinta does not have as dominant a position in the WA gas retail market as would appear based on a simple analysis of customer numbers.

Small use customers now have access to a market offer with a 10% discount on the usage charges in the regulated tariff; and large customers are obtaining supply contracts that likely have prices below the tariffs that are available to some large customers. As a result, it can clearly be argued that competition is driving customer choice, and that this choice is likely leading to price savings to end-use customers.

The original plan for WA energy market reform was to first implement gas FRC, then the WEM, and finally electricity FRC. Now that the first two steps have been completed, consideration should be given to implementing electricity FRC, which would then also allow the Gas Market Moratorium on Synergy to be revoked.

While the WEM likely needs further development to make it operate more efficiently; it can clearly be considered a success, as it has led to high security of supply, with almost all new plant supplied by industry. As a result, the wholesale price of electricity has declined sharply in WA, at least for the supply that is traded on-market, noting that the majority of supply is trade through bilateral contracts. However, with the lack of electricity FRC, only medium to large business customers (those greater than 50MWh/annum) are obtaining the benefit of this pricing.

Two arguments have been raised against implementing electricity FRC in WA in the short-term:

Electricity retail tariffs: It is commonly argued that electricity retail tariffs are not cost-reflective, and that it is not sensible to implement electricity FRC until tariffs are cost-reflective because competition will not develop while tariffs are below cost.

There is logic to this argument; but in assessing costs, it is important that "cost-reflective tariffs" are measured using benchmark retailer costs, not the costs of the incumbent retailer. In addition, thought needs to be given to who should determine when the tariffs are cost-reflective.

Government has analysed the level of cost-reflective tariffs several times, and has developed various "cost stacks" with:

- generation costs based on either Verve Energy's costs, or an estimate of the long-run marginal cost of generation;
- network costs based on Western Power's costs;
- retail costs based on either Synergy's costs, or a benchmark analysis of the costs of other retailers; and
- other costs based on actual costs (market administration costs, etc.).

When considering whether tariffs are cost-reflective, Government should consider a cost stack developed for a benchmark efficient retailer. Where tariffs are some way from cost-reflectivity, a timeline should be developed for concurrent transitioning to cost-reflective tariffs and electricity FRC; which could be aided by market reforms that decrease market costs over time.

As Government increases electricity retail tariffs over time and electricity FRC is implemented, this would allow practical FRC to begin at a point when the market determines that tariffs have reached efficient cost-reflective levels.

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| Cherry picking: | It has been argued that electricity FRC should not be introduced because it would allow industry to "cherry pick" from Synergy – that is, to target Synergy's high-value customers (with high load factors), which would leave Synergy with a low-value customer base (with low load factors). |

This would require Government to increase electricity retail tariffs higher than would otherwise be necessary to ensure Synergy's costs are covered.

However, there are two problems with this argument:

- The cherry picking argument is based on a misunderstanding about how competition works in the mass-market.

  To obtain and maintain a market share sufficient to cover costs (supply, billing, metering, etc.), retailers need to make a standing offer to the market, and would not be able to keep a sufficient market share if they turn away "low value" customers that accept their offer. The market would quickly learn about this behaviour, and all customers would stop accepting the offer.

  There is evidence in the market that the cherry picking does not occur – Kleenheat recently entered the WA small-use gas retail market by making a standing offer to all gas customers and is not turning away customers that accept their offer.

- The cherry picking argument assumes that high load factor customers should cross-subsidise low load factor customers, but there is no objective reason for such a subsidy.

  In fact, this cross-subsidy may drive increased system peakiness by holding down costs for low load factor customers.

  The social policy implications of this cross-subsidy also need to be considered – if low income consumers are predominantly the high load factor customers, then this would imply low income consumers are subsidising high-income consumers.

REMCo believes that there is strong argument for considering implementing electricity FRC as tariffs increase to cost-reflective levels, as there is no real argument against such a reform other than potential implementation costs.

REMCo and the AEMO are currently conducting an analysis of the prospects for implementing electricity FRC in WA. This analysis will cover:

- the Australian Energy Market Commission's reviews of competition in the New South Wales, South Australian, and Victorian energy markets;
- FRC costs for gas and electricity in the eastern States, and FRC costs for gas in WA;
- options for market communications for WA electricity FRC;
- legislative and regulatory issues for electricity FRC in WA; and
- cost estimates for implementing electricity FRC in WA.

The intent of this review is to draft a business case for consideration by the REMCo and AEMO Boards, which could then be used for wider consultation with the WA Government and energy industry participants.

REMCo and AEMO plan to complete the business case in December 2013 for subsequent consideration by their Boards. REMCo would be willing to share the results of this business case with the Authority and with Government as an aid to considering whether electricity FRC is a viable near-term microeconomic reform.

It should also be recognised that implementing electricity FRC in WA would have benefits to the gas retail market:

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| Dual fuel offering | Implementing electricity FRC would allow WA gas retailers to enter the electricity market and offer both gas and electricity to consumers. This is a viable option, as most of the active WA gas retailers are also active in the WA electricity market, and such a move would allow the retailers to leverage off of their current billing systems.<br><br>Ability to make dual fuel offerings may also entice energy market participants from the eastern States to enter the WA energy market, thereby increasing competition. |
| Gas Market Moratorium | While gas FRC has been in place since May 2004, the Gas Market Moratorium was also implemented to restrict Synergy from selling gas to customers that consume less than 0.18TJ/annum. This moratorium was put in place to prevent Synergy from receiving an unfair competitive advantage by being allowed to make dual fuel offerings before any other market participant.<br><br>The Gas Market Moratorium should be lifted once electricity FRC is implemented, which would allow Synergy to offer gas to residential and small business customers. |

## Gas and Electricity Retail Tariff Reforms

Government has given a great deal of consideration to the level of electricity retail tariffs over the last five years, and to a lesser extent, to gas retail tariffs. This consideration has focused largely on the impact of electricity retail tariffs on the profitability of the Government-owned electricity corporations (Synergy and Verve Energy) and on end-use customers, some of whom are experiencing financial difficulties in the current economic environment in WA.

However, there has been less consideration of the impact of gas and electricity retail tariffs on the efficient operation of the energy markets. It is widely recognised by industry that there are significant microeconomic efficiency benefits from cost-reflective tariffs.

The Office of Energy (now the Public Utilities Office) made nine recommendations for gas retail tariff reform under the *Gas Tariff Review* (released 30 December 2010); and nine recommendations for electricity retail tariff reform under the *Electricity Retail Tariff Review* (released 29 January 2009). However, Government has so far provided virtually no response on these recommendations, which has:

- led to a great deal of uncertainty in the market;
- impacted on the development of competition; and
- had a negative impact on consumers.

The Authority should consider the recommendations from the *Gas Tariff Review* and the *Electricity Retail Tariff Review*, and where appropriate, should renew these recommendations to Government.

It is of primary importance that the Government hand oversight of gas and electricity retail tariffs to the Authority to drive efficiency in the WA energy markets.

Government needs to separate its social policy objectives from its energy policy objectives. This is not to say that either policy is more or less important than the other, only that policy measures should be designed to directly target the issues they are intended to address:

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| From a social policy perspective: | Some people in WA are experiencing significant financial difficulties, and this has been made worse by the increases in gas and electricity retail tariffs over the last few years. Some parties have suggested these social impacts should be addressed by holding tariffs below cost, or by using slower "glide path" to cost-reflectivity. |
| From an energy policy perspective: | Cost-reflective gas and electricity retail tariffs are very important to:<br>• remove barriers to entry to the gas and electricity retail markets;<br>• provided an incentive for retailers to be price efficient; and<br>• give consumers efficient price signals, which will lead to efficient consumption decisions. |

Government needs to recognise that setting non-cost-reflective tariffs is not an effective means to address its social policy objectives. Setting tariffs below cost will benefit consumers experiencing financial difficulties, but at a very high cost:

- it will destroy the significant benefits from cost-reflective tariffs; and
- it will provide a subsidy to all consumers, not just who are not in need of a subsidy.

Therefore, the Authority should be tasked with monitoring gas and electricity retail tariffs to ensure they are at cost-reflective levels, and Government should address social impacts from any tariff increases by other means, such as providing a direct subsidy to consumers in need. Any subsidy scheme should be designed in consultation with industry and the public to ensure that it has maximum benefit to consumers with minimum impact on the market.

A regulatory framework will need to be established for the Authority to follow in considering the gas and electricity retail tariffs, with a clear set of specific objectives. The Public Utilities Office should consult with industry and the Authority to set the objectives for the regulations – a good starting point for discussion are the objects for:

- the Authority (s. 26 of the *Economic Regulation Authority Act 2003*); and
- REMCo for gas retail market schemes (s. 11ZOB of the *Energy Coordination Act 1994*).

The regulatory framework should:

- allow retailers to set gas retail tariffs as they wish, up to a maximum tariff cap, so long as a reasonable notice period is provided to customers to ensure transparency;
- increase the tariff cap annually by CPI;
- directly pass through network costs and regulatory costs, such as those from environmental protection measures (e.g. the carbon tax and the renewable energy target); and
- require the Authority to regularly review the tariff cap to ensure that it remains reasonable over time.

As indicated above, there is now effective competition in the WA gas retail market. This means that there is a more immediate need for retail tariff reform in the gas market than in the electricity market. As a result, consideration should be given to the tariff framework and the Authority's role for approving gas retail tariffs, where necessary; and the timing for giving the Authority responsibility for setting electricity retail tariffs can be deferred until the prospects for electricity FRC are better understood.

Once the regulatory framework has been developed, the Authority could then investigate other aspects of tariff reform, in consultation with retailers, including:

- the structure of the retail tariffs, including issues such as whether to use an inclining block, flat, or declining block tariff (or time-of-use tariff for electricity);
- any constraints that should be placed on retailers moving individual tariffs to cost-reflective levels over time (e.g. moving costs between daily charges vs. consumption charges); and
- removal of cross-subsidies (such as the Tariff Equalisation Fund) and replacing them with direct subsidies from Government (if appropriate).

## Energy Market Governance Reforms

As a result of interactions in the market, several of REMCo's Members have become concerned with how the WEM has developed to date and how it may develop going forward. REMCo believes that the governance structure of the Independent Market Operator ("IMO") can be improved to address these concerns.

REMCo and its Members have discussed this matter at length, and have developed the concept that the IMO's governance structure should be revised to focus on the efficient evolution of the WEM. Once this is done, Government can be left to its primary role of developing energy market policy, and the WEM governance structure can be left to ensure that the market delivers these policies without need for repeated Government reviews of the WEM.

REMCo and its Members believe REMCo's current governance structure is highly effective, but that REMCo requires greater scale to make more effective use of its resources. As a result, REMCo would be willing to consider moving its operations into a single energy market operator for WA (gas and electricity, wholesale and retail), but only if the structure of that entity meets certain requirements.

REMCo believes that the Authority should recommend a review of the WA energy market governance structure as a key microeconomic reform. The review of the WA energy market governance structure should be based on the principles and proposed structure indicated below.

The principles that should be employed in developing the governance structure for a single WA energy market operator are that the structure should:

(1) Promote the long-term interests of both market participants and energy consumers with respect to price, quality, and reliability of supply.

(2) Facilitate energy market development to allow the WA energy markets to operate in a way that:

    (a) is efficient and transparent;

    (b) is open and competitive, and offers choice to consumers; and

    (c) is flexible and fair to both energy market participants and consumers.

(3) Separate the key governance functions to ensure independence.

(4) Allow industry and Government to facilitate the development of the WA energy market arrangements.

There is a natural tension between some of these principles, and so they need to be applied in a balanced manner.

The governance structure for an energy market operator refers to its "Regulatory Governance Structure" and "Corporate Governance Structure". Attached below are two tables that:

- summarise the governance structures for REMCo, the IMO, and AEMO; and
- propose a governance structure that would be effective for the WA energy market (i.e. that would provide the proper incentives to the market operator and would address the likely requirements of Government).

| Table 1 – Regulatory Governance Structures | | | | |
|---|---|---|---|---|
| | **WA Gas Retail Market** | **WA Electricity Wholesale Market** | **Eastern States, All Sectors** | **WA Energy Market (Proposed)** |
| Market operator | REMCo. | IMO. | AEMO. | An independent market operator, referred to here as the "WA Energy Market Operator" or "WAMO" |
| Responsibility for development of the Rules and Rule changes | REMCo. | IMO. | AEMO | WAMO<br>• Separate Rule Change Committees are to be established for gas and electricity, and each committee can establish sub-committees to focus on complex issues.<br>• Any party can propose and develop a Rule change for consideration by a Rule Change Committee.<br>• The Rule change process includes a step where the Board or ERA approves the policy behind high-impact Rule changes (complex, costly, etc.) before the details are developed. This will avoid unnecessary expenditure if the Board or ERA rejects a major initiative or significantly amends its design. |
| • Role of industry | • REMCo develops Rule changes via a "Rule Change Committee" that includes industry members.<br>• All Rule Change Committee members vote on whether to submit Rule changes for regulatory approval, so industry has a direct say in Rule changes. | • IMO consults with "Market Advisory Committee" in developing Rule changes, but the IMO alone decides whether to proceed with Rule changes. | • AEMO develops Rule changes in consultation with industry via a series of consultative forums.<br>• Rule changes are agreed by industry, and agreed changes are submitted for regulatory approval, with any dissenting positions noted. | • WAMO develops Rule changes via "Rule Change Committees" that includes industry members.<br>• Rule changes are agreed by the Rule Change Committee, and agreed changes are submitted for regulatory approval, with decisions made by majority vote. |

| Table 1 – Regulatory Governance Structures | | | | |
|---|---|---|---|---|
| | **WA Gas Retail Market** | **WA Electricity Wholesale Market** | **Eastern States, All Sectors** | **WA Energy Market (Proposed)** |
| | | | | • Parties with dissenting positions are to be able to make submissions directly to the regulator as part of the approval process. |
| Responsibility for approval of Rule changes | Economic Regulation Authority (“ERA”). | IMO. | Australian Energy Market Commission (“AEMC”). | • The Board approves Rule changes for submission to the ERA.<br>• The ERA approves Rule changes for implementation (no need to establish a new body, the ERA should be up-skilled for this role). |
| Responsibility for oversight of Rule compliance | REMCo and an independent Compliance Panel. | IMO and the Energy Review Board. | Australian Energy Regulator (“AER”). | WAMO Board, with appeals to the ERA (or Energy Review Board). |

| Table 2 – Corporate Governance Structures | | | | |
|---|---|---|---|---|
| | **Gas Retail Market** | **Electricity Wholesale Market** | **Eastern States, All Sectors** | **WA Energy Market (Proposed)** |
| Company form | Not-for-profit company, limited by guarantee under the Corps Act. | Statutory Corporation. | Not-for-profit company limited by guarantee under the Corps Act. | Not-for-profit company limited by guarantee under the Corps Act. |
| Board structure | A six person Board, with 2 independent Directors and 4 Directors appointed by Members. | A three person Board appointed by the Minister for Energy. | A ten person board, with a complex “appointment panel” process that gives Government veto power. | A five to six person Board with:<br>• all Directors to be free from conflicts of interest;<br>• Government to appoint one Director and have veto power over all appointments; and<br>• Members to appoint all other Directors in consideration of a skills matrix covering gas and electricity market experience, and the skills necessary for a Board of Directors (legal, accounting, etc.). |
| • Board role | • Defined in the Corps Act and the Company Constitution. | • Defined in the *Electricity Industry (Wholesale Electricity Market) Regulations 2004*. | • Defined in the Corps Act and the Company Constitution. | • Defined in the Corps Act and the Company Constitution. |
| • Budget setting | • Developed by REMCo and approved by its Board. | • Developed by IMO and approved by its Board. | • Developed by AEMO and approved by its Board. | • Developed by WAMO and approved by its Board. |
| • Financial rigour | • REMCo’s Members pay its costs, so the industry appointed Directors have a strong incentive to ensure REMCo operates efficiently to minimise costs and fees. | • The ERA reviews and approved the Budget. | • AEMO’s Members pay its costs, so the industry appointed Directors have a strong incentive to ensure AEMO operates efficiently to minimise costs and fees. | • The independent Board has oversight of the company’s budget.<br>• Members can ensure costs are considered for any proposed Rule changes via the Rule Change Committees. |

| Table 2 – Corporate Governance Structures | | | | |
|---|---|---|---|---|
| | **Gas Retail Market** | **Electricity Wholesale Market** | **Eastern States, All Sectors** | **WA Energy Market (Proposed)** |
| • Role of Government | • Government policy is laid out in the *Energy Coordination Act, 1994*, and the ERA has an observer on the Board and the Rule Change Committee.<br>• Government can only direct REMCo in emergencies. | • Government policy is laid out in the *Electricity Industry Act 2004*; and the Minister for Energy appoints the Board and can give directions to the IMO. | • Government policy laid out in the *National Electricity Law*, *National Electricity Rules*, *National Gas Law*, and *National Gas Rules*.<br>• Government has a role in selecting Board Members,<br>• Government can only direct AEMO in emergencies. | • Government policy is laid out in WAMO's governing legislation.<br>• Government is to appoint 1 Director to the Board.<br>• The ERA and Government are to have observers on the Rule Change Committees.<br>• Government can only direct WAMO in emergencies. |
| • Independence | • Independence is achieved by the Board structure (the mix of independent and industry appointed Directors). | • All Directors are independent. | • Independence is achieved by the Board structure (the mix of independent and industry appointed Directors). | • All Directors are independent. |