

26 October 2021

Attn: Alisa Toomey  
Australian Energy Market Commission  
GPO Box 2603  
Sydney NSW 2000

Submitted via: <https://www.aemc.gov.au/contact-us/lodge-submission>

## **EMO0040 Review of the regulatory framework for metering services Directions Paper, 16 September 2021 – Tango Energy submission**

Tango Energy thanks the Australian Energy Market Commission (AEMC) for the opportunity to comment on the Review of the regulatory framework for metering services Direction Paper <https://www.aemc.gov.au/market-reviews-advice/review-regulatory-framework-metering-services>.

Tango Energy is the wholly owned subsidiary retail arm of Pacific Hydro Australia (PHA). PHA was founded in 1992, and is a leading owner, operator and developer of renewable energy assets. It operates a high quality, diversified portfolio of wind, hydro and solar assets with an installed capacity of 665 MW; it also has a development pipeline of substantial projects totaling over 1100 MW of potential capacity, as well as over 300 MW of energy storage solutions.

We are a relatively new and growing retailer with approximately 124,000 small and large customers as of October 2021. While our customer base is predominantly in Victoria, Tango Energy also recently started selling to small customers in New South Wales, Queensland, and South Australia and expects to grow our presence in those jurisdictions.

### **The need for specific outcomes**

Tango Energy's customer base is predominantly in Victoria, where a Government mandated rollout of smart meters occurred and has "near-universal penetration" of smart meters, as acknowledged by the AEMC in its paper.

As a relatively new entrant to small customer retail markets outside of Victoria, Tango Energy is strongly supportive of efforts to increase uptake and penetration of smart meters due to their role in facilitating easier customer switching, and facilitating healthy retail competition to new entrants. While Tango Energy may be a relatively new entrant to these markets, Tango Energy's staff, vendors and partners have considerable experience operating in retail markets with competitive metering.

In our opinion, the absence of a clear target for meter installation penetration hinders the reform process. Tango Energy supports consideration being given to setting a clear, practical and achievable target for smart meter penetration where risks, and responsibilities are appropriately allocated to the parties that are able to control them.

While Tango Energy understands that the market-led rollout (in contrast to Victoria) remains the preferred approach, this leads to a level of complexity in the market that acts as a barrier to new entrants and may hinder retail competition due not only to additional complex business-to-business (B2B) information arrangements, but also the need to negotiate multiple contracts with multiple parties, and complex regulatory requirements for the coordination and performance for a meter installation.

We therefore support any actions to simplify the framework and review the division of responsibilities, so that responsibilities are appropriately allocated to the parties that are able to control them. We elaborate on our views further in our submission below.

### **Retailer incentives to install a meter**

We note that the AEMC undertakes discussions in its paper on the lack of incentives for a retailer to install a meter, and discuss both the issues and suggested solutions from Tango Energy's point of view below.

#### *Complexity, roles and responsibilities*

As the AEMC has acknowledged through stakeholder consultation, the metering installation process is significantly complex, requiring the coordination of multiple parties which a retailer may not be able to assert control over. Many of these complex processes also have civil penalties<sup>1</sup> associated with any errors or mistakes that may occur in these processes. A prudent retailer or private firm with a compliance program and risk mitigation strategy (as is required as a condition of retail licences) will attempt to put into place controls to minimise the risks associated, and where possible, avoid the potential of non-compliance by avoiding or minimising performance of the activity where possible, and it is within their rights to do so.

We note that the AEMC is proposing to impose further information requirements requiring retailers to provide information to customers during the coordination of these processes. We request that the AEMC consider reviewing and harmonising the information requirements, particularly of those in the NERR, against a framework that considers what consumer detriment or harm can be caused, based on empirical evidence obtained from the 4 years that the existing framework has been in place.

In our opinion, the continued preference for obligations to rest with the party that has the least control over these obligations, i.e. the retailer, has arguably resulted in the poor outcomes of low penetration. It appears puzzling, and an inefficient allocation of risk, that the party that has the least involvement in the actual physical installation of the meter, has civil penalty obligations associated with the physical installation of the meter. It may be appropriate for the AEMC to review and consider whether this is an efficient allocation of risk between the participants, taking into consideration how this impacts retailers' interaction with other market participants (and the consequent

---

<sup>1</sup> NERR cl.59A(2)-(4), cl.59C(2)-(5), NER cl.7.8.10-7.8.10C

incentives for other non-retailer participants), and how these factors subsequently result in the poor penetration rate.

#### *Innovation and regulation trade-off - comparisons with telecommunications providers*

We understand that previous comparisons to the telecommunications model have been made, where meters have been compared to mobile devices and the rapid technological innovation that has occurred in the mobile device space, and consider this a useful analogy, as explained below.

Currently, a meter is a measuring device that enables other outcomes (such as faster customer switching, better information to plan energy use, etc.) within the current regulatory constraints and technology. It should be noted that not too long ago, the phone, as we knew it, played a similar role in facilitating communication before the introduction of smartphones and mobile devices with multiple functions that we familiar with today.

It should be noted however, that the telecommunications sector operates in a significantly different regulatory environment. Telecommunication companies are allowed to sign enforceable fixed period contracts with customers to ensure they can recover the costs of the mobile device, guaranteeing the capital and cashflow to support further innovation. Telecommunication providers also do not have the constraints of regulated pricing, unlike energy retailers.

In the energy retail market, energy retailers are heavily restricted from enforcing any fixed term period contracts with customers. Furthermore, there is no guarantee that any innovation can be recovered through the Default Market Offer (DMO), or that the frequent regulatory changes occurring in the energy market will not change the business case for investment in technological innovation. Energy retailers are therefore likely to face greater risks investing in research and development activities to further innovation, particularly with respect to physical assets and technology, which have high upfront costs.

By choosing to restrict the behaviour of energy retailers, policymakers have implicitly accepted that there is a trade off with innovation, and therefore lesser incentives to install a meter for all parties involved. If this is an undesirable scenario for policymakers, then greater holistic consideration of how the regulatory framework can be balanced to encourage innovation while addressing consumer protection, should occur.

#### *Consideration of solutions*

In light of the accepted regulatory and innovation trade off discussed above, and the current division of responsibilities within the existing framework, we also note the AEMC's proposals in the directions paper acknowledge that the roll out of smart meters in the NEM has been largely driven by consumers requesting new meters often as a

result of installing solar PV systems, or by new connections<sup>2</sup>. Retailers are incentivised to meet customer needs, and any market-driven rollout has to have the customer at the centre of the framework. Therefore, a lack of uptake and penetration may simply reflect a lack of interest on the part of customers as there are no further perceived benefits for the majority of customers.

Notwithstanding, and as highlighted by the AEMC, we agree that there are long term, market-wide benefits that occur with a high penetration of smart meters, and therefore several options which the AEMC may wish to consider, where policymakers and Government can step in to support a greater uptake of smart meters. We are supportive of options suggested by the AEMC to allow flexibility in the framework to allow parties to whom the benefits of metering accrue most (e.g. DNSPs), to have greater control (and obligations and responsibilities) to achieve those benefits.

In addition, a potential solution could involve the utilisation of existing state energy efficiency schemes<sup>3</sup>. The installation of a smart meter may be provided as a package for an energy management system that is installed as part of an energy efficiency scheme; if carefully and appropriately designed in collaboration with State Government counterparts, allowing greater flexibility in how certificates may be created with respect to these schemes will create a framework that allows the costs of smart meter installation to be passed through in an efficient and transparent manner through the traded cost of a certificate.

If you would like to discuss this submission please contact me at the details provided with the submission.

Yours sincerely,

Shawn Tan  
Assurance and Compliance Manager  
Tango Energy Pty Ltd

---

<sup>2</sup> 3.1 of the Directions Paper.

<sup>3</sup> IPART ESS: <https://www.ess.nsw.gov.au/>; ESCOSA REPS: <https://www.escosa.sa.gov.au/industry/reps/overview>;  
ACT Govt EEIS: <https://www.environment.act.gov.au/energy/smarter-use-of-energy/energy-efficiency-improvement-scheme>