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30 January 2014

Mr John Pierce
Australian Energy Market Commission
PO Box A2449
Sydney South NSW1235

Dear Mr Pierce,

RE: Draft Report: Framework for Open Access and Communication Standards Review (Ref EMO0028)

The Energy Retailers Association of Australia (ERAA) welcomes the opportunity to provide feedback in response to the Draft Report: Framework for Open Access and Common Communication Standard Review (the "**Draft Report**").

The ERAA represents the organisations providing electricity and gas to almost 10 million Australian households and businesses. Our member organisations are mostly privately owned, vary in size and operate in all areas within the national electricity market (NEM) and are the first point of contact for end use customers of both electricity and gas. As our members are considered one of the primary parties involved in the roll out of smart meters under a market driven approach, we strongly recommend that the Australian Energy Market Commission (AEMC) has due regard to the individual submissions of our members to the Draft Report.

As a member of the stakeholder advisory working group, the ERAA has always emphasised that the overarching principle that must govern the development of a framework for open access and communication standards be based on sound commercial practice. A market led approach is heavily dependent on capital investment and therefore any party that has made that initial capital investment in a smart meter roll out is responsible for and has the incentive to provide access to its meters, or risk having their meter, and capital investment, churned. The ERAA believes that under a market led roll out the right commercial incentives and competitive forces will be in place to deliver efficient outcomes relating to open access. As such, we have always advocated that open access does not require, and should not assume, any particular technology or the point in the communications and data processes where this is enabled. The market will naturally choose efficient outcomes. It is with this overarching principle that we provide comments to the Draft Report attached.

The Draft Report outlines the AEMC's initial findings in relation to the technical and communication standard requirements that should be adopted to facilitate a market driven roll out of smart meters in the NEM. These are outlined briefly below with more detailed comments provided in response to relevant sections from the Draft Report.

- The Draft Report recommends the adoption of a common "market protocol". The ERAA supports this recommendation and the AEMC's conclusion that this "would reduce development costs for parties interacting with smart meters, reduce unnecessary meter replacement; and not inhibit consumers' ability to switch

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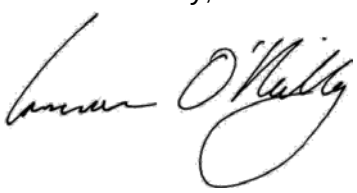
retailers."[1] There is no technical or commercial reason why a common market protocol cannot deliver "Full Access" on the access spectrum discussed at the Stakeholder Advisory Working Group meetings.

- The ERAA does not support DLMS/COSEM as the common market protocol. The ERAA supports the development of a service-based protocol designed specifically for the NEM. ERAA members wish to consume "services" from the Smart Meter Provider (SMP), and not concern themselves with the detailed operations and functions of meters. A market protocol based on "services" between market participants implies that protocol translation will be used to translate meter protocols to the common market "services" protocol. As such, protocol translation is the appropriate means of providing interoperability within the proposed framework. However, the ERAA considers that this is a decision for the market and does not believe that the AEMC should recommend the technology or platform for the common market protocol.
- The ERAA considers that the common market protocol should be considered as part of the Business to Business (B2B) Procedures under the National Electricity Rules (NER) with the appropriate decision-making body being the Information Exchange Committee (or its successor), as supported by the Australian Energy Market Operator (AEMO).
- The ERAA does not support the adoption of a common meter protocol. We support a framework that allows the market to choose technologies and protocols to deliver the most efficient and cost effective service to the required participants, which will result in the best commercial outcomes for industry and ultimately consumers.
- The Draft Report seeks to clarify whether the creation of the SMP should be as that of a new role in the market or amalgamated into existing functions. The ERAA acknowledges that most of the responsibilities assigned to the SMP are already performed by existing roles in the market, that of Metering Providers (MPs) and Metering Data Providers (MDPs). Where new responsibilities are required, the ERAA supports existing roles being enhanced. This approach will avoid the high costs associated with the introduction of a new role in the market. Our submission therefore makes the assumption that the SMP is an existing role in the market, although we will continue to refer to the SMP to ensure consistency in language with the Draft Report.
- The ERAA supports an environment where levels of access and charges will be determined by the market under commercial arrangements.
- Where regulation is required for prices or access this should only be where there is notable market failure, or a probable future market failure in the provisioning of services enabled by meter functions as detailed in this submission. The ERAA does not consider that a future market failure is probable, and thus pre-emptive regulation in this area is not, and cannot be, in the long-term interests of consumers. The ERAA is concerned that this approach may lead to outcomes which the market driven approach was designed to avoid.

Should you wish to discuss the details of this submission, please contact me on (02) 8241 1800 and I will be happy to facilitate such discussions with my member companies.

Yours sincerely,



Cameron O'Reilly
CEO
Energy Retailers Association of Australia

[1] AEMC (2013), *Open Access and Common Communication Standards Information Sheet*, p.1

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Establishment of a common market protocol

The ERAA supports the AEMC recommending a framework that supports the adoption of a common market protocol considering the envisaged interaction of multiple participants with the SMP if this role is created. As highlighted by the AEMC, the development of a common market protocol "would reduce development costs for parties interacting with smart meters, reduce unnecessary meter replacement; and not inhibit consumers; ability to switch retailers."[2]

The ERAA does not support a framework that recommends adopting an international standard, and as inferred in the Draft Report, DLMS/COSEM, as the common market protocol. The ERAA however supports the AEMC providing the necessary framework that facilitates development of a common market protocol that is based on services enabled by meter functionality and specifically developed for the NEM. Any service based protocol that is to be developed should account for existing processes and systems that have been developed to interact with existing NEM B2B Procedures. This will ensure implementation costs are kept to a minimum, especially as the decision to provide a householder with a smart meter is left to the competitive market to deliver.

DLMS/COSEM

The ERAA recognises that the AEMC, through the Standing Council on Energy and Resources (SCER) Terms of Reference, is required to advise as to whether international developments in smart meter communications standards have converged sufficiently to recommend the adoption of common standards. Whilst the Draft Report provides a robust analysis as to why convergence has occurred through the use DLMS/COSEM, this should not be the basis in which a communications standard is adopted for Australia. The context of smart metering in Australia is market led, and unlike in Europe, or in the United Kingdom, there is no prescribed government mandate envisaged. The ERAA understands that

- DLMS/COSEM operates in a language that is functionally based and designed for communicating with devices, not with participants as would be the case between a Financially Responsible Market Participant (FRMP) and a SMP.
- NEM market participants have invested significantly into developing systems and procedures that are compatible with the existing Market Settlement and Transfer Solutions (MSATS) and B2B protocols. It will be less costly and more efficient to investigate what would be required to enhance these protocols to cater for smart meters, rather than adopt DLMS/COSEM, by enshrining it into the framework.
- When deciding on what standard should shape the metering market, consideration of a particular protocol should not be influenced by existing specialist consultant skills. The development of the existing metering market and associated B2B protocols were not dependent on specialist consultant skills and a decision on an appropriate framework should not list this as one of the benefits of migrating to a particular protocol.
- There is no need to develop a Companion Specification should the market develop a service based protocol specific to the NEM.
- The Draft Report states that adopting DLMS/COSEM as the preferred common standard would help with the interoperability of smart grid implementation. This infers

[2] Ibid, p.1

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that future smart grid technologies will all operate using DLMS/COSEM as their preferred communication standard. It is our understanding that as of today the majority of grid operation protocols do not support DLMS/COSEM, and will either need to migrate to such a protocol, or invest significantly in protocol translation.

- There were limited discussions at the advisory stakeholder working group as to the suitability of, or support for, DLMS/COSEM as a preferred protocol for Australia. The Draft Report seems to suggest that the merits of this particular protocol were discussed at length in the four occasions the working group met.

The ERAA is concerned that the Draft Report appears to draw heavily on metering developments in Europe and the United Kingdom, and fails to provide sufficient detail about the benefits that have arisen from the development of metering markets in New Zealand.[3] It is our understanding that the New Zealand Authority (the Authority) adopted a less prescriptive role in determining whether a particular standard should be adopted for the common market protocol. The views of the Authority were, and still are, that the role of the Authority is not to pick a "winner" in a technology driven environment. In recognition of this the Authority adopted a light-handed approach to regulation tending towards guidelines to inform market participants rather than specifications.

In 2012 the Authority determined that the metering services market in New Zealand was workably competitive, with multiple retailers, distributors and other parties obtaining metering services from competing metering owners/operators. The example of WEL Network (provided in the Phacelift report) inaccurately portrays the state of the market in New Zealand.[4] It is our understanding that smart meters deployed by Genesis (and Contact Energy) within WEL Network's distribution area are able to assist WEL to manage their network better. Under a market driven approach, WEL decided to deploy their own meters due to internal commercial reasons, despite the meters already deployed in their network meeting their service needs. The WEL example must also be taken in context as the smart boxes being deployed by WEL only account for 2.2% of the New Zealand metering market.[5]

Who should maintain the common market protocol?

The ERAA believes that the common market protocol should be considered a B2B Procedure under the National Electricity Rules (NER). Currently, the decision making body for B2B Procedures under the NER is the Information Exchange Committee. The ERAA notes that there is a current rule change that is being progressed by the AEMC, which is reviewing the governance structure of retail market procedures in the NEM, which may change the governance of Procedures generally. The ERAA supports the governance of B2B Procedures being expanded to ensure wider industry representation. However, the ERAA considers that the outcome of this rule change for B2B Procedures (including the existing B2B Procedures and the new common market protocol) must be consistent ensuring

[3] New Zealand has been referred to in this submission as this market has been developed under a market driven roll out model. The European markets (inclusive of the United Kingdom) are governed by the European Union Efficiency Directive. Article 8 covers smart metering where it makes it European law that all member states must install electricity smart meters to 80% of households by the end of 2020 if there is positive cost benefit analysis. This is in effect a mandate, which is not what has been recommended under the AEMC's Power of Choice and where SCER recently agreed to change the National Electricity Act to reflect this.

[4] Phacelift (2013), *Advice to the AEMC: Review and Assessment of International Communication Standards,* p.31

[5] Assumption based on 45,000 meters being deployed as noted in Phacelift report out of 2 million meter points.

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that the industry participants who are affected by the B2B Procedures maintain a level of ownership. This model will allow AEMO to continue facilitating B2B Procedures and the common market protocol, with the affected industry participants, ensuring the most efficient and cost effective outcome for the common market protocol, initially and over time. This will meet the National Electricity Objective (NEO) by providing the outcome that is in the long term interests for all participants and ultimately, consumers.

The Phacelift recommendation to the AEMC states that should protocols be based on existing modified NEM B2B Gateway, AEMO (whom maintains the Gateway) will no longer be considered a neutral party.[6] The ERAA does not understand this statement, in particular as AEMO's core objective is to promote the efficient investment in and operation of Australia's electricity and gas markets for the long-term interests of consumers – with respect to price, quality, safety, reliability and security of energy supply. The ERAA assumes that this overarching objective will govern how AEMO interacts with any gateway it helps to develop or maintains.

Adding new functions

As the ERAA does not support DLMS/COSEM as the standard that is to be adopted for the common market protocol then the development of a Companion Specification is not required. The Draft Report states that by making DLMS/COSEM the foundation for the common market protocol, then implementation of new functions would be significantly reduced. This is because DLMS/COSEM (as the Draft Report states) includes specifications to support many more functions than are currently envisaged in the NEM and any new functions developed by the DLMS User Association will automatically be updated in the specification. Whilst this may be the case, by prescribing that the common market protocol be based on DLMS/COSEM is in effect mandating a protocol which is heavily dependent on technological innovation. This framework would lock market participants into a standard that might not be appropriate for tomorrow's market, especially in a commercially led competitive metering environment.

This brings us to the notion of requiring in the rules that new functionality envisaged by commercial entities be included in the functional specification prior to services enabled by that function being used in the market. The Draft Report makes the false assumption that as it is the services enabled by the functions that provide the competitive advantage, including functions in the specifications prior to them being used should not be a significant barrier**.** Such a requirement would compromise the AEMC's Power of Choice recommendation, which we understand SECR has sought a Rule change for, to provide competition in metering and data services.[7] A requirement to include all new functionality in the specifications and common protocol would limit the ability of metering service providers to differentiate their service offerings, reduce incentives for service providers to innovate around new services, and delay the introduction of new services in the market. In a competitive metering environment, it is important that service providers remain free to innovate around the provision of new services to their customers. Once new features become common place they can then be considered for inclusion in the common market protocol. The ERAA strongly believes that the AEMC should recommend to SCER that a common market protocol be adopted, and allow the Information Exchange Committee (or its

[6] Phacelift (2013), *Advice to the AEMC: Review and Assessment of International Communication Standards,* p.28

[7] SCER (2013), *Rule Change Request: Introducing a new framework in the National Electricity Rules that provides for increased competition in metering and related services*.

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successor) to define the best technology or platform that meets the NEO, promotes competition and is in the long term interests of consumers.

Common meter protocol

Unlike a market protocol which involves the interaction of multiple participants, a meter protocol involves the interaction of the SMP (should this role be created) with a single device, a meter. As it is the ERAA position that an SMP will be either the MP and/or the MDP for a particular meter, it is also likely that the SMP will want to communicate to their meter using their own proprietary protocol, supported by a protocol translator (where required) to ensure interoperability with the common market protocol.

The Draft Report seems to infer that a proprietary meter protocol is more inefficient than a common meter protocol based on DLMS/COSEM. The Draft Report lists some of the disadvantaged of a proprietary meter protocol as being that

- Protocol translators will need to be continually updated as new functions are developed which may cause implementation issues and additional costs. Yet the ERAA would assume that any business wishing to participate in metering services would factor such costs in their operating model. Eventually market participants might migrate to one common meter protocol; be it DLMS/COSEM, ANSI C12 or proprietary protocols supported by switching agreements amongst Metering Equipment Providers (MEP) as witnessed in New Zealand. Any regulatory framework should not determine outcomes for a commercial market, unless there is notable market failure that impacts on the NEO.
- Proprietary protocols may not support new functions without the need for further development, or an installed meter would need to be replaced if the specific vendor exits the market or no longer supports its older smart meters. However as the Responsible Person (or Metering Coordinator if this role is created) appoints the SMP then one would expect that the Responsible Person would also assume responsibility for ensuring that such risks are mitigated in their commercial arrangements. No retailer in the market would enter into commercial arrangements (or continue to engage) with a vendor that they believe will create unnecessary costs or risk to their business, or the customers they serve.

The Draft Report also seeks to clarify whether competition in DSP services would be supported by a proprietary meter protocol. Again assuming that the roll out model, as proposed in the AEMC's Power of Choice, bears most resemblance to the New Zealand model as noted before, then as quoted by the Authority "retailers have a clear interest in maintaining a competitive metering services market because retailers rely on MEPs to provide a good service so as to deliver the range and quality of service expected by their customers. Consequently, retailers have commercial incentives to make strategic procurement decisions so that they retain a choice of service provider. If service levels aren't maintained than an alternative MEP can be sourced. This decision relies on there being an alternative MEP able to offer the desired service at a price the purchaser is willing to pay."[8] Should the market determine that a proprietary meter protocol be the most cost efficient method to deliver DSP services, especially considering the commercial drivers underpinning a non-mandated roll out, then the market should be left to make this choice. The Draft Report assumes market failure, and therefore a prescriptive approach to establishing a

[8] Electricity Authority (2012), *Part 10 review: nomination of metering equipment provider and access to metering data,* p.5

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foundation protocol, prior to there being market failure. In the absence of evidence to demonstrate why a future market failure is likely, the ERAA does not see how a foundation protocol can be in the long-term interests of consumers. Such an approach might entrench unnecessary costs which could have potentially been avoided had market participants deemed that another protocol could have better met service requirements in a market driven approach.

Level of access

The ERAA does not support regulating levels of access, be it at the meter or market point. The ERAA supports a framework which allows commercial entities (i.e. accredited parties negotiating with the SMP) to negotiate the most appropriate levels of access required for the services that they are trying to obtain.

Role of SMP

The ERAA does not believe there is any need to create this new role in the NEM. The SMP responsibilities outlined by the AEMC in the Draft Report, with the exception of congestion, are covered by the existing MP and MDP roles. The existing contestable metering market is structured at a granular level today to allow for transparency and competition and the existing AEMO accreditation of both the MP and MDP covers the requirements specified. The ERAA advocates that it is more efficient for any additional requirements to be added to existing roles to remove further complexity. Furthermore, the ERAA is of the view that creating a new role in the NEM can add unnecessary complexity to existing B2B arrangements and introduce unwarranted costs in the market. Costs overheads will be ultimately borne by market participants and these costs will eventually flow through to end use consumers with no added benefited provided to the framework or the customer. Therefore the ERAA proposes that the AEMC use the existing MP and MDP roles to cover the additional requirements for smart metering.

Regulation of access and charges

The ERAA has consistently advocated for deregulation where competition is effective. Open, competitive energy markets free from distortions and unnecessary regulation naturally will encourage an efficient metering market to evolve in Australia. Competition in metering services based on commercial drivers incentivises businesses to improve service, develop products that meet consumer needs and find ways to lower their costs and to pass these savings on to consumers.

The ERAA therefore strongly supports statements made in the Draft Report that “market forces should be allowed to operate without the need for price regulation”[9] and “the price for this access could be based on commercial arrangements.”[10] In particular, where the market for these services is working efficiently and there is effective competition, price regulation should not be introduced to address commercial issues where an accredited party is unable to access services enabled by new or enhanced functions – simply because they can’t justify the costs for their business. This conflicts with the notion of competitive neutrality and will more likely indicate that the efficient costs of providing this service outweigh any potential benefit gained - a situation that is common in all markets. It is important to differentiate between this scenario, and a situation whereby accredited parties cannot afford services because SMPs are employing inefficient pricing strategies. Where regulation is considered,

[9] AEMC (2013), *Draft Report: Framework for Open Access and Communication Standards Review*, p.35
[10] Ibid, p.35

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then this should only be where there is notable (rather than theoretical) market failure and should only be limited to core metering services.

Scope of the Review

The ERAA supports the requirement by SCER in its Terms of Reference that the AEMC has regards to establishing a framework that

- supports the NEO
- ensures competitive neutrality amongst all participants (inclusive of third parties) is maintained
- ensures any enhancement in consumer protections are proportionate to the issues identified
- ensures the framework for open access and common communication standard is reviewed in light of proposed rules changes that might impact on any framework proposed.

Third party service providers and SMPs

While the Draft Report does not seek to address obligations under the NER for third party service providers, the ERAA considers that any framework proposed under the broader regulatory framework should ensure that third party providers are properly defined. This is in particular as the AEMC has defined an accredited party as being "any entity that is entitled to access the smart meter's data and functions. This would include the customer's retailer, associated network business, the MDP, MP and third party energy service companies."[11] All these parties (except third party service companies) are currently either accredited or registered with AEMO. To have regard for competitive neutrality, the ERAA recommends that (as a minimum) third party energy service providers that are in the market must be subject to some form of registration with AEMO.

[11] Ibid, p.10

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