

7 November 2008

Dr John Tamblyn
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Dear Dr Tamblyn

**ENA Response to AEMC Draft Rule Determination on Victorian Jurisdictional Derogation,
Advanced Metering Infrastructure Roll Out**

The Energy Networks Association (ENA) takes this opportunity to comment on the Australian Energy Market Commission's (AEMC) Draft Rule Determination of 25 September 2008 in relation to the Victorian Government's proposal seeking an amendment to the National Electricity Rules (NER) by way of a jurisdictional derogation to implement the roll out of advanced metering infrastructure (AMI).

As indicated in its February submission to the AEMC, ENA supports the approach taken in the proposed derogation of establishing distribution businesses as the exclusive responsible party for the roll out of AMI. Further, consequent to the Ministerial Council on Energy (MCE) decision of June 2008 that the obligation for the national deployment of smart meters be placed on distributors; there is now a compelling national consistency case in favour of the Victorian proposal.

ENA notes that the future national approach, including post roll out arrangements, will be determined as part of the MCE's national framework program and that this will take into account the regulatory framework being finalised in Victoria.

ENA makes four recommendations in its submission (attached), with the main focus of its concerns being to ensure that the national roll out, including the Victorian AMI roll out provides the essential certainty, clarity and unambiguous exclusivity that is vital to ensure success.

For further information please contact Bill Layer, Research Officer, ENA on telephone (02) 6272 1555.

Yours sincerely



Andrew Blyth
Chief Executive



ENA Response to AEMC Draft Rule Determination on Victorian Jurisdictional Derogation, Advanced Metering Infrastructure Roll Out

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1. Overview

Key messages

ENA supports the AEMC Draft Rule Determination in providing for distributor exclusivity for all customers below 160 MWhpa to facilitate an advanced interval meter roll out by the distributors. However the Draft Rule Determination should be revised to:

- Ensure that exclusivity extends to the end of 2013, consistent with the derogation application.
- Seek a commitment from the Victorian Minister to review the impact on the derogation of a new smart metering Rule proposal once it is developed.
- Provide clarity and certainty to distributors that all meters relating to the Determination are included in the exclusivity.
- Ensure that the Final Rule does not alter type 5 metering arrangements.
- Leave post roll out arrangements to the Working Groups linked to the National Stakeholder Steering Committee (NSSC) until a MCE policy approach is finalised.

1. Executive Summary

The Energy Networks Association (ENA) welcomes this opportunity to respond to the Australian Energy Market Commission's (AEMC) Draft Rule Determination of 25th September 2008 in relation to the Victorian Government's proposal seeking an amendment to the National Electricity Rules (NER) by way of a jurisdictional derogation to implement the roll out of advanced metering infrastructure (AMI).

ENA is the peak national body for Australia's energy networks. ENA represents gas distribution and electricity network businesses on economic, technical and safety regulation and national energy policy issues.

ENA strongly supports the AEMC Draft Determination that provides distributor exclusivity for all customers below 160 MWhpa that do not have the retailer as the responsible person at the start date. However, ENA raises a number of issues for AEMC consideration in this submission, namely that:

- The drafting provides clear exclusivity of these metering installations to facilitate an advanced interval meter roll out. To provide clarity and the necessary certainty for the distributors, the wording of the Rule change must ensure all such metering installations are included in this exclusivity. The Final Rule should be clear and unambiguous regarding its intent.
- The expiry date should provide regulatory certainty for the Distributors meters and communications procurement. The expiry date should remain as the end of 2013 as requested in the derogation application. The AEMC should seek a commitment from the Victorian Minister to review the impact on the derogation of the new national smart metering Rule proposal once it is developed.
- The Final Rule should not alter existing type 5 arrangements, other than the clear ability for remote acquisition being within the Rules for type 5 meters, as any alterations may pre-empt or set precedents before any advanced metering framework is clearly thought through.
- The derogation application did not seek such cost recovery details as proposed by the AEMC. It is premature for the AEMC to be suggesting such detailed costing principles relating to a post roll out period. The national smart metering working groups will develop a package of changes required for the national smart processes; cost recovery will be one element of this package.
- The AEMC provide a clear and unambiguous Final Rule Determination. The Victorian Minister has sought a derogation to meet a policy outcome on advanced interval meter roll out in Victoria. The Minister and distributors are seeking certainty from the derogation on which to proceed with a roll out in Victoria. The ENA suggests that building in future flexibility for yet to be specified Rule changes does not provide the certainty intended from any derogation application and the level of uncertainty and regulatory risk this creates does not meet the National Electricity Market (NEM) objective.

2. Background

This submission responds to the AEMC Draft Rule Determination of 25th September 2008 in relation to the Victorian Government's proposal seeking an amendment to the NER by way of a jurisdictional derogation to implement the roll out of AMI.

By way of background ENA is the peak national body for Australia's energy networks. ENA represents gas distribution and electricity network businesses on economic, technical and safety regulation and national energy policy issues. Energy network businesses deliver electricity and gas to over 13 million customer connections across Australia through approximately 800,000 kilometres of electricity distribution lines. There are also 76,000 kilometres of gas distribution pipelines. These distribution networks are valued at more than \$40 billion and each year energy network businesses undertake investment of more than \$5 billion in distribution network operation reinforcement, expansions and greenfield extensions. Electricity transmission network owners operate over 42,000 km of high voltage transmission lines, with a value of \$10 billion and undertake \$1.2 billion in investment each year.

3. General Comments

ENA welcomes the AEMC's acceptance of the Victorian Government Rule change proposal that provides for distributor exclusivity. The AEMC has determined that it should make the Draft Rule providing for Local Network Service Providers (LNSP) exclusivity:

- to act as the *responsible person* for the rollout of smart meters to *connection points* where annual consumption is less than 160 MWh. LNSPs will not be the *responsible person* for those *connection points* where, at the start of the rollout, a retailer is already the *responsible person*; and
- to select the metering data agent to be engaged by NEMMCO in respect of the metering *installations* at these *connection points*.¹

As indicated in its February submission to the AEMC, ENA concurs with the approach taken in the proposed derogation of establishing distribution businesses as the exclusive responsible party for the roll out of AMI infrastructure. Further, consequent to the Ministerial Council on Energy (MCE) decision of June 2008 that the obligation for the national deployment of smart meters be placed on distributors there is now a compelling national consistency case in favour of the Victorian proposal.

In the ENA submission of April 2008 to the MCE on its Cost Benefit Analysis Phase 2 Report relating to a national AMI rollout, ENA argued strongly for an early commitment to a consistent national legal and regulatory framework based on an exclusive distributor led roll out in jurisdictions where a business case can be identified after taking into account Government commitment to full cost recovery.

¹ AEMC Draft Rule Determination, National Electricity Amendment (Victorian Jurisdictional Derogation, Advanced Metering Infrastructure Roll Out, Rule 2008, 25 September 2008, p9.

ENA's view is that distributors are best able to lead the smart meter roll out because networks:

1. Currently undertake mass market metering and thus have the capability and experience to undertake mass market smart metering on an accelerated basis;
2. Can provide smart metering economically based on their ownership of network infrastructure, including communications, and the location of their customers in proximity to each other;
3. Are best placed to develop the synergies between the smart metering installation and other communications applications to deliver an 'intelligent network' to support increased demand side participation and distributed generation;
4. Are able to offer services to multiple retailers and thus offer a low cost solution overall;
5. Have an advantage in metering ownership because there is no need to switch meter ownership when customers switch retailers; and
6. Are also the only parties able to exploit synergies between the smart meter installation and the replacement of aged meters and load control equipment.

We understand that the Victorian advanced interval meter roll out will proceed under a Victorian cost recovery framework set out in an Order in Council. The distributor costs will be overseen by the regulator in a distributor led roll out with consistent customer pricing for a specific metering configuration, while under a retailer led scenario the outcome relies on the uncertain assumption that market competition in meter provision is present.

In contrast retailer responsibility for smart metering could impede competition due to its impacts on customer switching and meter churn. These issues will act as barriers to new entrants into the metering market by raising the threshold required rate of return for metering providers and by raising the cost of changing from one meter provider to another.

Notwithstanding the above advantages relating to distributor exclusivity the AEMC intention as indicated in the paper is for metering provisions to revert back to the previous contestable arrangements at the end of the mandate period. ENA notes that this AEMC position is based at least in part on the MCE expressed support for contestable metering beyond the roll out. However, ENA understands that while the MCE indicated in its 13 June 2008 *Smart Metering Discussion Paper* that it recognised the potential benefits of contestability, it did not categorically provide unconditional support for contestable metering. Instead it stated that it was open to further expansion of metering beyond the roll out period. MCE consequently concluded that: '...regulatory and operation arrangements in the national framework should be designed with future flexibility on this matter in mind.'

ENA understands that the Victorian AMI program has further developed its project plan and intends to roll out advanced interval meters, communications infrastructure and systems under existing type 5 NEM arrangements for the period of the derogation. By 1 January 2012 the advanced interval meters will need to be read daily and meet the Victorian service level requirements. The Victorian Government derogation application is intended to provide distributor exclusivity to enable the efficient roll out of advanced metering and infrastructure and to transition at the end of the derogation period to the national smart framework whilst making the minimal changes to the NEM procedures and service levels requirements.

4. ENA Concerns with Draft Rule Determination

ENA whilst supportive of the AEMC Draft Rule Determination would like to raise concerns in the following four areas which create regulatory uncertainty for distributors:

Rollout Responsibility and Relevant Metering Installation Definition

The AEMC amendments to the drafting of the relevant metering installation do not provide the same certainty as achieved with the original drafting proposed to the AEMC.

The AEMC has stated in the Draft Rule Determination that other than the sites for which the retailer was the responsible person for any sub 160MWhpa customers at the start date, the LNSP will be responsible for the remaining sites.

However the proposed Rules wording does not match this stated AEMC intent. The wording must capture exclusivity for meter replacements (fault or family failure) and new connections that arise during the derogation period, and remove any ability for a retailer to alter a type 5 or 6 meter for a sub 160MWh pa customer to type 4 or type 3.

The AEMC introduced the wording 'for the purposes of the AMI rollout' to the relevant metering installation definition. This wording creates uncertainty where the compliant AMI meters are being introduced as the new standard metering but may not yet be in stock for all metering configurations. Under this wording, any basic metering installed as a transitional measure would not be included within the definition of relevant metering definition.

ENA suggests that the AEMC consider the merits of the original drafting proposed by the Victorian Government which provides additional clarity and certainty when compared with the Draft Rule. The intent of providing this level of exclusivity is to ensure a level of stability for the Distributor rollout which allows the advantages of a Distributor led rollout as listed above in this response to be best achieved.

Recommendation

That the AEMC Rule Determination provide clear and unambiguous exclusivity for metering installations to customers below 160 MWhpa to facilitate an advanced interval meter roll out by the distributors. The Rule change must ensure all such metering installations are included in this exclusivity.

Expiry Date

The AEMC Draft Rule provides that the derogation expires on the earlier of 31 December 2013 or another Rule that provides for an AMI roll out or equivalent in another jurisdiction. This provides for the derogation to cease at a different time than the Victorian Minister's application. This means that a future unspecified Rule will impact this derogation Rule without any thought to the implication for existing meter commitments to meet the Victorian roll out obligations or the cost impost to Victorian customers.

The Victorian Government proposal intended to provide the distributor with metering exclusivity for sub 160MWhpa customers to the end of 2013² and, despite some changes to the rollout approach since the derogation request was made, the latest timetable for the roll out agreed at the Industry Steering Committee in Victoria still provides for all meters to be rolled out by the end of 2013. The timetable sought by the Victorian Minister for the period of the derogation is still valid.

This fixed expiry date allows the distributor to engage with meter, communication and meter installation vendors with certainty that the regulatory basis of the rollout is not going to change in an ‘uncontrolled’ way before the advanced interval metering is rolled out to all the relevant customers.

The AEMC drafting proposed in the Draft Rule Determination no longer provides this level of regulatory certainty for meters and communications procured in good faith. A subsequent Rule change, to one clause in Chapter 7 for national smart metering, or a derogation for another jurisdiction for smart metering, would result in the Victorian derogation expiring. The derogation may cease despite the fact that the national smart metering framework, Rules and underlying procedures have not been developed.

The uncertainty created by the flexibility in the ending of the derogation has the effect of altering the derogation and reducing the support it gives to the advanced interval metering projects in Victoria today. To provide certainty within the derogation to enable the roll out of advanced interval meters and the associated infrastructure the end date of the derogation should remain as requested by the Victorian Minister as 31 December 2013.

The ENA recognises that the Victorian Minister and the industry will need to analyse the impact of the national smart metering Rules once they are known to determine the impact on the Victorian program and determine the best way to transition to the formulated national smart metering arrangements. The Victorian Minister has sought a derogation to meet a certain outcome for a period of time. It is expected that the Minister will wish to be part of any Rule change process which impacts this derogation and be included in the development of the appropriate transition arrangements. Providing flexibility for future Rule changes which are unspecified and therefore impacting on the certainty sought under the derogation is unacceptable.

ENA’s position is that the expiry date should provide regulatory certainty for the Distributors meters and communications procurement. The expiry date should not impose risks to Victorian roll out obligations or create a cost impost to Victorian customers.

Recommendation

ENA recommends that the Rule Determination be drafted to provide the distributors with exclusivity to the end of 2013, consistent with the Minister’s application.

The AEMC could seek a separate commitment from the Victorian Minister for the Minister to conduct a Review should a Rule change impacting on the Victorian derogation arise.

² At the time of the development of the application to the AEMC in Aug 2007, the Victorian Government specifically requested that the derogation remain for the period of the roll out plus one year in case there was some overrun of the roll out timetable. At the time of the application, the metering rollout was to commence on 1 January 2009 for four years. The last year of the derogation, 2013, was for any contingency required in such a large project.

Classification of relevant metering installations

The AEMC proposed wording relating to metering features appears to support the desired outcome that remote read advanced interval meters can continue to be considered type 5. However, ENA is unclear on what metering features may be activated that would alter the meter classification from a type 5 or 6 metering installation capable of remote acquisition to a type 1-4 metering installation. The drafting proposed by the AEMC is unclear and creates ambiguity, and is counter to the proposed rollout approach. The approach envisaged is that AMI meters will remain type 5 whilst covered by this derogation and would only change meter type if this is required to move to the national smart metering arrangements.

To attempt to transition meters from type 5 to another type as part of the Victorian rollout is likely to establish precedents or pre-empt the national smart metering framework which is not desirable.

The fundamental driver of focusing the Victorian rollout on core smart metering services only under existing type 5 NEM arrangements is to allow the broad range of smart meter services to be developed in the wider national context. ENA's view is that detailed consideration must be given to the activation of a metering feature or a functionality which alters the metrology arrangements, meter type and data performance requirements as part of the national smart metering project.

The Rule Determination should clearly provide that an advanced interval meter that is remotely read will be considered a type 5 or type 6 in the NEM. The drafting of the derogation should provide this clarity and not seek to pre-empt the national framework.

Recommendation

The Final Rule should not alter existing type 5 arrangements, other than the clear ability for remote acquisition being within the Rules for type 5 meters, as any alterations may pre-empt or set precedents before any advanced metering framework is clearly thought through.

Cost recovery processes

Under Section 4.6.4 of the AEMC Draft Rule Determination paper (p33), the AEMC provides three proposed measures that appear to implement the 'flexibility' in anticipation of contestability and invites comments from stakeholders. ENA is unclear why the AEMC has entertained these proposals given that the Victorian Minister has established a cost recovery framework in Victoria. The derogation did not seek application in this area as the cost recovery Order in Council was already in place at the time.

The Victorian Government application to the AEMC in November 2007 recognised that a cost recovery Order in Council would regulate the costs of distributor metering services in Victoria for these relevant customers. ENA understands that the Victorian Government and the industry in Victoria are very close to finalising a refined cost recovery Order in Council which will be the basis of the Australian Energy Regulatory (AER) establishing and monitoring the Victorian rollout costs including the basis of the AMI rollout 'tariff component' and the exit fee.

The future national smart metering cost recovery approach will be determined as part of the MCE's national framework program and this will need to take into account the arrangements now being finalised for Victoria. Once the national smart metering working groups have developed this framework, the AEMC and other stakeholders will be able to contribute to the consultation processes.

ENA recommends that as the MCE has not fully formulated its position on future metering contestability it is premature for the AEMC to be suggesting detailed arrangements to apply in the post mandated roll out period, as set out in Section 4.6.4 (page 33) of the Draft Rule Determination.

Recommendation

The details relating to the post roll out arrangements should be left to a later stage and be implemented in coordination with MCE outcomes and the AER. In the interim this issue should be left to the Working Groups linked to the National Stakeholder Steering Committee (NSSC).