



Australian Energy Market Commission

DRAFT RULE DETERMINATION

National Electricity Amendment (Meter Read and Billing Frequency) Rule 2016

Rule Proponent

Ergon Energy Queensland

31 March 2016

**RULE
CHANGE**

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About the AEMC

The AEMC reports to the Council of Australian Governments (COAG) through the COAG Energy Council. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the COAG Energy Council.

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Summary

This draft rule determination sets out a draft change to the National Energy Retail Rules that aims to provide retailers with more opportunity to issue small customers on a standard retail contract with bills based on their actual consumption. It does so through requiring retailers to issue a bill to small customers on a standard retail offer at least once every 100 days, replacing an existing requirement that a bill is issued at least once every three months. The draft rule applies to both electricity and gas standard retail contracts.

The Australian Energy Market Commission has made this draft rule determination and draft rule in response to a rule change request proposed by Ergon Energy Queensland. Submissions to the draft rule determination and draft rule are due by **12 May 2016**.

Ergon's rule change request seeks to allow retailers to delay issuing a bill to small customers on a standard retail contract until an actual meter read is provided by the Metering Data Provider. Ergon considers that this will allow retailers to issue more bills based on actual consumption, avoiding the need to issue estimated bills. Ergon proposes that bills based on actual consumption provide for a better customer experience, increasing their confidence in the retail market.

Bills based on actual consumption provide customers with better information about how they use energy. This helps them plan and budget for their bills, and also assists them in managing their usage to lower the energy charges they face. Information is an important tool to help consumers make informed decisions about how they use energy services and the new technologies they invest in.

However, the benefits derived from billing on actual consumption need to be balanced against the frequency of billing. Frequent bills provide small customers with more timely information about the costs that they incur. Small customers pay for the energy they use in arrears, and typically do not have access to information about the costs that they incur until a bill is issued. If bills are delayed, not only is it likely that a bill would be higher because it covers a longer period, but it may also not provide small customers with timely information about changes they could make in their use of appliances – such as an air conditioner or heater – to manage their energy charges. Less frequent bills would likely create particular issues for vulnerable customers.

The draft rule is a more preferable draft rule that differs from the rule proposed by Ergon. The draft rule recognises the importance of both accurate and frequent energy bills. It broadly maintains the frequency of billing provided for by the existing three month obligation under the National Energy Retail Rules. At the same time, it provides retailers with an increased window to receive an actual meter read from a Metering Data Provider (for gas, distribution businesses provide meter reads), which is likely to enable retailers to issue more accurate bills. For example, all else being equal, data provided by the rule change proponent indicates that this would increase the number of its small customers that receive bills based on actual metering data rather than on estimated data from approximately 80 per cent to 99 per cent.

For the reasons outlined above, the Commission is satisfied that the draft rule will, or is likely to, contribute to the achievement of the National Energy Retail Objective

compared to the current arrangements. The Commission is also satisfied that the draft rule will, or is likely to, better contribute to the achievement of the National Energy Retail Objective than Ergon's proposed changes by maintaining an obligation on retailers to issue bills with regular frequency.

The regulation of both the frequency with which a small customer receives a bill for their energy use and the accuracy of those bills act to protect consumers. The Commission is satisfied that the draft rule is compatible with the development and application of consumer protections, as while it may result in a slight delay in the frequency of bills, this delay may enable retailers to issue more small customers with a bill that is based on a meter read, rather than on an estimate.

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1 Ergon Energy Queensland's rule change request

1.1 Introduction

On 15 September 2015, Ergon Energy Queensland (Ergon) submitted a rule change request to the Australian Energy Market Commission (AEMC or Commission).¹ The rule change request sought to amend the National Energy Retail Rules (NERR) to enable retailers to delay issuing a bill to a small customer until an actual meter read is provided by the Metering Data Provider.

This report sets out the Commission's draft rule determination with respect to Ergon's rule change request. The draft rule determination is to make a more preferable draft rule (the draft rule).²

Stakeholders are invited to make written submissions in response to this draft rule determination by no later than **12 May 2015**. Further information about how to make a submission is contained in section 1.7 of this document.

The Commission anticipates publishing the final rule determination for this rule change request on 30 June 2016.

1.2 The rule change request

Ergon's proposes to change rule 24 of the NERR, which requires retailers to issue a bill to small customers supplied under a standing offer at least once every three months to:

“a retailer must use its *best endeavours* to issue bills to a small customer at least once every three months using metering data for the relevant meter class at the customer's premises provided by the responsible person and determined in accordance with the National Metrology Procedures³ and rule 21.”⁴

Ergon also proposes to change rule 21(1)(c) of the NERR to clarify that a retailer may base a small customer's bill on an estimation of that customer's consumption of energy, where:

“metering data is not provided to the retailer by the responsible person in accordance with the requirements to do so under the National Metrology Procedures.”⁵

1 Ergon Energy Queensland, *Aligning the retailer requirement to issue a bill to a small customer every three months with National Metrology Procedures*, Rule Change Request proposed by Ergon Energy Queensland, 15 September 2015. The rule change request is available on the AEMC's web site: <http://www.aemc.gov.au>

2 Available at: <http://www.aemc.gov.au/Rule-Changes/Meter-read-and-billing-frequency>

3 While Ergon's rule change request states that its intention is to align the obligations of retailers under the NERR with the obligations on Metering Data Providers under the National Metrology Procedures, the obligations that its rule change request relate to are contained within the Service Level Procedure. Therefore, the AEMC considers that this drafting should refer to the Service Level Procedure and not the National Metrology Procedures.

4 Ergon Energy Queensland rule change request, 15 September 2015, p.10.

5 See footnote 3.

Ergon considers that this change would enable a retailer to base a small customer's bill on an estimation of that customer's consumption where a Metering Data Provider has not complied with the Australian Energy Market Operator's (AEMO) Service Level Procedure.⁷

Ergon proposes that consumers' interests could be protected by introducing a maximum timeframe for withholding a customer bill due to a lack of meter data, and that this maximum timeframe be 120 calendar days or four months.⁸

Ergon considered an alternative to its proposed rule would be to require the Metering Data Provider to collect meter data more frequently. It rejected this option on the basis that it would increase costs, ultimately resulting in consumers paying higher prices for their energy.⁹

1.3 Rationale for rule change request

Ergon considers that its proposed rule would:¹⁰

- improve customer experience and confidence in retail markets by producing more bills based on actual meter data and reducing the number of estimated bills;
- provide a link between the obligations on retailers under the NERR and the obligations on Metering Data Providers under AEMO's Procedures;
- assign obligations to market participants in accordance with their respective market roles; and
- create obligations on the relevant parties that have the responsibility for preparing and delivering meter data to retailers under the National Electricity Rules (NER).

Ergon considers that the above impacts would benefit small customers by reducing:¹¹

- the likelihood of unexplained volatility in customer bills by limiting the number of estimated bills; and
- customer confusion resulting from a bill based on an estimate being replaced by a bill based on actual meter data, or from an adjustment to a subsequent bill to account for a misestimation in a previous bill.

Ergon notes that a retailer may potentially be exposed to cash flow and volume risks if it estimates a significant number of its bills.¹² This is because customers' bills may vary from the consumption volumes settled through the National Electricity Market (NEM). It considers that billing on the basis of actual meter data would allow retailers to better

⁶ Ergon Energy Queensland rule change request, 15 September 2015, p.11.

⁷ Retailers would also be able to base a bill on an estimate if the customer consents or if the retailer is not able to reasonably or reliably base the bill on an actual meter read.

⁸ Ergon Energy Queensland rule change request, 15 September 2015, p.9.

⁹ Ibid., p.14.

¹⁰ Ergon Energy Queensland rule change request, 15 September 2015, pp.9-10.

¹¹ Ergon Energy Queensland rule change request, 15 September 2015, p.15.

¹² Ergon Energy Queensland rule change request, 15 September 2015, p.15.

manage cash flow despite the short delays this approach might create and result in a more accurate settlement of energy consumption in the NEM.¹³

1.4 Current arrangements

This section provides an overview of the obligations on retailers and Metering Data Providers under the NERR, the National Electricity Rules (NER) and under a number of AEMO's procedures to which this rule change request relates. More detailed information is provided in the AEMC's *Meter Read and Billing Frequency* consultation paper.¹⁴

Note as the rule change request primarily relates to the meter read obligations for type 5 and 6 meters under AEMO's procedures, this section only provides an overview of these arrangements. Gas meter read obligations are set out in section 5.2.

1.4.1 Retail billing obligations under the National Energy Retail Rules

The NERR sets out a number of obligations on retailers with respect to issuing bills to small customers¹⁵ on a standard retail contract.¹⁶ The relevant rules for this rule change request relate to the frequency of bills, the basis for bills and estimation as a basis for bills.¹⁷

Under Rule 24(1) of the NERR, a retailer must issue a bill to a small customer on a standing offer at least once every three months. This timeframe can be amended by agreement between a retailer and a small customer, where the small customer gives explicit informed consent to an alternative regular recurrent period of billing.¹⁸

Rule 20 of the NERR requires a retailer to base a small customer's bill for the consumption of electricity on the metering data for that customer's premises provided by the Responsible Person¹⁹ and determined in accordance with the metering rules and

¹³ Ergon Energy Queensland rule change request, 15 September 2015, p.15.

¹⁴ AEMC 2015, *Meter Read and Billing Frequency*, Consultation Paper, 17 December 2015, Sydney

¹⁵ Under the National Retail Energy Law (NERL) sections 5 and 6; and NERR clause 7, small customers are typically defined as any residential customer or any business customer consuming less than 100 megawatt hour (MWh) a year. In some jurisdictions, the upper consumption threshold for small business customers has been varied. In South Australia, the upper consumption threshold is 160 MWh (SA NERL regulations clause 5); while in Tasmania, it is 150 MWh (Tas NERL regulations clause 7).

¹⁶ A standard retail contract is a contract between a retailer and a small customer that takes effect when a customer accepts a retailer's standing offer. A standard retail contract acts as a default retail contract in situations where a customer has never accepted a market offer, or switched retailer, or where a customer has moved into a new premise without signing a new retail contract. A customer can also choose to be supplied by a retailer under a standing offer.

¹⁷ Rule 24, Rule 20 and Rule 21 of the NERR.

¹⁸ Rule 24(2) of the NERR.

¹⁹ Under clause 7.1.2 of the NER, there must be a Responsible Person for each connection point who is responsible for arranging the installation, provision and maintenance of the metering installation, and the collection, processing and delivery of metering data.

rule 21 of the NERR.²⁰ A retailer can also base a small customer's bill on any other method agreed by the retailer and the small customer.²¹

For gas, in addition to the above, a retailer can also base a small customer's bill on the actual reading of the meter at the customer's premises.²²

In either case, the retailer is required to "use its best endeavours to ensure that actual readings of the meter are carried out as frequently as is required to prepare its bills consistently with the metering rules and in any event at least once every 12 months."²³

The NERR also sets out obligations on retailers with respect to the use of estimation as the basis for small customer bills. Under rule 21, a retailer may base a small customer's bill on an estimation of the customer's consumption of energy where:²⁴

- the customer consents to the use of estimation by the retailer;
- the retailer is not able to reasonably or reliably base the bill on a meter reading; or
- metering data is not provided to the retailer by the Responsible Person.

In these instances, the NERR allows for the estimation to be based on:²⁵

- the customer's reading of the meter;
- historical metering data for the customer reasonably available to the retailer; or
- the average usage of energy by a comparable customer over the corresponding period, if there is no historical metering data for that customer.

There are no obligations on retailers with respect to the frequency with which they issue a bill to a small customer supplied under a market retail contract.²⁶ Retailers provide this information to small customers in the terms and conditions attached to their market offers.²⁷

1.4.2 Roles and responsibilities of a Metering Data Provider

Under the NER, Metering Data Providers have responsibilities to collect, process, store and deliver metering data.²⁸ Metering Data Providers must also provide and maintain

²⁰ Rule 21 of the NERR relates to the use of estimation as basis for bills.

²¹ Rule 21(1)(a)(ii) of the NERR.

²² Rule 20(1)(b)(I) of the NERR.

²³ Rule 20(2) of the NERR.

²⁴ Rule 21(1) of the NERR.

²⁵ Rule 21(2) of the NERR.

²⁶ A market offer may be offered by any retailer to any small customer. Market retail contracts set out the terms and conditions on which a retailer will provide retail services to a customer. The contract terms, tariffs and charges of a market retail contract are subject to limited minimum requirements which are set out in the NERR.

²⁷ Under the National Energy Retail Law (Queensland) Act 2014, Ergon is prevented from offering market retail contracts to small customers.

²⁸ Clause 7.4.1A(a) of the NER.

the security controls associated with metering data services in accordance with the NER.²⁹

Metering Data Providers are appointed by the Responsible Person³⁰ for each connection point. For type 5 and 6 meters,³¹ the Responsible Person is the Local Network Service Provider (LNSP).³²

AEMO Procedures for the provision of metering data

Chapter 7 of the NER contains clauses relating to, among other things, the collection and provision of metering data and the provision of metering data services.³³ These clauses are supported by AEMO's Service Level Procedure: Metering Data Provider Services (Service Level Procedure), which details the obligations, technical requirements and performance levels that are to be performed, administered and maintained by the Metering Data Provider.³⁴ AEMO's most recent Service Level Procedure came into effect on 1 September 2015.

Under AEMO's Service Level Procedure, Metering Data Providers must use *reasonable endeavours* to ensure that metering data is collected at least once every three months.³⁵ Metering Data Providers also have an obligation to use *reasonable endeavours* to ensure that metering data is collected within two business days either side of the scheduled reading date.³⁶

²⁹ Clause 7.4.1A(b) of the NER.

³⁰ Under clause 7.1.2 of the NER, there must be a Responsible Person for each connection point who is responsible for arranging the installation, provision and maintenance of the metering installation, and the collection, processing and delivery of metering data. Once the Expanding Competition in Metering and Related Services rule is implemented, by 1 December 2017, the roles and responsibilities of the Responsible Person will be performed by a Metering Coordinator.

³¹ Type 5 metering installations are generally manually read interval meters that are used at connection points with loads up to 160 MWh (eg residential and small businesses). This load size threshold can be amended by individual jurisdictions. The advanced meters deployed by distribution businesses in Victoria are also deemed to be type 5 metering installations. Type 6 meters are accumulation metering installations that are used at connection points with loads up to 160 MWh. This load size threshold can also be amended by individual jurisdictions.

³² A LNSP is a network service provider within a local area, that has been allocated responsibility for delivering network services in that area by the authority responsible for administering the jurisdictional electricity legislation. Typically, this role is performed by a distribution business. Under the *Expanding Competition in Metering and Related Services* transitional arrangements the LNSP acting as the Responsible Person before the commencement of the rule will become the initial Metering Coordinator at that connection point, and will continue in this role until another Metering Coordinator is appointed at that connection point or the services cease to be classified as an alternative control service.

³³ See clause 7.1.1(a) of the NER for a complete list of provisions that Chapter 7 covers.

³⁴ AEMO, Service Level Procedure, Metering Data Provider Services, version 1.4, 1 September 2015. Available at <http://www.aemo.com.au/Electricity/Retail-and-Metering/Metering-Services/Service-Level-Procedures-for-Metering-Data-Providers-within-the-NEM>.

³⁵ 6.4.1(c) of the *Service Level Procedure: Metering Data Provider Services*.

³⁶ 6.4.1(e) of the *Service Level Procedure: Metering Data Provider Services*.

The B2B Procedure: Meter Data Process (B2B Procedure) sets out the requirements in relation to standard meter data process and transaction data with which parties - including Metering Data Providers, retailers and distribution businesses - must comply.³⁷ Under this B2B Procedure, for type 5 and 6 meters, a participant may not issue a request for metering data relating to a scheduled read date until the sixth day following the published scheduled read date.³⁸

1.5 The rule making process to date

The Commission commenced the rule making process and published a consultation paper on the rule change request on 17 December 2015.³⁹ The Commission received 15 submissions on the on the consultation paper. They are available on the AEMC website.

The AEMC met with a number of Queensland consumer groups in Brisbane on 12 February 2016. A summary of the issues raised at this meeting is available on the AEMC's website. The Commission has had regard to this summary in making its decision as it would a submission.

Where appropriate, issues raised by stakeholders in their submissions to the consultation paper have been addressed throughout this draft rule determination. A summary of issues that have not been explicitly addressed in this draft rule determination and the Commission's response to these is provided in Appendix A.

1.6 Consultation on the draft rule determination

Any person or body may request that the Commission hold a hearing in relation to the draft rule determination. Any request for a hearing must be made in writing and must be received by the Commission no later than 7 April 2016.

Submissions and requests for a hearing should quote project number 'RRC0006' and may be lodged online at www.aemc.gov.au or by mail to:

Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

³⁷ AEMO, B2B Procedure: Meter Data Process, 13 May 2015, p.5.

³⁸ 3.2.3(2) of the B2B Procedure.

³⁹ This notice was published under section 251 of the NERL.

2 Draft rule determination

The Commission's draft rule determination is to make a more preferable draft rule. The draft rule requires retailers to issue a bill to a small customer on a standing offer at least once every 100 days, replacing the current obligation to issue a bill at least once every three months.

This chapter outlines the Commission's:

- rule making test for changes to the NERR;
- assessment framework for considering the rule change request; and
- consideration of the more preferable draft rule against the National Energy Retail Objective (NERO).

Further information on the legal requirements for making this draft rule determination is set out in Appendix B.

2.1 Rule making test

Any change to the NERR, whether it be the proposed rule, or a more preferable rule, must satisfy two tests under the NERL:

- The Commission's assessment must consider whether the rule will or is likely to promote the NERO (the 'NERO test').⁴⁰ The NERO states:
“The objective of this Law is to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to price, quality, safety, reliability and security of supply of energy.”⁴¹
- The AEMC must also, where relevant, satisfy itself that the rule is "compatible with the development and application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers" (the 'consumer protections test').⁴²

Where the consideration of the consumer protections test is relevant in the making of a rule, the AEMC must be satisfied that both the NERO test and the consumer protections test have been met.⁴³ If the AEMC is satisfied that one test has been met, but not the other, the rule cannot be made.

There may be some overlap in the application of the two tests. For example, a rule that provides a new protection for small customers may also, but will not necessarily, promote the NERO.

⁴⁰ In accordance with section 236(1) of the NERL.

⁴¹ See section 13 of the NERL.

⁴² See section 236(2)(b) of the NERL.

⁴³ That is, the legal tests outlined in section 236(1) and 236(2)(b) of the NERL.

The AEMC can make a rule that is different (including materially different) from the proposed rule if it is satisfied that, having regard to the issues raised in the rule change request, it will or is likely to better contribute to the NERO than the proposed rule.⁴⁴

2.2 Assessment framework

In assessing the rule change request against the NERO the Commission has considered the following principles:

- **Facilitating the efficient use of energy services.** Where consumers are provided with timely and accurate information about the costs of using energy services, they can make more informed decisions about how they use those services. Over time, this could help to facilitate more efficient investment in, and use of, energy services as consumers will be able to choose the services they use at a price they are willing to pay.
- **Enhancing consumer experience.** Consumers' experience in the retail market will impact on their ability and willingness to make informed decisions about their energy use. Consumers' experience is likely to be enhanced through their ability to access better information about their energy consumption.
- **Providing a proportional response to the issues identified.** A rule change that results in unnecessary additional costs on different market participants may not achieve its intended purpose and is, ultimately, likely to impose higher costs on consumers. To avoid any unnecessary costs, any change to the NERR must be proportional to the issue that it is designed to address.

The scope of consumer protections that the Commission has considered includes:

- consumer protections in the NERL and NERR;
- consumer protections under the general law, including the Australian Consumer Law;
- consumer protections under energy retail laws and regulations of National Energy Customer Framework (NECF) jurisdictions; and
- where relevant, consumer protections under energy laws and regulations of Victoria.

2.3 Summary of reasons for making a more preferable draft rule

The Commission's more preferable draft rule is published with this draft rule determination. It provides retailers with a clear obligation with respect to the frequency with which they are required to issue a bill to a small customer on a standing offer by requiring retailers to do so at least once every 100 days.

The draft rule applies to both electricity and gas standing offers. The Commission is satisfied that, while Ergon's rule change request referred only to electricity, the issues identified by Ergon equally apply to gas standing offers. The Commission considers it

⁴⁴ See section 244 of the NERL.

preferable to maintain consistency in the billing arrangements that apply to both gas and electricity retail services.

Further detail on the draft rule can be found in section 4.4.

Having regard to the issues raised in the rule change request, the Commission is satisfied that the draft rule will, or is likely to, contribute to the achievement of the NERO for the following reasons:

- **Facilitating the efficient use of energy services.** The draft rule establishes a clear timeframe within which a retailer is expected to issue a bill to a small customer, but also accounts for the fact that retailers may not always receive meter data in time to issue an actual bill every three months. For small customers, this change is expected to increase the likelihood of the customer receiving timely bills based on actual consumption data. These are likely to provide small customers with better information about the costs that they incur in using energy services, allowing them to make more informed choices about how they use these services.
- **Enhancing consumer experience.** As above, the draft rule is likely to provide small customers with better information about their use of energy services and the costs involved. This information may help small customers understand their needs and provide them with confidence to engage in the retail market to select a retail offer that best reflects their needs - where there is competition in the retail market.

Reducing the number of bills that are issued on the basis of estimated consumption is also likely to enhance consumer experience and promote more trust in the retail market. Subsequently, the number of complaints that small customers make in relation to estimated bills is likely to fall.

- **Providing a proportional response to the issues identified.** The draft rule is not likely to impose any significant additional costs on retailers or Metering Data Providers. In turn, small customers would not be expected to incur additional energy charges as a result of this change.

Having regard to the issues raised by the rule change request, the Commission is satisfied that the more preferable draft rule will, or is likely to, better contribute to the NERO than the rule proposed in Ergon's rule change request for the following reasons:

- **Maintains a regular and frequent billing cycle.** Ergon's proposed rule would enable retailers to wait until they receive an actual meter read from a Metering Data Provider before issuing a bill to a small customer. Under this proposal, some small customers could have experienced a significant delay in receiving a bill. While Ergon considers that a maximum time limit of four months could have been introduced to protect customers, this would still likely result in customers receiving higher bills due to the longer period of time that these bills would encompass. The draft rule broadly maintains the current frequency of billing, while allowing retailers a small number of additional days in which to receive an actual meter read before issuing an estimated bill.
- **Clearer compliance obligation.** A requirement that retailers use "best endeavours" to issue a bill at least once every three months would be unclear and difficult for the Australian Energy Regulator (AER) to enforce. The draft rule

provides greater clarity with respect to how often a retailer is required to provide a bill to a small customer. This is also consistent with the consumer protection provided by regular and frequent bills under the existing NERR.

The Commission also considers that its draft rule is compatible with the development and application of consumer protections. The draft rule may result in a slight increase to the length of the billing period for a small proportion of small customers, and thereby a slight delay to the frequency within which they may receive a bill. However, this slight delay will enable retailers to issue more small customers with a bill that is based on a meter read, rather than on an estimate.

The regulation of both the frequency with which a small customer receives a bill for their energy use and the accuracy of those bills acts to protect consumers. The Commission notes that, for the purposes of this rule change, it is necessary for some trade-off between the frequency of bills and the accuracy of bills to be made. In this instance, the Commission considers that the draft rule is compatible with the development and application of consumer protections by increasing the accuracy of bills with only a small likelihood of negatively impacting billing frequency. This approach is consistent with several stakeholders' views, including those of some consumer representatives.

It is expected that 100 days will not become the new billing default timeframe. Retailers incur costs in supply energy to small customers - in order to manage cash flow, they are likely to issue bills to small customer as soon as they receive a meter read. This means that if a retailer receives meter data before day 100, it is unlikely to wait until day 100 to issue a bill. This is discussed further in section 4.4.2.

2.4 Consistency with the AEMC's strategic priorities

This rule change request relates to the AEMC's strategic priority regarding the engagement and participation of consumers in the retail market.⁴⁵ The rule change request relates to the information that consumers receive in relation to their consumption of energy and the timeliness of that information. Providing consumers with better information on their energy use in a timely manner is likely to allow them to make choices that best reflect their needs.

⁴⁵ AEMC 2015, Strategic Priorities for Energy Market Development, Final Priorities, 26 November 2015, Sydney.

3 Assessment of the issue raised by Ergon

3.1 Introduction

This chapter assesses the scope and materiality of the issue raised in Ergon's rule change request. It is structured as follows:

- section 3.2 provides an assessment of the obligations on Metering Data Providers with regard to the frequency of reading meters, and the obligations on retailers with regard to the frequency of issuing bills to small customers;
- section 3.3 summarises stakeholders' views on how significant the issue raised in Ergon's rule change request might be;
- section 3.4 considers the extent to which the issue might be resolved through the market-led deployment of advanced meters;
- section 3.5 provides an assessment of customers' views of estimated bills; and
- section 3.6 outlines the Commission's conclusion as to whether an issue to be addressed exists.

3.2 Assessment of the obligations on meter reading and billing frequency

The billing frequency obligations under the NERR and the meter reading obligations on Metering Data Providers under the Service Level Procedures are not explicitly aligned. While the NERR places a strict obligation on retailers to issue a bill to a small customer on a standard retail contract at least once every three months,⁴⁶ Metering Data Providers do not have a strict obligation to complete a meter read for type 5 and 6 meters every three months. As outlined in section 1.4.2, Metering Data Providers are required to use "reasonable endeavours" to complete a meter read at least once every three months, and have a window of two business days either side of the scheduled meter read date to collect the meter data.

It is appropriate that Metering Data Providers have some flexibility with respect to the timing of meter reads. There are a number of reasons why Metering Data Providers may be unable to complete a meter read on a specific date. In submission, distribution businesses identify that public holidays, weather events, locked gates and unsecured dogs may make it difficult for a Metering Data Provider to read a meter on a specific date.⁴⁷ It is appropriate that the Service Level Procedure recognise that there may be matters outside the control of Metering Data Provider that prevent them from reading meters every three months, by requiring them to use reasonable endeavours (do all that is reasonable in the circumstances) to read meters rather than imposing a strict obligation to do so.

The billing framework under the NERR permits retailers to vary the frequency of billing under standard retail contracts with the explicit informed consent of the small

⁴⁶ Rule 24(1) of the NERR.

⁴⁷ Energy Networks Association (ENA) submission, 28 January 2016, p.3; and Ergon Energy Corporation (EEC) submission, 28 January 2016, p.2

customer. The varied billing cycle must cover a regular recurrent period.⁴⁸ A retailer, like Ergon, could seek the consent of small customers to lengthen the billing cycle where it thinks the timely availability of meter data may be an issue and customers would have a preference for a longer billing cycle rather than estimated bills.

As outlined in section 1.4.1, the NERR specifies the basis on which retailers may bill small customers. That is, the bill should be based on metering data where it is available and on an estimate where it is not. However, there is also scope for a retailer to consider other mechanisms by which they could generate a bill for a small customer, as long as the customer agrees to use of that method.⁴⁹ The NERR also specifies when a retailer can use an estimate for the purposes of generating a small customer's bill.⁵⁰

The NERR provides appropriate discretion to retailers to use a range of methods for the purposes of calculating an estimate. Retailers are able to use a customer's reading of the meter, the historical data for the customer or the energy usage of a comparable customer where there is no historical data. Combined with retailers' ability to base a bill on any method that it agrees with the customer, this framework gives retailers scope to be innovative and responsive to customer preferences in relation to billing.

Ergon's rule change request states that the AER has applied a strict interpretation that issuing a bill to a small customer at least once every three months is equivalent to issuing a bill no less frequently than every 92 days.⁵¹ The AER disputes this claim and states that Ergon proposed that it would use 92 days as static reference for identifying breaches of rule 24, which it would then report to the AER.⁵² Regardless of the interpretation, the strict obligation on the frequency with which a retailer issues a bill to a small customer on a standard retail contract means that, should a retailer breach the obligation placed on it by the NERR and wait for the metering data before issuing a bill to a small customer, it would expose itself to the risk of compliance action by the AER.⁵³

The AER notes that its compliance work with respect to rule 24 has "focused on systematic and significant delays in retailers issuing bills to customers."⁵⁴ This is because it considers longer delays in issuing bills are likely to result in additional financial pressure and risk of hardship on small customers.⁵⁵ The AER notes that it considers a bill issued at 120 days to be significantly delayed.⁵⁶

Finally, Ergon states that its Service Level Agreement with its Metering Data Provider dictates that:

48 Rule 24(2) of the NERR.

49 Rule 20(1) and Rule 21 of the NERR.

50 Rule 21(1) of the NERR.

51 Ergon Energy Queensland rule change request, 15 September 2015, p.3.

52 AER submission, 28 January 2016, p.2

53 Ergon submission, 28 January 2016, p.2.

54 AER submission, 28 January 2016, p.3

55 Ibid.

56 Ibid.

“98 per cent of meter reads are to be scheduled between 89 and 94 days from the last meter reading, with 98 per cent of meter reads to occur within two business days of the scheduled meter reading date.”⁵⁷

One option available to Ergon to address the issue would be to negotiate its Service Level Agreement to require meter data to be collected with greater frequency. This would allow Ergon to issue more bills to small customers on the basis of an actual meter read. We note that Ergon rejects this option, on the basis that it would increase the costs of reading meters, ultimately increasing charges for consumers.⁵⁸

3.3 How significant is the issue?

Stakeholder submissions on the consultation paper presented mixed views on the significance of the issue identified by Ergon and whether it applies more broadly across the NEM.

The AER considers that the current billing framework is efficient in providing small customers with a bill based on actual consumption where metering data is available and an estimated bill where it is not.⁵⁹ It submits that it is not aware of any industry-wide concerns with the operation of the billing obligations, and that estimated or delayed bills are not generating a level of complaints to the jurisdictional ombudsman that would indicate the presence of a widespread issue.⁶⁰

In contrast, the Tasmanian Council of Social Services (TasCOSS) and the Energy and Water Ombudsman of South Australia (EWOSA) consider that the number of complaints that they receive in relation to estimated bills is high, and suggests that this is a significant issue for energy customers.⁶¹ EWOSA does not consider that the issue is unique to Ergon either, noting that 60 per cent of its retailer members had complaints about estimated bills in 2014-15.⁶²

Red Energy and Lumo submit that the issue is not as significant for them as it is for Ergon, as they only have a small number of customers on standing offers.⁶³ Similarly, AGL considers that the issue identified is unique to Ergon since it operates in a jurisdiction where there is “no proposal to roll out alternative metering technologies to overcome the disparate and isolated nature of some of its customers”.⁶⁴ AGL suggests that Ergon could consider other mechanisms to address the issue that it identifies in its rule change request, including:

- the introduction of customer own reads where meter access or data reliability is an ongoing issue;

57 Ergon Energy Queensland rule change request, 15 September 2015, p.3.

58 Ergon Energy Queensland rule change request, 15 September 2015, p.13-14.

59 AER submission, 28 January 2016, p.1.

60 Ibid., p.2

61 EWOSA submission, 28 January 2016, p.2; TasCOSS submission, 28 January 2016, p.3.

62 EWOSA submission, 28 January 2016, p.2

63 Red Energy and Lumo submission, 28 January 2016, p.1.

64 AGL submission, 28 January 2016, p.1.

- the introduction of stricter performance measures on Ergon Energy Corporation (EEC - the distribution network business) relating to the reliability and accuracy of metering data; or
- seeking a derogation for Ergon customers.⁶⁵

Ausgrid's submission states that, for most jurisdictions, the issue would only affect a small proportion of customers.⁶⁶ But both Ausgrid and the Energy Networks Association (ENA) consider that the issue identified may be particularly relevant to small customers in Tasmania and the Australian Capital Territory, where a larger number of small customers are supplied under a standing offer.⁶⁷

3.4 Impact of the deployment of advanced meters

On 26 November 2015, the AEMC published the *Expanding Competition in Metering and Related Services* final rule.⁶⁸ This rule will facilitate a market-led approach to the deployment of advanced meters, where consumer choice determines the rate at which new products and services are taken up.

Under the rule, all new and replacement meters installed for small customers after 1 December 2017 must be advanced meters that meet a minimum services specification, subject to limited exceptions. The minimum services specification includes a requirement that the meter be connected to a telecommunications network that enables remote access to the meter, for example for meter reads.

As more telecommunications-connected advanced meters are deployed across the NEM, access to timely metering data will improve. Metering Data Providers will be able to remotely read the advanced meter at a greater frequency and lower cost than is currently the case with type 5 and 6 meters. This will enable retailers to issue bills to small customers at least once every three months, or more frequently, on the basis of actual metering data. This view is echoed by a number of submissions on the consultation paper.⁶⁹

However, many rural and remote areas (such as some of the areas currently served by Ergon) may not support a telecommunications network capable of enabling remote meter reading.⁷⁰ In those areas, AEMO can grant an exemption to the requirement that the meter be connected to a telecommunications network. So, even once advanced meters become commonplace across the NEM, there are likely to remain groups of

⁶⁵ AGL submission, 28 January 2016, p.2.

⁶⁶ Ausgrid submission, 28 January 2016, p.A-3

⁶⁷ Ausgrid submission, 28 January 2016, p.A-3; ENA submission, 28 January 2016, p.4.

⁶⁸ Available at: www.aemc.gov.au.

⁶⁹ See, for example: AGL submission, 28 January 2016, p.2; Ausgrid submission, 28 January 2016, p.A-4; AER submission, 28 January 2016, p.3; EnergyAustralia submission, 28 January 2016, p.2; EWOSA submission, 28 January 2016, p.2; ENA submission, 28 January 2016, p.3; Simply Energy submission, 28 January 2016, p.2; TasCOSS submission, 28 January 2016, p.2.

⁷⁰ This view was supported by submissions from Ergon and the Ethnic Communities Council of New South Wales. See: Ethnic Communities Council of New South Wales, 28 January 2016, p.2; and Ergon submission, 28 January 2016, p.1

small customers for whom the availability of meter data in time to issue bills every three months remains an issue.

The market-led approach also means that widespread deployment of advanced meters is likely to take some time, particularly in areas where there is little or no retail competition.⁷¹ Retailers who are competing for customers are more likely to deploy advanced meters as they could use the capabilities of advanced meters to provide consumers with new products and services, more flexible pricing offers, better information and better retail service.

Where retail competition is not as strong, retailers may be less likely to offer some of these benefits to consumers. However, the benefits of advanced meters, such as avoiding the costs of manual meter reading, may make the deployment of more advanced metering attractive even in jurisdictions without strong retail competition.

3.5 Consumer views on the use of estimates

While the NERR provide retailers with flexibility to meet the requirement that they issue a bill to a small customer at least once every three months, complying would mean issuing estimated bills to some small customers. Analysis of data from jurisdictional ombudsmen, retailers' own data assessment, and the views of consumer representatives confirm that estimated bills can be problematic for a number of small customers.

According to the annual reports of the jurisdictional ombudsmen, a significant number of the complaints received in 2014-15 related to estimated bills or back-billing. This is summarised in **Table 3.1**. The data suggests that consumer dissatisfaction with estimated bills (or subsequent back-billing) is not isolated to Queensland, so is unlikely to be solely related to Ergon's particular operating circumstances.

71 Ibid

Table 3.1 Customer complaints to ombudsmen about estimated bills in 2014-15^{72,73}

Jurisdiction	No. of complaints about estimated bills and back-billing ^{74,75}	Total billing complaints	Percentage of total complaints
New South Wales	3,421	17,924	19%
Queensland	132	675	19.5%
South Australia	749	5,270	14%
Australian Capital Territory	16	209	7%
Tasmania	62	181	34%
Victoria ⁷⁶	4,074	16,276	25%

Sources: Energy & Water Ombudsman NSW, *Annual Report 2014-2015*, p.33; Energy + Water Ombudsman Queensland, *Annual Report 2014-2015*, p.24; Energy & Water Ombudsman SA, *Annual Report 2014-15*, p.17; Australian Capital Territory Civil & Administrative Tribunal, *Annual Report 2014-2015*, p.26; Ombudsman Tasmania, *Annual Report 2014-2015*, Appendix C; Energy and Water Ombudsman (Victoria), *2015 Annual Report*, p.39.

The jurisdictional ombudsmen complaints data is supported by data provided by retailers in submissions on the consultation paper:

- according to EnergyAustralia internal data for 2015, six percent of billing-related complaints were about estimated bills;⁷⁷
- Red Energy and Lumo report that approximately 20 percent of billing complaints they receive relate to estimated bills;⁷⁸ and

⁷² Note that jurisdictional ombudsman report their complaints data differently. Some report complaints relating to electricity and gas separately, while others combine the two. Some caution should be used in making comparisons across jurisdictions.

⁷³ Note that jurisdictional ombudsmen do not distinguish between the type of retail offer that a customer is supplied under. A number of the complaints in the above table are likely to relate to the use of estimates for billing under a market offer, which is outside the scope of this rule change process. As section 4.4.2 explains, any change made to the billing frequency for standing offers under the NERR is likely to also impact the billing cycle of market offers.

⁷⁴ Table 3.1 combines the number of complaints received about the use of estimates with the number of complaints received about back-billing. This is because back-billing generally occurs following an underestimated bill. Many small customers may not realise that they have been billed on the basis of an estimate until they receive a subsequent bill that recovers this underestimate. For this reason, complaints about back-bills are relevant to understanding how small customers feel about the use of estimates.

⁷⁵ Complaints about estimated bills make up between 29 per cent (in Victoria) and 92 per cent (in Tasmania) of the complaints shown in the second column of Table 3.1.

⁷⁶ Note that the NERR does not apply in Victoria. Retailers operating in Victoria are subject to jurisdictional obligations with respect to billing frequency.

⁷⁷ EnergyAustralia submission, 28 January 2016, p.2.

⁷⁸ Red Energy and Lumo submission, 28 January 2016, p.2.

- Ergon identifies that approximately 15 per cent of its complaints relate to estimated bills.⁷⁹

More generally, submissions from retailers note that bills based on estimates can cause difficulties for customers, and that bills based on actual metering data enhance consumer experience.⁸⁰

Customers' dissatisfaction with estimated bills was also noted by consumer representatives. They consider that estimated bills provide less accurate information about the customer's energy use and, therefore, provide a less reliable signal about the customer's need to manage the costs that they incur.⁸¹ The Ethnic Communities Council of NSW notes that jurisdictional ombudsmen often have to intervene to assist customers who have large bills that correct for a previous underestimation of that customer's consumption.⁸²

Consumer groups also consider that consecutive estimated bills can be especially problematic. They identified that estimated bills can cause hardship on customers if they do not reflect:

- the energy used by a new appliance or an appliance that was previously faulty; and
- variation in energy use due to seasonal factors, such as the use of air conditioning and heating.⁸³

3.6 The Commission's conclusion

The Commission considers that there is significant scope in the NERR for retailers to be innovative in how they meet their billing obligations. Further, the deployment of advanced meters that are capable of remote access will largely address the issue of access to metering data in the longer-term.

However, the Commission is conscious of the problems that small customers may experience with estimated bills. These problems appear to occur across all NEM jurisdictions and, as such, do not seem to be unique to Ergon's operating environment.

An estimated bill provides more benefit to small customers than not receiving a bill at all, or receiving a significantly delayed bill, as an estimated bill at least provides some indication of the costs being incurred. However, the Commission's view is that wherever possible small customers should be issued bills that are based on actual metering data. The Commission is therefore satisfied that Ergon has identified an issue that needs to be addressed.

⁷⁹ Ergon submission, 28 January 2016, p.2.

⁸⁰ EnergyAustralia submission, 28 January 2016, p.3; Red Energy and Lumo submission, 28 January 2016, p.2; and Simply Energy submission, 28 January 2016, p.1.

⁸¹ EWOSA submission, 28 January 2016, p.3; and TasCOSS submission, 28 January 2016, p.2. Also see AEMC, Summary of notes for AEMC meeting with Queensland consumer groups, 12 February 2016.

⁸² Ethnic Communities Council of NSW submission, 28 January 2016, p.2.

⁸³ TasCOSS, 28 January 2016, p.2. Also see AEMC, Summary of notes for AEMC meeting with Queensland consumer groups, 12 February 2016.

The next chapter considers different options that could potentially be used to reduce the number of estimated bills.

4 Options to reduce the number of estimated bills

4.1 Introduction

The AEMC's consultation paper identified three possible responses to Ergon's rule change request. These options are:

1. allow retailers to delay issuing a bill to a small customer until a meter read has been provided by a Metering Data Provider, subject to a maximum time limit of four months (ie. Ergon's proposed rule);
2. recommend to AEMO that it amend its Service Level Procedure to require Metering Data Providers to read meters more frequently, so that bills are more likely to be issued on the basis of actual consumption at least once every three months (more frequent meter reads); or
3. maintain the current arrangements, recognising that some small customers may receive estimated bills.

The consultation paper noted that all of these options may involve some degree of trade-off between the frequency of bills, the accuracy of bills and the costs involved. It invited stakeholder feedback on the appropriate balance between these factors.

Maintaining the current arrangements, option three, is discussed in chapter 3. As noted in that chapter, the Commission is satisfied that Ergon has identified an issue that needs to be addressed.

This chapter outlines the Commission's analysis and conclusions with respect to options one and two canvassed in the consultation paper. It also sets out the Commission's considerations with respect to its draft rule, which is a fourth option that incorporates some elements of Ergon's proposed rule.

This chapter is structured as follows:

- section 4.2 outlines stakeholder views and the Commission's analysis and conclusions of Ergon's proposed rule;
- section 4.3 summarises stakeholder views and the Commission's analysis and conclusions with respect to more frequent meter reads; and
- section 4.4 details the Commission's draft rule and the rationale for this draft rule.

4.2 Option one: Ergon's proposed rule

Ergon's proposed rule would enable a retailer to delay issuing a bill to a small customer until it had received the metering data from the Metering Data Provider in accordance with AEMO's Service Level Procedures. It proposes to do this by amending the strict obligation on retailers to issue a bill at least once every three months to an obligation to use *best endeavours* to issue a bill that frequently. Further details about Ergon's proposed rule and the rationale for it are contained in sections 1.2 and 1.3.

Ergon rule change request notes that the issues it has raised did not arise under Queensland arrangements in place prior to the commencement of the NERR. This was because the Queensland arrangements required a retailer to use its *best endeavours* to

issue a bill to a small customer at least quarterly.⁸⁴ Ergon considers that this requirement was consistent with the obligation on Metering Data Providers under the Service Level Procedure to use reasonable endeavours to collect meter data at least once every three months.⁸⁵

Under the Queensland arrangements, Ergon generally delayed issuing a bill to a small customer until the meter data had been provided by the Metering Data Provider. According to Ergon, this resulted in:⁸⁶

- 95 per cent of residential bills being issued on day 95 or before;
- 98.8 per cent of residential bills being issued by day 100; and
- 99.9 per cent of residential bills being issued by day 120.

4.2.1 Stakeholder views on Ergon's proposed rule

Ergon, Ergon Energy Corporation (EEC, the distribution business), Energex, Red Energy and Lumo support Ergon's proposed rule change.⁸⁷ Simply Energy considers that it provides "useful flexibility to retailers who have an approach that seeks to minimise the number of estimated bills."⁸⁸

Endeavour Energy submits that it is desirable that regulatory requirements align where feasible.⁸⁹ Similarly, Red Energy and Lumo consider that it is important that the responsibilities of NEM parties do not conflict with the minimum standards required to be upheld by retailers, distribution businesses and Metering Data Providers.⁹⁰ These stakeholders consider that the proposed rule would enable more customers to receive accurate bills.⁹¹

Other stakeholders expressed significant concerns with the proposed rule, primarily relating to the effect it could have on:

- the frequency of bills;
- vulnerable or disadvantaged customers; and
- consumer protections.

A number of submissions note that the proposed rule would effectively lengthen the period in-between bills for some small customers from three to four months.⁹²

⁸⁴ Ergon Energy Queensland rule change request, 15 September 2015, p.7.

⁸⁵ Ibid., p.8.

⁸⁶ Ibid.

⁸⁷ Ergon submission, 28 January 2016, p.1; Energex submission 28 January 2016, p.1; EEC submission, 28 January 2016, p.1; Red Energy and Lumo submission, 28 January 2016, p.1.

⁸⁸ Simply Energy submission, 28 January 2016, p.2.

⁸⁹ Endeavour Energy submission, 28 January 2016, p.1

⁹⁰ Red Energy and Lumo submission, 28 January 2016, p.1.

⁹¹ Endeavour Energy submission, 28 January 2016, p.1; Red Energy and Lumo submission, 28 January 2016, p.2.

⁹² Ausgrid submission, 28 January 2016, p.A-4; EnergyAustralia submission, 28 January 2016, p.3; TasCOSS submission, 28 January 2016, p.1.

TasCOSS submits that extending the billing cycle to four months would “exacerbate the existing barrier to the efficient use of energy services” as it delays the period between consumption of energy and payment for such consumption.⁹³ Less frequent billing could increase the risk of a bill being materially higher than a customer expects (‘bill shock’). It could also lead to more customer complaints and queries about delayed bills.⁹⁴

A number of submissions note that lengthening the billing cycle would be contrary to the trend towards more frequent bills, which is seen as beneficial to small customers.⁹⁵ These stakeholders submit that more frequent bills enable small customers to better plan and budget for their energy bills, which is particularly important for vulnerable customers.⁹⁶

Ergon recognises that lengthy delays in billing could cause issues for small customers, for example with regard to affordability, but considers that imposing a 120 day limit on the period between bills can mitigate this risk.⁹⁷ This view is not shared by several other stakeholders. The AER considers that a significantly delayed bills, which include bills issued at 120 days, are a source of financial hardship for small customers, in part because they are already paying for their energy in arrears but do not have access to information about their liability to the retailer.⁹⁸ Similarly, TasCOSS submits that the bill shock associated with large quarterly bills, especially ones issued around the winter months, would be exacerbated with an additional month's costs.⁹⁹

EWOSA, TasCOSS, Ausgrid, and the AER consider that the frequency of bills acts as a consumer protection.¹⁰⁰ Ausgrid notes that changing the rule 24(1) from 'a retailer must' to 'a retailer must use its best endeavours' is, in fact, a fundamental change to the nature of the obligation. It considers that this would undermine the strong consumer protections provided in the existing rule as it reduces the level of certainty afforded to customers about the frequency of bills.¹⁰¹

The AER submit that an obligation to use best endeavours may be difficult to enforce and, therefore, may encourage lower levels of compliance by some retailers, and may also increase the cost of monitoring compliance and investigating breaches. Overall, the AER considers that the proposed change does not provide additional clarity to the NERR and adds unnecessary complexity.¹⁰²

93 TasCOSS submission, 28 January 2016, p.1.

94 Ausgrid submission, 28 January 2016, p.A-4; EnergyAustralia submission, 28 January 2016, p.3.

95 AGL submission, 28 January 2016, p.1; AER submission, 28 January 2016, p.4; EnergyAustralia submission, 28 January 2016, p.3; TasCOSS submission, 28 January 2016, p.2

96 AER submission, 28 January 2016, p.4; Ethnic Communities Council of NSW submission, 28 January 2016, p.3; TasCOSS submission, 28 January 2016, p.2.

97 Ergon submission, 28 January 2016, p.2.

98 AER submission, 28 January 2016, p.4.

99 TasCOSS submission, 28 January 2016, p.2

100 Ausgrid submission, 28 January 2016, p.A-4; EWOSA submission, 28 January 2016, p.4; TasCOSS submission, 28 January 2016, p.4

101 Ausgrid submission, 28 January 2016, p.A-4.

102 AER submission, 28 January 2015, p.5.

Queensland consumer groups noted that, under the previous Queensland arrangements, a Metering Data Provider was required to read a meter at least once every six months, rather than every twelve months as required under the NERR.¹⁰³ This provided small customers with additional protection against only receiving a bill based on actual consumption once every twelve months. Queensland consumer groups suggested that, if the Commission were to accept Ergon's proposal, Metering Data Providers should again be required to read type 5 and 6 meters at least once every six months.¹⁰⁴

4.2.2 Analysis and conclusion on Ergon's proposed rule

The Commission considers that, on balance, this option would not meet the NERO and the consumer protection test. This is because whatever benefits are achieved by enabling more small customers to receive bills based on actual consumption are likely to be outweighed by the negative impact of some small customers only receiving a bill every four months.

This option would likely result in more small customers receiving bills based on their actual consumption of energy. As a result, small customers would likely have more confidence that they are being billed accurately for the energy they consume. In turn, this would enable customers to better engage with retailers to select products and services that meet their needs.

Bills based on actual consumption also provide small customers with better information so that they can make informed decisions about the energy services they use. Providing customers with better information about their consumption patterns and the costs of those behaviours could be particularly important in facilitating responses to more cost-reflective prices.¹⁰⁵

However, under Ergon's proposed rule some small customers would likely receive less frequent bills, with delays of up to one month compared to the existing arrangements. Extending the billing period to four months would likely increase the variation between bills. This would be particularly relevant in areas with large seasonal variation in energy consumption, such as in Tasmania and Queensland. Consumer groups noted that seasonal bill variation already places strain on vulnerable customers, and the effect of an additional month's consumption could push these customers into hardship.¹⁰⁶

A four-month billing period is also unlikely to provide customers with the timely information that they need in order to make informed decisions. While Ergon's proposed rule may provide them with better information because bills are based on actual consumption, this information may not be provided in time for it to usefully

¹⁰³ See section 9.4.3 of the Queensland Electricity Industry Code, version 17.

¹⁰⁴ See AEMC summary notes from meeting with Queensland consumer groups, 12 February 2016.

¹⁰⁵ As the 2014 *Distribution Network Pricing Arrangements Rule* is implemented, distribution businesses will be required to set network prices that reflect the efficient cost of providing network services to individual consumers. The extent to which a small customer is impacted by cost reflective network prices will depend on how a retailer packages these prices into their retail offers.

¹⁰⁶ See TasCOSS submission, 28 January 2016, p.2; and AEMC summary notes from meeting with Queensland consumer groups, 12 February 2016.

allow customers to adjust their behaviour to manage the energy costs they are incurring.

Further, the proposed rule does not appear to be consistent with the development and application of consumer protections. Frequent retail bills provide an important consumer protection in that they provide consumers with information on the costs that they incur by consuming energy. Significantly less frequent and, therefore, larger bills may be more difficult to plan and budget for and could have a significant financial impact on vulnerable customers.

4.3 Option two: more frequent meter reads

An option set out in the consultation paper as an alternative to Ergon's proposed rule is to recommend that AEMO amend its Service Level Procedure to allow for more frequent meter reading.

As noted in section 1.4.2, under AEMO's Service Level Procedure, Metering Data Providers have an obligation to use best endeavours to read a meter once every three months. This Service Level Procedure is made under the NER, not the NERR. The Commission does not have the power as part of this rule change to amend the NER to require Meter Data Providers to read meters more frequently, as Ergon's rule change request applied only to the NERR. However, the Commission could recommend that AEMO amend its Service Level Procedure. This would be subject to AEMO's normal process for changing its procedures, including stakeholder consultation.

4.3.1 Stakeholder views on the frequency of meter reads

Stakeholders did not support reading type 5 and 6 meters more frequently as a solution to the issue raised by Ergon. Distribution businesses are strongly opposed to the option of requiring more frequent meter reading since it would increase their costs as Metering Data Providers. Ultimately, this would flow through to the charges consumers pay for their energy.¹⁰⁷ This increase in costs would be applied to all consumers even though the proposed rule relates only to customers on standing retail contracts.¹⁰⁸

EEC identifies additional costs would be incurred in relation to:¹⁰⁹

- meter readers;
- support staff to complete reading schedules;
- audit readers;
- manual reading hand held devices; and
- software licenses.

United Energy notes that more frequent meter reading would result in more frequent disputes regarding network billing and payment, as billing is triggered by the

¹⁰⁷ Ausgrid submission, 28 January 2016, p.1; Endeavour Energy submission, 28 January 2016, p.2; Energex submission, 28 January 2016, p.1; ENA submission, 28 January 2016, p.3; United Energy submission, 28 January 2016, p.1.

¹⁰⁸ ENA submission, 28 January 2016, p.3.

¹⁰⁹ EEC submission, 28 January 2016, p.1.

scheduled read data. This would result in additional costs, the amount of which would depend on the meter volumes being managed and the efficiency of meter read routes.¹¹⁰

Retailers and consumer groups largely echo the views of distribution businesses and do not support mandating more frequent meter reading.¹¹¹ They consider that mandating more frequent meter reads would add to costs, without resulting in significant customer benefits.¹¹²

4.3.2 Analysis and conclusion on more frequent meter reads

The Commission considers that, on balance, this option would not meet the NERO. This is because the costs of more frequent meter reads would be borne by all consumers, regardless of whether they receive more bills that are based on actual consumption than they would have done otherwise.

This option would address the issue raised by Ergon by increasing the possibility that retailers receive metering data in time to issue a bill at least once every three months. This would limit the circumstances in which a bill would need to be issued on the basis of an estimate.

However, this option would likely impose additional costs on distribution businesses by changing the obligations on Metering Data Providers. These additional costs would likely be passed on to customers through increases in distribution charges. It is important to note that Metering Data Providers do not have access to information about the type of retail offer that a small customer is supplied under. As such, they would have to read all type 5 and 6 meters more frequently in order to provide the retailer with metering data for standing offer customers in time for it to issue a bill at least once every three months. This change would, therefore, not be a proportionate response to the issues identified by Ergon.

Distribution businesses are required to provide meter data services for types 5 and 6 meters and the prices a distribution business may charge customers for the provision of these services is regulated under a distribution determination made by the AER. The costs of Metering Data Providers are incorporated into the AER's determination for the distribution business. In its recent determinations, the AER classified services provided in respect of type 5 and 6 meters as alternative control services, with a cap on the prices of individual services.¹¹³

4.4 The Commission's draft rule

The Commission's draft rule places an obligation on retailers to issue a bill to a small customer on a standing offer at least once every 100 days. This obligation replaces the

¹¹⁰ United Energy submission, 28 January 2016, p.3.

¹¹¹ EnergyAustralia submission, 28 January 2016, p.4; Ergon submission, 28 January 2016, p.2; Red Energy and Lumo submission 28 January 2016, p.2-3; Simply Energy submission, 28 January 2016, p.4; Ethnic Communities Council of NSW submission, 28 January 2016, p.4; EWOSA submission, 28 January 2016, p.4.

¹¹² Ergon submission, 28 January 2016, p.3; Red Energy and Lumo submission 28 January 2016, p.2-3.

¹¹³ Alternative control services are generally only paid for by the users of that service.

existing requirement under rule 24(1) for retailers to issue a bill to a small customer at least once every three months.

4.4.1 Stakeholder views on an alternative option

Submissions from a number of the distribution businesses raised an alternative to the three options discussed in the consultation paper, in which the obligation on a retailer to issue a bill to a small customer every three months is adjusted.¹¹⁴ The ENA claims that defining three months as a period not exceeding 100 days would provide retailers with additional flexibility to meet their obligations under rule 24 without eroding the strong protections this rule provides small customers.¹¹⁵

United Energy submits that such an approach would recognise that Metering Data Providers have a window around the scheduled meter read date to provide processed data, and would provide retailers with a billing window to receive metering data before generating their own estimate in the event of a delayed read.¹¹⁶ Ausgrid considers that the alternative rule proposed by the ENA would improve customer billing experience by allowing for a greater proportion of customer bills to be based on actual consumption data, which is likely to reduce the number of complaints and requests for billing adjustments.¹¹⁷

4.4.2 Analysis of the draft rule

The draft rule is broadly based on the alternative option put forward by distribution businesses in submissions to the consultation paper. It maintains the objective of current arrangements that small customers should usually receive at least four bills a year, but provides additional time in the billing cycle to increase the number of bills that can be based on actual meter data.

The draft rule will provide retailers with a window of time in which to receive metering data from a Metering Data Provider before they are required to issue a bill based on an estimate. This is expected to enable retailers to issue more bills on the basis of actual consumption, reducing the number of estimated bills issued. As noted throughout this draft determination, bills based on actual consumption provide small customers with better information about the costs that they incur in using energy services and promote confidence in the billing process.

The draft rule also maintains the protections of regular, predictable billing set out in the current billing arrangement for the vast majority of small customers. Assuming that a three month period is, on average, 92 days then the draft rule only provides an additional eight days in which to issue a bill. The benefit that small customers can gain from receiving a bill based on actual consumption is likely to outweigh the potential negative impact of a delay of up to eight days. All else being equal, data provided by the rule change proponent indicates that this could, for example, increase the number of

¹¹⁴ Ausgrid submission, 28 January 2016, p.A-6; Endeavour Energy submission, 28 January 2016, p.1; United Energy submission, 28 January 2016, p.1.

¹¹⁵ ENA submission, 28 January 2016, p.4. See also Ausgrid submission, 28 January 2016, p.A-6.

¹¹⁶ United Energy submission, 28 January 2016, p.1.

¹¹⁷ Ausgrid submission, 28 January 2016, p.A-6.

its small customers that receive bills based on actual metering data rather than on estimated data from approximately 80 per cent to 99 per cent.¹¹⁸

By specifying the number of days within which a bill must be issued to a small customer on a standing offer, the draft rule also provides greater clarity to small customers, retailers and the AER in relation to the billing frequency obligations compared with Ergon's proposed rule. Under the draft rule, small customers can expect to receive a bill at least once every 100 days. They would typically continue to receive four bills a year. For retailers, the draft rule makes clear that where metering data has not been provided in time to issue a bill at least once every 100 days, an estimated bill must be issued. For the AER, the draft rule provides greater clarity in relation to when a retailer is in breach of its obligations under the NERR.

Some stakeholder may have concerns that 100 days will become the new default timeframe. This is highly unlikely to occur in practice unless AEMO's Service Level Procedures are amended to reduce the frequency of meter reads. There is no reason to expect AEMO to make such a change, and it could only do so following consultation. Retailers have a strong incentive to issue a bill as soon as they receive a meter read in order to recover costs that they have incurred supplying the energy. It is highly unlikely that, if a retailer received metering data for a small customer before day 100, it would wait until day 100 to issue a bill to that customer.

The draft rule would only apply to small customers supplied under a standing offer. For market offers, the NERR requires a retailer to set out how frequently it will issue a bill to its small customers in its terms and conditions. However, many retailers have built their billing systems around their minimum obligations under the NERR, so the draft rule could also impact the frequency of bills issued to small customers supplied under a market offer, even though this is not required under the rules. Given the cost to the retailer of changing the terms and conditions for small customers on market offers, and the imperative to collect revenue as soon as a meter read is available, it is unlikely that small customers on a market offer would be negatively impacted by the draft rule.

¹¹⁸ Ergon Energy Queensland rule change request, 15 September 2015, p.8.

5 Application to gas

Rule 24 of the NERR that requires retailers to issue a bill at least once every three months applies to small customers supplied under both electricity and gas standing offers. This chapter outlines the Commission's draft decision to also apply the draft rule to gas standing offers.

In its rule change request, Ergon notes that although it is not a gas retailer, it may be reasonable to review the rules relating to the basis on which gas bills are issued as well.¹¹⁹

5.1 Stakeholder views

Stakeholder submissions were divided on whether the issue raised by Ergon also applies to billing gas customers on standing offers and whether the rule should be extended to gas. Distribution businesses consider that the rule change process should only consider electricity.¹²⁰ For example, United Energy submits that no case has been made to apply changes which may impact gas meter reading arrangements and the Gas Retail Market Procedures should be considered separately if there is to be a change to the meter reading obligations.¹²¹

In contrast, EWOSA notes that issues associated with meter reads and billing frequency are relevant for gas retailers and customers, with complaints made about over 70 per cent of gas retailers who are members of EWOSA during 2014-15.¹²² This view was shared by the Ethnic Communities Council of NSW, and by Red Energy and Lumo.¹²³ Simply Energy submits that any rule should take into account the potential efficiencies from common processes for both gas and electricity.¹²⁴

5.2 Gas meter read obligations

The meter read obligations for gas meters are set out in AEMO's Retail Gas Market Procedures.¹²⁵ Each jurisdiction has its own procedure. Under these procedures, the frequency with which a gas distribution business is expected to read the meter is different between different jurisdictions:

- in New South Wales, meters must be read either daily, monthly (31 days plus or minus two business days), bi-monthly (61 days plus or minus one business day) or quarterly (91 days plus or minus 2 business days);¹²⁶

119 Ergon Energy Queensland rule change request, 15 September 2015, p.10.

120 ENA submission, 28 January 2016, p.1; United Energy submission, 28 January 2016, p.4.

121 United Energy submission, 28 January 2016, p.4.

122 EWOSA submission, 28 January 2016, p.4-5.

123 Ethnic Communities Council of NSW, 28 January 2016, p.3; and Red Energy and Lumo submission 28 January 2016, p.3

124 Simply Energy submission, 28 January 2016, p.5.

125 AEMO's Retail Gas Market Procedures for each jurisdiction are available from: <http://www.aemo.com.au/Gas/Policies-and-Procedures/Retail-Gas-Market-Procedures>.

126 Clause 20.2 of AEMO's Retail Market Procedures (NSW and ACT), version 14.0.

- in Victoria, meters must be read at either a one month or two month interval;¹²⁷¹²⁸
- in South Australia, meters must be read annually;¹²⁹ and
- in Queensland, meters must be read at either a one month or three month interval.¹³⁰

The frequency with which the meters of different types of customers are read is then set out in the relevant distribution business' Reference Services Agreement which accompanies the distribution business' Access Arrangement. These documents are approved by the AER every five years as part of the regulatory determination process. As an example, the gas distribution business operating in NSW, Jemena's Reference Service Agreement sets out that the meter reading cycle for:¹³¹

- meters of demand customers - ie large industrial customers over 10 terajoule (TJ) per annum - are read daily;¹³²
- meters of volume customers - ie residential and small commercial customers under 10TJ per annum - are read monthly if their consumption is between 1TJ and 10TJ¹³³ or quarterly read if under 1TJ.¹³⁴

The Commission does not consider that the gas meter read obligations create a potential barrier to the application of the draft rule to gas standing offers. The draft rule would not impact on the meter reading obligations under the Retail Gas Market Procedures. Rather, it provides retailers with an increased window in which to receive metering data and generate a bill based on actual consumption in relation to gas customers who have their meters read quarterly.

5.3 Consistency between electricity and gas billing arrangements

The obligations on retailers with respect to billing arrangements for electricity and gas should be consistent wherever possible. This is because customers will have a better understanding of when to expect a bill, which may help them to better budget and plan for their energy bills. Additionally, there are likely to be efficiencies from maintaining similar systems for billing. Some customers also have the same retailer for both gas and electricity, and being able to send/receive a single bill based on the same billing cycle for these dual fuel customers can provide benefits for both the retailer and the consumer.

¹²⁷ Clause 2.2.1 of AEMO's Retail Market Procedures (Victoria), version 10.0.

¹²⁸ Note that the NERR is not currently in force in Victoria. As such, the draft rule will have no effect in Victoria.

¹²⁹ Clause 149 of AEMO's Retail Market Procedures (South Australia), version 8.0.

¹³⁰ Clause 2.2.1 of AEMO's Retail Market Procedures (Queensland), version 12.0.

¹³¹ Jemena Gas, Reference Service Agreement, 1 July 2015 - 30 June 2020, Available: <http://www.aer.gov.au/>.

¹³² Clause 17.1(b), (c) of Jemena's Reference Service Agreement.

¹³³ Clause 17.1(d) of Jemena's Reference Service Agreement.

¹³⁴ Clause 17.1(e) of Jemena's Reference Service Agreement.

The draft rule introduces a clear, maximum timeframe on retailers to issue a bill to customers on standard retail contracts - that they must issue a bill at least once every 100 days. However, as discussed above, it is expected that retailers would bill a small customer as soon as they receive the meter data and they have an incentive to do so in order to recover the costs they incur in supplying energy. Therefore, the effect of the draft rule will only be felt in circumstances where there is a small delay in the provision of metering data. If the availability of metering data in order to issue a bill to gas standing offer customers is not an issue, the rule is not expected to have any effect on those customers in practice.

Abbreviations

AEMC	See Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
Commission	Australian Energy Market Commission
EEC	Ergon Energy Corporation
ENA	Energy Networks Association
Ergon	Ergon Energy Queensland
EWOSA	Energy and Water Ombudsman of South Australia
LNSP	Local Network Service Provider
MCE	Ministerial Council on Energy
MWh	megawatt hour
NECF	National Energy Customer Framework
NEM	National Electricity Market
NER	National Electricity Rules
NERL	National Retail Energy Law
NERO	National Energy Retail Objective
NERR	National Energy Retail Rules
TasCOSS	Tasmanian Council of Social Services
TJ	terajoule

A Summary of issues raised in submissions

Where relevant, stakeholder comments have been addressed throughout the draft rule determination. The table below summaries issues raised by stakeholders that were not explicitly addressed in the draft rule determination and the Commission's response to these comments.

Stakeholder	Issue	AEMC Response
AGL	Delays in the provision of meter data is a consistent problem because of the absence of sanctions or penalties that would provide the necessary incentives for distribution businesses to improve their performance. (p.1)	The introduction of additional penalties or sanctions on Metering Data Providers to incentivise better performance is outside the scope of this rule change process. Performance standards for Metering Data Providers are set out in AEMO's Service Level Procedure. AEMO and the AER are able to take enforcement action against Metering Data Providers who are breaching that procedure.
EWOSA	An alternative to Ergon's rule change request could be to make a rule designed to improve information sharing between retailers and Metering Data Providers, so that the timing of meter reads and the timing of issuing bills could be better coordinated. This would be a relatively simple and cost effective way of reducing the issues associated with meter reads and estimated bills and could be investigated as part of the <i>Updating the Electricity B2B Framework</i> rule change process. (p.2)	This issue is out of the scope of this rule change process. The <i>Updating the Electricity B2B Framework</i> rule change process is considering changes to the Information Exchange Committee (IEC) which makes recommendations to AEMO about the content, format, delivery and timing of business-to-business (B2B) procedures. Only the IEC can make recommendations in relation to B2B procedures. Therefore, the Commission does not consider that making a rule in the <i>Updating the Electricity B2B Framework</i> rule change process that predetermines what the IEC can recommend in relation to the B2B procedures is appropriate.
ENA	Requiring a Metering Data Provider to produce an additional estimated meter read outside the normal meter read and data delivery process would be very complicated and potentially very costly. Other market participants may also incur costs in receiving estimated data outside the normal billing cycle. (p.A-2)	Noted. The Commission agrees that requiring a Metering Data Provider to produce an estimated meter read outside the regular meter reading processes would not be an effective solution to the issue identified by Ergon. Retailers have a number of different methods they can use to generate an estimate if one is needed. Therefore, it is unnecessary to require a Metering Data Provider to provide a retailer with an estimate if requested

Stakeholder	Issue	AEMC Response
		by that retailer.
Ergon	Any requirement that introduced an obligation on retailers to accept a customer reading could unintentionally create safety issues due to the meter location and access issues. (p.4)	This may be the case for a number of meters. However, most meters in residential properties are likely to be relatively accessible. Accepting a customer's read of its meter is often a simple and effective way to address customer complaints about estimated bills.
Ethnic Communities Council of NSW	For the long term interest of consumers, there would appear to be no reason to extend the billing cycle time period. AEMO's procedures should be amended to specify that readings are made at least once every three months. Given that there is an expectation currently that reasonable endeavours include actually undertaking the reading each three month period, the resulting outcome should be little or no increase in costs of meter reads. In order to address those cases where the meters cannot be read at all, or within the three month timeframe, a set of special provisions would need to be identified and detailed in AEMO's procedures. (p.3)	<p>See section 3.2.</p> <p>It is appropriate that Metering Data Providers have a "reasonable endeavours" obligation to read a meter once every three months rather than a firm obligation. There are a number of reasons why a Metering Data Provider may have difficulty accessing a meter and some flexibility in the obligations to provide a window in which to access the meter is reasonable.</p> <p>In order to ensure that a meter is read in time to issue a bill to a small customer at least once every three months, AEMO's Service Level Procedure would need to be changed to require a Metering Data Provider to read a meter more frequently. This is because once a Metering Data Provider has read a meter, it takes a number of days for the retailer to receive this data and issue a bill based on it. Therefore, the Service Level Procedure would need to specify that a Metering Data Provider must read a meter and provide a meter read to a retailer a number of days before the three month period expires. This would enable a retailers to issue a bill to a small customer based on an actual meter read at least once every three months, but would result in higher costs which would be passed onto all customers.</p>
Ethnic Communities Council of NSW	It is not clear why there is ongoing issues with Metering Data Providers sending correct data to retailers, given that this is required of them under AEMO's procedures. If there are anomalies or unclear expectations within AEMO's procedures,	The Service Level Procedures set out the timeframes within which a Metering Data Provider is required to read a meter. The Metrology Procedure: Part B clearly sets out a number of circumstances in which a Metering Data Provider may make a substitution, including where the meter has failed, where the data is erroneous or where the data cannot be obtained. Where a substitution is made, the Metrology Procedure:

Stakeholder	Issue	AEMC Response
	these need to be reviewed and amended. (p.4)	Part B requires a Metering Data Provider to replace it with actual metering data if and when it becomes available.
Red Energy and Lumo	Strongly oppose any requirement for a retailer to accept a customer's own read of their meter as a means of avoiding an estimated bill. The vast majority of consumers will not engage in this process, resulting in substantially the same outcomes as if no change to the NERR were made. (p.3)	<p>The Commission does not consider it appropriate to include in the NERR a rule that would require a retailer to accept a customer's read of their meter. Providing customers with an opportunity to report their own meter read is a matter for the competitive strategy of a retailer.</p> <p>However, if there are access issues to a customer's meter and/or a customer complains about the use of an estimate to generate their bill, enabling a customer to report a read their meter could be a useful solution to these issues. Where a customer is engaged enough to complain about the use of an estimated bill, it is likely that they are engaged enough to report a meter reading to their retailer.</p>
Simply Energy	A potential solution to address the difficulties that retailers have with generating an estimate is to require a Metering Data Provider to provide an estimate for an accumulation meter on the scheduled read date if they are unable to provide an actual read. Metering Data Providers should be able to more accurately estimate a meter read than retailers. (p.1)	See response to ENA above.
Simply Energy	In reading and reporting their own meter, customers may make errors which make their read inaccurate and not able to be relied on for billing. (p.4)	<p>Some small customers may make an error in reading their own meter. If retailers accept a customer's meter read, they should have appropriate validation processes in place to check that the read can be relied upon for billing.</p> <p>However, as noted in response to Red Energy and Lumo's submission above, if a customer has a complaint about an estimated bill, a relatively quick way to resolve this issue could be to accept that customer's meter read.</p>

Stakeholder	Issue	AEMC Response
TasCOSS	<p>The proposed rule will not guarantee that meters will be read within an extended four month billing cycle and that bills based on actual consumption will be issued. It simply provides the Metering Data Provider with an additional month in which to make its 'best endeavours' to read the meter. (p.2)</p>	<p>Agreed.</p> <p>The draft rule recognises that it is not possible to "guarantee" that a meter will be read within a specific timeframe. As outlined in section 3.2, there are a number of reasons why a Metering Data Provider may not be able to obtain a meter read. This will not change whether the billing cycle is three or four months.</p> <p>The draft rule broadly maintains the frequency of the billing cycle. However, it does provide retailers with a small number of extra days in which to receive metering data before it must issue an estimated bill.</p>

B Legal requirements under the NERL

This appendix sets out the relevant legal requirements under the NERL for the AEMC to make this draft rule determination.

B.1 Draft rule determination

In accordance with section 256 of the NERL the Commission has made this draft rule determination in relation to the rule proposed by Ergon Energy Queensland.

The Commission's reasons for making this draft rule determination are set out in section 2.3.

A copy of the more preferable draft rule is attached to and published with this draft rule determination. Its key features are described in section 2.3 and section 4.4.

B.2 Power to make the rule

The Commission is satisfied that the more preferable draft rule falls within the subject matter about which the Commission may make rules. The more preferable draft rule falls within section 237 of the NERL as it relates to "provision of energy services to customers, including customer retail services and customer connection services" and the "activities of persons involved in the sale and supply of energy to customers".¹³⁵

B.3 Power to make a more preferable rule

Under section 244 of the NERL, the Commission may make a rule that is different (including materially different) from a market initiated proposed rule if the Commission is satisfied that, having regard to the issue or issues that were raised by market initiated proposed rule (to which the more preferable rule relates), the more preferable rule will, or is likely to, better contribute to the achievement of the NERO.

As discussed in Chapter 2, the Commission has determined to make a more preferable draft rule. The reasons for the Commission's decision are set out in section 2.3.

B.4 Commission's considerations

In assessing the rule change request the Commission considered:

- the Commission's powers under the NERL to make the rule;
- the rule change request;
- the fact that there is no relevant Ministerial Council on Energy (MCE) Statement of Policy Principles;¹³⁶
- submissions received during first round consultation;

¹³⁵ Section 237(1)(a) of the NERL.

¹³⁶ Under section 236 of the NERL the AEMC must have regard to any relevant MCE statement of policy principles in making a rule. The MCE is referenced in the AEMC's governing legislation and is a legally enduring body comprising the Federal, State and Territory Ministers responsible for Energy. On 1 July 2011 the MCE was amalgamated with the Ministerial Council on Mineral and Petroleum Resources. The amalgamated Council is now called the COAG Energy Council.

- the Commission’s analysis as to the ways in which the proposed rule will or is likely to, contribute to the NERO; and
- the extent to which the proposed rule is compatible with the development and application of consumer protections.

B.5 Civil penalties

The Commission’s draft more preferable rule amends rule 24(1) of the NERR. This rule is currently classified as a civil penalty provision under Schedule 1 of the National Energy Retail Regulations.

The Commission considers that rule 24(1) should continue to be classified as a civil penalty provision and therefore does not propose to recommend any change to its classification to the COAG Energy Council.