AEMC staff paper
Stakeholder workshop
28 August 2014

WORKSHOP 3: Relationships between the parties

On 26 June 2014 the AEMC hosted the first stakeholder workshop for the competition in metering and related services rule change request. The workshop covered the proposal for the Metering Coordinator, and whether this party should be a Registered Participant and/or accredited with AEMO. We also discussed the obligations/functions of the gate keeper role that was recommended as part of the AEMC's final advice for a framework for open access and common communication standards.

The second stakeholder workshop on 1 August discussed issues related to the network regulatory arrangements needed to support competition in the provision of metering and related services.

This staff paper has been prepared to assist stakeholder discussions at the third workshop, to be held on the 28 August. This workshop will focus on the:

A. Relationship between the Metering Coordinator and other parties (ie a new Retailer, a distribution network service provide or an energy service provider) and the potential competition issues that may arise under these relationships, including whether some form of regulation is required.

B. Relationship between the Retailer and a Consumer. This specifically includes consent requirements for retailer initiated deployment of smart meters and information provisions regarding metering charges.

C. The Consumer - Metering Coordinator relationship. We are intending to provide stakeholders with a short discussion of our current work regarding this element of the rule change. We will be having a separate, more in depth discussion at the stakeholder workshop on 24 September 2014.

The agenda for the workshop is provided at Attachment A.

As noted in each workshop, there are a number of issues for the rule change request that are inter-linked. We will provide a recap of the high level model that covers these inter-linkages based on outcomes of workshops and discussions with the Commission at the proposed September workshop. The remaining stakeholder workshops, dates and the topics is provided at: http://www.aemc.gov.au/Rule-Changes/Expanding-competition-in-metering-and-related-serv

PART A: Relationships - Metering Coordinator and other parties (Incentive on parties to reach efficient outcomes under commercial negotiation)

1 COAG Energy Council proposal

The COAG Energy Council rule change request proposes a new framework for provision of metering and related services to consumers. The core aspect of the new arrangements are changes to the NER that allow any registered party to become a Metering Coordinator and provide metering and related services to consumers.

As discussed in workshop 1, under the NER the retailer must ensure that a connection point has a metering installation and is registered with AEMO.[1] Under the proposed rule change request and model, the retailer would be required to engage a Metering Coordinator to ensure that the relevant

[1] NER Clause 7.1.2 (a) (1).

metering and related services are performed. This is unless a consumer decides to engage their own Metering Coordinator. The proposal for a small consumer to choose to engage their own Metering Coordinator is part of a separate discussion at the workshop and the workshop on the 24 September 2014.

SCER proposed that the assignment of a Metering Coordinator to a metering installation should be a commercial arrangement, the terms of which would be a matter for commercial negotiation. COAG did highlight that the AEMC consider the need for set of principles to define minimum content of contracts for metering services and whether a standard contract between the Metering Coordinator and other parties is necessary.

Our consideration of the issue also takes account of the AEMC's final advice for a framework for open access and common communication standards, where we stated that we would reconsider the issues for competition between the Metering Coordinator and other parties and whether there was a need to consider potential regulatory options.

2 Guiding principles

In considering the issues for this aspect of the rule change we are having regard to arrangements that:

- are generally simple and practical from a consumer perspective, so that it encourages consumer participation and choice of energy services and products;
- provides energy services that reflect the efficient costs of providing those services;
- promotes rivalry and minimises barriers to entry in the provision of energy services;
- avoids unnecessary meter churn when consumer switches retailers; and
- promotes innovation and efficient investment in metering and related services over time.

3. Stakeholder views

Stakeholders in submissions to the consultation paper expressed a range of views on whether there was a need for regulation or specific terms and conditions in contracts between a retailer and Metering Coordinator.

Retailers were generally supportive of commercial arrangements between parties.. We note there has some concerns been raised where the Metering Coordinator is a subsidy of a retailer and hence could discriminate against smaller retailers in provision of metering and related services.

The ENA and most distribution businesses expressed concerns that Metering Coordinator would have incentives to set monopoly prices for services distribution businesses need for management and control of the network.[2]. They proposed that they should either be able to retain or install devices that could perform the required network functions, or that light handed regulation is introduced so that they can access the required data and services at the cost of provision.[3]

Metering businesses provided a range of views on competition related aspects of the proposed arrangements. Some were of the view that some form of light handed regulation was needed to ensure such meter churn did not occur.[4] Other metering businesses however were strongly

[4] Calvin capital consultation paper submission, 29 May 2014 , p 2

against any form of regulation to manage meter churn, and considered the market was more than capable of preventing inefficient meter churn.[5]

Generally, Energy Management Companies were concerned that where retailers developed a relationship with a Metering Coordinator this would provide incentives for the Metering Coordinator to charge discriminatory prices or refuse access to third party energy services providers.[6] In response to these issues they proposed a requirement for Metering Coordinators to use standard contracts with non-discriminatory pricing terms. [7]

Finally, the AER expressed the view that there could be some barriers to consumers switching retailers or Metering Coordinators, where retailers themselves have affiliated Metering Coordinators. They proposed the AEMC consider some minimum regulatory requirements to mitigate barriers to consumers switching, although they did not specify what such terms might look like.[8]

4. Issues/questions for discussion

Metering Coordinator ownership models

The COAG Energy Council's proposal for arrangements to expand competition in metering and related services is likely to result in three different types of ownership models for a Metering Coordinator:

- A retailer sets up a Metering Coordinator business. We refer to this as a '*Retailer Metering Coordinator*' in the remainder of this paper.
- A Distribution Network business sets up a ring fenced Metering Coordinator business. We refer to this as a '*Distribution Metering Coordinator*'.
- An independent third party metering business performs the role of Metering Coordinator. We refer to this as an '*Independent Metering Coordinator*'**.**

For discussion at the workshop is whether competition concerns may arise any of these ownership models and whether there is a need for some form of regulatory intervention required. There are two broad issues that should be considered. These include:

- Exercise of market power: Any Metering Coordinator – whether standalone/independent, ring-fenced or vertically-integrated into other activities – will have a degree of market power and will have the incentive to charge other parties as high a price for metering and related services as it can. Distribution network businesses have noted that once a meter is installed, it has monopoly characteristics in that the owner of the meter can charge well above marginal cost of the meter. Vertically-integrated Metering Coordinators may, in addition, have less incentive to agree to a lower price for metering and related services than a standalone Metering Coordinator.
- Attempted vertical foreclosure: A vertically-integrated Metering Coordinator may potentially have incentives to use its market power in the market for metering services to hinder competition in a market dependent on those services (eg the retail market or the market for other energy services). We note that any attempts to engage in such behaviour could breach existing competition and consumer laws.

[5] See EDMI consultation paper submission, 29 May 2014, p 5, Metropolis consultation paper submission, 19 June 2014, p 5 Landis & Gyr consultation paper submission, 30 May 2014, p 9
[6] EnerNoc consultation paper submission, 30 May, p 1
[7] Ibid, p 4
[8] AER consultation paper submission, 30 May 2014, p 9

This paper considers the possible incentives for monopoly pricing and vertical foreclosure in the context of metering and related services with aid of a few examples below. We specifically focus on the *'Retailer Metering Coordinator'* given this ownership model was raised as a concern in stakeholder discussions/submissions.

4.1 Monopoly pricing of metering and related services

Monopoly pricing for metering and related services

Question 1: Is the risk of monopoly pricing for metering and related services (other than for achieving foreclosure in the specific circumstance described below) is likely to be relatively low under a competitive framework for metering?

Possible incentives for monopoly pricing and factors that may constrain such pricing

Any Metering Coordinator will have a natural incentive to seek to charge the highest prices it can for the services it provides, and prices will be higher if it considers the chances are low that a buyer of the service will switch to an alternative provider.

The incentives to exercise market power are likely to arise in the relationship that a '*Retailer Metering Coordinator*' has with any and all of the following:

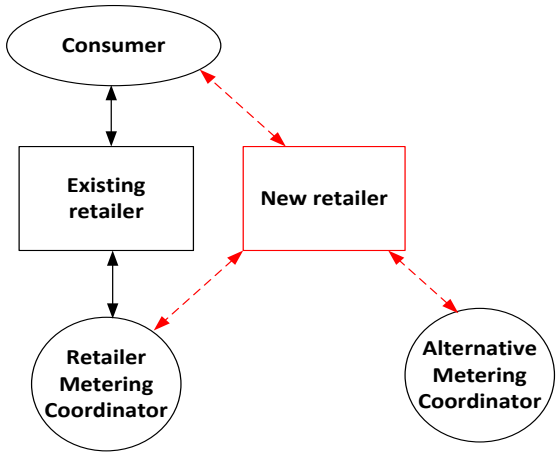
- a new retailer;
- an energy services business; and
- a distribution network business

These relationships are considered separately below.

SCENARIO 1: "Retailer Metering Coordinator' and the new retailer relationship

Figure 1 illustrates the relationships relevant to the pricing of metering services by a *Retailer Metering Coordinator* in the event of a customer switching to a new retailer**.**

Figure 1: Monopoly pricing of metering and related services to a new retailer



Red arrows represent potential new contractual relationships

Black arrows represent established contractual relationships

New retailer can choose between different Metering Coordinators

The potential incentives for a '*Retailer Metering Coordinator*' are to charge a new retailer a price for the use of its meter somewhere just below the level it considers the new retailer would have to pay the next best alternative Metering Coordinator to replace the meter.

Any alternative Metering Coordinator engaged by the new retailer would need to set a price for its metering services high enough to recover the full costs of providing and installing a new meter, as well as the up front and ongoing costs of providing metering and related (ie data and maintenance) services.

The costs the new retailer faces in providing the new customer with metering services may then be higher than that of the existing retailer. If the new retailer passes these additional metering costs through to the newly acquired customer (ie bundled in products or services), this could deter customers from choosing a new retailer.

At the same time, any Metering Coordinator will have an incentive to accept a price for metering services as low as its forward-looking 'opportunity cost' of supplying metering services through its meter. This opportunity cost will include the current Metering Coordinator's ongoing operating and maintenance costs of keeping the meter in service.[9]

In addition, if a '*Retailer Metering Coordinator'* believes that the amount it charges the new retailer for metering services can influence whether the customer changes retailer, the *'Retailer Metering Coordinator's'* opportunity cost could include a premium representing its parent retailer's foregone profits from retailing (and supplying any other energy services) to the customer. This would mean that the minimum price that a *'Retailer Metering Coordinator'* could be willing accept for supplying metering services to a new retailer would be higher than the minimum price acceptable to a standalone Metering Coordinator.

There is likely to be a broad range of prices for metering services that an existing Metering Coordinator and a new retailer should find mutually beneficial to negotiate. In this context, the risks of physical 'meter churn' should be low.

Factors that constrain monopoly pricing

The ability of a *'Retailer Metering Coordinator'* to exercise market power in the provision of metering services will be constrained by a number of factors, which will vary according to the nature of the relationship under consideration.

As indicated above, a key factor constraining the price a Metering Coordinator may seek to charge a new retailer is the ability for the new retailer to appoint its own Metering Coordinator and by-pass or strand the existing meter. If retailers present themselves as being willing and able to install new meters, this should improve their ability to negotiate a price for metering services from the *'Retailer Metering Coordinator'* that is closer to the '*Retailer Metering Coordinator's'* opportunity cost of providing metering services.

Further, if the '*Retailer Metering Coordinator'* attempts to charge a very high price for metering services to other retailers, this could expose its parent retailer to a 'tit for tat' response when acquiring customers from other retailers who may themselves have strong affiliations with Metering Coordinators. Such other retailers may charge correspondingly high prices for use of their own meters and functionality. This will create incentives for a mutually beneficial bargain to be struck between retailers for reciprocal use of meters at reasonable prices in the event of customer switching. We understand this is a common outcome in the New Zealand Metering market.[10]

[9] Once a meter is installed, the ongoing costs (ie its marginal cost) of using it for data measurement and provision of other services is likely to be very low.

[10] LECG, 'Developments in the New Zealand market for Advanced Metering Infrastructure and related services', 3 July 2008

That said, the likelihood of such reciprocal arrangements will depend on what might be termed the 'countervailing power' of other retailers, and may be less likely for smaller retailers without their own Metering Coordinators or established customer bases. This in turn may lead *Retailer Metering Coordinators* to price discriminate between different retailers depending on the perceived strength of their bargaining power.

The level of bargaining power of a new retailer in negotiating with the incumbent Metering Coordinator will also be affected by the competitiveness of the market for metering services and the variety of innovative metering procurement options that competition will deliver in such a market. It is by no means a given that the alternative costs the new retailer faces in a competitive market is the full installation plus fixed cost of a new meter for that customer.

For example, the most common business model for meters in the UK is for retailers to lease or rent meters from a Metering business for a monthly or annual rental charge. This means there could be no transaction charge for the initial installation of a meter at a consumer's premises. The Metering business simply installs the meters and the retailer starts paying the rental charge. If a consumer decides to switch retailers, the metering business and retailer make arrangements so that the rental payments are thereafter made by the retailer to whom the customer has switched.

Leasing arrangements would provide an important competitive constraint on market power, because it would lower the cost of the alternative option for the new retailer (and therefore constrain the price that the incumbent Metering Coordinator can charge).

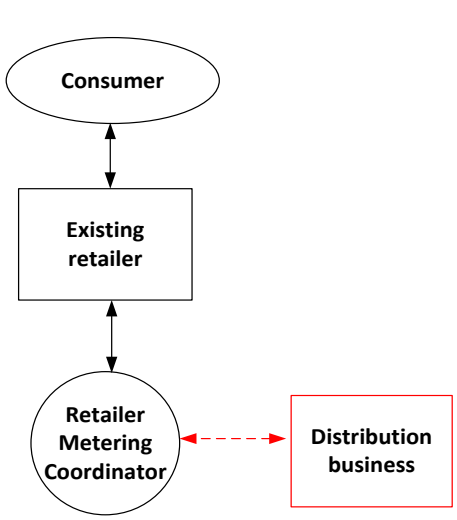
Other things being equal, the more competitive the market for retailing and metering services, the more likely that *Retailer Metering Coordinators* will not be able to 'charge twice' for metering services in the event of a customer switching retailer. This is because competition should lead to retailers, when setting their tariffs, factoring in the ability of their affiliated Metering Coordinators to recover some metering costs from new retailers and energy services businesses. If they judge that they will be able to recover some proportion of metering costs from new retailers, retailers that have affiliated Metering Coordinators will tend to compete down the extent to which they charge their customer for metering services through up-front, periodic or termination fees.

Nevertheless, it will be an empirical matter as to whether the above constraints will be sufficient to limit the exercise of market power in every case. We discuss possible regulatory options for addressing such issues in section 5.

SCENARIO 2: 'Retailer Metering Coordinator' and the distribution network business relationship

Figure 2 depicts a scenario in which a distribution network business seeks to buy services provided by the Metering Coordinator at a connection point which can assist the network business with controlling and managing the network (eg voltage control, harmonics, status indicators, event logs, inertia).

Figure 2: Monopoly pricing of metering and related services to a distribution network business



Red arrows represent potential new contractual relationships

Black arrows represent established contractual relationships

Distribution business seeking to use services provided by Retailer Metering Coordinator

Under this relationship, the *'Retailer Metering Coordinator'* may seek to charge as much as it can for metering services to the distribution network. While in this example the Metering Coordinator is also a retailer, the incentives apply regardless of who is the Metering Coordinator. We note that a distribution network will not have the option to engage its own Metering Coordinator if it cannot negotiate access to the services it seeks from the appointed Metering Coordinator. As discussed in workshop 2, we are considering transitional arrangements in regards to where the distribution network business was the Responsible Person.

Factors that constrain monopoly pricing

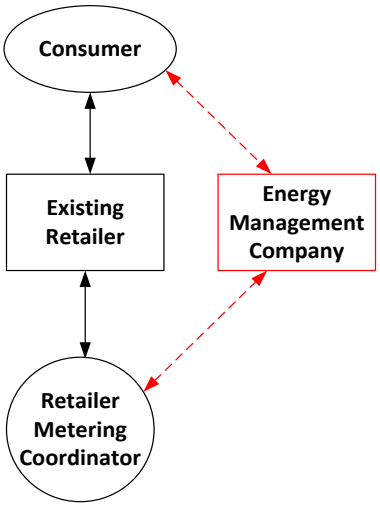
With respect to network businesses' concerns that a Metering Coordinator will charge monopoly prices for the services they require, we note that distribution network businesses are likely to have significant countervailing bargaining power in negotiating prices for such services, for a number of reasons. This is because, many of the services they require for the network (eg power quality) are of no interest to any other commercial parties; therefore it is likely that a distribution network business will be a monopsony buyer of such services in a particular part of the network.

For some services, such as load control, the distribution network business may face competition from retailers or other third parties. In a competitive market, the party that values the service or functionality the most (ie because it can deliver greater benefits to consumers) will be willing to pay the highest price. An efficient negotiated outcome should therefore eventuate.

In addition, any attempt by the Metering Coordinator to exercise market power for these services risk loss of profits. Distribution businesses will typically not need to access these services at all connection points. Like competition for any other service, provided there are sufficient alternative Metering Coordinators at other premises, if a particular Metering Coordinator chooses to raise prices or restrict access to its functionality in any way, other customers' Metering Coordinators could take its place by lowering their prices or offering access to functionality and service on better terms. In addition, distribution network businesses could choose to install their own network kit

and bypass the meter if the price charged by the Metering Coordinator was too high, providing a constraint on the maximum price the Metering Coordinator could charge.

SCENARIO 3: 'Retailer Metering Coordinator' and an energy services business relationship



Red arrows represents a potential new contractual relationship

Black arrows reflects an established contractual relationship

Energy Management Company seeks access to the services of the existing retailer's Metering Coordinator

A *'Retailer Metering Coordinator'* will have similar incentives to charge as much as it can for metering services to a third party energy services business. Like a distribution network business, the energy services business will not have the option to appoint its own Metering Coordinator.

The main constraint on a *Retailer Metering Coordinator* in its relationship with an energy services business is the risk that the energy services business will 'walk away' from the Metering Coordinator and opt to offer its services through other retailers and/or Metering Coordinator operating in the market. To the extent customers value such services and will look for retailers who can accommodate the provision of these services from energy services businesses, *Retailer Metering Coordinators* should face some discipline on monopoly pricing to these firms.

Ultimately, however, as with the constraints on '*Retailer Metering Coordinators'* in their dealings with new retailers, it will be an empirical matter as to whether these constraints will be sufficient.

4.1.1 Vertical foreclosure

Vertical foreclosure

Question 2: Is there some risk of vertical foreclosure of a smaller retailer or energy services company under COAG Energy Council's proposed framework for metering?

Vertical foreclosure in the present context refers to a retailer using its affiliation with a Metering Coordinator to harm competition in the retail electricity market or the market for additional services (ie demand management) that rely on the metering infrastructure. For example, the *'Retailer Metering Coordinator'*:

- Could choose to deliberately set the price for access to metering services at a price above the level that allows an alternative retailer or energy services company to compete with the *Retailer Metering Coordinator's* affiliated retailer and/or energy services business.
- May also offer overly restrictive terms such that a third-party is unable to access smart meter services during certain times of the day, such as peak demand periods where demand management services are attractive to consumers.
- May delay negotiations, increasing costs for the third party. In each case, the costs of providing the service is raised for the party seeking access to the services enabled by the functionality, which may hinder its ability to compete in markets dependent on that service.. It should be noted that such conduct may give rise to application of existing competition and consumer law.

The key characteristic of attempted foreclosure is that the *Retailer Metering Coordinator* behaves in a way inconsistent with the short-term maximisation of its profits in the hope of securing a longer-term payoff from less competitive upstream or downstream markets. This means that the Metering Coordinator constructively refuses to deal with third parties, even where the Metering Coordinator could make a profit by negotiating a mutually-beneficial price for access to metering services with those parties. If the *Retailer Metering Coordinator* merely charges the same (high) prices that any standalone Metering Coordinator would charge, that does not constitute attempted foreclosure.

5. Need for regulation – options

Need for regulation – options

Question 3: Is there a case for introducing some form of light handed regulation to address concerns about the extent of initial competition in the market? If so, what options should be considered?

The above scenarios highlight that provided a workably competitive market eventuates for metering and related services, outcomes in markets for the provision of retailing and other energy services should be broadly efficient.

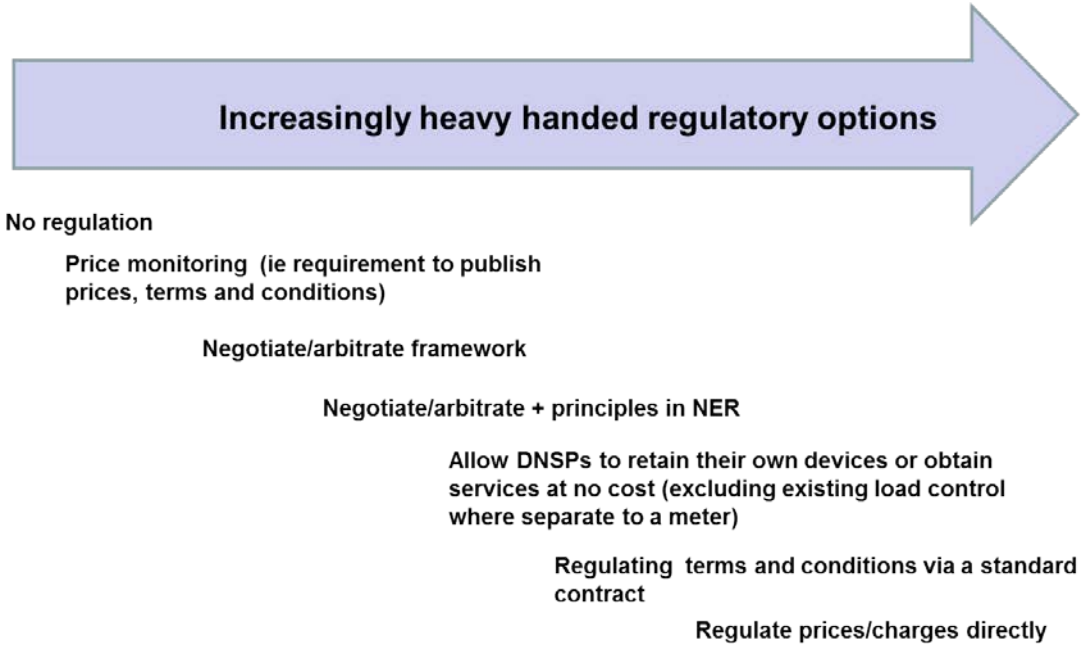
We recognise that it is difficult to predict how the competitive process is likely to play out before commencement of the market. Some level of uncertainty/risk around the likely actual level of competition is unavoidable.

In this context, the potential uncertainty or risks of whether competition will be effective in the market for metering services could be addressed in a number of ways:

- no specific regulation, give the market time to develop and rely on competition to deliver efficient outcomes;
- no specific regulation but allow for a review of competition issues at a specified date (ie in three years' time); or
- implement some form regulation at that time the new rules/framework commences.

These potential options capture the range of options that have either been put forward as part of the open access advice or submissions and discussions from this rule change. The suite of options put forward are summarised below.

Figure 3: Spectrum of possible regulatory options



At the extreme end of the spectrum of regulatory options could involve putting in place in the NER provisions that provide what should be adopted as part of a standard contract between Metering Coordinator and other parties. This could include provisions as highlighted by the COAG Energy Council proposal regarding termination fees, exclusivity restrictions or contract length. It also could include service requirements or performance standards etc. Regulating the prices and charges a Metering Coordinator can set in its contracts with buyers of its services is one way to potentially constrain any perceived risk of competition issues.

Other potential options that take account of distribution network business concerns involve provisions which state some services must be provided published at no cost (ie treated the same way that metering data is provided to authorised parties) or ability to retain existing device (ie turn off billing and settlements element and keep as a network operation device).

There are some light handed regulatory options that are likely to provide less distortionary impacts on innovation and investment in metering services, and therefore provide a better alternative for managing any competition concerns that may exist.

Light regulation could include for example, price monitoring approaches. Such approaches could require the Metering Coordinator to publish its terms and conditions, including its prices, in order to promote transparency. This could be combined with the option to review competition and hence threat of more intrusive regulation if competition fails.

Price monitoring frameworks are often combined with a dispute resolution or arbitration process, which provides for a regulator or appointed arbitrator, to determine prices if commercial negotiations fail. The negotiate/arbitrate approach could go further by specifying a set of principles in the rules for how negotiation should take place and the factors to be taken into account in such negotiations.

For example, such a framework is currently set out for access to negotiated distribution services in Chapter 6 of the NER, which, *inter alia* includes the following principles, the:

- Price of the service should be based on the costs incurred in providing the service.
- Price of the service should be at least equal to the cost that would be avoided by not providing the service but no more than the cost of providing it on a standalone basis.

- Price of the service must be the same for all users unless there is a material difference in the costs of providing the service to different users or classes of users.

- Terms and conditions of access must not be unreasonably onerous taking into account the allocation of risk, price and costs of the services.

We note that there are some existing principles in Chapter 7 where an LNSP as the responsible person negotiates with the FRMP (ie terms and conditions of the offer must be fair and reasonably, not have the effect of reasonably discriminating between Metering Provider of between customers of Metering Providers. There is also condition regarding the ability of a retailer to be a Metering Provider at a consumer's site[11].

Light handed regulatory options are not costless however, and in practice there may be some challenges to implementing. For example, if those seeking to access services consider that arbitration is likely to lead to lower prices than negotiation, there is a risk that high level principles may become de-facto price regulation. This is because those seeking access to services will have strong incentives to seek out arbitrated solutions in each case. The resolution of price negotiations could become drawn out and costly if arbitration is resorted to as a matter of course between parties.

Consequently, it is important that light regulation is carefully crafted and that the costs and benefits of such regulation, including administrative costs, are weighed against the cost and benefits of workably competitive markets.

[11] For example, NER clause 7.4.2(d).

PART B: Retailer – Consumer relationship

There are two issues for discussion on the retailer – consumer relationship at the workshop:

A. Consent required from a consumer when a retailer initiates and deploys advanced metering infrastructure.

B. Information about basic metering charges required to be provided by a retailer to a consumer.

A. Consent required from a consumer when a retailer initiates and deploys advanced metering infrastructure

1. COAG Energy Council proposal

We discuss the relevant consent requirements that retailers may need to obtain from consumers either when a:

- consumer decides to take on a new product (eg a time-of-use tariff) or service (eg direct load control); or
- retailer initiates a change or upgrade and deploys advanced metering to improve its business operations (eg to gain efficiencies from timely meter reads).

The COAG Energy Council has proposed that when a consumer takes up a product or service, the:

- retailer must inform the consumer of any additional costs resulting from the consumer's request; and
- retailer must obtain their consent to the additional costs prior to proceeding with the change.

The COAG Energy Council (formerly called the Standing Council on Energy and Resources) has also proposed that when a retailer initiates a change or upgrade to a meter and this change has not been requested by the consumer, then it must:

- adequately inform the consumer in writing prior to the change where there is no change to the costs charged to the consumer or services available to it; and
- obtain the prior consent of the consumer where the change results in changes to the costs charged to the consumer or the services available to it.

2. Stakeholder submissions

In submissions to the consultation paper, some stakeholders expressed support for the COAG Energy Council's proposed approach when retailers initiate and seek to deploy meters for business operational efficiencies.[12]

Some retailers thought that requiring retailers to obtain the explicit informed consent[13] of consumers for retailer-led deployments would be onerous and, more generally, an opt-in[14]

[12] EnerNOC, Origin and SA Power Networks.
[13] Explicit informed consent is consent requiring, amongst other things, clear, full and adequate disclosure and being properly recorded.
[14] Opt-in refers to where the prior consent of the consumer must be obtained by the retailer to make a change or upgrade the meter.

approach may increase costs.[15] In contrast, the Australian Energy Regulator expressed its support for requiring a retailer to obtain the explicit informed consent from a consumer where a retailer-initiated upgrade to a meter lead to changes in the charges or services agreed in a contract or it changes a consumer's ability to use its energy.

There was general support for consumers to opt out[16] when a retailer changes or upgrades a meter for business operational efficiencies and this change was not requested by the consumer.[17] Under this view, an opt out approach could increase economies of scale and market efficiencies. Consumer groups also supported an opt-out approach as long as the consumer is suitably informed.

3. Issues for consideration

To guide our analysis for this issue we have had regard to some guiding principles, that is, arrangements that:

- are simple and practical from a consumer perspective and promote consumer participation and confidence in the retail and energy services market;
- facilitate innovation in the provision of, and efficient investment in, metering and related services over time; and
- minimise regulatory costs.

The focus of stakeholder discussions at the workshop will be in circumstances when a retailer initiates and decides to deploy a smart meter to a consumer for business efficiencies (ie not consumer led).

Retailer initiated deployments

There are a number of issues that should be considered. These include:

(1) promoting consumer confidence and engagement where consumers are given a smart meter and these consumers may not want to receive a smart meter;

(2) where retailer's deployment of a smart meter may result in a change in the costs that consumers face; and

(3) avoid arrangements that present a barrier to the efficient deployment of smart meters by retailers in a manner that captures economies of scale.

We consider that, taking these into account, consumer should be able to 'opt-out' of obtaining a smart meter as part of retailer initiated deployments. By 'opt-out', we mean that a consumer would be notified in advance that the retailer intended to install a smart meter, and would have the option of choosing not to have the meter installed

We consider that an 'opt-out' arrangement is preferable because where consumers could opt-in, thi could impose greater costs on the retailer (particularly if the requirement was to obtain the consumer's explicit informed consent). An opt-in approach may represent a barrier to the deployment of advanced metering at a cost efficient scale by retailers because fewer consumers may 'opt-in' and therefore increase costs for consumers that want advanced meters.

[15] AGL submission on consultation paper, p6. Lumo Energy, submission on consultation paper, p5. Simply Energy submission on consultation paper, p7.
[16] Opt-out refers to where the consumer must be informed of the change or upgrade to the meter and be given an opportunity to choose not to change or upgrade the meter. If the consumer has not 'opted-out' within a prescribed period, then the retailer can change or upgrade the meter.
[17] ERAA, submission on consultation paper, p3.

Implementation details for the retailer initiated deployments - opt-out approach

Under the opt-out approach, we propose that when a retailer initiates and decides to deploy a smart meter, the retailer:

- must provide the consumer with prior written notice of the proposed change or upgrade to a smart meter; and
- will be able to proceed with making the proposed change or upgrade to the meter if the consumer has not notified the retailer within a prescribed period that it does not consent to the proposed change or upgrade.

There are a number of conditions that need to be worked through, specifically the:

- form of information that should be provided to the consumer; and
- length of prior notice that must be given to the consumer during which the consumer may exercise its right to opt out of the installation.

We consider that the opt-out arrangements would *not* apply in the following circumstances:

- large consumers/customers be excluded because these consumers have bespoke contractual arrangements with retailers.
- market participants deploying smart meters under a jurisdictional new and replacement policy. These will be dealt with under any transitional arrangements resulting from this rule change request.

Retailer initiated deployment of smart meters

Question 1: Is an opt-out approach appropriate when a retailer decides to install a smart meter where small consumers have not requested the installation?

Question 2: What conditions should be attached to the opt-out approach? That is:

- the form of prior written notification (eg format and content of such notification); and
- the prescribed notice period during which the small consumer can opt-out of the installation.
- Are there any other conditions that are needed?

Retailer initiated deployments: change in costs

In response to concerns about potential change in consumer's costs following a retailer's deployment of a smart meter (ie no upfront charge, but charge may rise later), the current National Energy Retail Rules, market retail contracts contain terms that allow a retailer to vary prices. Given this, we consider that, in practice, it would not be possible to link consumer consent with whether or not a consumer's costs changed as a result of the retailer deploying a smart meter. Therefore, we do not consider changes to the National Energy Retail Rules are required regarding this aspect of the COAG Energy Council's proposal.

We are proposing that:

- the same opt-out requirements would apply (linked to the retailer wishing to install a smart meter);

- there would be notification of any extra charges or price change as part of the opt-out; and
- there would be no additional consent requirements.

We note that there are likely to be incentives on retailers to not raise prices following the deployment of a smart meter because of the presence of competition in the retail market and the ability of the consumer to change retailers.

Consumer choice of products and services that require a smart meter

As noted the, COAG Energy Council proposal made recommendations for when a consumer takes up a new product or service. In this scenario, the COAG Energy Council proposed that when a consumer takes up a new product or service, then the retailer must inform the consumer of any additional costs and obtain the consumer's consent prior to making that change.

We considered this scenario and our preliminary view is that no additional arrangements are needed. Our reasons for forming this view are:

- If the consumer takes up a new product or service it is likely that this would require entry into a market retail contract, and accordingly, explicit informed consent under the NERR would apply.
- If the consumer takes up the new product or service under an arrangement other than a market retail contract, the consumer will have the benefit of protections found in existing consumer and contract laws, in the same way as it would be in taking the same product or service from a third party.
- The COAG Energy Council is currently considering the broader issues of whether any additional consumer protections are required for when third party energy service providers offer products and services to consumers.

B. Information required to be provided by a retailer to a consumer

1. COAG Energy Council proposal

This section considers the information requirements relating to basic metering charges that a retailer may need to provide to a consumer.

The COAG Energy Council proposed that a retailer must inform the consumer of the metering service charges for that consumer and the retailer tariff that would be offered if charges for metering services were removed. This is linked to the consent requirements previously discussed.

The COAG Energy Council asked the AEMC to consider the best approach for a retailer to provide this information, including:

1. requiring metering services information on a customer's bill;
2. separately identifying this information among the tariffs and charges payable by a customer;
3. requiring a retail marketer to provide this information to a small customer; and
4. providing information to a small customer on request.

The COAG Energy Council made this proposal on the basis that a small consumer would have the ability to appoint its Metering Coordinator (rather than only the retailer appointing the Metering Coordinator).

2. Stakeholder submissions

In submissions on the consultation paper, there were mixed views as to whether information about basic metering charges should be separately identified on a consumer's bill:

- Some stakeholder supported this information being identified on a consumer's bill.[18]
- Other stakeholders were concerned about requiring this information on a consumer's bill.[19] These stakeholders thought that requiring this information at the same time as a competitive smart meter deployment could result in a negative perception by consumers and may present a barrier to investment and innovation in advanced metering.

Retailers considered that the provision of information about basic metering charges (such as whether it should be on a bill, as part of discrete marketing material or other means) should be up to the retailer or market to decide.[20]

3. Issues for consideration

To guide our analysis for this issue we have had regard to some guiding principles, that is, arrangements that:

- are simple and practical from a consumer perspective and reduce transaction costs;
- promote consumer participation and confidence in the market; and
- facilitate innovation in the provision of, and efficient investment in, metering and related services over time.

For this issue we have considered the following:

- the potential value of this information to consumers. What information would consumers use in order to make more informed decisions about products and services? How does this change if a small consumer can appoint a Metering Coordinator?[21]

If the information is considered to be valuable:

- The means by which information should be provided. Should information be recorded on a consumer's bill or provided on demand such as by accessing a website, in hardcopy or a call centre?
- The frequency that information should be provided. Whether information should be provided once-off or whether information should be provided on an ongoing basis?
- The format that information should be provided. That is, whether the information should cover certain minimum requirements, such as information about individual and average metering services charges?

Information requirements when a small consumer cannot appoint a Metering Coordinator

To enable consumers to make informed decisions about products and services, we consider that the information that would be most valuable to consumers is information about the overall bundled cost of products and services rather than information about component costs, including component metering costs.

[18] See for example, Ergon Energy, submission on consultation paper, p8.
[19] AGL, submission on consultation paper, p6; AER, submission on consultation paper, p10.
[20] AGL, submission on consultation paper, p6; Origin, submission on consultation paper, p6.
[21] This will be part of a separate discussion with stakeholders on 24 September 2014.

The provision of information on component metering costs would likely not be useful for the consumer to evaluate and make different choices as it faces a bundled product or service, particularly where the retailer appoints the Metering Coordinator. As explained further below, the exception is where small consumers have the ability to appoint their own Metering Coordinator.

In addition, providing specific information on metering services charges, particularly on a consumer's bill, could potentially result in consumer confusion and prompt negative reactions to the introduction of smart meters.

Therefore, our preliminary view is that:

- information about basic metering services charges should not be mandated on a consumer's bill; and
- there would be no benefit in providing this information upon request if the consumer cannot appoint the Metering Coordinator.

The provision of information about basic metering charges in these circumstances should be left unregulated.

Information requirements when a small consumer can appoint a Metering Coordinator

In the scenario where a small consumer can engage their own Metering Coordinator, then information about basic metering charges would be of value because it would enable that consumer to:

- see how much they can save if they no longer buy metering services from their retailer; and
- compare offers among different Metering Coordinators.

We intend to revisit this scenario depending on our considerations in relation to whether a small consumer is able to engage a Metering Coordinator under the proposed framework.

If small consumers can appoint a Metering Coordinator and can be provided with information about basic metering charges, we would need to consider:

  - What aspects of basic metering charges should be provided (eg the meter asset cost, meter reading services costs)?
  - How such information should be provided?

Information about basic metering charges

Question 1: Do you agree that information about basic metering charges should not be required to be provided on bills?

Question 2: If a small consumer cannot appoint a Metering Coordinator, should information requirements about basic metering charges be left unregulated?

Question 3: If a small consumer can appoint a Metering Coordinator, should there be provisions that allow a consumer to request information from a retailer?

Competition in Metering rule change
Stakeholder Workshop 3 – Relationships between parties
Melbourne, 28 August 2014

Time	Item	Facilitator
10.00 am	Welcome and introductions Purpose of workshop	Richard Owens
10.10 – 12.00 pm	**Session 1: Metering Coordinator – Retailer, DNSP and ESCO relationship**	
	Introduction Consideration of different business models and relationships with other parties.	Con Van Kemenade Frontier Economics – Rajat Sood
	Roundtable discussion	All
12.00 – 12.45 pm	**Session 2: Metering Coordinator - Retailer, DNSP and ESCO relationship**	
	Is there a need for regulation? Potential options	Con Van Kemenade
	Roundtable discussion	All
12.45 - 1.30 pm	**Lunch**	
1.30 - 2.30 pm	**Session 3: Retailer - Consumer relationship**	
	Overview of issues for consideration	Marc Tutaan
	Roundtable discussion	All
2.30 - 3.00 pm	**Session 4: Metering Coordinator – Consumer relationship**	
	Overview of proposal and issues that AEMC is considering.	Lisa Nardi
3.00 – 3.15 pm	Roundtable discussion	All
	Summary of workshop and next steps	Richard Owens