



Australian Energy Market Commission

RULE DETERMINATION

National Electricity Amendment (Victorian Jurisdictional Derogation - Advanced Metering Infrastructure) Rule 2013

Rule Proponent

Minister for Energy and Resources (Victoria)

19 September 2013

For and on behalf of the Australian Energy Market Commission

**RULE
CHANGE**

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AEMC 2013, *Victorian Jurisdictional Derogation - Advanced Metering Infrastructure*, Rule Determination, 19 September 2013, Sydney.

About the AEMC

The Council of Australian Governments (COAG), through its then Ministerial Council on Energy (MCE), established the Australian Energy Market Commission (AEMC) in July 2005. In June 2011, COAG established the Standing Council on Energy and Resources (SCER) to replace the MCE. The AEMC has two main functions. We make and amend the national electricity, gas and energy retail rules, and we conduct independent reviews of the energy markets for the SCER.

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Summary of draft rule determination

The Victorian Government has requested the Australian Energy Market Commission (AEMC) to make changes to the National Electricity Rules (NER) by way of a jurisdictional derogation.¹ The requested rule change would extend for up to three years in Victoria the effect of an existing derogation from some of the metering provisions in chapter 7 of the NER.

The Commission has determined that it should make the rule proposed by the Victorian Government, with some minor amendments relating to the commencement date, triggers for expiry and definitions.

The existing derogation, which is set out in rule 9.9B, was put in place to allow the rollout of advanced metering infrastructure (AMI) in Victoria. It makes distribution businesses exclusively responsible for metering services² for Victorian small electricity customers,³ meaning that retailers are prevented from providing these services. Distribution businesses also control related services that are enabled by AMI meters.⁴ The existing derogation is due to expire on 31 December 2013.

If the derogation is not extended, the metering rules that are currently derogated away from in Victoria would come into force. That means that - nominally at least - retailers would be able to provide metering services to small customers, and would also control access to the related services that are enabled by AMI meters. The Victorian Government argues that for retailer provision of metering services to occur in practice, a number of processes and systems would need to be developed.

It is intended that such processes and systems will be established as part of the national framework for competition in metering and related services for residential and small business customers - see section 1.4.2 below. However, the national framework will not be established before the current derogation expires.

The Victorian Government has stated its concern that, without a national framework in place, allowing retailers to become responsible for small customer metering services in Victoria from January 2014 would have a number of detrimental impacts. These relate to a possible loss of benefits from the AMI program, the lack of adequate customer protection arrangements and the costs of establishing specific Victorian arrangements to accommodate contestable metering services.

¹ A jurisdictional derogation modifies the application of the rules in a participating derogation. The AEMC can make a jurisdictional derogation at the request of the jurisdiction's Minister but must have regard to certain other matters, as well as the normal rule making test - see section 2.5.2.

² Throughout, *metering services* means providing, installing and maintaining the metering installation and providing data management services.

³ Customers at connection points where the consumption is less than 160 MWh per annum. In practice, residential and small business customers.

⁴ Throughout, *related services* means services that are enabled by the functionality of advanced meters, such as remote de-energisation and direct load control.

The Victorian Government is therefore seeking a new derogation that would preserve distribution business exclusivity for small customer metering services for a maximum of three years, or until national arrangements for competition in metering and related services are implemented.

The Commission is satisfied that making the draft rule will, or is likely to, be in the long term interests of consumers because:

- There is not currently a clear and viable framework for commercial contestability in AMI metering and related services in Victoria. In the absence of such a framework, expiry of the existing derogation might limit consumer benefits from the existing investment, without creating benefits from better third party access to related services.
- The incremental benefits of allowing retailers to provide small customer metering services in Victoria are likely to be low over the period until a national framework for competition in metering and related services is established.
- The costs of establishing a Victorian-specific framework for commercial contestability are likely to outweigh the incremental benefits of doing so. These costs could include possible detrimental impacts on the development of a national solution if Victorian-specific arrangements are developed. It is therefore likely to be in the interests of consumers for Victoria to wait until the national framework is established and to transition to competition in both metering and related services then.

Our assessment that there are limited incremental benefits from allowing retailer provision of small customer metering services in Victoria applies only to the short term. It is therefore appropriate that the jurisdictional derogation be limited to three years' duration. If arrangements have not been made by that time for the orderly transfer of Victoria to the national framework then the establishment of Victorian-specific arrangements should be reconsidered.

Contents

1	Victorian Government's rule change request	1
1.1	The rule change request	1
1.2	Rationale for rule change request	1
1.3	Solution proposed in the rule change request.....	2
1.4	Relevant background.....	3
1.5	Relevant strategic priority.....	5
1.6	Commencement of rule making process	5
1.7	Consultation on draft rule determination.....	6
2	Draft rule determination	7
2.1	Commission's draft determination.....	7
2.2	Commission's considerations.....	7
2.3	Commission's power to make the rule	7
2.4	Rule making test.....	8
2.5	Other requirements under the NEL	9
3	Commission's reasons	12
3.1	Assessment of issues.....	12
3.2	Assessment of proposed rule	13
3.3	Civil Penalties	14
4	Commission's assessment approach	15
5	Adequacy of existing frameworks for small customer metering competition..	16
5.1	Rule Proponent's view.....	16
5.2	Stakeholder views	17
5.3	Conclusion	25
6	Incremental benefits of introducing small customer metering competition in Victoria	29
6.1	Rule Proponent's view.....	29
6.2	Stakeholder views	29
6.3	Conclusion	31

7	Appropriate duration of a new derogation	34
7.1	Rule Proponent's view.....	34
7.2	Stakeholder views	34
7.3	Conclusion	35
	Abbreviations.....	38
A	Summary of issues raised in submissions	39

1 Victorian Government's rule change request

1.1 The rule change request

On 18 June 2013, the Honourable Nicholas Kotsiras MP, Minister for Energy and Resources (Victoria) requested the Australian Energy Market Commission (Commission) to make a jurisdictional derogation regarding meters installed under the Advanced Metering Infrastructure program in Victoria.⁵ The rule change request seeks to extend the effect of an existing derogation from some of the metering provisions in chapter 7 of the NER.

The existing derogation, which is set out in rule 9.9B, was put in place to allow the rollout of advanced metering infrastructure in Victoria. It makes distribution businesses exclusively responsible for metering services for Victorian small electricity customers, meaning that retailers are prevented from providing these services. As a consequence, distributors also control related services that are enabled by AMI meters.

The existing derogation is due to expire on 31 December 2013.

1.2 Rationale for rule change request

If the derogation is not extended, the metering rules that are currently derogated away from in Victoria would come into force. That means that - nominally at least - retailers would be able to provide metering services to small customers, and would also control access to the related services that are enabled by AMI meters. The Victorian Government argues that for retailer provision of metering services to occur in practice, while at the same time realising the expected benefits of the Victorian AMI program, a number of processes and systems would need to be developed.

It is intended that such processes and systems will be established as part of the national framework for competition in metering and related services for residential and small business customers - see section 1.4.3 below. However, the national framework will not be established before the current derogation expires.

The Victorian Government has stated its concern that, without a national framework in place, allowing retailers to become responsible for small customer metering services in Victoria from January 2014 would have a number of detrimental impacts. These relate to a possible loss of benefits from the AMI program, the lack of adequate customer protection arrangements and the costs of establishing specific Victorian arrangements to accommodate contestable metering services. These impacts are detailed in the

⁵ A jurisdictional derogation modifies the application of the rules in a participating derogation. The AEMC can make a jurisdictional derogation at the request of the jurisdiction's Minister but must have regard to certain other matters, as well as the normal rule making test - see section 2.5.2.

Victorian Government's rule change request,⁶ and summarised in the consultation paper for this rule change.⁷

The Victorian Government is therefore seeking a new derogation that would preserve distribution business exclusivity for small customer metering services for another three years, or until national arrangements for competition in metering and related services are implemented.

1.3 Solution proposed in the rule change request

The effect of making a new jurisdictional derogation consistent with the rule change request would be:

- Distribution businesses would continue to have the exclusive right to act as the responsible person for AMI meters for Victorian small electricity customers.
- AMI meters would continue to be designated as type 5 or type 6 metering installations. In the absence of the derogation, AMI meters could be classified as type 4 metering installations if they can be remotely read.⁸ Retailers can elect to be the responsible person for type 4 meters.
- To make clear that retailers are not responsible for costs associated with AMI meters at their connection points, to the extent that these costs can be recovered by distribution businesses in accordance with the AMI cost recovery order.⁹
- For the purposes of the rules, the metering data performance standards for market settlement for AMI meters would continue to be those that apply to manually read meters, despite these meters being remotely read. However, distribution businesses would be required to meet the Minimum AMI Service Levels Specification (Victoria) which governs the standards for remote collection of metering data.
- The derogation would continue until the rules are amended to provide a national framework for competition in metering and related services for residential and small business customers. If the rules are not so amended by 31 December 2016, the derogation would expire.

The rule change request provides a more detailed description of the proposed rule.¹⁰

⁶ Minister for Energy and Resources (Victoria), *AMI Rule Change Request (Jurisdictional Derogation - Victoria)*, 18 June 2013, pp. 5-23.

⁷ AEMC, *Victorian Jurisdictional Derogation, Advanced Metering Infrastructure*, Consultation Paper, 4 July 2013, pp. 4-9. Subsequent references to the Consultation Paper mean this document.

⁸ There is some doubt as to how the NER would apply in this case.

⁹ See section 1.4.1 below.

¹⁰ Minister for Energy and Resources (Victoria), *AMI Rule Change Request (Jurisdictional Derogation - Victoria)*, 18 June 2013, pp. 4-5.

1.4 Relevant background

1.4.1 Victorian arrangements for advanced metering infrastructure

The rule change request sets out further background. It describes the legislative framework for the mandatory rollout of AMI to Victorian small customers.¹¹ Victorian Orders in Council:

- oblige the Victorian electricity distribution businesses to replace existing meters with AMI metering by the end of 2013;
- provide for the regulation of cost recovery by distribution businesses with regard to the costs of providing AMI metering and services; and
- specify minimum functionality for AMI meters and associated service requirements.

Cost recovery for the AMI program would not be affected by the derogation's expiry, or its renewal. Clause 11.17.6 of the NER prevents AMI metering services from being regulated under a distribution determination for as long as they are regulated under the AMI Order in Council. Clause 11.17.6 is not subject to the existing derogation or to the rule change request.

1.4.2 Existing NER framework for retailer provision of metering services

Chapter 7 of the NER uses the concept of responsible person to determine responsibility for the provision of metering services. The responsible person at a metering site is responsible for:

- providing, installing and maintaining the metering installation; and
- providing the related data management services.

Throughout this document, *metering services* means these services.

Under the NER, a retailer may elect to be the responsible person for a type 4 metering installation (a remotely read interval meter for a small customer). The retailer can contract with third party metering providers and metering data providers to provide metering services. The retailer can also request the local distribution business to act as the responsible person.

Retailer provision of metering services can be thought of as contestable, in that retailers can choose their metering services providers. However, for consumers their choice of metering services provider is bundled with their choice of retailer. There is currently no framework for consumers to choose their metering services provider directly.

¹¹ Minister for Energy and Resources (Victoria), *AMI Rule Change Request (Jurisdictional Derogation - Victoria)*, 18 June 2013, pp. 1-2.

Advanced meters also enable other services, not directly related to the measurement of energy, such as direct load control and remote de-energisation and re-energisation. Throughout this document these services are referred to as *related services*. There is currently no framework in the NER for the provision of related services. By implication, the responsible person at a metering site also controls access to the related services. Again, there is currently no framework for consumers to directly control access to the related services for a meter at their site.

In the absence of the derogation, this is the framework that would apply in Victoria. To the extent that AMI meters were reclassified as type 4 metering installations, retailers could elect to be the responsible person, and become responsible for providing metering services. By implication, they would then also control access to the related services.

Expiry of the derogation would not, under the current frameworks, create a situation where third parties could compete to provide metering and related services directly to consumers. For that to occur would require the type of framework that is described in the following section.

1.4.3 Development of a national framework

The Standing Council on Energy and Resources (SCER) has agreed to progress a number of rule changes in response to the AEMC's Power of Choice review.¹² The Victorian Government indicates its in-principle support for the national framework in the rule change request.¹³

The objective of the review, which concluded in November 2012, was to ensure that the community's demand for electricity services is met by the lowest cost combination of demand and supply side options. The review identified opportunities through better information, education, technology and flexible pricing options for consumers to make more informed choices about the way they use electricity. The review also identified the market conditions and incentives needed for network operators, retailers and other parties to maximise the potential of efficient demand side participation and to respond to consumers' choices.

The AEMC's recommendations included:

- introducing a framework in the NER that provides for competition in metering and related services for residential and small business consumers;
- clarifying consumers' ability to access their energy consumption data; and

¹² AEMC, *Power of Choice Review - giving consumers options in the way they use electricity*, Final Report, 30 November 2012, Sydney.

¹³ Minister for Energy and Resources (Victoria), *AMI Rule Change Request (Jurisdictional Derogation - Victoria)*, 18 June 2013, p. 1.

- undertaking a review of the framework for open access and common communication standards needed to support contestability in demand side participation services enabled by smart meters.

The framework would unbundle the provision of retail electricity from the provision of metering services, giving consumers choice in metering capability that is independent of their choice of retailer. It would also create a framework where third parties could compete to offer consumers related services directly.

SCER has requested that we undertake the open access and communications standards review. The terms of reference for the review are available on our website. We expect SCER to request rule changes in the second half of 2013 to give effect to the other recommendations.

National smart meter consumer protections are also being implemented. SCER is developing amendments to the National Energy Retail Rules that relate to:

- supply capacity control;
- direct load control; and
- customer billing.

Other consumer protections, which relate to other forms of regulation, are also being progressed. They include protections related to:

- pricing; and
- third party service provider accreditation.

1.5 Relevant strategic priority

This draft rule determination does not relate directly to the AEMC's proposed strategic priorities.¹⁴

1.6 Commencement of rule making process

On 4 July 2013, the Commission published a notice under section 95 of the National Electricity Law (NEL) advising of its intention to commence the rule making process and the first round of consultation in respect of the rule change request. A consultation paper prepared by AEMC staff identifying specific issues or questions for consultation was also published with the rule change request. Submissions closed on 1 August 2013.

The Commission received eight submissions on the rule change request as part of the first round of consultation. They are available on the AEMC website.¹⁵ A summary of

¹⁴ Australian Energy Market Commission, *Strategic Priorities for Energy Market Development*, Discussion Paper, 2013.

¹⁵ www.aemc.gov.au

the issues raised in submissions and the Commission's response to each issue is contained in Appendix A.

1.7 Consultation on draft rule determination

In accordance with the notice published under section 99 of the NEL, the Commission invites submissions on this draft rule determination, including a draft rule, by 31 October 2013.

In accordance with section 101(1a) of the NEL, 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 26 September 2013.

Submissions and requests for a hearing should quote project number ERC0159 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

2 Draft rule determination

2.1 Commission's draft determination

In accordance with section 99 of the NEL the Commission has made this draft rule determination in relation to the rule proposed by the Minister for Energy and Resources (Victoria).

The Commission has determined it should make, with amendments, the rule proposed by the rule proponent.¹⁶

The Commission's reasons for making this draft rule determination are set out in section 3.1

A draft of the proposed rule that the Commission proposes to be made (draft rule) is attached to and published with this draft rule determination. The draft rule is different from the rule proposed by the rule proponent. Its key features are described in section 3.2.

2.2 Commission's considerations

In assessing the rule change request the Commission considered:

- the Commission's powers under the NEL to make the rule;
- the requirements under sections 89 and 91(3) of the NEL relating to jurisdictional derogations;
- the rule change request;
- the Ministerial Council on Energy (MCE) Statement of Policy Principles that is set out in section 2.5.1;¹⁷
- submissions received during first round consultation; and
- the Commission's analysis as to the ways in which the proposed rule will or is likely to, contribute to the National Electricity Objective (NEO).

2.3 Commission's power to make the rule

The Commission is satisfied that the draft rule falls within the subject matter about which the Commission may make rules. The draft rule falls within the matters set out

¹⁶ Under section 99(3) of the NEL the draft of the Rule to be made need not be the same as the draft of the proposed Rule to which the notice under section 95 relates.

¹⁷ Under section 33 of the NEL the AEMC must have regard to any relevant MCE statement of policy principles in making a Rule.

in section 34 of the NEL as it relates to the activities of persons participating in the national electricity market or involved in the operation of the national electricity system (section 34(1)(a)(iii) of the NEL).

Further, the draft rule falls within the matters set out in schedule 1 to the NEL as it relates to:

Item 32 Procedures and related systems for the electronic exchange or transfer of information that relates to consumers of electricity, the provision of metering services and connection to the national electricity system, and requiring compliance with such procedures and use of such related systems.

2.4 Rule making test

Under section 88(1) of the NEL the Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the NEO. This is the decision making framework that the Commission must apply.

The NEO is set out in section 7 of the NEL as follows:

“The objective of this Law is to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to:

- (a) price, quality, safety, reliability and security of supply of electricity;
and
- (b) the reliability, safety and security of the national electricity system.”

For the rule change request, having regard to the relevant Ministerial Council on Energy Statement of Policy Principles, the Commission considers that the relevant aspects of the NEO are efficient investment in, and efficient operation and use of, electricity services.¹⁸

The Commission is satisfied that the draft rule will, or is likely to, contribute to the achievement of the NEO because:

- There is not currently a clear and viable framework for commercial contestability in AMI metering and related services in Victoria. In the absence of such a framework, expiry of the existing derogation might limit consumer benefits from the existing investment, without creating benefits from better third party access to related services.

¹⁸ Under section 88(2), for the purposes of section 88(1) the AEMC may give such weight to any aspect of the NEO as it considers appropriate in all the circumstances, having regard to any relevant MCE Statement of Policy Principles.

- The incremental benefits of allowing retailers to provide small customer metering services in Victoria are likely to be low over the period until a national framework for competition in metering and related services is established.
- The costs of establishing a Victorian-specific framework for commercial contestability are likely to outweigh the incremental benefits of doing so. These costs could include possible detrimental impacts on the development of a national solution if Victorian-specific arrangements are developed. It is therefore likely to be in the interests of consumers for Victoria to wait until the national framework is established and to transition to competition in both metering and related services then.

Our assessment that there are limited incremental benefits from allowing retailer provision of small customer metering services in Victoria applies only to the short term. It is therefore appropriate that the jurisdictional derogation be limited to three years' duration. If arrangements have not been made by that time for the orderly transfer of Victoria to the national framework then the establishment of Victorian-specific arrangements should be reconsidered.

Under section 91(8) of the NEL the Commission may only make a rule that has effect with respect to an adoptive jurisdiction if satisfied that the proposed rule is compatible with the proper performance of Australian Energy Market Operator (AEMO)'s declared network functions. We consider the test to be satisfied because the draft rule does not affect AEMO's declared network functions.

2.5 Other requirements under the NEL

In applying the rule making test in section 88 of the NEL, the Commission has had regard to:

- the relevant Ministerial Council of Energy Statement of Policy Principles as required under section 33 of the NEL; and
- the matters as required under section 89 of the NEL as the rule change request is a request for a jurisdictional derogation.

2.5.1 Statement of Policy Principles

In June 2008, the Ministerial Council of Energy published a Statement of Policy Principles to guide the AEMC's consideration of rule changes relating to the national framework for smart meters.¹⁹ The Statement sets out the following four principles:

1. To promote competitive retail markets and maximise the benefits of a large scale accelerated roll-out of smart meters to residential and other small customers, there should be a national minimum functionality supported by a national regulatory framework for smart meters.

¹⁹ Ministerial Council on Energy, Statement of Policy Principles, 14 June 2008.

2. To maximise the net benefits of a mandated roll-out of smart meters in a timely manner and capture the operational benefits for distribution network service providers, distribution network service providers will be legislatively obliged to roll out smart meters to some or all residential and other small customers in those jurisdictions where a mandated roll-out will take place.
3. A distribution network service provider who is obliged to roll out smart meters should have exclusivity over meter provision and responsibility for related metering data provision in respect of the customers covered by the mandate during the period in which the distribution network service provider must complete that mandate.
4. The regulatory framework for distribution network tariffs, consistent with the revenue and pricing principles, should ensure that distribution network service providers:
 - (a) are able to recover in a transparent manner the costs directly resulting from meeting the mandated service standards for smart meters and the costs of their existing investment which has been stranded by any mandatory roll out; and
 - (b) promptly pass on cost efficiencies resulting from the installation of smart meters to tariff classes affected by the costs of a smart meter roll-out.

The Statement of Policy Principles was put in place to support a consistent national framework for advanced metering.

The Commission considers the draft rule to be broadly consistent with the Statement of Policy Principles in that it:

- preserves distribution business exclusivity for smart meters until such time as a national regulatory framework, including a national minimum functionality, is established; and
- does not affect the Victorian regulatory arrangements for distribution businesses' recovery of costs related to smart meters. In making the existing jurisdictional derogation, we found that the Victorian cost recovery arrangements are consistent with the Statement of Policy Principles.²⁰

We note that the period during which the Victorian electricity distribution businesses are required to complete the rollout of AMI is due to complete on 31 December 2013. In this respect, the third policy principle - which relates distributor exclusivity to the mandated rollout period - is not definitive.

²⁰ AEMC, *Victorian Jurisdictional Derogation, Advanced Metering Infrastructure Roll Out*, Rule Determination, 29 January 2009, Sydney, pp. 17-19.

2.5.2 Considerations in making a jurisdictional derogation

Section 89 of the NEL requires the AEMC in making a jurisdictional derogation to have regard to whether:

- “(a) the derogation provides for the orderly transfer of the regulation of the electricity industry in a participating jurisdiction under jurisdictional electricity legislation to the regulation of that industry under the national electricity legislation; or
- (b) the derogation continues existing regulatory arrangements applying to the electricity industry in a participating jurisdiction and the Minister of the participating jurisdiction requesting the derogation has notified, in writing, the AEMC that he or she considers it necessary and appropriate that the existing regulatory arrangements continue; or
- (c) the derogation is necessary to exempt, on an ongoing basis, generating, transmission or distribution systems or other facilities owned, controlled or operated in the participating jurisdiction to which the derogation relates from complying with technical standards relating to connection to the national electricity system set out in the Rules because those systems or facilities, by reason of their design or construction, are unable to comply with those standards.”

The Commission considers that the draft rule satisfies paragraph (a), because it envisages the orderly transfer of the Victorian arrangements for small customer metering to the national framework for competition in metering and related services, once that is implemented.

The Commission considers that the draft rule satisfies paragraph (b), because it continues the existing arrangements for Victorian small customer metering. The Victorian Minister has written to us that he considers this to be necessary and appropriate.

The Commission considers that paragraph (c) is not relevant to the draft rule.

3 Commission's reasons

The Commission has analysed the rule change request and assessed the issues that arise. For the reasons set out below, the Commission has determined that a rule be made. Our analysis of the proposed rule is also set out below.

3.1 Assessment of issues

As discussed in the rationale for the rule change request in section 1.2, if the existing jurisdictional derogation is not extended, retailers would - nominally at least - be able to provide metering services to small customers, and would also control access to the related services that are enabled by AMI meters. The Victorian Government has stated its concern that the existing frameworks for the contestable provision of metering services are not adequate, and if applied in Victoria would lead to the loss of benefits from the Victorian AMI program.

The Commission is satisfied that the draft rule is required because:

- There is not currently a clear and viable framework for commercial contestability in AMI metering and related services in Victoria. AMI meters have recently been deployed to the majority of small customers in Victoria, meaning that they provide a high degree of functionality and assets are near the beginning of their lives. The framework for contestability needs to allow the benefits of that investment to be realised. It needs to enable competition in meter-related services, as well as competition to provide the meters themselves. In the absence of such a framework, expiry of the existing derogation could result in uncertainty about the ability of systems and processes to apply after a change in responsible person, which might limit consumer benefits from the existing investment.
- A national framework for competition in small customer metering and related services is being progressed in response to the Power of Choice review.²¹ The framework will establish a minimum agreed functionality for meters, open access and common communication standards, certainty over rights to use the related services enabled by the meter and a metering coordinator role to protect investments in metering, thereby addressing the risk of inefficient meter replacement when customers switch retailer.
- Although SCER has agreed to progress the Power of Choice recommendations, and to progress smart meter customer protections, the details of how these frameworks will be implemented will not be resolved in time for Victoria to adopt them when the current derogation expires. Victoria would therefore need to establish its own specific arrangements for competition in metering and related services and its own customer protections, if the current derogation lapses. This would result in an inefficient duplication of costs that are being incurred through the national process. It would also be likely to create an

²¹ The framework is being progressed through a review and rule changes - see section 1.4.3.

undesirable divergence from national arrangements, increasing costs for retailers and providers of metering and related services that compete in multiple jurisdictions.

- Alternatively, Victoria could adopt an interim set of arrangements and then migrate to the national frameworks for competition in small customer metering and related services and for customer protections once they are implemented. However, this would also result in a duplication of costs. There would also be likely negative impacts on consumer confidence and engagement of having multiple arrangements in a relatively short period of time.
- The costs of establishing a Victorian-specific framework for commercial contestability are likely to outweigh the incremental benefits of introducing metering competition in Victoria, which are likely to be low over the near term. These costs could include possible detrimental impacts on the development of a national solution if Victorian-specific arrangements are developed. It is therefore likely to be in the interests of consumers for Victoria to wait until the national framework is established and to transition to competition in both metering and related services then.
- Implementation of the national framework for competition in metering and related services for residential and small business customers, along with regulatory arrangements to achieve the orderly transfer of Victorian arrangements to that framework, is an appropriate trigger for the expiry of a new jurisdictional derogation. Our assessment that there are limited incremental benefits from allowing retailer provision of small customer metering services in Victoria applies only to the short term. It is therefore appropriate to have an alternative expiry date of 31 December 2016 that would apply if arrangements have not been made by that time for the orderly transfer of Victoria to the national framework. The establishment of Victorian-specific arrangements should be reconsidered in that event.

3.2 Assessment of proposed rule

The key features of the draft rule are consistent with the rule proposed by the Victorian Government - see section 1.3 - with the following changes:

1. The draft rule omits clause 9.9C.2 of the proposed rule, which refers to the commencement date of the rule. The rule's commencement date will be determined by the Commission if a final rule is made. If a final rule is made the likely commencement date is 1 January 2014, such that it takes effect immediately upon expiry of rule 9.9B, which will then be omitted from the NER.
2. The draft rule amends the expiry date set out in clause 9.9C.3. The change recognises that the orderly transfer of Victorian metering arrangements to a new national framework may require legislative arrangements that lie outside the NER.

3. The draft rule does not include clause 9.9C.1(b) of the proposed rule.

Clause 9.9C.1(b) of the proposed rule provides that in “clause 9.9C and for the purposes of the definition of relevant metering installation, and notwithstanding anything contrary in clause 7.3.1(b) or in the definition of metering installation, the components of a metering installation and the definition of metering installation are taken to include a meter.” The Commission understands that this provision was included in the rule change request because of a concern that clause 7.3.1(b) of the NER, interpreted in a literal way, could be construed such that a metering installation does not, or may not, include a meter.

The Commission does not consider clause 9.9C.1(b) to be required because we consider that a meter is a permitted, and in many cases, required component of a metering installation under Chapter 7 of the NER. The Commission’s view is based on its interpretation of clause 7.3.1(b) and the definition of metering installation in the context of the provisions of Chapter 7 as a whole, having regard to the required functionality of metering installations under clause 7.3.1(a) and 7.3.4 and schedule 7.2 and the purpose of the rules relating to metering installations and the measurement and recording of electrical energy.

We expect that the rule change that establishes a framework for competition in metering and related services for residential and small business customers will also remove this derogation from the NER. This is because, on commencement of that framework, the preconditions for expiry of the derogation under clause 9.9C.2 should be satisfied.

3.3 Civil Penalties

The draft rule does not amend any clauses that are currently classified as civil penalty provisions under the NEL or National Electricity (South Australia) Regulations. The Commission does not propose to recommend to SCER that any of the clauses of the draft rule be classified as a civil penalty provision.

4 Commission's assessment approach

This chapter describes the analytical framework that the Commission has applied to assess the rule change request in accordance with the requirements set out in the NEL (and explained in Chapter 2).

In assessing the rule change request against the National Electricity Objective, we have considered the likely long term costs and benefits of making the rule compared to the counterfactual of not making the proposed change to the NER.

We have assessed the likely costs, benefits and efficiency impacts of:

- (A) not making the proposed rule, allowing retailers to elect to be the responsible person for AMI meters, and therefore introducing competition in small customer metering services in Victoria; and
- (B) making the proposed rule, and therefore continuing distribution business exclusivity for AMI meters until a national framework for competition in small customer metering and related services is established.

In assessing this rule change request, the Commission has considered the following issues:

- the adequacy of existing frameworks for competition in small customer metering and related services, and therefore the likely impacts of allowing the existing derogation to lapse, including impacts on consumer confidence and engagement;
- the incremental benefits of introducing small customer metering competition in Victoria before a national framework is established, including impacts on innovation in metering and related services; and
- the appropriate duration of a new derogation.

5 Adequacy of existing frameworks for small customer metering competition

The adequacy of existing frameworks for competition in small customer metering and related services is relevant to:

- whether allowing the existing derogation to lapse would be expected to result in a loss of benefits from the Victorian AMI program or result in benefits from competition; and
- whether there would be a need to establish Victorian-specific arrangements for small customer metering competition, and therefore costs incurred.

5.1 Rule Proponent's view

The Victorian Government has stated its concern that the current frameworks would not adequately support small customer metering competition in Victoria. The rule change request identifies a number of possible detrimental impacts from introducing metering competition in Victoria under the current frameworks, including:²²

- Inefficiencies arising from the use in a mass market context of business-to-business processes that have been designed for a small volume of transactions.
- The inability of some systems and processes to support a changed responsibility for the provision for metering services. For example, business-to-business processes relating to remote re-energisation and de-energisation would need to be modified. They assume that the distribution business, not the retailer, is responsible for the service
- The possibility of inefficient meter replacement, if a retailer elects to replace a functioning AMI meter.
- Possible barriers to retailer competition, depending on how charges for a retailer-provided meter are handled in retailers' contracts with customers.
- Possible adverse affects on reliability of supply, without systems and processes in place for handling meter faults between retailers and distributors.
- A lack of appropriate customer protection arrangements.
- A possible loss of benefits from the AMI program, if a retailer elects to be responsible for a small customer metering site and is unable to continue to provide the same level of service as the distribution business would have. The potential loss of benefits relate to:

²² Minister for Energy and Resources (Victoria), *AMI Rule Change Request (Jurisdictional Derogation - Victoria)*, 18 June 2013, pp. 6-12.

- remote de-energisation and re-energisation, if systems and processes are not in place for retailers to provide this service;
- network operational efficiency, if retailer-provided meters do not support efficient network operation through the provision of data and functionality to distribution businesses; and
- flexible pricing, if the introduction of metering competition at the same time as flexible pricing compromises the ability of retailers and consumers to understand and benefit from innovative tariffs.

The Victorian Government therefore considers that, without a national framework in place, Victorian-specific arrangements would need to be developed to support contestable metering services. This would:

- inefficiently duplicate an equivalent national process;
- divert Victorian resources away from the national process; and
- result in a likely and undesirable divergence between the Victorian and national arrangements for contestable metering services.

5.2 Stakeholder views

5.2.1 Consumer advocacy group

The Consumer Utilities Advocacy Centre Ltd (CUAC) supports the rule change request for a new jurisdictional derogation. CUAC agrees with the Victorian Government that the introduction of metering contestability within the current frameworks could have a number of detrimental impacts, in particular:²³

- loss of benefits anticipated to flow from the AMI rollout;
- absence of adequate consumer protections to support metering contestability;
- additional costs arising from developing Victorian specific protections to support contestability in advance of a national smart meter framework; and
- additional layers of complexity and likely confusion for consumers at a time where other changes such as flexible pricing are also being introduced.

CUAC is of the view that, before any decision is made regarding the introduction of metering contestability, it is critical that a cost benefit assessment (including risk) is undertaken to gauge the likely extent of any additional costs to consumers.

CUAC notes that Victorian consumers have been paying for the mandated AMI rollout since September 2009, and will continue to do so for some time. It is only recently that

²³ Consumer Utilities Advocacy Centre Ltd, submission to the Consultation Paper, pp. 1-3.

some consumers have realised benefits. More benefit realisation will occur over time. Introducing metering contestability before these benefits are realised has the potential to generate substantial confusion and dissatisfaction among consumers.

CUAC considers that introducing metering competition at the same time as flexible pricing, for which a public communications campaign is currently underway, has the potential to add further complexity at a time when consumers are coming to terms with significant changes, and this may affect consumer confidence in the market.

Competition in metering services opens up the possibility of third parties, such as businesses providing energy management services, to be involved in providing a range of service to consumers. Such businesses fall outside the Australian Energy Regulator (AER) framework for retailer authorisation or exemption and outside the Victorian licensing and exemptions framework. CUAC is of the view that regulatory provisions regarding third party meter service provision should be addressed prior to opening up metering services competition.

5.2.2 Victorian electricity distribution businesses

In a joint submission, the Victorian electricity distribution businesses state their concern that allowing the existing derogation to lapse would introduce metering competition in Victoria in a disorderly way, exposing customers to service performance and safety risks.²⁴ The distribution businesses concur with many of the issues raised by the Victorian Government, as regards the adequacy of the existing frameworks for metering contestability.

The Victorian electricity distribution businesses note nine previously identified gaps in the current regulatory framework, businesses systems and processes that would need to be addressed to support competition in the provision of AMI services. These gaps were identified during the Victorian Department of Primary Industries' consultation with industry and consumer groups on transitional arrangements for the expiry of the Victorian AMI derogation:²⁵

1. Arrangements to enable remote re-energisation and de-energisation services to be provided in respect of retailer-provided AMI meters.
2. Arrangements to ensure efficient restoration of customer supply where the supply interruption involves faults with retailer-provided AMI meters.
3. Arrangements to facilitate distributor access to meter services and data outputs from retailer-provided AMI meters to realise AMI-enabled network service improvements.

²⁴ Joint submission to the AEMC's Consultation Paper by the Victorian electricity distribution businesses: Jemena, CitiPower, Powercor Australia, SP AusNet, United Energy.

²⁵ Victorian electricity distribution businesses, joint submission to the Consultation Paper, pp. 5-6.

4. Development of a means to distinguish in the market's systems AMI meters installed as type 4 meters from type 4 meters that are not AMI meters.
5. Arrangements to minimise meter churn in respect of retailer-provided AMI meters.
6. Clarifying that retailer-provided AMI meters must comply with the Victorian Minimum AMI Functionality Specification.
7. Ensuring that the Victorian Minimum AMI Service Levels Specification applies to retailer-provided AMI meters.
8. New connections framework that provides an efficient means of determining the party responsible for metering.
9. Clarifying that metering installed for small customers must be AMI meters.

The Victorian electricity distribution businesses identify seven performance issues that would arise from the competitive provision of AMI services under the current frameworks, given the previously identified gaps:²⁶

1. Possible risks to customer and network safety where retailers remotely de-energise or re-energise meters. Protocols need to be established to ensure that parties can discharge their obligations, where responsibility for services has altered, while ensuring that network and customer safety is not compromised. This includes the treatment of special needs customers, such as those on life support.
2. The loss of network benefits if measures are not in place to maintain service capability irrespective of meter ownership. In a contestable environment, distributors would need to obtain data from retailer provided meters within operational timeframes. However, the NER would treat the provision of such data as an additional data service, to be provided at the discretion of the retailer's meter data provider. The distributor would not have the right of access to AMI data that is required to support the expected network operation benefits of the AMI rollout.
3. A lack of regulatory and business solutions for restoring supply following an outage where metering ownership has changed.
4. The increased cost of legacy distribution services, in cases where retailer-provided meters are unable to support the automated services provided by AMI. The average cost of manual services will increase as truck and crew costs are spread over a smaller volume of geographically dispersed sites.

²⁶ Victorian electricity distribution businesses, joint submission to the Consultation Paper, pp. 9-14 and 17.

5. Possible barriers to retail competition, if retail contracts require customers to change their meters if they switch retailer. The problem would be exacerbated by the use of the current business-to-business processes for changing meter provider and meter data provider. Those processes are designed for low-volume transactions, and would not be suited to the mass market.
6. The need for new customer protection arrangements to accommodate metering competition. Customers should be well informed of the different service levels, metering charges, terms and conditions offered by different service providers. Arrangements are needed to make metering contracts transferable between retailers, to safeguard against inefficient meter replacement when customers switch retailer. A consumer education campaign should explain the benefits for metering competition, while minimising confusion with other initiatives such as the introduction of flexible pricing
7. A lack of an agreed industry process for new connections in a competitive environment to coordinate third party meter installation, service connection and initial energisation. Connections could therefore be delayed or additional costs incurred with multiple site visits required to effect a connection.

The Victorian electricity distribution businesses therefore consider that, if the existing derogation were allowed to lapse, the industry would face the choice of:²⁷

- Designing and implementing Victorian-specific arrangements to support metering competition, independent of the national arrangements; or
- Operating with current systems and processes until the national arrangements are implemented.

The Victorian electricity distribution businesses consider that:

- The first of these options would result in an inefficient duplication of effort, and also the development of solutions "on the run", as systems and processes cannot be in place by 31 December 2013.
- The second option would expose customers and industry to the risk of chaotic and undesirable outcomes, and the costs of resolving customer issues.

With regard to the second option, the Victorian electricity distribution businesses consider it imprudent to assume that there would be a low volume of retailer-provided meters in a competitive environment in Victoria, and that the consequent risks and impacts would be manageable.²⁸

- Even if the volume of retailer-provided meters was low, the impacts on particular customers may be high if business processes and information flows are not properly developed. Such impacts are costly to resolve, and as the AMI rollout

²⁷ Victorian electricity distribution businesses, joint submission to the Consultation Paper, pp. 2-3.

²⁸ Victorian electricity distribution businesses, joint submission to the Consultation Paper, p. 19.

demonstrates, only a few negative customer experiences can lead to a general loss of consumer confidence.

- Planning for low volumes but incurring high volumes of retailer-provided meters would expose customers to significant performance risks.

The Victorian electricity distribution businesses consider that customers will be better served by a move to metering competition in the context of nationally agreed arrangements, and therefore support the proposed new derogation.

The Energy Networks Association supports the Victorian electricity distribution businesses' submission.²⁹ The Energy Networks Association considers that the proposed rule sensibly seeks to ensure an efficient transition by Victoria to a national framework for contestable metering services without unnecessary risk, expenditure or confusion for Victorian consumers.

5.2.3 Retailers

Retailers do not support the making of a new derogation.³⁰ Allowing the derogation to lapse would align Victoria with other jurisdictions, where contestability applies for type 3 and type 4 meters.³¹

While retailers' preferred option is for the derogation to expire, the Energy Retailers Association of Australia (ERAA) also proposes a transitional option to address the operational and compliance impacts of reclassifying AMI meters from type 5 to type 4 meters.³² Origin Energy proposes a similar solution.³³ Retailers express disappointment that transitional measures have not already been developed to address these matters, which retailers do not consider to be significant.³⁴

The ERAA's transitional option:

- allows the distributor exclusivity provision of the derogation to expire on 31 December 2013;
- preserves the minimum necessary technical elements of the derogation, eg the classification of AMI meters as type 5;

²⁹ Energy Networks Association, submission to the Consultation Paper, p. 1.

³⁰ Energy Retailers Association of Australia, submission to the Consultation Paper, p. 3; Origin Energy, submission to the Consultation Paper, p. 1; AGL, submission to the Consultation Paper, p. 2; Momentum Energy, submission to the Consultation Paper, p. 2.

³¹ Origin Energy, submission to the Consultation Paper, p. 1.

³² Energy Retailers Association of Australia, submission to the Consultation Paper, pp. 3-4.

³³ Origin Energy, submission to the Consultation Paper, p. 1.

³⁴ Energy Retailers Association of Australia, submission to the Consultation Paper, pp. 3-4; Origin Energy, submission to the Consultation Paper, p. 1; Momentum Energy, submission to the Consultation Paper, p. 2.

- allows competition in metering to develop through the existing business-to-business processes that exist in the type 4 metering market; and
- introduces a no-reversion policy which could be an industry agreement that installed metering is not to be replaced with less technically capable metering.

The option is intended to introduce competitive tension into distributor-retailer negotiations over metering services, by opening the metering market to competition. It would provide retailers with the choice of maintaining the existing type 5 AMI meter, or replacing it with a type 4 meter – in particular where distribution businesses do not meet service standards. It would allow existing AMI meters to transition to the national framework for competition in metering services, once that is implemented.³⁵

The Victorian Government, in the rule change request, identified the impacts of allowing metering competition within the current regulatory frameworks. Retailers argue that the majority of these issues are not material, can be managed through commercial arrangements between market participants, or can be addressed in a fairly short timeframe.³⁶ Any risks that relate to significant meter replacement in a competitive environment are based on an implausible assumption and should be discounted accordingly.³⁷

- Business-to-business processes. The ERAA acknowledges that some processes would need to be developed to cater for the competitive environment, but argues that there would be no need to automate the existing processes, given minimal likely meter replacement.³⁸ Existing processes already support the competitive provision of metering services by third party meter providers and data providers. Therefore there would not be a requirement to develop new processes.³⁹
- Inefficient development of Victorian-specific processes and systems. The current rules, systems and business-to-business processes already cater for the competitive provision of metering outside Victoria, and in Victoria for grandfathered type 4 meters at small customer sites. Given minimal likely meter replacement, competitive provision would only apply to new meters, for which existing processes would suffice within the transitional option proposed by the ERAA.⁴⁰

35 Energy Retailers Association of Australia, submission to the Consultation Paper, pp. 3-4.

36 Energy Retailers Association of Australia, submission to the Consultation Paper, p. 6; Origin Energy, submission to the Consultation Paper, p. 2; AGL, submission to the Consultation Paper, p. 2; Momentum Energy, submission to the Consultation Paper, p. 2.

37 Origin Energy, submission to the Consultation Paper, p. 4; Momentum Energy, submission to the Consultation Paper, p. 2.

38 Energy Retailers Association of Australia, submission to the Consultation Paper, p. 6.

39 Origin Energy, submission to the Consultation Paper, p. 5; AGL, submission to the Consultation Paper, p. 2.

40 Energy Retailers Association of Australia, submission to the Consultation Paper, p. 9.

- Inefficient meter replacement and barriers to retail competition. Retailers argue that it is highly unlikely that metering competition would lead to material replacement of AMI meters.⁴¹ The ERAA argues that it is a misconception that customers would be required to change their meters if they switch retailer; commercial arrangements between retailers and meter providers cater for customer switching.⁴² Origin's commercial experience is that third party metering for small customers does not act as a barrier to retail competition, and does not result in significant meter replacement when customers change their retailer.⁴³
- Adverse impacts on customer reliability. Meter failure is extremely rare: by early March 2013, only one AMI meter had failed after installation in Victoria. Industry agreements could allow third party meter providers to respond to meter faults.⁴⁴
- Lack of appropriate customer protections. The ERAA argues that in a competitive environment, retailers will have a strong incentive to inform customers of the benefits of the products and services that are enabled by advanced meters.⁴⁵ AGL observes that existing customer protections do not require amendment to allow contestable metering within Victoria. The Marketing Code and Retail Code require a retailer, prior to entering a market, to provide the customer with relevant information and documentation, and to obtain explicit informed consent.⁴⁶
- Loss of benefits from the AMI program.
 - Remote de-energisation and re-energisation. The ERAA considers that retailers are able to comply with the Energy Safe Victoria-approved process for safe remote de-energisation and re-energisation, including the treatment of customers with life support arrangements. The ERAA disagrees with an interpretation of regulations which implies that only distribution businesses have the right to perform remote services.⁴⁷
 - Network operational efficiencies. The ERAA considers that network operational efficiencies would not be threatened given minimal likely meter replacement. Furthermore, any meters installed by retailers would need to meet the Victorian Minimum AMI Functionality Specification. Retailers would offer network services enabled by these meters to distributors on commercial terms, allowing network benefits still to be

41 Energy Retailers Association of Australia, submission to the Consultation Paper, p. 6; Origin Energy, submission to the Consultation Paper, p. 2; AGL, submission to the Consultation Paper, p. 2; Momentum Energy, submission to the Consultation Paper, p. 2.

42 Energy Retailers Association of Australia, submission to the Consultation Paper, pp. 7-8.

43 Origin Energy, submission to the Consultation Paper, p. 2.

44 Energy Retailers Association of Australia, submission to the Consultation Paper, pp. 9-10.

45 Energy Retailers Association of Australia, submission to the Consultation Paper, p. 10.

46 AGL, submission to the Consultation Paper, p. 3.

47 Energy Retailers Association of Australia, submission to the Consultation Paper, pp. 10-12.

realised. The ERAA cites technical advice that distribution businesses would be able to access sufficient information to enable reliable fault detection, even where the distribution business cannot access a retailer-provided meter directly.⁴⁸

- Benefits from flexible pricing. Retailers argue that consumer confidence in flexible pricing is unlikely to be affected by metering contestability.⁴⁹ Customers that are most likely to accept a competitive metering services offer will be sophisticated enough to distinguish between flexible pricing issues and benefits associated with an alternative meter provider.⁵⁰

Origin believes that relying on the national process as a means to transition Victoria to competition in small customer metering services is unlikely to resolve the issues raised in the rule change request by 2017, even if they were material. Origin predicts that there will be a perceived need to further extend the derogation at that time.⁵¹ AGL believes that commercial arrangements can be developed between distribution businesses and retailers in Victoria to manage existing AMI meters, and this will be the most efficient means to transition Victoria to a contestable metering environment.⁵² Momentum is of the view the contestable metering environment will take time to develop, and for that to happen in an effective way the derogation should not be extended.⁵³

5.2.4 Third party metering services provider

Metropolis disagrees with the Victorian Government's assessment of the adequacy of the existing frameworks for metering services competition, and addresses each area of identified impact.⁵⁴

- Barriers to retail competition. Industry processes are designed so that a meter change is never required to facilitate a customer transfer. Metropolis has installed thousands of residential smart meters (type 4) and customers have subsequently freely transferred between retailers. A retailer may choose to nominate a new metering services provider when transferring a customer, but there is nothing in the rules or processes that requires them to do so.
- Business-to-business processes. Processes are already automated and require no manual intervention. The same processes are used for large electricity customers as for residential customers and work well in volume. Processes that assume the distribution business has service responsibility do not require modification. The

48 Energy Retailers Association of Australia, submission to the Consultation Paper, pp. 12-13.

49 Energy Retailers Association of Australia, submission to the Consultation Paper, p. 10.

50 Origin Energy, submission to the Consultation Paper, p. 5.

51 Origin Energy, submission to the Consultation Paper, p. 2.

52 AGL, submission to the Consultation Paper, p. 3.

53 Momentum Energy, submission to the Consultation Paper, p. 2.

54 Metropolis, submission to the Consultation Paper, pp. 1-8.

business-to-business hub is not compulsory, and the industry supports and encourages alternative processes and systems. For example, Metropolis allows retailers to communicate directly with its meters to initiate a remote de-energisation or re-energisation, without using the existing business-to-business processes, and while complying with Energy Save Victoria's safety standards.

- Adverse impacts on customer reliability. Meter faults do not cause disruptions to customers' supply. If a smart meter fails, only the quality of metering data is affected. The customer does not experience an outage.
- Customer protection arrangements. Retailers and third party metering services providers have a vested interest in the customer relationship and the technology, and therefore an interest in delivering service and price innovations to customers.
- Impact on flexible pricing. Metering services competition is likely to enhance the uptake of flexible pricing by making metering services available at a lower charge. Metropolis cites an annual \$43 saving, comparing its equivalent service offering to the regulated charge for AMI metering services in Jemena's area. Metering charges are "unbundled" from distribution use of system charges in Victoria, meaning that the distribution business can no longer charge the retailer for metering services if the retailer appoints an alternative metering services provider. Therefore retailers can pass on any savings to their customers.
- Impact on network operation. Meters for which retailers are responsible support efficient network operation. The NER and AEMO service levels require contestable metering services to provide data to each distribution business, with daily delivery of data to each participant through the market's system. Metropolis's residential meters conform to the Victorian functionality requirements, and offer additional capabilities. Distribution businesses can subscribe to the use of these functions.

5.3 Conclusion

5.3.1 Existing frameworks are not adequate

We note the argument that retailer provision of metering services is already possible under the existing rules. When a retailer elects to be responsible for a remotely read interval meter, metering services are often provided contestably by third parties. This was the case in Victoria before the existing derogation was made, and in other jurisdictions currently. However, we consider that these frameworks do not provide a basis for markets to make efficient investment and operational decisions - which led us to the recommendations we made in the Power of Choice for a new national framework.

In addition, the deployment of advanced metering infrastructure in Victoria means that the framework for competition should build on the benefits of that program, while enabling new investment in metering and related services where that is efficient.

We would be particularly concerned at the possibility of replacement of AMI meters if a retailer elects to be responsible for a small customer metering site, given that these meters have a high degree of functionality and assets are near the beginning of their lives. It is likely to be efficient to replace such meters only if the additional benefits, through additional functionality for example, exceeded the cost of two meters – the existing one and the new one.

Retailers have argued that - in a commercial environment - they will only replace an AMI meter in the circumstances just described: they must be able to demonstrate a net positive benefit to the consumer. Retailers have also noted that this is unlikely to be the case, and note that the exit fee payable to distribution businesses would act as a barrier to the inefficient replacement of meters.

We agree with retailers that inefficient meter replacement is unlikely to occur if the cost of the meter is the only consideration.

However, retailers have stated that their aim in seeking competition is not to replace and own meters, but to exercise "competitive tension": to secure access to existing meters on better terms and conditions, in order to offer consumers new products and services.

It is of concern if retailers are finding it difficult to access the advanced metering infrastructure in Victoria. We note that in some cases distributors are working with retailers to deliver related services to consumers, such as in-home displays.⁵⁵ But retailers also note their limited ability to influence the delivery of these services, and the terms and conditions under which they are delivered.⁵⁶ This may have resulted in a focus on control of the meter as a means of addressing access difficulties. But we do not consider that allowing retailers to threaten to replace AMI meters is the right way to achieve efficient access.

In fact, the risk of meter replacement - and therefore uncertainty of returns on investment - could be one of the factors that are limiting the competitive provision of advanced metering and related services in the jurisdictions outside Victoria within the current regulatory framework.

Rather, we consider that a framework for competition in metering and related services needs to provide, at a minimum:

- arrangements for open access and common communication standards, including the basis for charging for access, to promote competition and innovation in related services that does not depend on meter ownership;

⁵⁵ For example, Origin Energy notes distributors' willingness to engage with retailers around the delivery of related services. Origin Energy, submission to the Consultation Paper, p. 10.

⁵⁶ Origin Energy, submission to the Consultation Paper, p. 10.

- certainty over rights to use the related services enabled by the meter, including the ability to prioritise commands sent to the meter;
- arrangements to prevent inefficient replacement of meters - both when consumers switch retailers, and when retailers can elect to be responsible for small customer metering sites in Victoria; and
- arrangements for the transfer from distribution businesses to retailers of existing contracts for meter provider and meter data provider services.⁵⁷

Because current arrangements lack these features, allowing the existing derogation to lapse and relying on existing frameworks would be likely to result in inefficient outcomes. It would be unlikely to achieve very much in the way of better third party access to AMI meters or more competitive provision of meters and related services.⁵⁸ It would be likely to result in uncertainty about the ability of existing systems and processes to accommodate a change in responsible person, creating costs and additional risks.

We consider the example of the possible loss of network benefits to be illustrative. We agree that a competitive environment could allow network operational benefits to be realised - so long as any retailer or third-party provided meters met the existing AMI functionality specification, and access to the meter's data and functionality was made available to distribution businesses. But we consider that new systems and processes would be required to ensure this occurred, including rules to ensure that distribution businesses can access operational data and a means of prioritising commands sent to the meter by multiple parties.

5.3.2 Victorian-specific arrangements for competition would need to be established

The inadequacy of existing frameworks for small customer metering competition leads us to conclude that an alternative framework would need to be established in Victoria if the existing derogation lapses.

A national framework for competition in small customer metering and related services is being progressed in response to the Power of Choice review. The framework will establish minimum agreed functionality for meters, open access and common communication standards, certainty over rights to use the non-metering control functions included in the meter and a metering coordinator role to protect investments in metering, thereby addressing the risk of inefficient meter replacement when customers switch retailer.

⁵⁷ The first and second of these points fall within the terms of reference for the review of open access and common communication standards - see section 1.4.3. The third and fourth of these points will fall within the rule change request for competition in metering that we expect to receive later this year.

⁵⁸ Retailer responsibility for providing meter services does not create third party access - see section 1.4.2.

SCER has agreed to progress the Power of Choice recommendations, and the Victorian Government has stated its in-principle support. However, the details of how the recommendations will be implemented will not be resolved in time for Victoria to adopt that framework when the current derogation expires.

Victoria would therefore need to establish its own specific arrangements for metering competition if the current derogation lapses. This would result in a duplication of costs that are being incurred through the national process. It could create an undesirable divergence from national arrangements, increasing costs for retailers and providers of metering and related services that compete in multiple jurisdictions. It could also have detrimental impacts on the development of a national process. If industry sinks resources into developing a Victorian solution, then there may be reluctance to develop a new set of national arrangements on a different set of principles, consistent with the Power of Choice recommendations. Development of Victorian-specific arrangements may also divert resources from the national process.

Alternatively, Victoria could adopt an interim set of arrangements and then migrate to the national framework for competition in small customer metering and related services once that is implemented. However, this would again result in a duplication of costs. There would also be likely negative impacts on consumer confidence and engagement of having multiple arrangements in a relatively short period of time.

In either case - establishing enduring or interim Victorian arrangements - there would be:

- the direct costs of establishing arrangements to meet the minimum requirements described in section 5.3.1; and
- indirect costs, such as the impacts on the cost of business for service providers and on the development of a national solution of having divergence from national arrangements, or on consumer confidence from having multiple arrangements.

Incurring those costs could, nonetheless, be efficient if doing so would be expected to result in greater benefits. This is discussed below.

6 Incremental benefits of introducing small customer metering competition in Victoria

The incremental benefits of introducing small customer metering competition in Victoria, if high enough, could justify the establishment of Victorian-specific arrangements, despite the costs of doing so.

6.1 Rule Proponent's view

The Victorian Government argues that the incremental benefits of introducing competition in small customer metering services in Victoria are likely to be small because:

- most of the benefits associated with competitive metering services will be realised through the rollout of AMI in Victoria, regardless of which party is the responsible person for the meter; and
- the AMI meters provide a platform for retailers to offer innovative services to the market, regardless of which party is the responsible person.

The Victorian Government investigated the potential benefit of not making the proposed rule, through retailers being able to install new and replacement small customer meters. Competition may encourage retailers to provide metering services more cheaply than distribution businesses do, resulting in a benefit. However, in the case where the retailer replaces a working AMI meter, an exit fee would be payable to the distribution business, and the cost to society is likely to outweigh the benefit.

6.2 Stakeholder views

6.2.1 Victorian electricity distribution businesses

The Victorian electricity distribution businesses concur with the Victorian Government's views that the incremental benefits of introducing metering competition in Victoria are likely to be modest in the short term. The provision of innovative services does not rely on retailer provision of the meter. The Victorian electricity distribution businesses are already working with retailers to deliver value-added customer services.⁵⁹

The Victorian electricity distribution businesses doubt whether retailers would be able to provide equivalent metering services at lower costs than currently provided through the AMI program.⁶⁰

⁵⁹ Victorian electricity distribution businesses, joint submission to the Consultation Paper, p. 15.

⁶⁰ Victorian electricity distribution businesses, joint submission to the Consultation Paper, pp. 15 and 20.

6.2.2 Retailers

The ERAA supports the provision of metering under a framework that allows competition and facilitates customer choice. Competition is likely to achieve service provision at lower cost than under monopoly provision, and to foster an increase in the range of services and products offered through the infrastructure. Monopoly provision of smart meters tends to entrench the use of proprietary technologies, which inhibits the development of smart grids and has anti-competitive effects in downstream retail markets.⁶¹

The ERAA contends that at the moment there is no demonstrated market failure, and that consequently the benefits from allowing metering competition are likely to outweigh any costs required to facilitate competition.⁶²

Origin Energy identifies categories of customers that would benefit from small customer metering competition. Large customers that have multiple small consumption sites are currently prevented from being able to deal with a single metering provider nationally, because of the requirement to deal with a separate metering provider in Victoria.⁶³

Origin Energy submits that competition would also be expected to accelerate the realisation of AMI benefits through the improved capacity of retailers and third parties to negotiate with distribution businesses to access related services, through the exercise of competitive tension.⁶⁴ A number of benefits of the AMI program have been delayed, and competition should reduce delays and encourage innovation from distribution businesses.

Origin Energy argues that the chief barrier to third party access to metering data and related services is the existing derogation, and its expiry - along with the development of national processes - are the best mechanisms to promote third party services and innovation. While distribution businesses have demonstrated a willingness to engage with retailers around the delivery of enhanced AMI services, retailers and third parties have only limited ability to influence the terms under which services are supplied. Again, the exercise of competitive tension - if the derogation expires - should encourage an increased range of metering-related services at competitive market rates.⁶⁵

Origin Energy contends that allowing the derogation to expire would provide Victoria with the opportunity to trial third party meter provision on a small scale and build

61 Energy Retailers Association of Australia, submission to the Consultation Paper, p. 1.

62 Energy Retailers Association of Australia, submission to the Consultation Paper, p. 15.

63 Origin Energy, submission to the Consultation Paper, p. 6.

64 Origin Energy, submission to the Consultation Paper, p. 6.

65 Origin Energy, submission to the Consultation Paper, pp. 8 and 10.

capacity to transition to national arrangements. It would enhance incentives for new industry participants to innovate and offer services across all NEM regions.⁶⁶

AGL also observes that distributor exclusivity means that metering services are not provided at least cost, which may restrict the range of products and services that would be enabled through an open access and competitive approach.⁶⁷

Momentum Energy observes that customer outcomes are likely to be worse under an extension of the derogation because it will delay the development of specific product offerings by retailers for customers with smart meters.⁶⁸

6.2.3 Third party metering services provider

Metropolis submits that a competitive metering services environment would promote innovation, and identifies several innovations that are being inhibited by the current derogation in Victoria.⁶⁹

Metropolis identifies classes of consumer that would benefit from reduced costs as a result of competition in metering services. These include:

- Solar PV customers, who have been required to purchase a bi-directional meter from their distribution business in addition to their AMI meter. Metering competition would allow Metropolis to offer a single meter that could perform the functions of both the AMI meter and the bi-directional meter, at less cost.
- New connections.
- Small business customers, who may value additional metering features.
- Embedded networks.
- Customers with multiples sites, some falling within the small consumption definition, or within different distribution networks, but who want a consistent service across all sites.

6.3 Conclusion

For the reasons set out below, we conclude that the incremental benefits of introducing small customer metering competition are unlikely to outweigh the costs of establishing Victorian-specific arrangements to facilitate that competition.

⁶⁶ Origin Energy, submission to the Consultation Paper, p. 10.

⁶⁷ AGL, submission to the Consultation Paper, p. 2.

⁶⁸ Momentum Energy, submission to the Consultation Paper, p. 1.

⁶⁹ Metropolis, submission to the Consultation Paper, p. 9.

6.3.1 Areas of incremental benefit

The AMI program will result in all Victorian small customers having an AMI meter with a specified minimum functionality.⁷⁰ That functionality supports the realisation of substantial benefits, including:

- the provision of interval metering data to support flexible tariffs;
- the remote collection of metering data;
- remote de-energisation and re-energisation of supply; and
- the provision of data to support the efficient operation of distribution networks.

It is unlikely that metering competition would lead to a significantly higher level of functionality over the near term - in terms of the installed infrastructure. As already discussed, it is unlikely to be efficient to replace the existing infrastructure so near to the beginning of its life.

Competition could provide incremental benefits, beyond what the AMI program is expected to deliver. These could result from:

- lower investment and operating costs; and
- increased provision of innovative products and services that are enabled by advanced metering infrastructure.

Competition would generally be expected to lead to lower investment and operating costs than occur under the monopoly provision of metering services.

We consider that the potential savings on investment and operating costs would only apply in the case of new meters. For existing meters, the investment costs have already been incurred. For existing meters, operating costs are bundled as part of the provision of the metering services. To realise potential savings on operating costs would probably require a change of meter, and we consider it unlikely that the savings would justify meter replacement. The potential savings on both investment and operating costs may therefore be expected to relate only to metering points that are created after the AMI rollout has concluded. The value of this benefit is therefore likely to be small in the short term in Victoria.

Making the functionality of the existing Victorian advanced metering infrastructure available to consumers to control is likely to be the greatest area of potential incremental benefit. As noted previously, we do not expect this benefit to be realised simply through allowing retailer provision of small customer metering services.⁷¹ We expect this benefit to occur under a framework for commercial contestability where

⁷⁰ Subject to successful completion of the AMI rollout.

⁷¹ See section 1.4.2.

retailers and third party service providers can more easily access the existing functionality and offer the services directly to the consumer.

We consider that the incremental benefits associated with the contestable provision of related services would be small compared to the benefits that the AMI program is already expected to provide, which relate mainly to avoided costs resulting from the replacement of accumulation meters, efficiencies in network operation and response to flexible tariffs.⁷²

6.3.2 Incremental benefits are unlikely to justify Victorian-specific arrangements

The Victorian Government's rule change request indicates that Victoria would migrate to the national framework for small customer metering competition, once that is implemented. The incremental benefits of metering competition, over what the AMI program is expected to provide, should be realised under either scenario: Victorian-specific or national arrangements. Therefore, the value of establishing Victorian-specific arrangements would be the earlier realisation of any incremental benefits over a relatively short period of time.⁷³

Given this relatively short "payback" period, and the low level of expected incremental benefits, we consider it likely that the costs of establishing Victorian-specific arrangements for competition in metering and related services would outweigh the benefits..

⁷² Deloitte, *Advanced Metering Infrastructure Cost Benefit Analysis*, Final Report prepared for the Department of Treasury and Finance (Victoria), 2 August 2011, p. 82.

⁷³ Being the period of time required to establish the national framework along with regulatory arrangements to achieve the orderly transfer of Victorian arrangements to that framework.

7 Appropriate duration of a new derogation

7.1 Rule Proponent's view

The Victorian Government has requested that the new derogation expire once the national framework for competition in metering and related services for residential and small business customers is established, along with regulatory arrangements to achieve the orderly transfer of Victorian arrangements to that framework. If the national framework is not established by 31 December 2016, then the derogation would expire.

The Victorian Government's rationale for requesting a new derogation with a duration of up to three years may be summarised:

- The most efficient approach to introducing small customer metering contestability in Victoria would be to adopt the national framework, which SCER has agreed to progress.
- It is uncertain when the national framework will be implemented. Although the AEMC proposed in its Power of Choice review that this occur by the end of 2014, it could reasonably be expected that this may not happen until some time in 2015.
- Given the uncertainty, it is proposed that the derogation be extended until the national framework for competition in metering and related services for residential and small business customers is implemented. In the unlikely event that the national framework is not implemented by the end of 2016, the derogation would expire.
- The end of 2016 is proposed for the alternative end date, rather than the end of 2015, to avoid the costs of seeking another derogation in the event that implementation of the national framework is delayed.

7.2 Stakeholder views

7.2.1 Consumer advocacy group

CUAC submits that it is appropriate to link the duration of the derogation to the establishment of the national framework for competition in metering and related services, provided that regulatory protections relating to the third party provision of metering services are finalised.⁷⁴

7.2.2 Victorian electricity distribution businesses

The Victorian electricity distribution businesses submit that it is appropriate to link the duration of the derogation to the establishment of the national framework for

⁷⁴ Consumer Utilities Advocacy Centre Ltd, submission to the Consultation Paper, p. 3.

competition in metering and related services. Doing so is likely to result in significant savings if Victoria adopts those arrangements.⁷⁵

The Victorian electricity distribution businesses also submit that three years is an appropriate timeframe for the establishment of the national framework. This should provide time for:

- a number of rule changes required to give effect to the Power of Choice recommendations; and
- the design, related consultation and implementation of changes to NEM processes, procedures, business-to-business arrangements and industry systems to give effect to the new rules.

7.2.3 Retailers

Retailers, who do not support the making of a new derogation, also do not support the proposed duration of the derogation.

Origin Energy and the ERAA both note the possibility that the national framework will not be ready within three years, or that Victoria will not readily adopt the national framework once it is ready, and that another derogation extension will be requested.⁷⁶

The duration of the ERAA's proposed transitional option would be linked to the establishment of the national framework, at which point the ERAA supports the migration of Victoria to those arrangements.

7.3 Conclusion

The draft rule allows two alternatives for the duration of the jurisdictional derogation:

1. until the national framework for small customer metering competition is established, along with regulatory arrangements to achieve the orderly transfer of Victorian arrangements to that framework; and
2. a fallback duration of three years if the national framework and transitional arrangements are not established by the end of 2016.

These alternatives are considered in turn below.

7.3.1 Establishment of the national framework

We consider establishment of the national framework, along with arrangements for Victoria to migrate to that framework, to be an appropriate trigger for the derogation

⁷⁵ Victorian electricity distribution businesses, joint submission to the Consultation Paper, p. 27.

⁷⁶ Origin Energy, submission to the Consultation Paper, p. 9; ERAA, submission to the Consultation Paper, p. 1.

to expire. As we have determined in the preceding sections, this is likely to be the best way of implementing small customer metering competition in Victoria. It is likely to realise the benefits from the investment already made in Victorian AMI, while also unlocking the incremental benefits that may be expected to derive from customer choice and a better platform for competition in meter-related services.

We expect that the rule change that establishes a framework for competition in metering and related services for residential and small business customers will also remove this derogation from the NER. This is because, on commencement of that framework, the preconditions for expiry of the derogation under clause 9.9C.2 should be satisfied.

7.3.2 Three years

The alternative of a three-year duration requires consideration of two sets of issues:

- Should the fallback, three-year duration exist?
- If so, is three years an appropriate duration?

Should the fallback duration exist?

The Victorian Government proposes a three-year fallback duration that would apply if the national framework is not established by the end of 2016. But in the case that the national framework is not available to migrate to, Victoria would face similar choices to those it does now: establish Victorian-specific arrangements for competition in metering and related services, or seek another extension of the derogation until the national framework is established.

There would be little benefit in having the fallback duration if we were confident that adopting the national framework will persist over time as the answer to the question, "How should small customer metering competition be implemented in Victoria?" It could merely impose the administrative burden of performing another rule change in three years' time that is likely to result in another extension of the derogation.

However, we consider that there is enough possibility of that answer changing over time that a fallback duration should be included in the rule.

At a future point in time, the value of advancing the realisation of incremental benefits from competition in metering and related services may outweigh the costs of establishing Victorian-specific arrangements to allow that competition.

Technological change and ageing assets will at some point in time result in being efficient to replace the current AMI stock. Consistent with the conclusions we reached in the Power of Choice review, it is most likely to be in the long term interests of consumers to have that new investment driven by consumer choice.

Further, innovation in meter-related services and products is likely to increase the benefit over time of establishing competitive arrangements that better support customer choice in this area.

Finally, the longer it takes to establish the national arrangements, the more likely it is that establishing Victorian-specific arrangements for competition would be worthwhile, because of the greater implied payback period.

Given these considerations, and the possibility of other unforeseen changes, we consider it appropriate that the derogation should contain a fallback expiry date.

Is three years an appropriate fallback duration?

The Victorian Government's proposal of three years as the fallback duration is based on an expectation that the national arrangements be established by the end of 2015, while allowing some contingency in case the national process is delayed.

The fallback duration needs to be at least as long as the expected time for the establishment of national arrangements. It also needs to allow for time to put in place the transitional arrangement for Victoria to migrate to the national framework.⁷⁷

Given the uncertainties about the future considered in the preceding section, we conclude that it is appropriate for the fallback duration to be related to the expected date that Victoria would migrate to the national framework, rather than being extended too much further.

Our current expectation is that the national framework for metering competition will be established by the end of 2015.

We consider it appropriate to allow up to a year to put in place regulatory arrangements to allow for the orderly transfer of Victorian arrangements to the national framework. We note that in some areas, the Victorian arrangements will require workarounds to make them consistent with the Power of Choice recommendations. For example, common communication standards are not immediately workable, given that different communication networks have been implemented.

⁷⁷ A shorter fallback duration would be likely to result in a new rule change request for another derogation, creating cost and uncertainty.

Abbreviations

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
AMI	advanced metering infrastructure
Commission	See AEMC
CUAC	Consumer Utilities Advocacy Centre Ltd
ERAA	Energy Retailers Association of Australia
MCE	Ministerial Council on Energy
NEL	National Electricity Law
NEM	National Electricity Market
NEO	National Electricity Objective
NER	National Electricity Rules
SCER	Standing Council on Energy and Resources

A Summary of issues raised in submissions

Stakeholder	Issue	AEMC Response
Readiness of Victoria to introduce competition in metering services for small customers		
Energy Networks Association	For competition in metering services to occur in practice, an number of processes and systems need to be developed (p. 1).	<p>We consider that the existing frameworks for competition in metering services do not provide a basis for markets to make efficient investment and operational decisions - which led us to the recommendations we made in the Power of Choice for a new national framework.</p> <p>We consider that a framework for competition in metering and related services needs to provide certain minimum features (see section 5.3.1).</p> <p>Because these features are lacking, allowing the derogation to lapse and relying on existing frameworks would be likely to result in inefficient outcomes.</p>
Energy Retailers Association of Australia	It is disappointing that transitional impacts have not already been properly addressed prior to the rule change request, especially as the ERAA considers them to be insignificant (pp. 3-4).	
AGL	The AMI ISC flagged to the government in February 2012 that the end of the derogation needed to be managed. Despite having plenty of time to act to resolve the issues identified, no action was taken (p. 2).	
Momentum Energy	It is disappointing that the Victorian Government did not undertake earlier consultation about how the derogation should conclude (p. 2).	
Metropolis	Metropolis does not support the Victorian Jurisdictional Derogation and sees no need for an extension. A supporting framework for metering services competition is already in place (p. 1).	
Impacts of extending the derogation		
Momentum Energy	The extension of the derogation, if anything, will result in worse outcomes for customers on the basis that it will take	Many of the benefits associated with advanced metering are

Stakeholder	Issue	AEMC Response
	longer for retailers to develop specific product offerings for customer with smart meters (p. 1).	expected to be realised in Victoria through the AMI program.
Energy Retailers Association of Australia	Where monopoly segments of the market are given exclusive rights to the rollout of contestable infrastructure, it means that customers are not necessarily provided this service at least cost and may restrict the range of products and services provided through the infrastructure. Monopoly provision of smart meters tends to entrench the use of proprietary technologies, which inhibits the development of smart grids and has anti-competitive effects in downstream retail markets (p. 1).	There may be some incremental benefits associated with the competitive provision of metering and related services that will not be realised in Victoria during the period of a new derogation. Our assessment is that these would primarily relate to innovation in products and services, which we expect to occur under a framework for commercial contestability where retailers and third party service providers can more easily access the existing functionality and offer the services directly to the consumer (see section 6.3.1).
Victorian electricity distribution businesses	The Victorian distribution businesses are not aware of any innovative services that rely on a retailer-provided AMI meter. The Victorian distribution businesses are already working with retailers to deliver value-added customer services (p. 15).	However, we consider that these benefits will be realised should Victoria migrate to the national framework for small customer metering services competition, once that is implemented.
Victorian electricity distribution businesses	The Victorian distribution businesses concur with the Minister's assessment of the benefits of making the Rule (p. 17).	
Victorian electricity distribution businesses	Superficially, the proposed rule change could be regarded as lessening competition in the provision of metering services. However, competition will only deliver net benefits to customers if it is supported by appropriate systems and business-to-business arrangements that do not undermine the benefits from the AMI rollout or retail competition more generally (p. 23).	
Impacts of not extending the derogation		
Energy Networks Association	Without the national framework in place, the introduction of metering competition in Victoria from January 2014 would	Allowing the derogation to lapse and relying on existing frameworks for metering services competition would be likely

Stakeholder	Issue	AEMC Response
	have a number of detrimental impacts (p. 1).	to result in inefficient outcomes (see section 5.3.1).
Victorian electricity distribution businesses	<p>There are six service performance issues that may be adversely affected if competition in the provision of AMI meters were allowed to commence on 1 January 2014. These areas are:</p> <ol style="list-style-type: none"> 1. Ensuring network and customer safety. 2. Delivering the expected benefits from the AMI roll out. 3. Delays in supply restoration following an outage. 4. Increased costs of providing legacy distribution services. 5. Barriers to retail competition. 6. Customer protection (p. 9). 	<p>The inadequacy of existing frameworks leads us to conclude that an alternative framework would need to be established in Victoria (see section 5.3.2).</p> <p>We consider that Victoria would need to either:</p> <ul style="list-style-type: none"> • establish its own specific arrangements for metering competition; or • adopt an interim set of arrangements and then migrate to the national framework for competition in small customer metering and related services once that is implemented. <p>In either case there would be:</p> <ul style="list-style-type: none"> • the direct costs of establishing arrangements to meet the minimum requirements described in section 5.3.1; and • indirect costs, such as the impacts on the cost of business for service providers of having divergence from national arrangements, or on consumer confidence from having multiple arrangements.
Victorian electricity distribution businesses	There is no agreed industry process in a competitive environment for coordinating the third party meter installation, the service connection and the initial energisation. In the absence of appropriate industry processes, connections may be delayed or additional costs incurred in multiple site visits to effect a connection (p. 17).	
Victorian electricity distribution businesses	<p>The Minister explains that following costs would be incurred in developing Victorian specific processes and systems to accommodate contestable metering services:</p> <ul style="list-style-type: none"> • Business-to-business processes for metering competition would need to be automated. • Current automated business-to-business processes such as 	<p>We consider that the main benefits of introducing metering competition in Victoria will relate to innovation in products and services (see above). The Victorian Government's rule change request indicates that Victoria would migrate to the national framework for small customer metering competition, once that is implemented. Therefore, the value of establishing Victorian-specific arrangements would be the earlier realisation of any incremental benefits over a relatively</p>

Stakeholder	Issue	AEMC Response
	<p>de-energisation and re-energisation would need to be amended to reflect the transfer of responsibility from distributors to retailers where the retailer is responsible for the meter.</p> <ul style="list-style-type: none"> • Processes and systems would need to be introduced for responding to meter faults where the retailer is responsible for the meter. • Processes and systems would need to be introduced for the provision of network data where the retailer is responsible for the meter. • Customer protection arrangements would need to be changed to accommodate metering competition while protecting consumers' interests (p. 16). 	<p>short period of time.</p> <p>We consider it unlikely that these benefits would outweigh the costs - direct and indirect - of establishing Victorian-specific arrangements. It is therefore likely to be in the interests of Victorian consumers for Victoria to wait until the national framework is established and to transition to metering competition then.</p>
Consumer Utilities Advocacy Centre	<p>CUAC strongly supports the Minister's rule change request seeking a jurisdictional derogation in relation to meters installed under the AMI program in Victoria. CUAC agrees with the Victorian Government that the introduction of metering contestability in January 2014, in advance of the national smart meter framework, could potentially result in a number of detrimental impacts. In particular:</p> <ul style="list-style-type: none"> • Loss of benefits anticipated to flow from the AMI rollout. • Absence of adequate consumer protections to support metering contestability. • Additional costs arising from developing Victorian specific protections to support contestability in advance of national smart meter framework. 	

Stakeholder	Issue	AEMC Response
	<ul style="list-style-type: none"> Additional layer of complexity and likely confusion for consumers at a time where other changes such as flexible pricing are also being introduced (pp. 1-2). 	
Origin Energy	There is no evidence to support the impacts on the costs and benefits of the Victorian AMI rollout suggested in the rule change proposal, and expiry would simply align Victoria with other National Electricity Market (NEM) jurisdictions (where contestability of type 3 and 4 meters for all customers applies in full today for all customers) (p. 1).	
Origin Energy	A chief purpose of the existing derogation was to provide investment certainty for distribution businesses during the course of the AMI rollout, which is now substantially complete (p. 1).	
Origin Energy	Any risks to the AMI costs and benefits that relate to significant meter replacement in a competitive environment are based on an implausible assumption and should be discounted accordingly (p. 4).	
Origin Energy	There are customers that would benefit from small customer metering competition. Large customers that have multiple small consumption sites are currently prevented from being able to deal with a single metering provider nationally, because of the requirement to deal with a separate metering provider in Victoria (p. 6).	
Origin Energy	Competition would be expected to accelerate the realisation of AMI benefits through the improved capacity of retailers and third parties to negotiate with distribution businesses to access metering services, through the exercise of competitive tension. A number of benefits of the AMI program have been delayed,	

Stakeholder	Issue	AEMC Response
	and competition should reduce delays and encourage innovation from distribution businesses (p. 6).	
Origin Energy	The chief barrier to third party access to metering data and metering services is the existing derogation, and its expiry - along with the development of national processes - are the best mechanisms to promote third party services and innovation. While distribution businesses have demonstrated a willingness to engage with retailers around the delivery of enhanced AMI services, retailers and third parties have only limited ability to influence the terms under which services are supplied. The exercise of competitive tension - if the derogation expires - should encourage an increased range of metering services at competitive market rates (pp. 6, 10).	
Origin Energy	Service levels should not reduce in a competitive environment. It is likely that a retailer or third party seeking to engage a competitive service provider (which may be an unregulated business of a distributor) will seek additional services and functionalities and at service levels at least equal to those provided through conventional (regulated) smart metering. Commercial reality suggests that customers are unlikely to pay for a reduced level of service (p. 6).	
Origin Energy	Expiry of the existing derogation will increase retail competition and offer retailers and third parties the incentive to innovate, years ahead of what would take place if the derogation is extended (where there is the possibility it will simply be further extended) (p. 7).	
Origin Energy	The need to apply the requested rule change is unnecessary given that there is likely to be a limited number of customers offered competitive meter services initially (p. 9).	

Stakeholder	Issue	AEMC Response
Origin Energy	Expiry of the current derogation presents Victoria with an opportunity to trial third party meter provision on a small scale, build capacity to transition to national arrangements, enhance incentives to innovate and encourage new market participants to offer services across all NEM regions (p. 9).	
Business-to-business processes		
Energy Retailers Association of Australia	Whilst the ERAA considers that there are some business-to-business processes that would need to be developed to cater for a competitive metering environment, the ERAA does not support the assumptions made in the rule change request. The rule change request refers to the introduction of metering contestability in Victoria as similar to the introduction of Full Retail Contestability, where 2.5 million electricity customers in Victoria were able to choose their electricity retailers. This is a misrepresentation of the environment that would be present at the time when the derogation was due to expire (p. 6).	<p>We note the argument that existing business-to-business processes are sufficient for competition in type 4 metering, but also note that some modifications appear to be required in the context of AMI meters - to ensure that all parties can execute their responsibilities.</p> <p>We note the innovation displayed by third party metering service providers in bypassing the business-to-business hub. However, we do not consider that it will be efficient to replace existing AMI meters with third party meters in most cases, in the short term. We would therefore be concerned if this was the only available solution to shortcomings in business-to-business processes where the retailer elected to become responsible for an AMI site, and wished to retain the existing AMI meter and enter into agreements with the distribution business to provide metering services.</p>
Energy Retailers Association of Australia	Distributors would attempt to recover stranded metering cost through high exit fees; the likelihood of working AMI meters being replaced is highly remote as the business case for doing so would not be commercially economical. Therefore the need to develop and automate business-to-business arrangements to cater for a competitive metering market in Victoria would be in the short term unnecessary and prohibitive (p. 6).	<p>There also appears to be some concern over how responsibility for AMI sites would be determined upon expiry of the derogation. If it is the intention that service provision remain with the distributor, except in cases where the retailer actively elects to become responsible, then some means of deeming retailers to have accepted an offer from distribution businesses to act as the responsible person for AMI sites</p>
AGL	AGL does not agree that business-to-business processes will be required to cater for a competitive metering environment in the event that the derogation expires. Metering contestability exists in other states outside of Victoria, such as NSW and South Australia, and AGL believes that existing processes and	

Stakeholder	Issue	AEMC Response
	procedures are adequate to support the transition for contestability in Victoria (p. 2).	appears necessary.
Origin Energy	The Australian Energy Market Operator's systems support contestable metering relationships - between responsible person, meter provider and meter data provider - at present. There has been no deficiency found with respect to these processes requiring changes of the kind described on p. 15 of the rule change request (p. 5).	There also appear to be unresolved issues with how AMI meters would be classified within the market's systems, if they became type 4 meters. We accept that it would be necessary to be able to distinguish AMI meters from other non-AMI type 4 meters.
Metropolis	Properly developed business-to-business processes that fully support metering services competition operate in the National Electricity Market today and ensure that benefits are delivered to consumers (p. 2).	
Metropolis	Business-to-business processes for metering competition are fully automated in the market's systems and require no manual intervention at all. The processes used for large electricity customers are exactly the same as those used for residential electricity customers and work exceedingly well in volume (p. 4).	
Metropolis	Processes that assume the distribution business has service responsibility do not require modification. For example, Metropolis allows retailers to communicate directly with its meters to initiate a remote de-energisation or re-energisation, without using the existing business-to-business processes, and while complying with Energy Save Victoria's safety standards (p. 5).	
Development of Victorian-specific processes and systems		
Energy Retailers Association	The ERAA however does not believe that the need for specific processes and systems to allow for metering contestability to	The inadequacy of existing frameworks leads us to conclude that an alternative framework would need to be established in

Stakeholder	Issue	AEMC Response
of Australia	commence is a material issue. As most meters installed in Victoria by December 2013 will be AMI meters, then developing specific processes to accommodate contestable metering services would only apply to a small number of meters installed initially post December 2013 (p. 9).	Victoria (see section 5.3.2).
AGL	As the rule change request does not provide which Victorian specific processes and systems would need to be accommodated to allow for metering contestability to commence, AGL believes it is very difficult to provide substantive commentary on this matter (p. 2).	
Origin Energy	Origin does not consider that in the short to medium term, separate Victorian specific arrangements are required (just as they are not currently required in all other NEM jurisdictions without the derogation of the kind in force in Victoria at present). (p. 6).	
Safety		
Energy Retailers Association of Australia	Energy Safe Victoria (ESV) has an established Memorandum of Understanding (MOU) which outlines the requirements for a safe remote re-energisation/de-energisation process. Participants are approved to perform remote re-energisation and de-energisation only after an audit by ESV ensures compliance with the process set out in the MOU (p. 11).	Submissions present contradictory evidence on this matter. We have not placed weight on this aspect in making our determination, as we are satisfied on other grounds that Victorian-specific arrangements for metering competition would be necessary if the existing derogation is not extended.
Victorian electricity distribution businesses	The Victorian electricity distribution businesses are concerned that customers will be exposed to safety and service performance risks if competition is introduced in a disorderly and ill-prepared manner.	
Origin Energy	Retailers have had advice from Energy Safe Victoria that remote energisation and de-energisation can take place where	

Stakeholder	Issue	AEMC Response
	a third party provides a smart meter (following the established industry protocol). In addition, interval reads and remote data acquisition are a fundamental requirement of the meter type retailers would be permitted to install as responsible person.	
Metropolis	When remotely de-energising or re-energising a connection point the retailer and Metropolis comply with the safety standards developed in consultation with the safety regulator (Energy Safe Victoria) (p. 5).	
Energy Retailers Association of Australia	The rule change request implies that there is a barrier to retailers providing re-energisation and de-energisation services, under an interpretation of the Retail Code and NECF that only distributors have the right to provide remote services, and concerns about safety requirements. The ERAA does not agree with this interpretation (p. 10).	
Victorian electricity distribution businesses	Before retailers are allowed to remotely de-energise or re-energise customers, a protocol needs to be established so that distributors are able to discharge their obligations under the Distribution Code (p. 10).	
Inefficient replacement of existing meters		
Energy Retailers Association of Australia	Considering that most meters in Victoria at this time would be AMI compliant, then the number of customers who have need for meter replacement at that time would be minimal (p. 6).	We agree that inefficient meter replacement is unlikely in the presence of an exit fee (see section 5.3.1). However, in the Power of Choice review, we recommended arrangements that are intended to prevent the inefficient replacement of meters when customers switch retailers, and to facilitate the transfer of contracts for meter provider and meter data provider services between distribution businesses and retailers. We consider that these are critical requirements of a framework for competition in metering and related
Energy Retailers Association of Australia	The ERAA believes meter churn is likely to be minimal if it occurs at all (p. 6).	
Consumer Utilities Advocacy Centre	Many consumers could question why they have are paying for a mandatory AMI rollout, only to be offered a different meter from their retailer with potentially different or more advanced	

Stakeholder	Issue	AEMC Response
	functionality, where this meter may be marketed as “no cost” as part of a bundled offer (p. 2).	services, and that they should therefore form part of the framework for metering competition in Victoria.
Momentum Energy	Given that the cost of meter replacement will outweigh the benefit for some time, inefficient meter replacement is unlikely to occur and therefore the adverse impacts outlined in the Consultation Paper by the Victorian Government are overstated.	
AGL	It is highly unlikely for a functioning AMI meter to be replaced or churned as the existing fee arrangements, established under the AMI Order in Council, make the business case commercially unviable unless there is significant customer benefit (p. 2).	
Barriers to retail competition		
Victorian electricity distribution businesses	A potential barrier to retail competition arises where a customer is ‘locked in’ to a retail contract because of the costs of churning a retailer-provided AMI meter.	In the Power of Choice review, we recommended arrangements that are intended to prevent the inefficient replacement of meters when customers switch retailers, and to facilitate the transfer of contracts for meter provider and meter data provider services between distribution businesses and retailers. We consider that these are critical requirements of a framework for competition in metering and related services, and that they should therefore form part of the framework for metering competition in Victoria..
Origin Energy	Origin has had commercial experience of this issue outside of Victoria with respect to small customers for a number of years and the reality is that the presence of third party metering has neither impacted on competition nor has it resulted in any significant churn of meters (p. 2).	
Metropolis	Industry processes are designed specifically so that a meter change is never required in order to facilitate a customer transfer. Metropolis has installed thousands of residential smart meters (type 4) and customers have subsequently freely transferred between retailers. A retailer may choose to nominate a new metering services provider when transferring a customer, but there is nothing in the rules or processes that	

Stakeholder	Issue	AEMC Response
	<p>requires them to do so.</p> <p>Contractual arrangements would not act as a barrier to customer switching either. There is no scope for a third party metering services provider to charge an exit fee to an incoming retailer that it does not have a contract with. (pp. 2-4).</p>	
Reliability of supply		
Victorian electricity distribution businesses	<p>In a contestable AMI environment, unless the business protocols and business-to-business arrangements are put in place, distributors will not have sufficient information or authority to resolve outages in a timely manner. For example:</p> <ul style="list-style-type: none"> • A distributor responding to an outage would not be authorised to correct a fault with a retailer-provided AMI meter. • A distributor will be unaware whether an apparent customer outage is due to remote de-energisation by the retailer. 	<p>Submissions present contradictory evidence on this matter.</p> <p>We have not placed weight on this aspect in making our determination, as we are satisfied on other grounds that Victorian-specific arrangements for metering competition would be necessary if the existing derogation is not extended.</p>
Energy Retailers Association of Australia	<p>Meter failure is extremely rare. Recently, Energy Safe Victoria recently advised the ERAA that one per cent of AMI meters are faulty on installation, and are immediately replaced. As at early March 2013, only one AMI meter had failed after installation across all Victoria (p. 9).</p>	
Metropolis	<p>Meter faults do not cause disruptions to customers' supply. If a smart meter fails, only the quality of metering data is affected. The customer does not experience an outage. Meter faults are the responsibility of the metering services provider, with rectification requirements contained in the NER and AEMO service levels (a condition of accreditation) (p. 6).</p>	

Stakeholder	Issue	AEMC Response
Consumer protections and uptake of flexible pricing		
Momentum Energy	Some issues, such as consumer education which need to be addressed by the government and industry. However, these issues do not require the extension of the derogation (p. 2).	We consider that there are grounds for concern on this matter.
Energy Networks Association	To complicate the introduction of flexible pricing by the addition of transition to contestable metering could create significant confusion and complexity for Victorian consumers (p. 2).	We do not underestimate the impacts on consumer confidence of having multiple changes to market arrangements within a short period of time.
Consumer Utilities Advocacy Centre	Introducing meter contestability before benefits are realised has the potential to generate substantial confusion and dissatisfaction among consumers (p. 2).	We consider that it would be prudent for governments to engage in a customer education campaign at the time that metering services contestability is introduced.
Consumer Utilities Advocacy Centre	Competition in metering services opens up the possibility of third parties, such as businesses providing energy management services, to be involved in providing a range of service to consumers. Such businesses fall outside the Australian Energy Regulator (AER) framework for retailer authorisation or exemption and outside the Victorian licensing and exemptions framework. CUAC is of the view that regulatory provisions regarding third party meter service provision should be addressed prior to opening up metering services competition (p. 2).	We note that a national framework for smart meter consumer protections is being progressed (see section 1.4.3). Again, it would appear to be in the interests of Victorian consumers for Victoria to adopt that framework once it is established, rather than creating Victorian-specific arrangements to address these issues.
Energy Retailers Association of Australia	The rule change request is silent on what consumer protection measures will be affected by the introduction of contestable metering so it is very difficult for the ERAA to comment (p. 10).	
Victorian electricity distribution businesses	There are a number of areas where customer protection concerns could arise when competition is first introduced. It is important that customers are well informed regarding the	

Stakeholder	Issue	AEMC Response
	different metering charges, terms and conditions, and service levels associated with distributor and retailer-provided AMI meters. The arrangements should also safeguard against inefficient meter churn, for instance by facilitating establishment of processes for metering contracts to be transferable between retailers (p. 14).	
Origin	Origin believes that the existing consumer protection regime supports the expiry of the derogation. Retailers will remain subject to the Energy Retail Code and the consumer protection framework, which is sufficient to manage smart meters deployed in Victoria at present (p. 2).	
AGL	AGL believes that the existing customer protections do not require amendment to allow for contestable metering within Victoria. The arrangements that exist in the Marketing Code and the Retail Code sufficiently address the issues and concerns raised in the proposed rule change (p. 3).	
Origin Energy	<p>Origin is doubtful that the expiry of the exclusivity provisions of the derogation will have any impact on the benefits associated with the introduction of flexible pricing:</p> <ul style="list-style-type: none"> • Customers that are most likely to accept a competitive meter services offer will be sophisticated enough to distinguish between flexible pricing issues and benefits associated with an alternative meter provider. • It is not likely that any retailer or third party market participant would widely advertise (for example in the mass media) from the expiry of the derogation that choice of meter services is now available, or that this would subsequently confuse customers considering flexible 	

Stakeholder	Issue	AEMC Response
	<p>pricing offers.</p> <ul style="list-style-type: none"> Flexible pricing will have been in place for some time at the expiry of the current derogation. As such, consumers will have familiarity with concept and will be able to distinguish between this and competitive meter services (p. 5). 	
Metropolis	Metering services competition is likely to enhance the uptake of flexible pricing by making metering services available at a lower charge. Competitively provided type 4 meters must comply with the NER and therefore ensure the availability of flexible pricing options (pp. 7-8).	
Realisation of network benefits		
Victorian electricity distribution businesses	There are a number of benefits from the AMI rollout program that would be compromised if the derogation were allowed to lapse on 31 December 2013. These include expected network operational benefits, which will be eroded unless processes are established to ensure that distributors have access to AMI data from retailer-provided meters within operational timeframes (p. 11)	<p>We consider the example of the possible loss of network benefits to be illustrative of some of the inadequacies of the current frameworks for metering competition when applied to AMI in Victoria.</p> <p>We agree that a competitive environment could allow network operational benefits to be realised - so long as any retailer or third-party provided meters met the existing AMI functionality specification, and access to the meter's data and functionality was made available to distribution businesses. But we consider that new systems and processes would be required to ensure this occurred, including rules to ensure that distribution businesses can access operational data and a means of prioritising commands sent to the meter by multiple parties.</p>
Energy Retailers Association of Australia	As per current Type 4 arrangements, retailers would offer network services enabled by these meters to distributors on commercial terms allowing them to still realise the benefits estimated by Deloitte (pp. 12-13).	
Energy Retailers Association of Australia	In a competitive environment, distributors have the option of offering advanced network services (such as fault detection services) to retailers. As a competitive provider, distributors will need to demonstrate that these services are a worthwhile investment for retailers' metering assets (pp. 12-13).	

Stakeholder	Issue	AEMC Response
Energy Retailers Association of Australia	Distribution businesses have raised concerns that they will not have continuous visibility of the energisation status of retailer-provided meters. They have indicated that MSATS is not close enough to real-time to make it a reliable reference. If a distributor is engaged to provide fault detection services to retailers, it would have real-time visibility of any assets they are engaged to monitor. If they are unsuccessful in winning this engagement, our technical advice is that distributors will still be able to access sufficient information to enable reliable fault detection (pp. 12-13).	
Metropolis	Meters for which retailers are responsible support efficient network operation. The NER and AEMO service levels require contestable metering services to provide data to each distribution business, with daily delivery of data to each participant through the market's system. Metropolis's residential meters conform to the Victorian functionality requirements, and offer additional capabilities. Distribution businesses can subscribe to the use of these functions (pp. 8-9).	
Transition to a national framework for contestable metering services		
Victorian electricity distribution businesses	The Victorian distribution businesses consider that it is much more efficient to design and implement nationally agreed arrangements in a methodological and structured manner, rather than develop 'band-aid' solutions in Victoria (p. 3).	We consider that migrating to the national frameworks for competition in metering and related services and smart meter customer protections is likely to be the best way of implementing small customer metering competition in Victoria. It is likely to realise the benefits from the investment already made in Victorian AMI, while also unlocking the incremental benefits that may be expected to derive from customer choice and a better platform for competition in meter-related services (see section 7.3.1).
Energy Networks Association	The proposed rule change sensibly seeks to ensure an efficient transition by Victoria to a national framework for contestable metering services without unnecessary risk, expenditure or confusion for Victorian consumers (p. 2).	

Stakeholder	Issue	AEMC Response
Energy Networks Association	Until there is clarity in the national contestable metering rules, it will not be possible to commence consideration of transitional processes.	
Energy Networks Association	ENA would welcome expedited resolution of this rule change to enable the focus and attention of all relevant parties to be applied to the critically important task of ensuring effective development of the national framework including its associated processes and implementation (pp. 2-3).	
Energy Retailers Association of Australia	The existing derogation has had sufficient impact on business confidence such that in this instance the ERAA would prefer Victoria to move to a contestable metering market ahead of national processes. The ERAA's preferred option is for the derogation to expire on 31 December 2013 (pp. 1, 3).	
Energy Retailers Association of Australia	Retailers do not have confidence that Victoria will readily adopt a national metering framework. This continued uncertainty has a direct impact on investment in related products and services enabled by enhanced metering technology (p. 1).	
Energy Retailers Association of Australia	The rule change request fails to provide any indication that the Victorian Government will use an extension to prepare Victoria for contestable metering (p. 3).	
Energy Retailers Association of Australia	The ERAA and its members also propose a transitional option, that addresses perceived issues, and would operate until a national framework is developed (p. 4).	
Origin Energy	While Origin notes that the Commission has effectively been asked to narrowly assess the merits of the complete expiry of the existing derogation against its extension for three years, Origin believes that alternatives should be considered between	

Stakeholder	Issue	AEMC Response
	<p>these two extremes. In particular, the continuation of certain elements of the existing derogation (namely, classification of advanced metering infrastructure installations as type 5 remotely read meters) would eliminate many of the concerns raised by the Victorian government in its rule change request as submitted to the Commission (p. 1).</p>	
Origin Energy	<p>Origin believes that relying on the development of national processes to transition away from exclusivity of small customer meter provision farms out the question of the removal of exclusivity to an external forum that is in its early stages and will not resolve the concerns identified in the rule change request in the near future (even if these were material). As such, Origin is concerned that limited progress will be made between now and 2016 and on this basis there will be a need to extend the derogation yet again (p. 2).</p>	
AGL	<p>AGL is concerned that the rule change request fails to provide any indication or commitment by the Victorian government to transition Victoria to a contestable metering approach. The AMI ISC flagged to the government in February 2012 that the end of the derogation needed to be managed. Despite having plenty of time to act to resolve the issues identified, no action was taken (p. 2).</p>	
AGL	<p>AGL supports the provision of smart metering under a competitive metering and services framework which facilitates customer choice. The introduction of competition in metering is one of the three key reforms proposed in the AEMC's Power of Choice Review. AGL therefore does not support the extension of the existing Victorian jurisdictional derogation (p. 1).</p>	

Stakeholder	Issue	AEMC Response
Other		
Momentum Energy	The rollout of meters in Victoria has been a difficult program which has been beset by a number of issues associated with the communication of costs and benefits of the program (p. 1).	The AEMC is assessing the rule change against the NEO. This by its very nature is a forward-looking assessment. The AEMC has not assessed the efficiency or effectiveness of the AMI rollout in Victoria.
Origin Energy	In 2008, the AMI service levels were significantly reduced to the four available today (remote energisation and de-energisation, reading data on 30 minute intervals and remote delivery of this data based on a performance level). All other services that may be enabled by the meters based on their native functionality need to be negotiated bilaterally (p. 10).	The AEMC has not assessed the efficiency or effectiveness of the AMI rollout in Victoria - see above.
Metropolis	There is no need for exit fees in Victoria. At the end of 2013, distributors will have collected on average approximately \$620 from every household in Victoria (based on the regulated metering service charges collected since January 2006). This more than compensates distributors for the cost of the AMI deployment which has so far cost twice a competitive rollout (p. 4).	Cost recovery for the AMI program - including exit fees - would not be affected by the derogation's expiry, or its renewal. Accordingly the AEMC has not considered whether exit fee arrangements should be amended.