



16 October 2006

Dr John Tamblyn
Chairman
Australian Energy Market Commission
PO Box H166
Australia Square NSW 1215

**Draft Rule Determination
Chapter 7 – National Electricity Rules
Responsible Person Contestability**

Dear Dr Tamblyn,

Further to our submission of 9 October 2006, Metropolis Metering Assets Pty Ltd (Metropolis) provides further comment with respect to our proposal that Market Participants be able to seek offers from and enter into agreements with parties other than the Local Network Service Provider to act as the Responsible Person.

Metropolis submits that Metering Providers accredited by NEMMCO for the installation, maintenance and repair of metering installations under Rule 7.4 are suitably qualified to act as the Responsible Person across network areas – where a type 1, 2, 3 or 4 metering installation is, or is to be, installed – and that the National Electricity Rules must be amended with the addition of Rule 7.2.4 as suggested in Attachment A.

The National Electricity Rules (as they presently stand subject to derogations and under rule change proposals currently under consideration) only allow the Market Participant or Local Network Service Provider to act as the Responsible Person for a Type 1-4 metering installation; giving the Market Participant the immediate right of choice – either it may act as the Responsible Person or it may request an offer from a Local Network Service Provider to act as the Responsible Person for metering installations within its network area.

But Market Participants are currently prevented from seeking or considering offers from other suitably qualified parties prepared to act as the Responsible Person. If a Retailer does not wish to be the Responsible Person for a Type 1-4 metering installation, it has no option but to seek an offer from the Local Network Service Provider.

Clause 7.4.2(d) of the National Electricity Rules prohibits a Retailer from being the Metering Provider for a connection point through which it trades energy. There is, however, no such restriction placed on Distributors who, as Responsible Person, may appoint themselves as Metering Provider – noting (as per Attachment B) that every electricity Distributor is accredited as a Metering Provider or wholly owns a subsidiary accredited as a Metering Provider.

The National Electricity Rules therefore provide electricity Distributors with an unfair competitive advantage over independent Metering Providers, such as Metropolis, who cannot currently offer to act as the Responsible Person.

The scope of NEMMCO's rule change proposal is to implement the recommendations of the Joint Jurisdictional Review of the Metrology Procedures, which recommended that the National Electricity Rules "should be amended to **provide Retailer choice of Responsible Person** ...for all first tier customers ...(and) second tier customers ...that have a ...metering installation type 1, 2, 3 or 4."¹

There is no logical reason why the National Electricity Rules should limit Retailer choice of Responsible Person to only the Local Network Service Provider in its network area.

As an accredited Metering Provider, Metropolis is just as capable as any Distributor to be the Responsible Person. And Metropolis is more than prepared to extend its offering and act as the Responsible Person within and across network areas. This then puts Metropolis – and other Metering Providers – on an equal competitive footing with Distributors.

We note that the Australian Energy Market Commission (Commission) used its rule making authority under the National Electricity Law to include its 'view' in the *draft rule determination* that Distributors be compensated in some way where a Retailer changes a type 5 metering installation to a type 4 metering installation. While we strongly disagree with this particular view, it is clear that the Commission may exercise its rule making authority within the scope of this rule change proposal where it is required to act the joint jurisdictional recommendations and serves the national market objective.

The only way to effectively implement competition for type 1, 2, 3 and 4 metering services, as recommended by the jurisdictional regulators, is to ensure that all areas of meter service provision – including the role of Responsible Person – are open to competition.

The national market objective is to promote efficient investment in, and efficient use of, electricity services for the long term interests of consumers of electricity with respect to price, quality, reliability and security of supply of electricity and the reliability, safety and security of the national electricity system.

Electricity services are defined in the National Electricity Law as "services that are necessary ...to the (sale) of electricity to consumers." Metering services are vital to the effective and efficient operation of the National Electricity Market, underpinning all financial transactions that occur, and clearly falls within this definition.

The national market objective therefore requires the promotion of *efficient investment in, and efficient use of* electricity meters *for the long term benefits of consumers*.

Not allowing Retailers to explore alternative service provision options for the role of Responsible Person – a role that is not regulated, accredited or audited – is anti-competitive and is contrary to the national market objective.

¹ Joint Jurisdictional Review of the Metrology Procedures: Final Report, October 2004 – page 11

Given a lack of competition, Distributors are not necessarily compelled to put the best deals on the table or to seek competitive offers from other Metering Providers.

Allowing electricity Retailers to seek offers from accredited Metering Providers to act as the Responsible Person across network areas will generate competition and promote efficiency, innovation and price competitiveness. Electricity Retailers will be compelled to explore competitive options and a vibrant, competitive market will quickly emerge.

If the Local Network Service Provider truly is the most efficient, innovative and cost-effective provider of metering services then at the very least this rule change will provide electricity Retailers with greater price transparency – so that they know they’re getting a good deal.

The Commission is able to make a rule that a Metering Provider can act as the Responsible Person under Clause 34(1)(c) of the National Electricity Law, which states that the Commission may make rules with respect to “the activities of persons (including Registered participants) participating in the national electricity market or involved in the operation of the national electricity system”; and Clause 34(2) which identifies specific matters on which the Commission is authorised to make rules – including, in this instance, “the regulation of persons providing metering services relating to the metering of electricity”.

This is a very simple and easily implemented rule change that will promote competition and ensure greater price transparency for contestable metering services.

Please do not hesitate to contact me should you wish to discuss this matter further.

Yours sincerely,

Marco Bogaers
Managing Director

Attachment A

7.1.4 Obligations of Market Participants to establish metering installations

- (a) Before participating in the *market* in respect of a *connection point*, a *Market Participant* must ensure that:
 - (1) the *connection point* has a *metering installation* and that the *metering installation* is registered with NEMMCO;
 - (2) either:
 - (i) it or the *Local Network Service Provider* is the responsible person under rule 7.2.2; or
 - (ii) it has sought an offer and, if accepted, entered into an agreement, under rule 7.2.3 or rule 7.2.4,
 - and
 - (3) prior to registration, a NMI has been obtained by the responsible person for that *metering installation*.

7.2.2 Responsibility for Metering Installations

- (a) The *Local Network Service Provider* is the *responsible person* for all type 5, 6 and 7 *metering installations* connected to, or proposed to be connected to, the *Local Network Service Provider's network*.
- (b) The *Market Participant* is the *responsible person* for all type 1, 2, 3 and 4 *metering installations* connected to, or proposed to be connected to, the *Local Network Service Provider's network* unless it accepts an offer from the *Local Network Service Provider* under clause 7.2.3(d) or a *Metering Provider* under clause 7.2.4(d).
- (c) For the avoidance of doubt, nothing in clause 7.2.2(a) prevents a *Market Participant* from being the *responsible person*, or accepting an offer from the *Local Network Service Provider* under clause 7.2.3(d) or a *Metering Provider* under clause 7.2.4(d) to be the *Responsible Person*, for an existing type 5, 6 or 7 *metering installation* where a type 1, 2, 3 or 4 *metering installation* is to be installed.

7.2.3 LNSP Offers to Act as the Responsible Person

- (a) A *Market Participant* may request in writing an offer from the *Local Network Service Provider* to act as the *responsible person* where a type 1, 2, 3 or 4 *metering installation* is, or is to be installed.
- (b) If the *Local Network Service Provider* receives a request under clause 7.2.3(a), the *Local Network Service Provider* must:
 - (1) offer to act as the *responsible person* in respect of that *metering installation*; and
 - (2) provide to the *Market Participant* the terms and conditions on which the offer is made,no later than 15 *business days* after *Local Network Service Provider* receives the written request from the *Market Participant*.
- (c) A *Market Participant* is under no obligation to accept an offer provided by the *Local Network Service Provider* under clause 7.2.3(b).
- (d) If a *Market Participant* accepts an offer under clause 7.2.3(b) the *Local Network Service Provider* becomes the *responsible person* for the type 1, 2, 3 or 4 *metering installations*.

Attachment A

- (e) A *Local Network Service Provider* may not install a type 1, 2, 3 or 4 *metering installation* unless the *Market Participant* has accepted an offer under clause 7.2.3(d).
- (f) A *Market Participant* will be the *responsible person* for a *metering installation* if an agreement under clause 7.2.3(d) is terminated due to a breach by the *Market Participant*.

7.2.4 Offers to Act as the Responsible Person by another person

- (a) A *Market Participant* may request in writing an offer from a *Metering Provider* to act as the *responsible person* where a type 1, 2, 3 or 4 *metering installation* is, or is to be, installed.
- (b) If a *Metering Provider* receives a request under clause 7.2.4(a) the *Metering Provider* is under no obligation to offer to act as the *responsible person* in respect of that *metering installation*, but if an offer is made it must provide the terms and conditions on which the offer is made.
- (c) A *Market Participant* is under no obligation to accept an offer provided by a *Metering Provider* under clause 7.2.4(b).
- (d) If a *Market Participant* accepts an offer under clause 7.2.4(b) the *Metering Provider* becomes the *responsible person* for the connection point at which the type 1, 2, 3 or 4 *metering installation* is, or is to be, installed.
- (e) A *Metering Provider* may not install a type 1, 2, 3 or 4 *metering installation* unless the *Market Participant* has accepted an offer under clause 7.2.4(d).
- (f) A *Market Participant* will be the *responsible person* for a *metering installation* if an agreement under clause 7.2.4(d) is terminated due to a breach by the *Market Participant*.

Attachment B

Distributors accredited as Metering Providers:

1. ActewAGL Distribution;
2. Aurora Energy;
3. Australian Inland (Country Energy);
4. Country Energy;
5. Citipower;
6. Ergon Energy;
7. ETSA Utilities Pty Ltd;
8. SP Ausnet;
9. Powercor; and
10. Alinta.

Wholly owned Distributor subsidiaries accredited as Metering Providers:

11. Data & Measurement Solutions owned and operated by SP Ausnet;
12. Metering Dynamics owned and operated by Energex;
13. Infomet owned and operated by Integral Energy;
14. Agility Services owned and operated by AGL Electricity; and
15. Testing and Certification Australia owned and operated by Energy Australia.