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22 October 2015

Ms Meredith Mayes
Director
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Electronic Lodgement – ERC0179

Dear Ms Mayes

RE: Draft Determination – Embedded Networks Rule

We appreciate the opportunity to respond on the Draft Determination – National Electricity Amendment (Embedded Networks), Rule 2015.

The AEMC has made the Draft Determination Embedded Network Rule change request to introduce an embedded network manager (ENM) role into the National Electricity Rules (NER) to facilitate access to retailer of choice. The new ENM role will need to comply with NER obligations and Australian Energy Market Operator (AEMO) Procedures at the transaction level but has no additional requirements in relation to the operations of the embedded network relating to life support, and outage management. Where retail customers within the embedded network select their own retailer of choice, the ENM would perform all the necessary market transactions to establish and manage this National Metering Identifier (NMI) and associated standing data.

AusNet Services firmly supports the establishment of a new fully contestable role of ENM to provide easier access to retailer competition for 100,000s customers within apartment blocks, office buildings and shopping centres, likely reducing prices. Additionally, in the interests of resolving gaps in the proposed framework, this submission provides comments on the important matters of outage management, life support, treatment of Advanced Metering Infrastructure (AMI) meters installed by the Local Network Service Provider (LNSP) in Victoria, and protecting confidentiality of information. In summary, it is recommended that:

- Obligations are added on the ENM, in respect of each connection point within an embedded network for which it is the ENM, to provide customers with timely outage notifications and to provide a 24 hour contact number for service enquiries.
- Where the ENM is appointed, the ENM is obligated to perform the essential function of life support registration for customers within the embedded network, without removing the obligations on the exempt Network Service Provider (NSP).
- NER chapter 11 transitional arrangements are extended to apply for LNSP installed AMI meters for on-market customers within embedded networks to ensure those customers are not treated differently to customers outside of the embedded network.
- Rule drafting be revised to ensure customers' confidentially is protected and that meter data is used only by parties with a legitimate need for the information.

AusNet Services is a member of Energy Networks Australia (ENA) and has contributed to and supports the ENA submission.

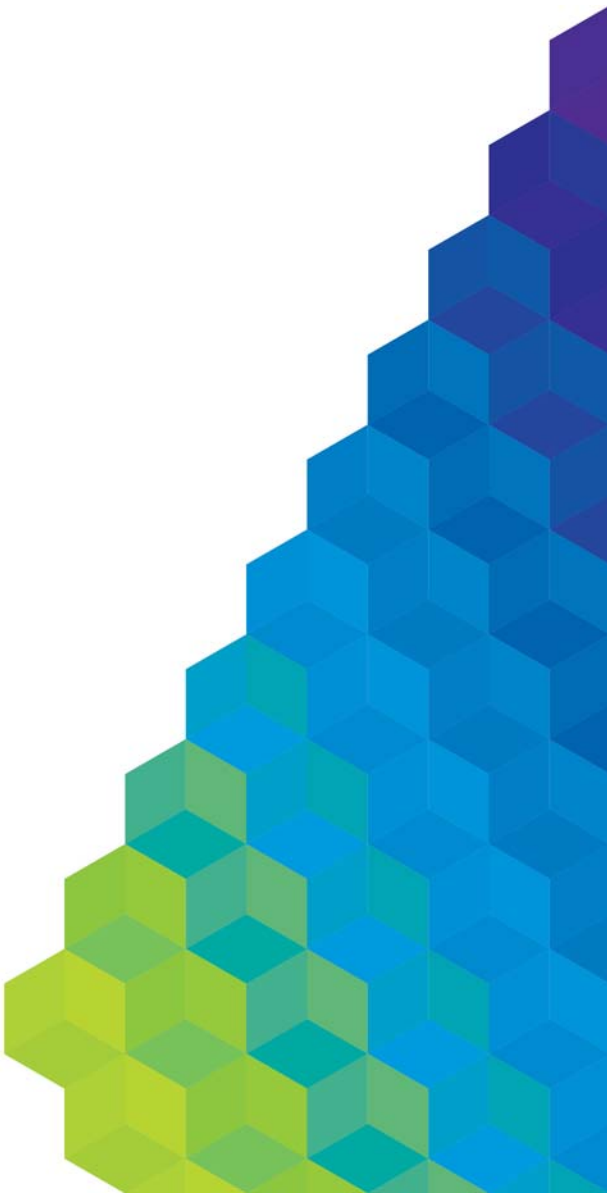
We welcome the opportunity to participate further in this Rule Change process and look forward to your Final Determination. Should you have any comments in relation to this response please do not hesitate to contact Justin Betlehem on 03 9695 6288 or Peter Ellis on 03 9695 6629.

Sincerely,

Katie Yates
(Acting) Regulatory Frameworks Manager
AusNet Services

Embedded networks draft Rule change

Response to Consultation paper



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1 The embedded network framework would facilitate competition

AusNet Services supports the establishment of a new fully contestable role of Embedded Network Manager (ENM) to facilitate access to retailer of choice in eligible jurisdictions. In this regard, we agree with the Commission's decision to assign the necessary market interface functions for ENMs and to do so using the role of a contestable service provider. This will provide easier access to retailer competition for 100,000s customers within apartment blocks, office buildings and shopping centres. Further, this easier access to retailer competition will encourage existing on-sellers within embedded networks to offer existing customers prices that recognise this easier access to competition.

We agree with the AEMC's decision to not restrict ENM participation hence allowing a variety of potential market entrants each with their own competitive advantages to compete. The ENM market will need this to drive efficient outcomes. The establishment of a viable market of ENM service providers will resolve situations where regulated Local Network Service Provider (LNSPs) are expected to enable the creation of a new National Metering Identifier (NMI) on behalf of a customer seeking access to retailer of choice.

In terms of the approach outlined in the Draft Determination we agree with the Commission that it is most appropriate to maintain obligations on Embedded Network Operators (ENO) through the AER's Electricity Network Service Provider (NSP) Registration Exemption Guideline. Further we agree with the Commission's approach of establishing accreditation and registration requirements on ENMs to ensure they are capable of facilitating retailer of choice.

In our assessment of the regulatory framework proposed in the Draft Determination we have found the changes are adequate to facilitate retailer competition in an efficient manner.

However, the Rule change lacks provisions to enable other key outcomes, such as outage management, and Life Support registration. These concerns are outlined in the subsequent sections of the document.

2 Gap in accountabilities and responsibilities within embedded networks

The scope of this review of embedded networks arrangements has been limited to establishing a minimum set of framework changes to better enable retailer choice within embedded networks. As outlined in the following sections, customers would benefit if the embedded network framework changes to be implemented were broader in scope.

2.1 Planned and unplanned outage management

The proposed framework in the Draft Determination does not improve the current lack of access to the following services.

- Notification to electricity consumers within embedded networks of planned outage notifications either resulting from onsite outage, or from the Local Network Service Providers (LNSP) in a timely manner; and
- Provision of a 24 hour contact number for enquiries and referrals from consumers and LNSPs.

Not having this arrangement in place causes problems for LNSPs, including AusNet Services. Customers within embedded networks often call AusNet Services in relation to outages; however, because these customers reside within an embedded network the information identifying them or their premise is not available in AusNet Services' systems. Further, if the embedded network has organised the outage or failed to pass on the notification of the planned outage then all AusNet Services can do is refer the matter to the embedded networks operator, through the information made available to us by the parent Retailer.

The Electricity NSP Registration Exemption Guideline does not address this requirement, whilst the National Energy Retail Rules (NERR) does impose obligations on distributors, it does not appear to specifically address the circumstances of customers within embedded networks. The Victorian Electricity Distribution Code does specifically address these circumstances placing obligations on the ENOs to provide planned outage (interruption) notifications and to provide a 24 hour contact number for service enquiries. However, situations can arise where the ENO is non-compliant to these obligations. This creates another issue where the regulator's only option for enforcement is to take away their exemption.

This leaves customers adversely affected by the non-compliance. The customer who complained and all the other customers within the embedded network will have another problem of having a whole building disconnected or having to arrange retail contracts and new market compliant metering very quickly.

Accordingly, adding an obligation on the ENM, in respect of each child connection point on an embedded network for which it is the ENM, to provide customers with timely outage notifications and to provide a 24 hour contact number for service enquiries would resolve the current gap in the framework. Although it may not be in scope of this Rule change to modify the NERR, it would be appropriate to recommend the change to the AER's Electricity NSP Registration Exemption Guideline and to incorporate these additional requirements in the NER's accreditation and registration requirements.

Whilst this could be seen as duplicating responsibilities, in that the ENO and the EMN would have obligations to ensure these services were provided, this concept of is not without precedence. This arrangement would be similar to the allocation of metering obligations to the Responsible Person (or Metering Coordinator), whereby the accredited Metering Data Providers and Metering Providers

actually have the accredited role to perform these metering functions for which the Responsible Person (or Metering Coordinator) is accountable. Non-compliance matters would be addressed through AEMO audits.

2.2 Registration of Life Support

The Draft Rule Determination no longer supports the original Rule change request's proposal that the ENM have the role of registering Life Support (LS) data for customers within embedded networks. Rather the Commission has recommended a preference for retaining existing LS registration arrangements within embedded networks, as per the AER's Electricity NSP Registration Exemption Guideline, and not to allocate the ENM with responsibility for LS updates.

Our analysis of the Life Support processes within embedded networks has revealed a number of issues associated with this matter of public safety. The first issue relates to the lack of consistency and auditability associated LS notifications when:

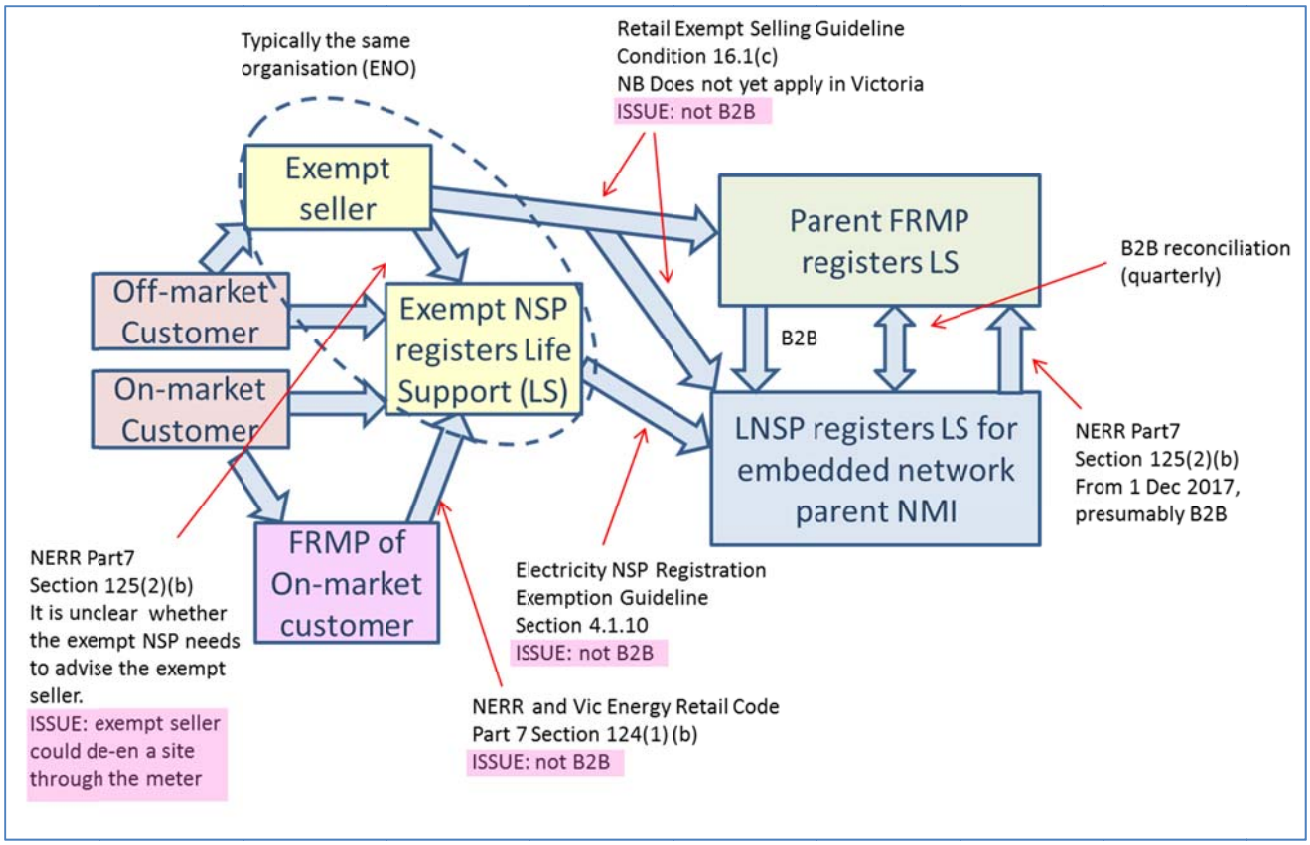
1) the requirement for the Retailer for an on-market child NMI seeks to inform the exempt NSP (or ENO); and
2) the requirement for the exempt NSP (or ENO) seeks to inform the licenced Distribution Network Service Provider (DNSP) of a requirement to register life support.

There are instances when this process is not managed properly by embedded networks. In some cases, we have received phone calls from customers within an embedded network claiming to be dependent on life support equipment. Our records indicate that the parent connection point is not registered with Life Support but have not received any information from the Retailer or the exempt NSP (or ENO) and as such, there are no records of the parent connection point having Life Support customers. Although we take such circumstances very seriously and seek to facilitate the necessary Life Support registration to ensure accuracy and completeness, but this is a very difficult situation to manage because as the licenced DNSP, we have no relationship with the customer within the embedded network.

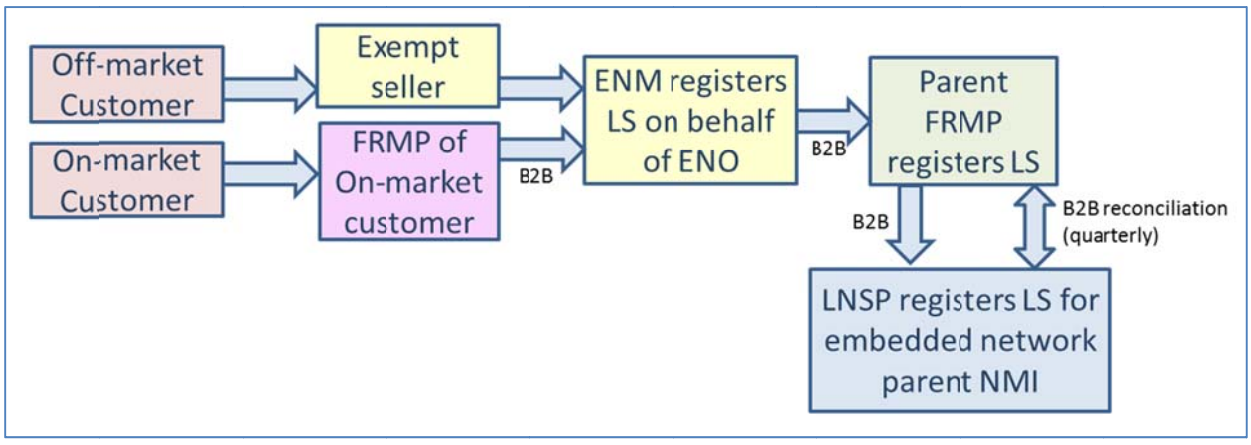
Further, the Retailer representing any on-market child NMI where informed of Life Support requirements needs to the exempt NSP (or ENO). Outside of an embedded network this notification would occur via a B2B notification, conversely for on-market child NMIs within embedded networks the Retailer needs to identify exempt NSP (or ENO) and inform them through any means possible. Again, the lack of industry standard B2B notification makes the above situation difficult to manage in terms of auditability.

The second issue is if an ENO (exempt seller/exempt NSP) is non-compliant then the regulator's only option for enforcement is to take away their exemption. This leaves customers adversely affected by the non-compliance, in particular the customer who complained. Customers within the embedded network will have no supply arrangements and risk being disconnected. A key reason for introducing the role or ENM is to provide a technically capable, authorised and registered party for important services, with this registration being at risk for non-compliance.

Submission to the AEMC on embedded networks Draft Determination



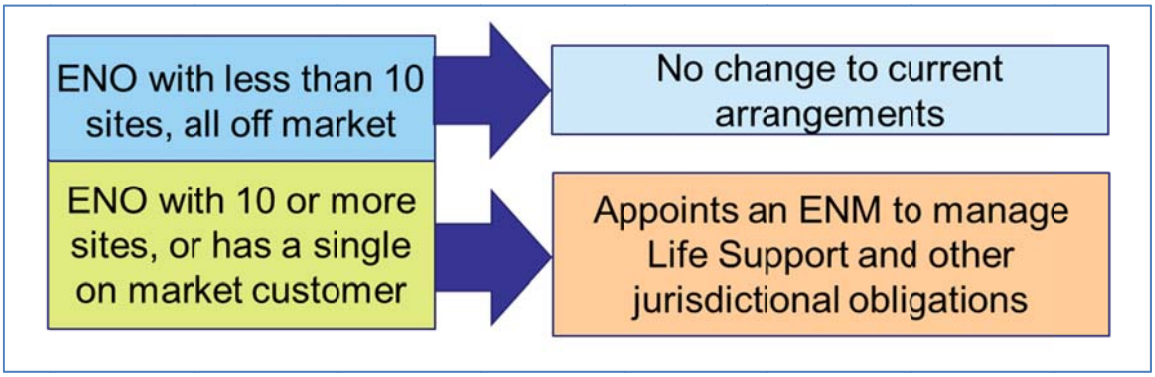
The above diagram represents the process flow for customers within embedded networks registering Life Support and it highlights associated issues with gaps in the obligations. To address these issues in circumstances where the ENM is appointed, the ENM should be obligated to perform the essential function of Life Support registration for customers within the embedded network. This was how the original AEMO Rule change request, produced in consultation with the Multiple Trading Relationships Embedded Network Reference Group, in the detailed market design described the process (pictured below)[1].



[1] Embedded Networks – Detailed Market Design, 8 August 2014, p.29

In recommending this we are not suggesting that the obligations for Life Support management are re-allocated from the embedded network operator (ENO) to the embedded network manager (ENM). Rather similar to the earlier recommendation regarding outage management, the Electricity NSP Registration Exemption Guideline provides a head of power for the life support registration obligations on the ENO. As such it is recommended that an alteration to the AER's Electricity NSP Registration Exemption Guideline be made mandating an appointed ENM to perform these essential functions. This would be complimented by incorporating in the accreditation and registration NER obligations a requirement for ENMs to update and maintain Life Support information.

In recognition of the issues of having Rules that mandate the appointment of ENM in all cases, which would be inefficient for small embedded networks without customers interested in retailer of choice, it is proposed a size threshold could be applied (see below). The AER and jurisdictions would retain a level of discretion in determining the economies of scale required to justify an ENM appointment.

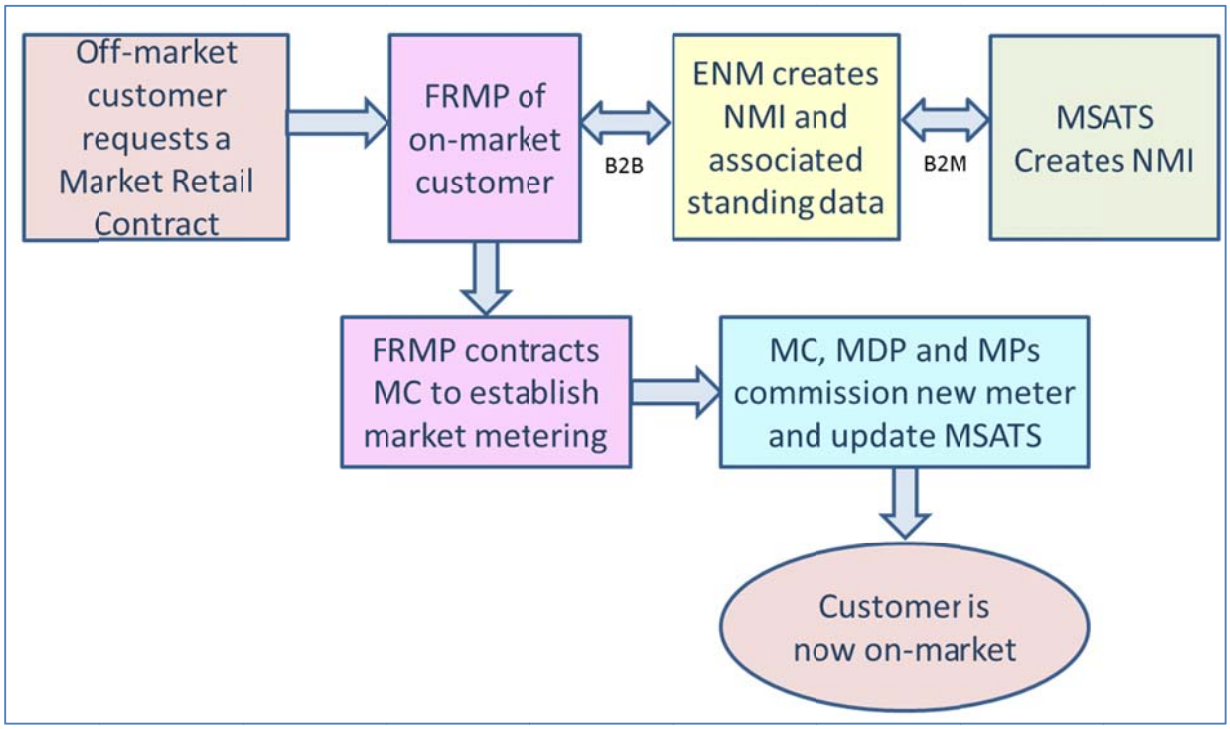


2.3 Requirement for new connection requires B2B transactions

Some stakeholders may argue that the impost of B2B obligations on ENM for Life Support or outage management would be overly onerous on this new contestable role. Our expectations would be that the Information Exchange Committee (IEC), in reviewing the requirements for new connections within embedded networks, would determine that the ENM would have obligations to receive B2B transactions from any Retailer requesting a new connection, as illustrated in the below process flow chart. On the basis that it is efficient for Retailers to apply the same process for customers inside embedded networks that applies to all other customers outside of embedded networks.

Although the B2B transaction may not go through the "B2B Hub", it would be in a standard form that any retailer can receive. Leaving this transaction up to commercial agreements would create another barrier to competition within embedded networks hence the obligation must be regulated. This is an essential component of the ENM to facilitate access to retailer of choice. Without it, there would be no point in establishing this Rule change.

Since operating B2B is an essential ENM function, using B2B facilities to receive and send customer details for Life Support and outage management would only be a marginal cost increase. Thus it would be difficult to argue the cost of facilitating these additional services exceeds the community benefits of having appropriately qualified ENMs providing quality customer services.



3 Other Considerations

3.1 Treatment of Advance Metering Infrastructure (AMI) Meters installed by the LNSP

The Rules drafting clause 7.2.2(a)(2) in the NER draft version and Draft Determination[2] take the view that embedded network customers are not connected to the LNSP's network, and therefore LNSPs are not the Responsible Person in the scenario of Type 5 metering provided by a LNSP. Although we recognise the Draft Rule for Metering Competition and Related Services removes 7.2.2(a)(2), it has been drawn to our attention that NER 11.78.7 below also achieves the same outcome. We are concerned that existing Type 5 child meters within embedded network, in particular our Type 5 Advance Metering Infrastructure (AMI) meters, might not be subject to the same grandfathering arrangements as other LNSP provided AMI meters in Victoria when Competition in Metering commences on 1 December 2017.

On-market customers within embedded networks with LNSP supplied Type 5 meters have all been requested through the customer's appointed retailer. In each case a customer has made a choice to accept a market retail contract with a licenced retailer in preference to the sale of energy through the embedded network on-seller. Also in each case the customer's Retailer has chosen a regulated LNSP supplied Type 5 meter in preference to a contestable Type 4 or 5 meter, presumably on the basis of lower costs. This LNSP supplied Type 5 meter allows the customer to accept any market offer from any retailer without having to worry about changing metering arrangements, in the same manner as any other customer outside the embedded network.

As a regulated LNSP we have treated these customers within the embedded network no differently to any other customers in our network area. In setting up the NMI in the market the Retailer requested with a Service Order that the LNSP to become the Responsible Person. This Service Order from the Retailer also requested the installation of a Type 5 meter. The Retailer had every chance to alternatively request a contestable meter.

If the Rule change proceeds as proposed these customers who have benefited from retail competition through a regulated meter would then be forced accept a contestable meter on 1 December 2017, subject to uncertainty on how the Competition in Metering changes and jurisdictional regulation apply. There is a risk that the price point of contestable metering may be higher or significantly higher than the regulated price of their current metering. We would like to emphasize that these are sites with customers that have previously chosen regulated metering in preference to contestable metering. On this basis, we recommend that there needs to be a grandfathering arrangement for the on-market NMIs with LNSPs AMI meters currently within embedded networks.

The Draft Rule for Metering Competition and Related Services below is limited to the LNSP being RP (and day 1 MC) only for direct connections onto the LNSP network and does not recognise these legacy arrangements, where in the case of Victoria, AMI meters have been installed as type 5.

11.78.7 Metering Coordinator for type 5 or 6 metering installation from effective date
(a) On and from the effective date, a *Local Network Service Provider* that was the *responsible person* for a type 5 or 6 *metering installation* connected to, or proposed to be connected to, the *Local Network Service Provider's network* under clause 7.2.3(a)(2) or clause 9.9C.3 immediately before the effective date must be appointed as the *Metering Coordinator* by the fin*ancially responsible Market Participant*.

[2] AEMC Draft Determination, page 65

On this basis, we recommend the Commission should extend this NER chapter 11 transitional arrangement to apply for LNSP installed AMI meters for on-market customers within embedded networks. If this recommended transitional arrangement is not adopted then the FRMP would need to select a Type 4 contestable metering arrangement on 1 December 2017 and make corresponding changes to the customer's market retail contract.

3.2 Confidentiality of information provided to the ENO, Exempt On-seller, and Exempt NSPs

In our assessment of the draft Rule we noted that ENMs, "Exempt Embedded Network Service Provider's embedded network" and the "Exempt Embedded Network Service Provider" are entitled to the data. Firstly it is not entirely clear what parties these terms refer to. Secondly, only the ENM has obligations to ensure confidentiality of information. As such, there is a gap in obligations on ENOs to maintain confidentiality of information relating to metering data, NMI Standing Data, settlements ready data or data from the metering register for a metering installation. The Privacy Act 1988 does not protect customers' privacy if the ENO, Exempt On-seller, or Exempt NSPs is below the annual revenue threshold (of annual turnover more than $3 million).

Therefore we recommend removing the access rights of the "Exempt Embedded Network Service Provider's embedded network" and the "Exempt Embedded Network Service Provider" to resolve this issue for parties that do not appear to have a legitimate need for this data.