



Australian Energy Market Commission

## **FINAL RULE DETERMINATION**

National Electricity Amendment (Customer access to information about their energy consumption) Rule 2014

National Energy Retail Amendment (Customer access to information about their energy consumption) Rule 2014

**Rule Proponent**  
COAG Energy Council

6 November 2014

**RULE  
CHANGE**

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## **About the AEMC**

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

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## Executive summary

The Australian Energy Market Commission's decision in this final rule determination will make it easier for customers to access their electricity consumption data so that it is in an understandable format, received in a timely manner and charged at a reasonable price or free of charge. By making this information more accessible, customers will be able to make better and more informed choices about energy products and services. This will empower consumers to make decisions that best suit them and help them save on their energy costs.

This final rule determination responds to a rule change request proposed by the COAG Energy Council. The rule change request largely stems from the AEMC's recommendations in its Power of choice review on giving consumers more options in how they use electricity. This final rule determination marks the completion of the first of a number of rule changes resulting from the Power of choice review.

The Commission has decided to make final rules that will:

- allow customers to obtain their electricity consumption data from Distribution Network Service Providers (DNSP) and retailers;
- allow parties authorised by customers to also obtain their customers' electricity consumption data from retailers and DNSPs; and
- require retailers and DNSPs to comply with minimum requirements relating to the format, time frames and reasonable charges when a customer, or a party authorised by that customer, requests their electricity consumption data.

The key differences between the draft and final rules are that:

- The final rules require DNSPs to provide up to two years of historical data starting from the date of the data request. The draft rules had not set a time limit on the duration of the data set that could be requested by a customer or its authorised representative from a DNSP. The final rules are consistent with a similar requirement on retailers.
- The final rules are consistent with the draft rules in terms of retailers and DNSPs having up to a maximum 10 business days to respond to a single request for data from a customer or its authorised representative. In addition, the final rules will not require retailers and DNSPs to comply with the maximum 10 business day time frame in relation to bulk data requests from customer authorised representatives. Furthermore, retailers and DNSPs can charge a reasonable fee for such requests. These arrangements will be specified in detail in AEMO's metering data provision procedures.
- The final rules set out that AEMO will determine, as part of its metering data provision procedures, the minimum method of delivering data to customers or their authorised representatives upon request.

The Commission received 22 submissions to its draft rule determination.

The substantive right for customers and their authorised representatives to obtain their data from retailers and DNSPs will come into effect on 1 December 2014. We have been advised that it would take AEMO up to nine months to develop the metering data provision procedures and market participants would need six months to implement these procedures. Based on this advice, the minimum requirements for metering data provision, which will be set out in detail in AEMO's metering data provision procedures and in the National Energy Retail Rules, will come into effect on 1 March 2016.

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# 1 COAG Energy Council's rule change request

## 1.1 The rule change request

On 23 October 2013, the COAG Energy Council made a request to the Australian Energy Market Commission (Commission) to make a rule regarding customers' access to information about their energy consumption.

## 1.2 Background

### 1.2.1 AEMC's Power of choice review

In December 2012, the Council of Australian Governments and the COAG Energy Council agreed to implement a comprehensive package of energy market reforms to support investment and market outcomes in the long term interests of consumers.<sup>1</sup> One area of reform sought to address the impediments to, and promote the commercial adoption of, demand side participation (DSP) in the National Electricity Market (NEM).<sup>2</sup> The COAG Energy Council developed a work program to implement the reforms, which covered three priority areas:

1. *Improving pricing and incentives:* This includes providing consumers with clear signals about the cost of their energy consumption in order to efficiently manage their demand. Businesses also need appropriate incentives to implement and facilitate DSP options.
2. *Informing choice:* This includes providing consumers and demand side providers with information so that they can identify and implement efficient demand options.
3. *Enabling response:* A range of technologies, skills and supporting frameworks are required to support pricing, information and demand management options, and to enable timely responses to market signals.

As part of these reforms, the Council of Australian Governments and the COAG Energy Council agreed to implement most of the recommendations made by the AEMC in its Power of choice review.<sup>3</sup>

The Power of choice review, published in November 2012, identified the opportunities for consumers to make more informed choices about the way they use electricity.<sup>4</sup>

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1 Council of Australian Governments, COAG meeting 7 December 2012, communique, COAG, 2012.

2 COAG Energy Council 2014, Canberra, <http://www.scer.gov.au/workstreams/energy-market-reform/> (accessed 24 March 2014).

3 In March 2013, the COAG Energy Council published its response to the recommendation in the AEMC's Power of choice review. For further information please go to: <http://www.scer.gov.au/workstreams/energy-market-reform/demand-side-participation/>.

These opportunities relate to improved information, education, technology and flexible pricing options. The review also addressed the market conditions and incentives required for network operators, retailers and other parties to maximise the potential of efficient DSP and respond to consumer choice.

The review made a number of recommendations for reform with the overall objective that the community's demand for electricity services is best met when consumers use electricity at times when the value to them is greater than the cost of supplying that electricity.

The COAG Energy Council decided to submit this rule change request to the AEMC to implement one of the recommendations in the Power of choice review. In particular, the review recommended that customers should obtain better access to their consumption data and information about their electricity use and be able to share their data with approved service providers.<sup>5</sup> If implemented, this recommendation was expected to:<sup>6</sup>

- improve customers' awareness of their electricity consumption and use patterns;
- enable more informed choices about DSP services that better suit their circumstances; and
- promote efficient retail electricity markets through innovative products and services.

The rule change request forms part of a broader package of reforms recommended in the Power of choice review as illustrated in Table 1.1.

**Table 1.1 Broader package of reforms following the Power of choice review**

Reform mechanism	Name of reform
AEMC rule changes	Distribution network pricing arrangements <sup>7</sup>
	Expanding competition in metering and related services <sup>8</sup>
	AEMO obtaining better demand side participation information <sup>9</sup>
	Reform of demand management embedded generation incentive

<sup>4</sup> Australian Energy Market Commission, *Power of choice review*, final report, AEMC, 30 November 2012, Sydney.

<sup>5</sup> AEMC 2012, op. cit., piii.

<sup>6</sup> AEMC 2012, op. cit., p51.

<sup>7</sup> <http://www.aemc.gov.au/Rule-Changes/Distribution-Network-Pricing-Arrangements>

<sup>8</sup> <http://www.aemc.gov.au/Rule-Changes/Expanding-competition-in-metering-and-related-serv>

<sup>9</sup> <http://www.aemc.gov.au/Rule-Changes/Improving-Demand-Side-Participation-information-pr>



Reform mechanism	Name of reform
	scheme <sup>10</sup>
	Embedded networks <sup>11</sup>
AEMC reviews	Electricity customer switching (completed in April 2014) <sup>12</sup>
	Framework for open access and common communication standards for smart meters (completed in April 2014) <sup>13</sup>
Other recommended rule changes	Demand response mechanism – option for demand side resources to participate in the wholesale electricity market. <sup>14</sup> This is under the consideration of the COAG Energy Council.
	Multiple trading relationships. This is being developed by AEMO.

### 1.2.2 Related reforms

#### COAG Energy Council's work on smart meters and privacy

The COAG Energy Council investigated whether there were any implications for customers' privacy resulting from the roll-out of smart meters. COAG Energy Council built upon an assessment by the Victorian government on smart meters and privacy relating specifically to Victoria carried out by a consulting firm: Lockstep.<sup>15</sup>The COAG Energy Council commissioned Seed Advisory to extend this assessment to cover all jurisdictions in the NEM, particularly in light of recent changes to privacy legislation.

The Seed Advisory report to the COAG Energy Council found that the recommendations in the Lockstep report, which were made for Victoria, still remained relevant and applicable in relation to broader federal, state and territory legislative arrangements relating to privacy.<sup>16</sup> In general, Seed Advisory upheld Lockstep's recommendations that privacy safeguards in relation to metering information were strong while suggesting some areas for improving the regulatory regime.

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<http://www.aemc.gov.au/Rule-Changes/Demand-Management-Embedded-Generation-Connection-I>

11

This is a pending rule change available at [www.aemc.gov.au](http://www.aemc.gov.au).

12

<http://www.aemc.gov.au/Markets-Reviews-Advice/Review-of-Electricity-Customer-Switching>

13

<http://www.aemc.gov.au/Markets-Reviews-Advice/Framework-for-open-access-and-communication-standards>

14

<http://www.scer.gov.au/workstreams/energy-market-reform/demand-side-participation/wholesale-market-demand-response-mechanism-in-the-national-electricity-market/>

15

The Lockstep, Privacy Impact Assessment Report, August 2011.

16

Seed Advisory, Privacy for the National Smart Metering Program - Report for the Energy Market Reform Working Group, 7 August 2013, p5.

Importantly, it strongly recommended implementing recommendations relating to customer awareness and education as it would provide further customer certainty and address customer concerns arising from a lack of information.<sup>17</sup> Seed Advisory also recommended applying a limited industry-specific privacy regime to energy market participants, adopting an 'opt-out' regime for the use of interval metering data in direct marketing by DNSPs and retailers, and broadening the application of the Australian Privacy Principles.<sup>18</sup>

The findings of this report have served as an input into some of the proposals within this rule change request.<sup>19</sup>

### **Australian government work on establishing an energy information hub**

The Australian government commissioned a scoping study on the potential need for an energy information hub to improve access to energy data.<sup>20</sup> Part of this work is related to how third parties can access customer information and how that data can be efficiently transferred to them and other parties. The Australian government is examining options to progress this work.

## **1.3 Rationale for rule change request**

Under rule 7.7(a) of the National Electricity Rules (NER), customers are already entitled to access their metering and settlements ready data, which we collectively refer to as 'electricity consumption data'<sup>21</sup>.

However, the AEMC's power of choice review found that in practice it is difficult for customers to obtain their data from market participants in an understandable format and in a timely manner.<sup>22</sup> Also, it is difficult for customers to enable other parties to obtain this data.<sup>23</sup>

In addition, as noted in section 1.2.2, Seed Advisory's report on smart meters and privacy, commissioned by the COAG Energy Council, recommended that customer awareness and education activities be undertaken to address concerns about how energy consumption data can be used.

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17 Seed Advisory, op. cit., p8.

18 Seed Advisory, op. cit., p7.

19 Please see Chapter 6 of this final rule determination.

20 Please see:

<http://www.innovation.gov.au/Energy/EnergyMarkets/ElectricityMarketDevelopment/Pages/ConsumerEnergyDataAccess.aspx> (accessed 6 May 2014).

21 Please refer to Appendix A of the consultation paper for a detailed description of electricity consumption data and meters available at [www.aemc.gov.au](http://www.aemc.gov.au).

22 AEMC, op. cit., p54.

23 AEMC, op. cit.,p54.

## 1.4 Solution proposed in the rule change request

The COAG Energy Council proposes to resolve the issues discussed above by a Rule that seeks to:

- clarify that customers or parties authorised by customers are entitled to obtain their electricity consumption data from either their retailer, DNSP or Metering Data Provider (MDP);
- require the Australian Energy Market Operator (AEMO) to develop 'data provision procedures' that must be complied with by registered participants.<sup>24</sup> These procedures will specify the format and time frame for the delivery of electricity consumption data to customers;
- require retailers and DNSPs to publish information sheets on their websites about electricity consumption data - who has access to it, how it is used, when it may be disclosed and how it is protected; and
- require the Australian Energy Regulator (AER) to develop 'metering data common terminology guidelines' for common terms relating to how electricity consumption data is used and who has access to it.

The rule change request proposes changes to both the NER and the National Energy Retail Rules (NERR).<sup>25</sup>

## 1.5 Commencement of the rule making process

On 8 May 2014, the Commission published a notice under section 95 of the National Electricity Law (NEL) and section 251 of the National Energy Retail Law (NERL) 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 5 June 2014. The Commission received 22 submissions on the rule change request as part of the first round of consultation. They are available on the AEMC website.<sup>26</sup>

## 1.6 Consultation on the draft rule determination

On 14 August 2014, the Commission published a notice under section 99 of the NEL and section 256 of the NERL in relation to the publication of the draft Rule determination and draft Rules in respect of the rule change request. The Commission invited submissions on the draft Rule determination, including the draft Rules, by 25

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<sup>24</sup> Registered participants are defined in Chapter 2 of the NER and include generators, network service providers and retailers.

<sup>25</sup> The NERR currently applies in the Australian Capital Territory, New South Wales, South Australia and Tasmania.

<sup>26</sup> [www.aemc.gov.au](http://www.aemc.gov.au)

September 2014. The Commission received 22 submissions. They are available on the AEMC website.<sup>27</sup>

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<sup>27</sup> [www.aemc.gov.au](http://www.aemc.gov.au)

## **2 Final rule determination**

### **2.1 Rule making test**

#### **2.1.1 Rule making test under 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 National Electricity Objective (NEO).

The NEO is 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.”

#### **2.1.2 Rule making test under the NERL**

Any changes to the NERR must satisfy two tests under the NERL.

The AEMC must assess whether the proposed rule will, or is likely to, contribute to the achievement of the National Energy Retail Objective (NERO). The NERO is as follows:

“The objective of this Law is to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to price, quality, safety, reliability and security of supply of energy.”

Where relevant, the AEMC must also satisfy itself that the rule is "compatible with the development and application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers" (the "consumer protections test").<sup>28</sup> Where the consideration of the consumer protections test is relevant in the making of a rule, the AEMC must be satisfied that both the NERO test and the consumer protections test have been met.<sup>29</sup> If the Commission is not satisfied that both tests have been met, the rule cannot be made.

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<sup>28</sup> See section 236(2)(b) of the NERL.

<sup>29</sup> That is, the legal tests outlined in section 236(1) and 236(2)(b) of the NERL.

## 2.2 Assessment criteria

To assess whether the rule change promotes efficiency in the investment, operation and use of electricity services for the long term interest of consumers, the AEMC has applied the following assessment criteria:

- *Enhancing consumer participation and decision-making* - whether the rule change would enhance the quality of information available to customers so that they can make more efficient energy consumption decisions?
- *Competition* - whether the rule change would further promote competition in the retail markets for energy and DSP services?
- *Transparency of regulatory frameworks* - whether the rule change increases transparency for customers and market participants with respect to the transactions they make?
- *Regulatory and administrative burden* - does the rule change result in a disproportionate regulatory or administrative burden on market participants?

The assessment criteria above will be applied to the proposed changes to the NER and NERR. This is because the requirement to promote efficiency in the investment, operation and use of electricity/energy services for the long term interests of consumers is a common requirement in both the NEO and the NERO.

As part of our assessment under the NERL, we consider that there are consumer protections relevant to this rule change request. The relevant consumer protections are those that relate to the provision of information to consumers.<sup>30</sup> Relevant consumer protections can include the general prohibition against misleading and deceptive conduct in the Australian Consumer Law or contractual requirements to make historical billing and consumption information available to consumers as set out in the NERL and NERR. We have assessed whether the proposed rule is compatible with the development and application of this class of consumer protections for small customers.

## 2.3 Final rule determination

The Commission has determined to make final rules<sup>31</sup> that are more preferable rules because these rules will, or are likely to, better contribute to the achievement of the NEO and NERO.<sup>32</sup> The Commission's decision is explained further below.

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<sup>30</sup> For a detailed account of the relevant consumer protections, please refer to Appendix B of the consultation paper available at [www.aemc.gov.au](http://www.aemc.gov.au).

<sup>31</sup> Final National Electricity Amendment (Customer access to information about their energy consumption) Rule 2014 (NER Rule) and Final National Energy Retail Amendment (Customer access to information about their energy consumption) Rule 2014 (NERR Rule).

<sup>32</sup> Appendix A sets out further detail regarding the legal requirements for the making of this final rule determination.

There are two final rules. The NER final rule makes amendments to chapter 7 of the NER. The NERR final rule makes a number of amendments to the NERR, including the model terms and conditions for standard retail contracts and deemed standard connection contracts.

The key features of the final rules are that it:

- enables customers to obtain their electricity consumption data from DNSPs and retailers;
- enables any person authorised by a customer to obtain that customer's electricity consumption data from DNSPs and retailers; and
- requires retailers and DNSPs to comply with minimum requirements when responding to requests for electricity consumption data from customers or parties authorised by customers. These minimum requirements relate to the format of data, the time frame for a retailer or DNSP to respond to a data request, the duration of time over which the data set must cover and under what circumstances a data request is free of charge or subject to a reasonable fee. AEMO is to set these minimum requirements in metering data provision procedures.

The key differences between the proposed rules and the more preferable final rules and the reasons why the final rules better meet the NEO and NERO are, as follows:

- The final rules do not require MDPs to provide electricity consumption data to customers upon request. The Commission decided not to make a final rule in this respect because MDPs do not have direct relationships with customers. A framework where customers can obtain their data directly from a retailer or DNSP remains more appropriate.
- The minimum requirements in the final NER rule are less prescriptive than in the proposed NER rule. The Commission's focus has been to set the minimum requirements in the NER while matters of detail, such as the specific requirements for data formats, are matters for AEMO to set in its procedures. We consider that this is a more appropriate allocation of obligations between the NER and AEMO procedures.
- The final NERR rule will not require retailers and DNSPs to place information on their websites about how metering data is used and will not therefore require AER to develop 'metering data common terminology guidelines'. While we strongly support reforms to enhance energy literacy and consumer engagement, we do not consider that the COAG Energy Council's proposal is the most effective regulatory response to address privacy concerns. We consider that any privacy concerns are better addressed through the application of privacy legislation to the extent that meter data is personal information.

The key differences between the final and draft rules are:

- The final rules require DNSPs to provide up to two years of historical data starting from the date of the data request rather than an unlimited period of time in the draft rule. This recognises the duration of the data set that would be of most value to customers balanced against the costs on DNSPs to store and retrieve metering data. The final rules are consistent with a similar requirement on retailers.
- The final rules are consistent with the draft rules in terms of retailers and DNSPs having up to a maximum 10 business days to respond to a single request for data from a customer or its authorised representative. In addition, the final rules will not require retailers and DNSPs to comply with the maximum 10 business day time frame in relation to bulk data requests from customer authorised representatives and retailers and DNSPs can charge a reasonable fee for such requests. This recognises that bulk data requests may place further demands on retailers and DNSPs to respond to such requests. Bulk data requests are above the minimum requirements relating to the time frame for providing data and the specific time frame for bulk data requests would be set in AEMO's metering data provision procedures. Also, a reasonable fee may be imposed for processing such requests.
- The final rules sets out that the metering data provision procedures will provide for a minimum method of delivering data to customers or their authorised representatives upon request. This allows for innovation by retailers and DNSPs to provide this data to customers or their authorised representatives while providing certainty that there will be a minimum delivery method that will allow customers and their authorised representatives to obtain their data.

The Commission is satisfied that the NERR final rule is compatible with the development and application of consumer protections for small customers in relation to the class of consumer protections relating to the provision of information.

## **2.4 Civil penalties**

The provisions of the NERR that are classified as civil penalty provisions are listed in the National Energy Retail (South Australia) Regulations. The Commission may recommend to amend or remove these provisions, but must notify the COAG Energy Council of the policy rationale for taking this course of action.

The final rule amends certain provisions that are currently classified as civil penalty provisions. These are rules 28 and 86 of the NERR. The current rule 86 of the NERR has been divided into two 'new' rules- namely, rule 86A and 86B of the NERR - in the final rule. The effect of this division is to amend the existing requirements that relate to the supply of electricity in rule 86A of the NERR while leaving unchanged the requirements that relate to the supply of gas in rule 86B of the NERR. The Commission recommends that all of these provisions remain civil penalty provisions because the amendments to these provisions change the time frame for the provision of



information only but these amendments do not affect the key obligation to make such information available.

While the Commission cannot create new civil penalty provisions, it may recommend to the COAG Energy Council that new or existing provisions of the NERR be classified as civil penalty provisions. The Commission proposes to recommend to the COAG Energy Council that new rule 56A of the NERR be classified as a civil penalty provision. Rule 56A of the NERR creates a new obligation on a retailer to provide energy consumption information to its customers, and is similar in its nature to the obligation currently existing in rule 86 of the NERR for DNSPs, which itself is currently classified as a civil penalty provision.

The Commission considers that these new and amended provisions to the NERR should remain or be classified as civil penalty provisions because it reflects their importance to the operation of the retail market and will encourage compliance by relevant parties with respect to these provisions.

## **2.5 Commencement date of the rules**

The substantive right of a customer or its authorised representative to obtain data from its retailer or DNSP, which is set out in rule 7.7(a) of the NER final rule, will come into effect on 1 December 2014. Rule 7.16 of the NER final rule, which requires AEMO to develop and publish the metering data provision procedures, commences on 1 December 2014. We have been advised that it would take AEMO up to nine months to develop the metering data provision procedures and market participants would need six months to implement these procedures. Therefore, transitional provisions require the metering data provision procedures to be developed and published by 1 September 2015 but commence on 1 March 2016. The amendments made by the NERR final rule will be effective on 1 March 2016. These arrangements are further discussed in section 5.8 of this final rule determination.

## **2.6 Strategic priority**

This rule change request relates to the first of the AEMC's current strategic priorities, the consumer priority, which aims to empower consumers to participate confidently in all parts of the energy supply chain where they desire to do so. This rule change request will make it easier for consumers and their agents to access information about their electricity consumption in an understandable, cost-effective and timely manner from retailers and DNSPs. This rule change request will enable consumers to make more informed and efficient decisions to confidently participate in the electricity market.

### **3 Customer access to electricity consumption data from Distribution Network Service Providers, Metering Data Providers and AEMO**

#### **3.1 Access to data from Distribution Network Service Providers**

##### **3.1.1 Rule change proposal**

At present, the NER entitles customers to obtain their electricity consumption data by requesting that data from retailers only.<sup>33</sup> In this rule change request, the COAG Energy Council proposed that customers can request their electricity consumption data from DNSPs in addition to their retailer.<sup>34</sup>

##### **3.1.2 Stakeholder views - consultation paper**

In submissions on the consultation paper, stakeholders generally supported a change to the NER to allow customers to obtain their electricity consumption data from DNSPs.<sup>35</sup> For example, NSW DNSPs stated that this would better achieve the policy intent in relation to access to data as expressed in the AEMC's power of choice review and align the obligations on DNSPs in Chapter 7 of the NER with obligations in the NERR.<sup>36</sup>

However, some DNSPs expressed their concerns about having an obligation to provide electricity consumption data to customers. SP AusNet was concerned about how DNSPs would verify the identity of their customers and suggested that retailers should bear the primary responsibility of providing data to customers with the DNSPs having a secondary role.<sup>37</sup> Ergon Energy noted the potential costs involved in changing their processes and systems to align with the proposed requirements.<sup>38</sup>

Some stakeholders stated that if a customer requested data from a DNSP and retailer and subsequently noticed discrepancies between the data sets provided by these market participants, then this could potentially require market participants to engage more frequently with the customer and lead to increased costs to address the queries of

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<sup>33</sup> See rule 7.7(a)(7) of the NER. Note that a customer's retailer is its 'financially responsible market participant' for the purposes of the NER.

<sup>34</sup> COAG Energy Council, *op. cit.*, p8.

<sup>35</sup> AGL, submission on consultation paper, p1; Alinta Energy, submission on consultation paper, p2; ENA, submission on consultation paper, p2; Energy Tailors, submission on consultation paper, p2; NSW DNSPs, submission on consultation paper, p2; PIAC, ATA, Uniting Care Australia and CHOICE, submission on consultation paper, p1; Vector, submission on consultation paper, p4. Although note a contrary view: CitiPower and Powercor, submission on consultation paper, p1.

<sup>36</sup> NSW DNSPs, submission on consultation paper, p2;

<sup>37</sup> SP AusNet, submission on consultation paper, p7.

<sup>38</sup> Ergon Energy, submission on consultation paper, p3.

these customers.<sup>39</sup> The Energy and Water Ombudsman in Victoria reported that in Victoria there were some queries about discrepancies between data sets provided by retailers as compared to their DNSP.<sup>40</sup>

### 3.1.3 Stakeholder views - draft rule determination

Stakeholders generally supported the ability for customers and their authorised representatives to request electricity consumption data from DNSPs.<sup>41</sup> However, some stakeholders expressed their concern that the variable quality of customer details, which DNSPs receive from retailers via a B2B transaction, could impair a DNSP's ability to verify the identity of customers and their representatives in response to requests for data.<sup>42</sup>

### 3.1.4 Analysis

Customers currently have the ability to obtain information from retailers. This is important as customers have a relationship with their retailer.

If customers or authorised parties were also able to obtain their electricity consumption data from DNSPs, then this would result in customers or authorised parties having an additional source to obtain their data. Customers or their authorised parties can choose to obtain their electricity consumption data from either a retailer or a DNSP. This would make it easier for customers to obtain their electricity consumption information. This would be consistent with our objective to empower customers with information to make more efficient electricity consumption decisions. Also, as discussed further below, allowing customer authorised representatives to go directly to a DNSP to obtain customers' data would facilitate competition.

This position would also be consistent with the policy settings in those jurisdictions that have adopted the National Energy Customer Framework (NECF), which provide that customers have contractual arrangements with DNSPs. It would codify current practices in Victoria where customers can obtain their data from DNSPs.<sup>43</sup> It would also ensure that the practice of DNSPs providing data to customers is compliant with

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<sup>39</sup> ERM Power, submission on consultation paper, p2; Origin Energy, submission on consultation paper, p2.

<sup>40</sup> Energy and Water Ombudsman Victoria, submission on consultation paper, p5.

<sup>41</sup> ERAA, submission on draft rule determination, p1; Ergon, submission on draft rule determination, p3; NSW DNSPs, submission on draft rule determination, p2; Origin, submission on draft rule determination, p1. However, Energex considered that requiring DNSPs to provide this data will result in costly and inefficient duplication: Energex, submission on draft rule determination, p3.

<sup>42</sup> AGL, submission on draft rule determination, p2; CitiPower and Powercor, submission on draft rule determination, p2; Energex, submission on draft rule determination, p1.

<sup>43</sup> Clause 11, Advanced Metering Infrastructure (AMI Tariffs) Order, 19 June 2013.

the NER because there is a concern that DNSPs may be in breach of current arrangements.<sup>44</sup>

In addition, enabling authorised parties to obtain electricity consumption data from DNSPs, rather than only retailers, would allow these authorised parties to obtain data in circumstances where they are in direct competition with retailers and may not want to approach a retailer or a retailer may have an incentive to frustrate data requests from these authorised parties. Therefore it is preferable for these authorised parties to have the option to source data from DNSPs so as to facilitate competition in the retail market or energy/DSP services market.

Further, allowing customers to obtain their electricity consumption data from DNSPs harmonises the approach in the NER with the existing arrangements in the NERR, where customers (including small customers) can already obtain certain data from retailers or DNSPs.<sup>45</sup>

DNSPs obtain customer details from the relevant retailer through a B2B transaction provided in accordance with AEMO's B2B procedure: Customer Details and Site Notification Process.<sup>46</sup> In response to DNSPs' concerns about the current B2B procedure, we propose that this B2B procedure be reviewed with the objective of improving the quality of customer information provided by a retailer to a DNSP. A review of the existing B2B procedure would be assessed by the Information Exchange Committee in accordance with the Rules consultation procedures and could be undertaken under the existing governance framework for B2B procedures.

We note that DNSPs may propose a change to the B2B procedures.<sup>47</sup> It would be in the interests of DNSPs and retailers to review the relevant B2B procedures in a timely manner. Improving this B2B process should enhance DNSPs' ability to verify the identity of customers and validate the authority of customer representatives.

We recognise that if a DNSP cannot verify the identity of a customer and therefore satisfy its privacy obligations, then that DNSP may not be able to provide the requested data.<sup>48</sup> Customers would still be able to seek that data from their retailer in these circumstances.

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<sup>44</sup> The NERR requires that DNSPs provide certain information to customers. However, the AER considers that the provision of data by DNSPs to customers may be in breach of the NER. See AER Compliance Bulletin No. 8 on Confidential requirements for energy, metering and NMI standing data. 29 June 2012.

<sup>45</sup> See rules 28 and 86 of the NERR. Please note that rule 28 of the NERR only applies to small customers.

<sup>46</sup> [www.aemo.com.au](http://www.aemo.com.au)

<sup>47</sup> Clause 7.2A.3(a) of the NER.

<sup>48</sup> Rule 7.7(a1) of the NER.

## **3.2 Access to data from Metering Data Providers**

### **3.2.1 Rule change proposal**

The rule change request stated that MDPs may provide electricity consumption data directly to customers.<sup>49</sup> However, the proposed rule did not include specific legal drafting for any NER amendments to give effect to this proposal.

### **3.2.2 Stakeholder views - consultation paper**

In submissions on the consultation paper, there was general support for providing MDPs with the ability to provide electricity consumption data directly to customers.<sup>50</sup> However, some stakeholders noted that MDPs do not have direct customer relationships<sup>51</sup> and may not be able to, or have difficulties, verifying customers' identities.<sup>52</sup>

### **3.2.3 Stakeholder views - draft rule determination**

Stakeholders did not support customers having the ability to request data directly from a MDP.<sup>53</sup>

### **3.2.4 Analysis**

In the NEM, a MDP is appointed by the Responsible Person<sup>54</sup>(who is either a retailer or DNSP) to provide metering data services.

Under the NER, customers do not have a direct relationship with MDPs or a right to request data directly from MDPs. The NER provides that MDPs must provide data to retailers or DNSPs<sup>55</sup>, but does not refer to direct provision of data to customers.

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<sup>49</sup> COAG Energy Council, op. cit., p2.

<sup>50</sup> AGL, submission on consultation paper, p2; Alinta Energy, submission on consultation paper, p2; Energex, submission on consultation paper, p4; ERAA, submission on consultation paper, p2; Origin, submission on consultation paper, p2; PIAC, ATA, Uniting Care Australia and CHOICE, submission on consultation paper, p1.

<sup>51</sup> Vector, submission on consultation paper, p4.

<sup>52</sup> Ergon Energy, submission on consultation paper p4; SP AusNet, submission on consultation paper, p8; United Energy, submission on consultation paper, p2.

<sup>53</sup> AGL, submission on draft rule determination, p2; Origin, submission on draft rule determination, p1.

<sup>54</sup> The role of the Responsible Person is defined in Chapter 7 of the NER and involves engaging a Metering Provider and a Metering Data Provider. The role of the Responsible Person is the subject of a rule change request - competition in metering and related services -currently being assessed by the AEMC.

<sup>55</sup> Clause 7.11.2(a)(6) of the NER.

In practice, some large customers may receive data from MDPs who are acting as service providers on behalf of those customers' retailers or DNSP. However, in most cases, customers would not be aware of who their MDP would be. Equally, MDPs do not have access to customers' names or other personal information to verify a customer's identity.

Customers can obtain their electricity consumption data from retailers and, as proposed in this final rule determination, from DNSPs. We consider that this regulatory framework for obtaining data, including the existing role for a MDP in the NER, remains sound. We therefore do not consider that it would be appropriate to amend the NER to give customers additional entitlements to obtain data directly from a MDP.

### **3.3 Access to data from AEMO**

#### **3.3.1 Rule change proposal**

In the rule change proposal, the COAG Energy Council noted the scoping study by the Australian Government on the need to establish an energy information hub.<sup>56</sup> Part of this work related to how third parties can obtain customer information and how that data can be efficiently transferred to them and other parties. The COAG Energy Council noted that the Australian Government is examining options to progress this work.<sup>57</sup>

#### **3.3.2 Stakeholder views - consultation paper**

The Energy Market Reform Working Group (EMRWG) of the COAG Energy Council made a late submission proposing that the AEMC consider the option of allowing customers and authorised service providers to use B2B arrangements to obtain access to 'consumer energy use data through a common gateway', namely, AEMO's Market Settlement and Transfer Solution (MSATS) database.<sup>58</sup> The EMRWG argued that existing limits to accessing AEMO's centrally held data could:

- disadvantage third party energy service providers by imposing coordination costs to access data from many retailers and DNSPs;
- lead to duplication of retailer and DNSP data systems and therefore ultimately increase costs for consumers;
- reduce access to complete historic data sets as data sets are limited by 'changing competitive retail relationships'; and

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<sup>56</sup> COAG Energy Council, op. cit., p10.

<sup>57</sup> COAG Energy Council, ibid.

<sup>58</sup> EMRWG of the COAG Energy Council, submission on consultation paper, p2.

- be inconsistent with Australian Privacy Principles, by limiting customers' ability to access their data.<sup>59</sup>

### 3.3.3 Stakeholder views - draft rule determination

In the draft rule determination, we did not support the EMRWG proposal to allow customers to obtain data from AEMO's MSATS because MSATS does not contain customer names and AEMO does not have a relationship with customers. Some stakeholders supported our reasoning in the draft rule determination and noted the need for longer term customer focussed solution to data provision.<sup>60</sup> Other stakeholders urged the AEMC to work with AEMO to further develop the EMRWG proposal.<sup>61</sup>

### 3.3.4 Analysis

Currently, the design of AEMO's MSATS is such that customers' names are not recorded. Given this current design, the proposal by the EMRWG that customers or third parties could request energy consumption data directly from AEMO would not be able to be implemented unless there are significant upgrades to MSATS. Without access to customers' names, AEMO could not verify the identity of a customer requesting access to its data, or confirm that a third party requesting data has the customer's consent. AEMO would also not be able to ensure that it only provided data for the period during which that customer was the customer at the relevant address, for example if a customer only moved into that address six months ago but asked for two years of consumption data.

Any upgrade to MSATS so that it contained customer names to overcome these issues would also need to consider any resulting privacy concerns. We understand that it is currently an intentional design feature of MSATS that it does not contain personal information such as customers' names. It is not necessary for MSATS to contain customers' names in order for AEMO to perform its current role of operating the NEM. If MSATS did contain customers' names, this would involve additional costs to meet requirements to safeguard the privacy of customers, even though this is not necessary for the current operation of the NEM.

More broadly, it is important to recognise the relationships that customers have with market participants. Customers have direct relationships with retailers and also with their DNSP. Customers do not have direct relationships with AEMO.

EMRWG's proposal is intended as a complement to the other changes proposed in this rule change request where customers can obtain data from retailers and DNSPs.

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<sup>59</sup> EMRWG, *op. cit.*, p2-3.

<sup>60</sup> Energex, submission on draft rule determination, p4; NSW DNSPs, submission on draft rule determination, p3; Origin, submission on draft rule determination, p1; United Energy, submission on draft rule determination p4.

<sup>61</sup> double IQ and Energy Makeovers, submission on draft rule determination, p2; PIAC, submission on draft rule determination, p1.

However, there is a risk that this proposal could lead to potentially inefficient duplication across AEMO, retailers and DNSPs and create a significant change in AEMO's role to interface directly with customers.

We note the potential benefits outlined in EMRWG's proposal, including avoiding the need for duplication of retailer and DNSP data systems. However, some of these benefits would appear to only apply if this proposal was adopted instead of allowing customers to obtain their energy consumption data from retailers and DNSPs. In light of this final rule determination, market participants will need to ensure that their systems can respond to requests for data, regardless of whether customers (or authorised parties) could also obtain this data from AEMO.

Accordingly, the final rules do not provide for customers or authorised third parties to request energy consumption data directly from AEMO. As the energy market evolves and enhancements are potentially made to AEMO's MSATS and B2B systems and the shared market protocol proposed in our advice on open access and common communication standards for smart meters is implemented,<sup>62</sup> AEMO may have a greater role in facilitating a more coordinated delivery of energy consumption and other data to customers. However, we do not consider that EMRWG's proposed changes are appropriate at present.

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<http://www.aemc.gov.au/Markets-Reviews-Advice/Framework-for-open-access-and-communication-standards> (accessed 15 October 2014)



## 4 Allowing a person authorised by a customer to access data

### 4.1 Rule change proposal

The COAG Energy Council has proposed to allow agents or service providers acting on behalf of a customer (that is, persons or parties authorised by a customer) to obtain access to customers' electricity consumption data from the customers' retailer or DNSP.<sup>63</sup> The COAG Energy Council stated that the benefit of this proposal is that it would reduce the existing complexity around accessing and receiving consumption information.<sup>64</sup> It would also make the delivery of energy services more efficient.<sup>65</sup>

The rule change proposal stated that this change will not place additional costs on market participants given that they would already have to provide this information to their customers.<sup>66</sup>

### 4.2 Stakeholder views - consultation paper

In submissions on the consultation paper, there was general support to give parties authorised by customers the right to request electricity consumption data on behalf of their customers.

In the consultation paper, we sought views on what the appropriate term in the NER or NERR should be to refer to parties authorised by customers to access their data for the provision of services to their customer. The term we have used in the consultation paper was 'agent' or 'service provider' but other submissions suggested variants such as 'authorised parties'<sup>67</sup> or 'authorised representative'.<sup>68</sup>

In the consultation paper, we sought views as to whether the NER should specify the nature of the consent (for example, requiring explicit informed consent or some other form of consent) required by authorised parties from their customers and any additional privacy obligations over and above those found in existing privacy legislation. Stakeholders provided a range of views on this issue: some stakeholders supported the NER specifying the nature of the consent required;<sup>69</sup> whereas other stakeholders considered that it was unnecessary to specify the nature of the consent or

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<sup>63</sup> Proposed rule 7.7(a)(7) of the NER.

<sup>64</sup> COAG Energy Council, *op. cit.*, p12.

<sup>65</sup> COAG Energy Council, *op. cit.*, p12.

<sup>66</sup> COAG Energy Council, *op. cit.*, p12.

<sup>67</sup> AGL, submission on consultation paper, p4; EnerNOC, submission on consultation paper, p5; Ergon Energy, submission on consultation paper, p7.

<sup>68</sup> United Energy, submission on consultation paper, p6.

<sup>69</sup> Energy Tailors, submission on consultation paper, p5; EnerNOC, submission on consultation paper, p5; PIAC, ATA, Uniting Care Australia and CHOICE, submission on consultation paper, px; SP AusNet, submission on consultation paper, p16.

additional privacy obligations in the NER because existing privacy legislation is sufficient.<sup>70</sup>

In addition, the ERAA suggested an alternative approach where authorised parties could access their customers' data from AEMO's MSATS database via a B2B transaction.<sup>71</sup>

### 4.3 Stakeholder views - draft rule determination

Stakeholders expressed support for the right of customer authorised representatives to request electricity consumption data on behalf of their customers.<sup>72</sup> However, DNSPs were concerned about their capacity to respond to 'bulk data requests' - requests from multiple customers over a short time period - made by customer authorised representatives.<sup>73</sup> These stakeholders suggested that such bulk data requests should allow for extensions of the time frame for the delivery of data and be subject to a reasonable charge to process such requests.

In addition, AusNet Services suggested that the process for market participants to establish that a consumer has provided its consent to a customer authorised representative be set out in the Rules.<sup>74</sup> AusNet Services considered that there is inconsistency between the NER and NERR in relation to the legal drafting that refers to customer authorised representatives.<sup>75</sup>

### 4.4 Analysis

Under rule 7.7(a)(7) of the NER, customers are entitled to access their electricity consumption data but cannot explicitly authorise their agents or service providers to access this data on their behalf. In the Power of choice review, the AEMC observed that currently customers have to contact their retailer's call centre to request their data.<sup>76</sup> The customer then forwards this data to their agents. In the case of agents acting on behalf of industrial or commercial business customers, these agents are required to forward a letter of authority from the customer.<sup>77</sup>

The provision of a clear right in the NER and NERR to enable parties authorised by a customer to obtain access to their customers' electricity consumption data would make

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<sup>70</sup> AGL, submission on consultation paper, p4; Energex, submission on consultation paper, p6; United Energy, submission on consultation paper, p6; Vector, submission on consultation paper, p7.

<sup>71</sup> ERAA, submission on consultation paper, p4.

<sup>72</sup> ENA, submission on draft rule determination, p2; United Energy, submission on draft rule determination, p5.

<sup>73</sup> Energex, submission on draft rule determination, p5; Ergon, submission on draft rule determination, p3; NSW DNSPs, submission on draft rule determination, p3.

<sup>74</sup> AusNet Services, submission on draft rule determination, p5.

<sup>75</sup> AusNet Services, submission on draft rule determination, p14.

<sup>76</sup> AEMC 2012, op. cit., p64.

<sup>77</sup> AEMC 2012, op. cit., p64.

it easier for them to access the data that they need to provide innovative services to customers consistent with their preferences and potentially expanding the range of choices available to customers. For example, entities operating price comparator websites could get the consent of customers to obtain their data for use in price comparator services.

In addition, allowing parties authorised by a customer a clear right to access data on behalf of its customers could promote competition in the retail market and the energy/DSP services market. It would enable business models involving parties authorised by a customer to emerge and compete with other market participants to provide a range of services for the benefit of customers.

Further, given the issues with current arrangements, the provision of a clear right for parties authorised by a customer to access data on behalf of its customers would provide regulatory certainty for customers, these authorised parties and market participants. This would therefore promote transparency in the NEM regulatory framework.

While there may be some costs in adapting the processes and procedures for retailers and DNSPs, there was no evidence provided that this would be material and would likely be outweighed by the clear benefits to consumers.

However, we recognise the potential demands placed on retailers and DNSPs in responding to bulk data requests from customer authorised representatives. We consider that bulk data requests - recognised in the NER final rule as requests made by customer authorised representatives in relation to more than one retail customer - should be treated differently to singular requests. Retailers and DNSPs should be able to have a longer time frame to respond to bulk data requests as an exception to the time limits for data requests set out in the NER. AEMO would specify the time limits for bulk data requests in its metering data provision procedures. These time limits could vary depending on the size of the bulk data request or other relevant factors. Further, retailers and DNSPs should be able to charge a reasonable fee that reflects the additional costs to process bulk data requests as set in the NERR final rule.

We consider that the appropriate term to describe parties authorised by customers should be couched in broad terms, which would include the legal notion of 'agents', as well as third party service providers and other parties authorised by the customer. In this respect, the NER final rule refers to a 'customer authorised representative' which is defined as a person authorised by a retail customer to request and receive information under chapter 7 on the retail customer's behalf.<sup>78</sup> A definition of a customer authorised representative has also been included in the NERR final rule. This maintains consistency in the definitions of customer authorised representative in the NER and NERR final rules.

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<sup>78</sup> Please see Item 1, Schedule 2 of the *Final National Electricity Amendment (Customer access to information about their energy consumption) Rule 2014*.

In relation to whether the NER should specify the nature of consent required by parties authorised by customers, we do not consider that the NER should specify this. We consider that existing laws, including privacy legislation, sufficiently addresses this issue. We consider that it is not generally appropriate for energy market regulations to apply and potentially duplicate obligations found in existing laws. Under this approach, for example, it would be up to the retailer or DNSP to determine what it needs to do to so that it meets its privacy obligations. It would also be up to the parties authorised by the customer to only use the information as permitted by privacy law.

## 5 Minimum requirements for the provision of electricity consumption data

### 5.1 Format of data - detailed and summary format

#### 5.1.1 Rule change proposal

The COAG Energy Council proposed that electricity consumption data must be provided in 'raw' data and summary data format.<sup>79</sup> Raw format data would refer to the metering data obtained from a metering data provider or the settlements ready data prepared by AEMO.<sup>80</sup> As the raw format data may be difficult to understand, the COAG Energy Council has also proposed that data in a summary format be provided.

The COAG Energy Council proposed that the information provided in the summary data format to customers would depend on the type of metering installation at their premise: accumulation or interval meter.<sup>81</sup>

In relation to data in a summary format for a customer with an accumulation meter, the COAG Energy Council has proposed that, at a minimum, customers should be provided with a 'net distribution system load profile' relevant to the customer's applicable distribution network. This would allow customers with accumulation meters to compare their electricity usage against a representative electricity usage load profile in their area.

In relation to data in a summary format for a customer with an interval meter, the COAG Energy Council has proposed that, at a minimum, customers should be provided with information about:<sup>82</sup>

- the nature and extent of the customer's energy usage for daily time periods calculated by reference to usual peak energy usage;
- the customer's usage or load profile over a specified period; and
- a diagrammatic representation of the above information.

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<sup>79</sup> See proposed rule 7.16(c) of the NER, COAG Energy Council rule change request.

<sup>80</sup> The power of choice review final report states that this format would be akin to the existing "NEM 12/13" file format for the exchange of metering data between AEMO and market participants. AEMC 2012, op. cit., p61.

<sup>81</sup> See proposed rule 7.16(c)(2)-(3) of the NER, COAG Energy Council rule change request. For an explanation of the types of meters, please refer to Appendix A of the consultation paper: available at [www.aemc.gov.au](http://www.aemc.gov.au).

<sup>82</sup> See proposed rule 7.16(c)(2) of the NER. COAG Energy Council rule change request.

### 5.1.2 Stakeholder views - consultation paper

In submissions to the consultation paper, there was general consensus that customers should be provided with data in a 'raw'/detailed or summary format. However, there were concerns from some market participants that the proposed rule was overly prescriptive and that some of this detail could be left for AEMO to determine in its metering data provision procedures.<sup>83</sup>

In relation to the detailed data format, stakeholders discussed the appropriate type of format that should be adopted in a way that minimises costs for market participants and the NEM12/13<sup>84</sup> format was a possible suggestion.

In relation to the summary data format, while stakeholders acknowledged that such a format would be beneficial to customers, some stakeholders were concerned about the implementation costs if significant re-engineering of formats was involved.<sup>85</sup> On that point, EnerNOC suggested possible ways of summarising data with low implementation costs.<sup>86</sup> Stakeholders consistently commented that the use of the 'net system distribution load profiles' will not be helpful for customers on accumulation meters as it does not relate to individual customer load shapes.<sup>87</sup>

Following their experience in running the My Power Planner website in Victoria, the Victorian Department of State Development, Business and Innovation expressed their support for a single standardised format rather than catering for a range of formats available in the industry.<sup>88</sup>

### 5.1.3 Stakeholder views - draft rule determination

Stakeholders generally supported the Commission's position in the draft rule determination.<sup>89</sup> However, some retailers suggested that the NER draft rule should be less prescriptive.<sup>90</sup> EnergyAustralia expressed its concern about AEMO prescribing a standardised data format when developing its metering data provision procedures.<sup>91</sup>

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83 NSW DNSPs, submission on consultation paper, p2; Vector, submission on consultation paper, p5.

84 EnerNOC, submission on consultation paper, p2; SP AusNet, submission on consultation paper, p9.

85 ERAA, submission on consultation paper, p2

86 EnerNOC, submission on consultation paper, p3.

87 ERAA, submission on consultation paper, p2; ERM Power, submission on consultation paper, p3; NSW DNSPs, submissions on consultation paper, p3; Origin Energy, submission on consultation paper, p3.; United Energy, submission on consultation paper, p3.

88 Victorian Department of State Development, Business and Innovation, submission on consultation paper, p2.

89 AGL, submission on draft rule determination, p3; Energex, submission on draft rule determination, p5.

90 Alinta, submission on draft rule determination, p2; ERAA, submission on draft rule determination, p2.

91 EnergyAustralia, submission on draft rule determination, p3.

The Victorian Department of State Development, Business and Innovation reiterated its support for a single standardised format.<sup>92</sup> Double IQ and Energy Makeovers also sought common minimum formats and suggested that these formats be machine and human-readable.<sup>93</sup>

#### 5.1.4 Analysis

As the objective of this rule change request is to empower customers to make more informed decisions about their electricity consumption, we consider that customers should be able to obtain their electricity consumption data both in a detailed<sup>94</sup> and a summary format upon request to a retailer or DNSP. We consider that a detailed format would be particularly useful for authorised parties to provide services to their customers while a summary format would be useful for customers, especially small customers, to understand their electricity consumption data.

We consider that this obligation to provide data in a detailed and summary format should be set out in the NER while the precise format (eg NEM 12/13 or Meter Data File Format (MDFF) format) should be determined by AEMO in its metering data provision procedures following consultation with stakeholders. We consider that this is the appropriate allocation of obligations between the NER and AEMO's metering data provision procedures. This is because the NER has been designed to specify the minimum requirements with respect to formats in a manner that is not overly prescriptive. AEMO's procedures can then address the necessary details and respond with more flexibility to changes in technology and customer preferences.

We evaluated whether a single standardised summary data format and detailed data format should be developed by AEMO in the metering data provision procedures and uniformly applied across the NEM.<sup>95</sup> However, we decided not to adopt this approach. We considered that AEMO's metering data provision procedures should set out minimum requirements with respect to format that would ensure customers receive their data in an understandable manner.

In developing these minimum requirements with respect to formats, we expect that AEMO will consider formats that enable customers to readily use and benefit from price comparator websites. These minimum requirements with respect to formats would also allow data to be shared with other parties and existing safeguards relating to data security would remain. However, these minimum requirements with respect to formats are set in a way that does not inhibit innovation among market participants in the specific formats for providing this data to their customers. This approach means that market participants can offer additional or different forms of information if that is

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<sup>92</sup> Victorian Department of State Development, Business and Innovation, submission on draft rule determination, p1.

<sup>93</sup> double IQ and Energy Makeovers, submission on draft rule determination, pp1-2.

<sup>94</sup> We consider that the term 'detailed', rather than the term 'raw', more accurately captures the nature of this data.

<sup>95</sup> A submission suggested that there be a single industry standard format: Victorian Department of State Development, Business and Innovation, submission on draft rule determination, p1.

what customers prefer as long as the minimum requirements with respect to formats are met.

In relation to accumulation data, we have removed the reference in the proposed NER rule requiring the summary format to include the 'net distribution system load profile' for customers with accumulation metering data available. We understand that the aim of this reference to 'net distribution system load profile' was to allow customers to compare their own load profile against the 'net distribution system load profile' as an aid to decision-making. However, as noted from submissions, we do not think that making this comparison would be meaningful for customers and is likely to be confusing.

## **5.2 Duration of time over which data requests should cover**

### **5.2.1 Rule change proposal**

The COAG Energy Council's rule change request did not propose a specific period of time (eg over a two year period) over which the electricity consumption data set is to be provided.<sup>96</sup> However, we sought views as to whether the NER should specify a period of time in relation to which data is to be provided in response to a customer's request and if so, what this time period should be.

### **5.2.2 Stakeholder views - consultation paper**

In submissions on the consultation paper, most submissions were supportive of a two year time frame over which data was to be provided following a request from customers.<sup>97</sup> The view was that customers should be able to have a set of data that allows them to distinguish trends in consumption over and above seasonal variations.

Energy Conservation sought clarification as to whether it would be possible to make a rule that allows a customer to recover data from a previous retailer.<sup>98</sup>

### **5.2.3 Stakeholder views - draft rule determination**

Retailers supported the Commission's position in the draft rule determination that customers can obtain data up to two years prior to the date of the data request.<sup>99</sup>

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<sup>96</sup> However, proposed rule 7.16(c)(2)(ii) of the NER does state that a usage or load profile be provided over a 'specified period'.

<sup>97</sup> Energy Conservation, submission on consultation paper, p2; EnerNOC, submission on consultation period, p3; Ergon Energy, submission on consultation paper, p6; SP AusNet, submission on consultation paper, p11. Although United Energy considered that NER need not specify a period of time and it should be flexible: United Energy, submission on consultation paper, p4.

<sup>98</sup> Energy Conservation, submission on consultation paper, p2.

<sup>99</sup> AGL, submission on draft rule determination, p3; Simply Energy, submission on draft rule determination, p2.



However, DNSPs were concerned that the NERR draft rule did not limit the duration of the data set that customers can obtain from a DNSP. DNSPs noted that this could impose significant costs on DNSPs having to retain long data sets with limited value for consumers.<sup>100</sup> DNSPs suggested a range of limits: 12 months in line with Victorian arrangements;<sup>101</sup> 13 months in line with requirements to have data retrievable online for a MDP;<sup>102</sup> two years in line with similar obligation on retailers;<sup>103</sup> or seven years in line with NER requirements for the duration of time metering data is to be archived as currently required in the NER.<sup>104</sup>

#### 5.2.4 Analysis

The NERR currently states that a retailer must provide a small customer with historical billing data for the previous two years upon request.<sup>105</sup> However, the proposed rule in the NERR for retailers and DNSPs to provide 'energy consumption information' is not limited as to the time frame over which that information is to be provided.<sup>106</sup>

We consider that the NER does not need to specify a period of time over which the electricity consumption data set is to be provided. These obligations are more appropriately placed in the NERR as it deals with the rights of customers as against retailers and DNSPs.

In the NERR, we consider that the requirement for retailers to provide 'energy consumption information' should be limited to the previous two years since the request for data was made.<sup>107</sup> This is consistent with the current NERR requirement for retailers to provide 'historical billing data' for the previous two years upon request.<sup>108</sup> Consistency between these two obligations would provide regulatory certainty for customers and retailers as to their respective rights and obligations.

The only qualification to this requirement is if a customer has been a customer of a retailer for a period of time less than two years, then that customer would only be able to request data for the period of time it has been a customer of that retailer.

We have also considered whether clarification is required in the NERR to allow customers to obtain data from a previous retailer of which it was a customer. We note that the Victorian Energy Retail Code already contains provisions for such

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100 See for example: United Energy, submission on draft rule determination, pp6-7.

101 United Energy, submission on draft rule determination, p7.

102 CitiPower and Powercor, submission on draft rule determination, p2.

103 AusNet services, submission on draft rule determination, p7; NSW DNSPs, submission on draft rule determination, p4.

104 Energex, submission on draft rule determination, p5.

105 Rule 28 of the NERR.

106 Proposed rule 56A and 86 of the NERR.

107 Final rule 56A of the NERR.

108 Rule 28 of the NERR.

circumstances.<sup>109</sup> To promote certainty for customers and market participants by clarifying their respective rights and obligations, we have inserted rule 56B of the NERR to put beyond doubt that customers can obtain their electricity consumption data from previous retailers. This would be for a period of up to two years prior to the date of the data request or if a customer is a customer of a retailer for a period less than two years (eg. six months), then for the period of time that the customer was a customer of that retailer but only as far back as two years from the date of the data request.

In relation to DNSPs, we consider that customers should be able to request information about their energy consumption from a DNSP for a set of data up to two years prior to the date of the request.<sup>110</sup> We consider that this achieves the appropriate balance between providing a sufficiently lengthy data set for consumers to observe any seasonal variations in their energy consumption while limiting any costs on DNSPs to store and retrieve metering data. As a result, the requirements in relation to the duration of the metering data set, which would be limited up to two years prior to the date of the data request, is now consistent as between retailers and DNSPs.

### **5.3 Time frame for retailer and DNSP to respond to a data request**

#### **5.3.1 Rule change proposal**

The COAG Energy Council has proposed that DNSPs and retailers must respond to a request to provide data within 10 business days.<sup>111</sup>

#### **5.3.2 Stakeholder views - consultation paper**

In response to submissions on the consultation paper, most submissions were supportive of a 10 business day time frame for retailers and DNSPs to respond to request for data from customers, particularly if it is 'manual' data request in the sense that it requires the retailer or DNSP to undertake processes to respond to that data request.<sup>112</sup> However, stakeholders suggested that the 10 business day time frame should be able to be extended in the event of certain contingencies such as when there are a high volume of data requests from customers at one time,<sup>113</sup> difficulties in

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<sup>109</sup> See clause 27.2(b) of the Victorian Energy Retail Code.

<sup>110</sup> Final rule 86 of the NERR.

<sup>111</sup> See proposed rule 7.16(c)(6) of the NER, COAG Energy Council rule change request.

<sup>112</sup> AGL, submission on consultation paper, p2; ERAA, submission on consultation paper, p3. Although, in contrast, Energy Tailors expressed its support for a 2 business day time frame to respond under a reasonable endeavours obligation if automated systems are available: Energy Tailors, submission on consultation paper, p4.

<sup>113</sup> United Energy, submission on consultation paper, p4.

verifying the identity of a customer or complexities in obtaining the data,<sup>114</sup> or customer agents request data for a large batch of customers.<sup>115</sup>

Some stakeholders noted that where automated access to data is available, such as through web portals, then access to data could occur immediately.<sup>116</sup>

### 5.3.3 Stakeholder views - draft rule determination

Some stakeholders supported the draft rule determination where we proposed that AEMO would set the time frame to respond to data requests in its metering data provision procedures, which can be up to 10 business days.<sup>117</sup>

Some DNSPs suggested that the time frames for a retailer or DNSP to respond to a data request should only be triggered after verification of the identity of the customer or validation of the customer's authorised representative.<sup>118</sup>

In contrast, consumer groups and energy service companies considered that the time frame in the draft rule determination was too long and sought a shorter time frame for responding to data requests.<sup>119</sup>

### 5.3.4 Analysis

In the power of choice review, a stipulated time frame for market participants to respond to a data request was recommended. This recommendation was made in response to issues raised by stakeholders that when customers request their billing or metering data from retailers, they experience no response or time delays.<sup>120</sup> That review recommended arrangements for the timely provision of information to customers.<sup>121</sup>

To address the above concerns and to provide certainty and transparency to customers (or authorised representatives), we consider that a maximum time frame for retailers and DNSPs to respond to a request for data should be stipulated in the NER. We considered that the maximum time frame should not be more than 10 business days with the precise time frame to be specified by AEMO in its metering data provision

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114 NSW DNSPs, submission on consultation paper, p4; Vector, submission on consultation paper, p5.

115 Energex, submission on consultation paper, p5.

116 Energy Conservation, submission on consultation paper, p4.

117 AGL, submission on draft rule determination, p4; AusNet Services, submission on draft rule determination, p7; ERAA, submission on draft rule determination, p2; Origin, submission on draft rule determination, p2.

118 ENA, submission on draft rule determination, p3; Ergon, submission on draft rule determination, p4; NSW DNSPs, submission on draft rule determination, p5.

119 Consumer Action Law Centre, submission on draft rule determination, p4; double IQ and Energy Makeovers, submission on draft rule determination, p1; PIAC, submission on draft rule determination, p2.

120 AEMC 2012, op. cit., p54.

121 Note, there are currently no time frames in the NER or NERR.

procedures. By providing AEMO with the discretion to set the precise time frame in the procedures (but not exceeding 10 business days) this allows for the possibility for market participants to progressively improve the timeliness of their response due to advances in technology.

We consider that the obligation to respond within a specified period of time should be a 'reasonable endeavours' obligation. This caters for reasonable circumstances where a retailer or DNSP may require a longer period of time to respond to a data request.

In response to views from DNSPs that the time frame for a retailer or DNSP to respond to a data request should only be triggered once the customer or their representative had been verified, we remain concerned that this could unnecessarily delay the time taken to respond to metering data requests if this is introduced. We consider that retailers and DNSPs should respond, using reasonable endeavours, within the time frames specified by AEMO in its metering data provision procedures that would be triggered upon receipt of a metering data request from a customer or its authorised representative. This time frame should include sufficient time for the verification of a customer or its authorised representative.

In practice, as set out in section 5.8 of this final rule determination, the implementation phase in relation to these obligations will allow retailers and DNSPs to develop efficient systems and processes to respond to metering data requests in a timely manner. In addition, as set out in chapter 4 of this final rule determination, we have determined that retailers and DNSPs can charge a reasonable fee in response to bulk data requests from customer authorised representatives. Further, as noted above, the time frame to respond to a request is a 'reasonable endeavours' obligation.

## **5.4 When data requests are free of charge or subject to a reasonable fee**

### **5.4.1 Rule change proposal**

The COAG Energy Council proposed that electricity consumption information requested by a customer be provided free of charge unless the information is requested more than once in a 'billing period' or is not in accordance with the minimum requirements set out in the metering rules.<sup>122</sup>

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<sup>122</sup> See proposed rule 56A(2) and proposed rule 86(4) of the NERR, COAG Energy Council rule change request. The metering rules for electricity are defined in the NERR as relating to those applicable rules in the Retail Market Procedures and Chapter 7 of the NER.

## 5.4.2 Stakeholder views - consultation paper

Submissions from retailers and DNSPs supported maintaining current arrangements where customers can receive their data once every 12 months for free.<sup>123</sup> Some stakeholders suggested a more frequent basis for free data requests such as once per billing period<sup>124</sup> or even once per calendar week if automated solutions were in place.<sup>125</sup>

Stakeholders supported a reasonable fee should be payable in circumstances where there are multiple requests in a given time period<sup>126</sup> or for data requests for non-standard customer profiles.<sup>127</sup> The Energy Networks Association recognised that there may be circumstances where a reasonable fee could be waived such as for vulnerable customers.<sup>128</sup> NSW DNSPs suggested that the basis for such a fee would be to cover expenses directly or reasonably incurred in providing information to customers.<sup>129</sup>

## 5.4.3 Stakeholder views - draft rule determination

In the draft rule determination, we consulted on whether the number of free requests should be prescribed as four free data requests over a 12 month period rather than one free request every three months. Some stakeholders expressed support for four free data requests over a 12 month period.<sup>130</sup> On this point, stakeholders sought clarification as to whether customers or their representatives would have four free data requests applied four times over a 12 month period across both retailers and DNSPs or for each retailer or DNSP.<sup>131</sup>

Consumer groups supported more frequent free requests favouring a minimum of 12 free requests over 12 months.<sup>132</sup> In contrast, other submissions supported one free request every 12 months.<sup>133</sup>

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<sup>123</sup> Alinta Energy, submission on consultation paper, p3; ERAA, submission on consultation paper, p3; Ergon Energy, submission on consultation paper, p7; Origin Energy, submission on consultation paper, p5.

<sup>124</sup> Energy Conservation, submission on consultation paper, p4.

<sup>125</sup> Energy Tailors, submission on consultation paper, p4.

<sup>126</sup> SP AusNet, submission on consultation paper, p13.

<sup>127</sup> NSW DNSPs, submission on consultation paper, p4.

<sup>128</sup> Energy Networks Association, submission on consultation paper, p2.

<sup>129</sup> NSW DNSPs, submission on consultation paper, p4.

<sup>130</sup> Energex, submission on draft rule determination, p5; Ergon, submission on draft rule determination, p5.

<sup>131</sup> CitiPower and Powercor, submission on draft rule determination, p3; ERAA, submission on draft rule determination, p3; Origin, submission on draft rule determination, p2.

<sup>132</sup> Consumer Action Law Centre, submission on draft rule determination, p4; PIAC, submission on draft rule determination, p2.

<sup>133</sup> Simply Energy, submission on draft rule determination, p2; United Energy, submission on draft rule determination, p8.

#### 5.4.4 Analysis

Determining whether a customer's request for data should be provided free of charge or subject to a reasonable fee imposed by market participants needs to appropriately balance a customer's entitlement to readily obtain their data against any costs incurred by market participants in responding to such data requests. In finding that balance, we considered a range of circumstances for data requests.

Currently, customers are able to receive electricity consumption information free of charge once every 12 months. We consider that given present technologies and the current pace of change in the energy market, that the current arrangements of once every 12 months is too infrequent. If a customer wants to manage its energy use and costs under time of use pricing and wants to determine if its actions to reduce or shift its usage are effective, then receiving data once a year is likely not to be frequent enough to make an informed decision.

Consequently, we have increased the number of times that customers or their authorised representatives can receive their data free of charge. The final rules now allow customers or their authorised representatives to request their data up to four times over a 12 month period free of charge. Expressing the number of free data requests as being up to four free data requests over a 12 month period allows customers to provide their data to up to four energy service providers within a 12 month period. This would enable customers to receive a range of quotes and can compare product and service offerings between providers.

Expressing the number of free data requests as 'four times in a 12 month period' is an improvement from stating the number of free requests as 'one free data request every three months' because, as discussed above, it provides greater flexibility for customers.

The four free data requests over a 12 month period would apply to each retailer and DNSP as it would be administratively burdensome for any particular market participant (eg DNSP) to have a record of the extent that a customer or their representative had exhausted their four free data requests from another market participant (eg that customer's retailer). In practice, customers and their representatives would have a total of eight free data requests over a 12 month period: four free data requests from their current retailer and four free data requests from their DNSP.

This minimum number of free data requests does not preclude innovation by market participants to provide their customers access to data free of charge more frequently where there is automated or self-service access, such as through web portals. Also, we decided not to set the frequency of free data requests in the NER by reference to a 'billing period' as billing periods vary between retailers.

We recognise that a reasonable fee could be charged for data requests that are above minimum requirements set out in 7.16 of the NER final rule or more often than four data requests over a 12 month period. A reasonable fee could also be payable when a customer requests a set of data from one of its previous retailers.

## 5.5 Application of rule 56A of the NERR to large customers

### 5.5.1 Rule change proposal

In the COAG Energy Council's rule change request, proposed rule 56A of the NERR states that a retailer must provide a 'customer' with information about that customer's energy consumption upon request. The drafting of rule 56A of the NERR referring to 'customer' without qualification implies that large customers can also request electricity consumption information. In contrast, rule 28 of the NERR only requires retailers to provide historical billing data for 'small' customers.<sup>134</sup>

### 5.5.2 Stakeholder views - consultation paper

Retailers and DNSPs generally suggested that proposed rule 56A of the NERR should only apply to small customers because large customers would have their own contracts in place.<sup>135</sup> However, consumer groups and energy service companies suggested that proposed rule 56A of the NERR should apply to both large and small consumers.<sup>136</sup>

### 5.5.3 Stakeholder views - draft rule determination

Retailers and DNSPs generally supported the Commission's position in the draft rule determination that rule 56A of the NERR be restricted to small customers only.<sup>137</sup> Some DNSPs suggested that the restriction to small consumers should also apply to information provided by DNSPs under rule 86 of the NERR.<sup>138</sup>

Consumer groups and energy service companies suggested that proposed rule 56A of the NERR should apply to both large and small customers.<sup>139</sup> EnerNOC noted that the

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<sup>134</sup> A small customer is defined in section 5 of the NERL as a residential customer or a business customer who consumes energy at its business premises below the upper consumption threshold. The actual value of the threshold varies by jurisdiction.

<sup>135</sup> AGL, submission on consultation paper, p4; Alinta Energy, submission on consultation paper, p4; Energex, submission on consultation paper, p5; ERAA, submission on consultation paper, p3; Origin, submission on consultation paper, p6; SP AusNet, submission on consultation paper, p14; United Energy, submission on consultation paper, p6; Vector, submission on consultation paper, p6. But note a contrary view in EnerNOC, submission on consultation paper, p4.

<sup>136</sup> Energy Conservation, submission on consultation paper, p5; Energy Tailors, submission on consultation paper, p5; PIAC, ATA, Uniting Care Australia and CHOICE, submission on consultation paper, p2.

<sup>137</sup> AGL, submission on draft rule determination, p4; AusNet Services, submission on draft rule determination, p7; ERAA, submission on draft rule determination, p2; Origin, submission on draft rule determination, p2.

<sup>138</sup> AusNet Services, submission on draft rule determination, p8; United Energy, submission on draft rule determination, p7.

<sup>139</sup> EnerNOC, submission on draft rule determination, p3; PIAC, submission on draft rule determination, p3.

recommendations in the power of choice review relating to access to data covered all customers, not just small customers.<sup>140</sup>

#### **5.5.4 Analysis**

The minimum requirements relating to the provision of metering data set out in 7.16 of the NER final rule and in AEMO's metering data provision procedures are designed primarily to help small customers obtain better access to their electricity consumption data. As a result, we consider that rule 56A of the NERR should be limited in its application to small customers. This is consistent with the policy settings in the NECF, which regulate the relationship between the retailer and the small customer only, including the provisions in standard and market retail contracts. Current NECF instruments do not regulate the relationship between retailers and large customers. For example, even if rule 56A of the NERR was amended to include large consumers, such a right could not be enforced through the model terms and conditions of retail contracts.

Large customers should be able to obtain their data in the terms of their contractual arrangements with retailers outside of the NECF regulatory framework, reflecting their commercial agreements.

### **5.6 Method of providing data**

#### **5.6.1 Rule change proposal**

In the proposed rule, the manner of data provision was to allow for web portal, electronic and hard copy delivery.<sup>141</sup>

#### **5.6.2 Stakeholder views - consultation paper**

There was a mix of views on whether the method of delivering data should be prescribed in the NER. One stakeholder supported a standard electronic delivery method.<sup>142</sup> Other market participants did not support prescribing the method of providing data in the NER.<sup>143</sup> It was suggested that the method of providing data be left to AEMO's metering data provision procedures.<sup>144</sup>

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<sup>140</sup> EnerNOC, submission on draft rule determination, p1.

<sup>141</sup> Proposed rule 7.16(c)(7) of the NER, COAG Energy Council rule change request.

<sup>142</sup> Energy Tailors, submission on consultation paper, p3.

<sup>143</sup> Origin, submission on consultation paper, p4.

<sup>144</sup> NSW DNSPs, submission on consultation paper, p3.



### 5.6.3 Stakeholder views - draft rule determination

In the draft rule determination, the NER draft rule stated that AEMO's metering data provision procedures must ensure the manner of data provision allows for web portal, electronic and hard copy delivery.<sup>145</sup>

Stakeholders expressed their concern that the NER should not mandate the method of providing data in response to data requests.<sup>146</sup> Some DNSPs noted the potential costs and inconvenience involved in delivering reams of hard copy interval metering data.<sup>147</sup> NSW DNSPs also noted that the NER draft rule would mandate DNSPs to provide web portal access that could introduce unnecessary costs borne by all customers.<sup>148</sup>

### 5.6.4 Analysis

We consider that AEMO's metering data provision procedures should specify a minimum method of delivering metering data to consumers or their representatives rather than, as stated in our draft rule determination, requiring the manner of data provision to allow for web portal, electronic and hard copy delivery. We consider that it is unnecessary to mandate a range of methods of data delivery because this could constrain the ability for retailers and DNSPs to develop efficient and innovative ways to meet the needs of consumers and their authorised representatives. However, we consider that there should be a minimum method of delivery that allows customers or their authorised representatives to receive metering data.

When AEMO sets out the minimum method of delivery in its metering data provision guidelines, it should consider a method of delivery that maximises the ability for consumers to readily access their electricity consumption data.

We note that if a customer does not have the means to receive electronic access to their data, then it could provide its consent for its customer authorised representative to obtain electricity consumption data on its behalf.

## 5.7 Other drafting changes in the NER final rule

### 5.7.1 Rule change proposal

The rule change proposal amends current rule 7.7(a)(7) of the NER to extend the right to access data to both customers and their authorised representatives. Rule 7.7(a)(7) of the current NER rule refers to 'information relating to that customer's metering

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<sup>145</sup> Rule 7.16(d)(5) of the NER draft rule.

<sup>146</sup> CitiPower and Powercor, submission on draft rule determination, p3; ENA, submission on draft rule determination, p3; NSW DNSPs, submission on draft rule determination, p4.

<sup>147</sup> AusNet Services, submission on draft rule determination, p6; CitiPower and Powercor, submission on draft rule determination, p3; NSW DNSPs, submission on draft ruled determination, p4.

<sup>148</sup> NSW DNSPs, submission on draft rule determination, p4.

installation'. The types of data that parties are able to access, such as metering data or settlements ready data, is also set out in rule 7.7(a) of the current NER rule.

In the rule change proposal, under rule 7.16 of the proposed NER rule, AEMO's 'data provision procedures' relates to both metering data and settlements ready data. Metering data is processed and collected by a MDP and sent to DNSPs and retailers for billing purposes. MDPs also send metering data to AEMO, who processes this data to create settlements ready data, which is used to settle wholesale market transactions.

### **5.7.2 Stakeholder views - draft rule determination.**

United Energy suggested that rule 7.7(a)(7) of the current NER rule, which refers to 'information' relating to that retail customer's metering installation, is too broad and should be restricted to electricity consumption data only.<sup>149</sup>

AusNet Services, CitiPower and Powercor and United Energy suggested that the metering data provision procedures in rule 7.16 of the NER draft rule should refer to metering data only, not settlements ready data.<sup>150</sup> Settlements ready data is created by AEMO and utilised by retailers for wholesale market transactions, and is therefore unable to be readily provided by DNSPs.

### **5.7.3 Analysis**

The drafting of rule 7.7(a)(7) of the NER final rule has been amended to clarify that the right of a customer or their authorised representative relates to the types of data set out in rule 7.7(a) of the NER. This means that rule 7.7(a)(7) of the NER final rule provides customers and their authorised representatives access to the types of data specifically set out in rule 7.7(a) of the NER, such as metering data or energy data, rather than broadly referring to 'information' relating to a customer's metering installation.

The drafting of rule 7.16 of the NER final rule has been amended so that the minimum requirements only relate to the provision of metering data and not settlements ready data. Rule 7.16 of the NER final rule has been drafted in this way because metering data is the type of data that is most relevant to customers (or their representatives) to use as a basis for understanding that customer's electricity consumption. This rule is now titled 'Metering data provision procedures' to reflect these arrangements.

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<sup>149</sup> United Energy, submission on draft rule determination, p4.

<sup>150</sup> AusNet Services, submission on draft rule determination, pp11-12; CitiPower and Powercor, submission on draft rule determination, p3; United Energy, submission on draft rule determination, p5.

## **5.8 Time frame for AEMO to make and revise procedures and for Rule obligations to take effect**

### **5.8.1 Rule change proposal**

In the proposed rule, there was an obligation to specify a time frame in the NER for AEMO to make the initial version of the metering data provision procedures.<sup>151</sup> Also, the proposed rule contained an obligation for AEMO to revise these guidelines at least once over a time frame to be specified in the NER.<sup>152</sup>

### **5.8.2 Stakeholder views - consultation paper**

In terms of when AEMO's initial metering data provision procedures should come into force, some stakeholders suggested that AEMO should publish the initial set of metering data provision procedures before the proposed rule takes effect.<sup>153</sup> Other stakeholders suggested specific time frames for AEMO to make the procedures and for market participants to change their processes and systems.<sup>154</sup> SP AusNet suggested that AEMO should not be responsible for developing the metering data provision procedures because it is industry facing rather than customer facing.<sup>155</sup>

In relation to how frequently the metering data provision procedures should be reviewed by AEMO, stakeholders provided a range of views from one year<sup>156</sup> to up to five years<sup>157</sup> with most respondents suggesting it be reviewed every 2-3 years.<sup>158</sup> Some stakeholders suggested it be reviewed on an 'as needed' basis<sup>159</sup>; indeed, United Energy noted that there was an existing provision in Chapter 7 of the NER allowing AEMO to review the procedures upon request.<sup>160</sup>

### **5.8.3 Stakeholder views - draft rule determination**

In the draft rule determination, we proposed that the obligation on retailers and DNSPs to provide electricity consumption data to customers or their authorised

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<sup>151</sup> Proposed rule 7.16(e) of the NER, COAG Energy Council rule change request.

<sup>152</sup> Proposed rule 7.16(f) of the NER, COAG Energy Council rule change request.

<sup>153</sup> Energex, submission on consultation paper, p5; Ergon Energy, submission on consultation paper, p7.

<sup>154</sup> Alinta Energy, submission on consultation paper, p4; Energy Tailors, submission on consultation paper, p4; Origin, submission on consultation paper, p5; United Energy, submission on consultation paper, p5.

<sup>155</sup> SP AusNet, submission on consultation paper, p14.

<sup>156</sup> Energy Tailors, submission on consultation paper, p4.

<sup>157</sup> AGL, submission on consultation paper, p3.

<sup>158</sup> Energex, submission on consultation paper, p5; Energy Conservation, submission on consultation paper, p4; Ergon Energy, submission on consultation paper, p7; Origin, submission on consultation paper, p5; PIAC, ATA, Uniting Care Australia and CHOICE, submission on consultation paper, p2.

<sup>159</sup> Vector, submission on consultation paper, p6.

<sup>160</sup> United Energy, submission on consultation paper, p6.

representatives upon request would take effect after allowing for retailers and DNSPs time to change their standard retail and connection contracts, respectively. We asked industry how long they would need to change their contracts and six months was suggested.<sup>161</sup>

However, in the draft rule determination, we proposed that the minimum requirements set out in the NER and in AEMO's metering data provision procedures would only take effect three months after AEMO publishes these procedures. AEMO would develop the metering data provision procedures using the rules consultation process. The three month delay in commencing the minimum requirements was intended to allow industry time to implement the necessary system and process changes. We consulted on whether a three month implementation period for industry was appropriate and most market participants suggested that at least a six month implementation period was necessary.<sup>162</sup>

Some DNSPs suggested that the obligation on retailers and DNSPs to provide electricity consumption data to customers or their authorised representatives upon request should start at the same time date as when the minimum requirements set out in AEMO's metering data provision procedures take effect.<sup>163</sup> The concern motivating this suggestion was that if the obligation to provide data occurred before the minimum requirements came into effect, then there would be an interim period of time where retailers and DNSPs would have to provide data in a range of formats that could end up being changed once AEMO's metering data provision procedures are finalised. This would add costs to industry and consumers, and could also cause confuse customers.

#### 5.8.4 Analysis

Rule 7.7(a) of the NER final rule will commence and come into effect on 1 December 2014. This will enable customers and their authorised representatives to access their data from retailers and DNSPs. It clarifies the rights of access to data in relation to DNSPs to ensure that no compliance issues arise for DNSPs regarding their existing NERR requirements.

AEMO's metering data provision procedures will need to be developed and published by 1 September 2015 and be commenced on 1 March 2016. This should allow sufficient time for AEMO to develop and publish the metering data provision procedures and for retailers and DNSPs to implement changes to their system and processes in compliance with AEMO's metering data provision procedures. AEMO has indicated that it will

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<sup>161</sup> Alinta, submission on draft rule determination, p3.

<sup>162</sup> AGL, submission on draft rule determination, p4; Alinta, submission on draft rule determination, p3; ERAA, submission on draft rule determination, p3; Lumo, submission on draft rule determination, p1; Origin, submission on draft rule determination, p2; United Energy, submission on draft rule determination, p8. For a 12 month implementation period: EnergyAustralia, submission on draft rule determination p3; NSW DNSPs, submission on draft rule determination, p6. But note, support for a 3 month implementation period: ENA, submission on draft rule determination, p4.

<sup>163</sup> Energex, submission on draft rule determination, p5; Ergon, submission on draft rule determination, p5; AusNet Services, submission on draft rule determination, p9.

need approximately nine months to develop and publish the metering data provision procedures in accordance with the Rules consultation procedures. After AEMO publishes the metering data provision procedures, retailers and DNSPs will have six months to implement the necessary changes to their systems and processes.

The substantive changes to obligations under the NERR will also come into effect on 1 March 2016, with changes to standard retail and connection contracts to be in place by that time.

Consequently, the minimum requirements relating to metering data provision, such as format, the number of free requests and time frames for delivery set in AEMO's metering data provision procedures and in the NERR will not apply until 1 March 2016. For a transitional period of time, specifically from 1 December 2014 and 29 February 2016, customer authorised representatives and customers will continue to be able to request data from DNSPs and retailers, but there will be no specific regulation of the manner and form of that data provision.

We acknowledge that implementing the final rules in this way introduces a transitional period of time and potential costs where retailers and DNSPs provide data upon request in a form and manner that may be different to that contained in AEMO's metering data provision procedures. However, we consider that our approach for implementing the final rule results in greater benefits because it enables customers and their authorised representatives to obtain their data as soon as practicable while also providing sufficient time for AEMO and market participants to implement the minimum requirements relating to the provision of metering data.

The alternative would be to delay commencement of all of the rules until 1 March 2016. This would prevent customer authorised representatives from accessing information until that date. It would also expose DNSPs to compliance risk as they would not be able to comply with their current NERR obligations.

In relation to revising AEMO's metering data provision procedures, we consider that a specific period of time to review the procedures need not be stipulated in the NER because existing processes to allow for parties to propose amendments to procedures in Chapter 7 of the NER should be sufficient to address any concerns arising from the implementation of these procedures.<sup>164</sup>

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<sup>164</sup> See 7.1.4 of the NER.

## 6 General information about electricity consumption data

### 6.1 Rule change proposal

The COAG Energy Council proposed that retailers and distributors be required to make information available to customers outlining who may obtain data obtained from the meter and for what purposes electricity consumption data is used.<sup>165</sup> The rule change stated that this will provide for consistent treatment of data obtained from the meter, regardless of whether or not metering data is personal information.<sup>166</sup> This was considered to be consistent with how similar information is provided on personal information under privacy legislation.<sup>167</sup>

In particular, the rule change proposed that:

- retailers and DNSPs publish information on their websites about how such electricity consumption data is used. This website information would include<sup>168</sup>
  - what parties may have access to metering data;
  - the circumstances in which metering data would be disclosed to parties other than the customer's retailer and DNSP;
  - when metering data is used and for what purpose;
  - options customer may have to stop the use of metering data;
  - how metering data is protected by regulation and by the customer and DNSP; and
- the AER develop 'metering data common terminology' guidelines. These common terms would relate to how electricity consumption data is used in the NEM by retailers and any other parties. The purpose of the guidelines would make the information published on retailer and DNSP websites uniform across industry. These guidelines would act as a form of template for retailers and DNSPS to use for their website disclosures.

### 6.2 Stakeholder views - consultation paper

In the consultation paper, we sought views from stakeholders whether retailers and DNSPs should be required to publish information on their websites about how electricity consumption data is used. Market participants generally did not support extending the NER and the NERR to publish this information beyond the safeguards

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<sup>165</sup> COAG Energy Council, op. cit., p6.

<sup>166</sup> COAG Energy Council, op. cit., p6.

<sup>167</sup> COAG Energy Council, op. cit., p6.

<sup>168</sup> Proposed rule 56(1A) and 86(2) of the NERR. See COAG Energy Council , op. cit., p8.

found in privacy law.<sup>169</sup> However, some stakeholders expressed their support for this information to be published centrally by AEMO or the AER.<sup>170</sup> In contrast, consumer groups and energy services firms were supportive of this proposal and considered that providing standardised information on how electricity consumption data is used could be of value to customers.<sup>171</sup>

We also sought views from stakeholders on whether the AER should be required to publish 'metering data common terminology' guidelines. There were a broad range of views on this proposal, both in support<sup>172</sup> and in opposition<sup>173</sup> to the proposal. As an alternative to guidelines, it was suggested that a plain English fact sheet could be published by AEMO/AER as a reference for use by market participants.<sup>174</sup> AER expressed its uncertainty as to whether such guidelines need to be prescribed and in the event that such guidelines were required, it suggested that AEMO would be better placed to develop these guidelines.<sup>175</sup>

### 6.3 Stakeholder views - draft rule determination

In the draft rule determination, we did not support the COAG Energy Council's proposal requiring retailers and DNSPs to publish information on their websites about how electricity consumption data is used and who has access to it.

Stakeholders expressed diverging views on this issue. A range of market participants and the AER supported the AEMC's draft rule determination.<sup>176</sup>

However, consumer groups and the Victorian Department of State Development, Business and Innovation did not support the AEMC's position in the draft rule determination.<sup>177</sup> The Consumer Action Law Centre supported a limited and industry-specific privacy regime to address privacy concerns surrounding metering data.<sup>178</sup>

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<sup>169</sup> Alinta, submission on consultation paper, p5; AGL, submission on consultation paper, p5; Energex, submission on consultation paper, p6; ENA, submission on consultation paper, p3; Ergon Energy, submission on consultation paper, p5; NSW DNSPs, submission on consultation paper, p5.

<sup>170</sup> Energy Tailors, submission on consultation paper, p6; Origin, submission on consultation paper, p7; SPAusnet, submission on consultation paper, p17;

<sup>171</sup> Energy Conservation, submission on consultation paper, p5; PIAC, ATA, Uniting Care Australia and CHOICE, submission on consultation paper, p2.

<sup>172</sup> Energex, submission on consultation paper, p6.

<sup>173</sup> ERAA, submission on consultation paper, p5; United Energy, submission on consultation paper, p7; Vector, submission on consultation paper, p8.

<sup>174</sup> Alinta, submission on consultation paper, p5.

<sup>175</sup> AER, submission on consultation paper, p2.

<sup>176</sup> AER, submission on draft rule determination, p2; AGL, submission on draft rule determination, pp4-5; AusNet Services, submission on draft rule determination, p9.

<sup>177</sup> Consumer Action Law Centre, submission on draft rule determination, p3; PIAC, submission on draft rule determination, p3; Victorian Department of State Development, Business and Innovation, submission on draft rule determination, pp2-3.

<sup>178</sup> Consumer Action Law Centre, submission on draft rule determination, p3.

## 6.4 Analysis

One of the Commission's three strategic priorities - the consumer priority - focuses on empowering consumers to participate more confidently in the energy supply chain when they choose to do so.<sup>179</sup> We note that our power of choice review recommended a comprehensive consumer communication and engagement strategy.<sup>180</sup> Improving customer engagement and education is a key focus of our work. It is within this context that we have considered the COAG Energy Council's proposal.

The COAG Energy Council's proposal stems from its investigations into the privacy implications given the increased uptake of consumers using smart meters. The COAG Energy Council commissioned a report by Seed Advisory, which found that while privacy safeguards were generally strong, it nevertheless strongly recommended enhancing customer awareness and education to provide further customer certainty and address customer concerns arising from a lack of information.<sup>181</sup>

In evaluating this proposal, we note that the Seed Advisory report commissioned by the COAG Energy Council did not specifically recommend publishing information on retailers and DNSPs' websites nor recommended that meter data common terminology guidelines be published. Further, we found no examples of other sectors, such as in the health sector where medical records are likely to be significantly more sensitive, that require the publication of information in a manner similar to the COAG Energy Council's proposal in relation to metering data.

While we strongly support reforms to enhance energy literacy and consumer engagement, we do not consider that the COAG Energy Council's proposal is the most effective regulatory response to address privacy concerns.

We consider that any privacy concerns are better addressed through the application of privacy legislation to the extent that meter data is personal information. The existing privacy statements of market participants can cover meter data and several already do.<sup>182</sup> It would be open for energy market participants, for example, led by electricity industry associations, to develop informal guidelines or a code relating to how metering data will be consistently addressed to safeguard the privacy of consumers. A code could be formalised as an Australian Privacy Principles (APP) Code under the Privacy Act by industry or at the request of the Information Commissioner.<sup>183</sup> In this respect, we consider that privacy legislation, rather than energy market regulation, to be a more appropriate avenue to address privacy concerns about electricity consumption data.

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179 The AEMC's other strategic priorities are the market priority and the gas priority. For further information please see [www.aemc.gov.au](http://www.aemc.gov.au).

180 AEMC 2012, power of choice review final report - chapter 2.

181 Seed Advisory, *op. cit.*, p8. See section 1.2.2 of this final rule determination.

182 See for example the privacy policies of Ausgrid, EnergyAustralia, Origin Energy and SP AusNet available on their respective websites.

183 Section 26E Privacy Act 1988 (Cth). This was suggested by SP AusNet: SP AusNet, submission on consultation paper, p7.



If privacy legislation is used to address concerns about privacy and electricity consumption data, then there would be no need to use energy market regulation to require retailers and DNSPs to publish information on how metering data is used and who has access to it on their websites nor would there be a need to mandate the development of common terms for metering data.

## Abbreviations

AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
APP	Australian Privacy Principles
Commission	Australian Energy Market Commission
DNSP	Distribution Network Service Provider
DSP	Demand Side Participation
EMRWG	Energy Market Reform Working Group
MCE	Ministerial Council on Energy
MDFP	Meter Data File Format
MDP	Metering Data Provider
MSATS	Market Settlement and Transfer Solution
NECF	National Energy Customer Framework
NEL	National Electricity Law
NEM	National Electricity Market
NEO	National Electricity Objective
NER	National Electricity Rules
NERL	National Energy Retail Law
NERO	National Energy Retail Objective
NERR	National Energy Retail Rules

## **A Legal requirements under the NEL and the NERL**

This appendix sets out the relevant legal requirements under the National Electricity Law and National Energy Retail Law for the AEMC in making this final rule determination.

### **A.1 Final rule determination**

In accordance with section 102 of the NEL and section 259 of the NERL, the Commission has made this final rule determination in relation to the rule proposed by the COAG Energy Council.

### **A.2 Power to make the rule**

The Commission is satisfied that the final rule falls within the subject matter about which the Commission may make rules.

The final rule falls within section 34 of the NEL. Specifically, it relates to:

- the activities of persons (including Registered participants) participating in the national electricity market or involved in the operation of the national electricity system (section 34(1)(a)(iii)); and
- facilitating and supporting the provision of services to retail customers (section 34(1)(aa)).

Further, the final rule falls within the matters set out in schedule 1 to the NEL as it relates to item 32 because it relates to 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.

The final rule also falls within section 237 of the NERL. Specifically, it relates to:

- the activities of persons involved in the sale and supply of energy to customers (section 237(1)(a)(ii)); and
- the provision of information about matters associated with the use of smart meters and other related technologies (section 237(2)(ia)(v)).

### **A.3 Commission's considerations**

In assessing the rule change request, the Commission has considered:

- the Commission's powers under the NEL and NERL to make the Rule;
- the rule change request;

- stakeholder submissions received during first and second round consultation;
- the fact that there is no relevant Ministerial Council on Energy (MCE) statement of policy principles;<sup>184</sup>
- the Commission’s analysis as to the ways in which the final rule will or is likely to, contribute to the National Electricity Objective and the National Energy Retail Objective; and
- compatibility with any relevant consumer protections.

#### **A.4 Power to make a more preferable rule**

Under section 91A of the NEL and section 244 of the NERL, the AEMC may make a rule that is different (including materially different) from a market initiated proposed rule (a more preferable rule) if the AEMC is satisfied that, having regard to the issues that were raised by the market initiated proposed Rule (to which the more preferable Rule relates), the more preferable Rule will or is likely to better contribute to the achievement of the NEO and NERO, respectively.

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<sup>184</sup> Under section 33 of the NEL the AEMC must have regard to any relevant MCE statement of policy principles in making a Rule.

## **B Further issues raised in submissions**

### **B.1 Consultation paper submissions**

Stakeholder	Issue	AEMC Response
SP AusNet	In light of the suite of Power of Choice recommendations, SP AusNet is concerned with the timetable to implement the rule change noting the required work by AEMO and subsequent compliance work by industry (p1).	The AEMC is progressing the power of choice reforms in an integrated manner. As discussed in section 5.5.3, we have taken into account time needed by AEMO and by industry to implement the reforms resulting from this rule change request.
NSW DNSPs	NSW DNSPs sought to clarify whether DNSPs can provide customers or their agents access to NMI standing data (p6).	Yes, the draft rule can allow DNSPs to provide customers, or parties authorised by customers, access to NMI standing data to the extent that such data is relevant to a customer's metering installation.
NSW DNSPs	NSW DNSPs consider rule 86 of the NERR should be amended to include reference to agents (p2).	Yes, the draft rule in the NERR has been drafted to include parties authorised by customers.
Ergon Energy	Ergon Energy sought clarification on the purpose of proposed rule 7.7(a2) of the NER (p5).	The purpose of proposed rule 7.7(a2) of the NER is to preserve the operation of privacy legislation.

## **B.2 Draft rule determination submissions**

Stakeholder	Issue	AEMC Response
NSW DNSPs	NSW DNSPs suggested that the draft rule 7.16(d)(2)(iii) of the NER should be removed or be optional for DNSPs (p4,7).	Disagree. The purpose of this rule is to present customer's metering data in a diagrammatic format so that customers are more readily able to understand their electricity consumption. For example, a diagram setting out the quantity of electricity used during peak, shoulder and off-peak periods. The presentation of such a diagram does not require visibility of retailer tariff components.
AusNet Services	AusNet Services suggested that retailers should be responsible for explaining differences in metering data sets between DNSPs and retailers (p4).	Under this rule, both DNSPs and retailers are required to provide electricity consumption data upon request by customers. Both DNSPs and retailers should respond to questions by customers about their data, including explaining any differences in the data set provided.
AusNet Services	AusNet Services suggested that when both NER and NERR cover obligations to customers, it would be of benefit for one set of Rules to 'lead' and be quoted by the other set of Rules (p10).	Where possible that approach has been taken. However, the NER and NERR address different issues. For example, the NERR address consumer protections to be afforded to consumers whereas the NER does not. Therefore it is not appropriate to have one rule 'lead' and have the other follow it.
AusNet Services	AusNet Services suggested that every effort should be taken to use the same terminology across the NER and NERR. For example, 'energy consumption' or 'historical billing data' are not defined terms in the NERR and it is not clear whether this is the same as 'metering data' in the NER (p11).	There is no need for definitions for terms such as 'energy consumption' and 'historical billing information' as their plain English meanings will be sufficient. It is expected that metering data would be used to create energy consumption information. The reference in the NERR to ensure that the information request be provided in accordance with the metering rules (a defined term under the NERR ) provides an appropriate link between the NER and the NERR.
AusNet Services	AusNet Services suggested that clause 7.8.2 of the NER, which relates to security controls and passwords, may need to be revised in light of changes to 7.7(a)(7) of the NER. However, this raises concerns with giving customer authorised representatives direct access to the metering	Clause 7.8.2 of the NER has not been amended for customer authorised representatives. Whether customer authorised representatives, as Energy Service Companies, should access the metering installation directly is being addressed in the AEMC's 'Expanding competition in metering and related services' rule change request.



Stakeholder	Issue	AEMC Response
	installation via a password (p12).	
AusNet Services	AusNet Services considered that there is duplication of the definition of 'retail Customer' and 'Retailer' in Chapter 10 of the NER (pp13-14).	The reason that these definitions have been drafted in this way is to ensure that the definitions of retailer and retail customer that exist in the NERR for those jurisdictions which have adopted NECF can also uniformly apply to non-NECF jurisdictions. This is because currently the definitions of 'retailer' and 'retail Customer' do not exist in the NEL or NER for non-NECF jurisdictions. Once non-NECF jurisdictions decide to enact NECF the 'otherwise' aspect of the definitions will be superfluous because those jurisdictions will have the relevant definitions included in both the NEL and NER as it applies in those jurisdictions. Superfluous aspects of the definition will then be addressed in an AEMC commenced minor rule change.
Percepccion	Percepccion proposed that consideration be given for a data scheme for consumer energy data and where energy data is being monitored via a smart meter, it be made available through a harmonised data transfer approach based on a reference Application Programming Interface (p1).	This is not within the scope of the Rule change request and the AEMC is not in the position to advise on particular technological platforms. In developing its metering data provision procedures, AEMO could consider data transfer technologies to the extent that it may assist in developing the minimum requirements for the provision of metering data in response to metering data requests.
double IQ and Energy Makeovers, EnerNOC	EnerNOC suggested that rule 7.16 of the NER should be amended to include reference to ongoing provision of data as a basis to provide innovative services to consumers (p4). double IQ and Energy Makeovers also suggested that provision should be made for data updates (p1).	The service of providing ongoing data provision is beyond the minimum requirements for accessing metering data developed in this final rule determination. Ongoing data provision services will be addressed as part of the AEMC's 'Expanding competition in metering and related services' rule change request.
Alinta	Alinta suggested that draft rule 86(3) of the NERR should be redrafted to make it more precise (p3).	Rule 86B (previously draft rule 86(3)) of the NERR has been redrafted for the purposes of clarity.