



15 February 2008

Dr John Tamblyn
Chairman
Australian Energy Markets Commission
Level 16, 1 Margaret Street
Sydney NSW 2000

Dear Dr Tamblyn,

Victorian Jurisdictional Derogation (Advanced Metering Infrastructure Rollout)

I am writing with regard to the proposal for a jurisdictional derogation to the National Electricity Rules to exclusively establish local distribution businesses as responsible persons for a roll-out of advanced metering infrastructure in Victoria.

According to section 89 of the National Electricity Law, AEMC must have regard to certain matters in relation to the making of jurisdictional derogations. It is Red Energy's view that the proposal is inconsistent with sections 89(a) and 89(b) and that the rule change should not therefore be approved.

Section 89(a) requires that a derogation provides for an orderly transfer of electricity regulation under jurisdictional legislation to regulation under national legislation. Red Energy supports a comprehensive, carefully considered, national approach to AMI policy. MCE has been undertaking such a process including an analysis of the expected costs and benefits of a national roll out of smart meters and of alternative ways in which a national roll out might be implemented. This national process may or may not result in recommended changes to the current national electricity rules for metering services. Either way, approving a Victorian derogation would represent a departure from national legislation in contradiction to section 89(a). Furthermore, while it is proposed that the Victorian derogation would expire by 2014, in the meantime the transitional policy outcomes will become entrenched in Victoria in ways which may hinder the orderly development of a national market in metering services. In summary, the proposed derogation represents a transfer away from national rules to jurisdictional legislation and should not therefore be approved.



Section 89(b) requires that the proposed derogation continues existing regulatory arrangements for AMI in Victoria. The proposal argues that existing regulatory arrangements referred to in section 89 include arrangements in place within a jurisdiction at the time a proposed derogation is considered. If section 89(b) is interpreted in this way, implementation of jurisdictional legislation can be used at any time to enable a request for a jurisdictional derogation, undermining the intent of an increasingly national approach to electricity legislation. Approving a proposed jurisdictional rule change on these grounds would set an unfortunate precedent for orderly development of the national market. Legislation that is introduced within a jurisdiction in contradiction to prevailing National Electricity Rules should not be approved according to section 89(b).

The proposal also argues that the derogation *"represents a continuation of the current position that distributors are responsible for small customer metering"*. However, under existing regulatory arrangements Victoria's local distribution businesses are not automatically, or exclusively, responsible for small customer metering, irrespective of any provisions of the Victorian Electricity Industry Act and recent Orders in Council. Electricity retailers currently have the option under Chapter 7 of the National Electricity Rules to be the responsible person for remotely read interval meters. For connection points using less than 160MWh (generally referred to as "small" in Victoria), use of advanced metering remains the choice of the retailer and arguably therefore, through the operation of the competitive retail market, the choice of the customer. The proposed derogation will not therefore continue existing regulatory arrangements and cannot therefore be approved according to section 89(b).

In Red Energy's view, the case that a Victorian derogation from national advanced metering rules will contribute to the achievement of the National Electricity Objectives has not been clearly made. In particular, the imposition of regulated monopolies for meter provision and data services with a guaranteed cost recovery regime will prevent ongoing technological and cost improvements being made available to customers in a timely manner. Such improvements will be denied to customers until the end of the life of their current meter. Indeed it is the current cost recovery regime for basic meters through inclusion in regulated network charges that has helped to block commercial deployment of AMI in the residential market to date. We do not believe that the maintenance of such a charging regime is necessarily in the interests of consumers from price, quality of supply and service perspectives.



Red Energy currently has around twenty five residential customers with advanced metering provided independently of the local distribution business by a NEMMCO accredited third party metering services provider. Experience with this small number of sites has helped to inform the business about the reliability and cost effectiveness of currently available, competitive AMI solutions.

As a result of growing interest in the opportunities that AMI presents for Red Energy and its customers, and its belief that the establishment of new regulated monopolies for the introduction of these services will not deliver the greatest benefits for its customers, Red Energy considered alternative implementation models that would give it greater control of an AMI roll out and the services offered, where and when. A copy of Red Energy's letter of 14 September 2007 to the Department of Primary Industries on this matter is attached as part of this submission. Whilst that proposal may not represent the best or only alternative to the proposed Victorian derogation, it does indicate that there are alternative mechanisms for AMI deployment which can be developed within the current national framework.

Yours sincerely,

A handwritten signature in black ink, appearing to read "M. Exelby", with a long horizontal stroke extending to the right.

Martin Exelby
Strategy & Pricing Manager



Attachment

14 September 2007

Mr Peter Clements
Director - Retail and Distribution
Department of Primary Industries
1 Spring Street
Melbourne VIC 3001

Dear Peter,

Responsibility for Advanced Metering Infrastructure (AMI)

I refer to your letter of 23 August 2007 to Martin Exelby regarding DPI's proposed application to the AEMC for a derogation to the National Electricity Rules (NER) to mandate responsibility for AMI in Victoria to the distribution businesses. Thank you for the invitation to clarify Red Energy's position on the derogation and its appetite to act as Responsible Person under the NER to deliver the Government's AMI policy.

Red Energy has previously expressed reservations with aspects of current policy for AMI deployment in Victoria, in particular the cost recovery regime that will prevent ongoing technological and cost improvements being made available to customers in a timely manner. It is the current cost recovery regime for basic meters has blocked commercial deployment of AMI in the residential market to date and we do not believe that entrenchment of this policy is in the interests of consumers.

We recognise however that a policy decision has been made on mass market deployment of AMI in Victoria and Red Energy is committed to helping deliver Government's objectives in this regard. We believe that a more targeted and demand-led approach to AMI deployment will deliver greater benefits, quicker, than a central planning approach inherent in the proposed derogation, cost recovery and regulated roll out by the distribution businesses. To this end, Red Energy is therefore prepared to make a commitment to Government to deliver AMI to its customer base as Responsible Person (RP) on a schedule that is as good as, or



better than that specified in the Order in Council of 28 August 2007 for the distribution businesses. It is Red's intention that the number of advanced meters it could deploy by 31 December 2009 would significantly exceed 5% of Red Energy's customer base at that time.

We envisage that Red's commitment would define the number of sites for which Red Energy acted as RP and installed an advanced interval meter at any time during a year. This annual number of meters installed would at least equal an agreed percentage of sites for which Red Energy is the Financially Responsible Market Participant (FRMP) at year end.

We recognise that customers for which Red has installed an advanced meter in any year may subsequently switch to a competing retailer; however Red does not intend to charge exit or termination fees to customers to meet any outstanding metering costs in these circumstances. It is in Red's commercial interests to ensure that access to these meters is also available to competitors on essentially similar terms in order to ensure that the cost of Red's metering services are competitive and assume long term asset lives. Retailers have no interest in encouraging meter churn and Government objectives for deployment of advanced metering to the residential market would be unaffected by ongoing competition in the retail market.

In order to fulfil this role, Red will need agreement on appropriate changes to what it is currently required to pay to the distribution businesses to fund their roll out of interval meters. In order to fund its deployment of AMI, a charging regime along the following lines would be required, aligned with that of the distribution businesses, whereby a "smeared charge" to all households is used to fund a progressive deployment of meters:

- From 1 January 2008 Red would cease to pay the daily prescribed meter provision fees to the distribution businesses at any site, on any day, for which it is FRMP.
- Red would not pay any additional excluded service charge introduced to help the distribution businesses fund the upgrade of the manually read interval meter roll out (provided for under the EDPR) to AMI. It is assumed that this will take the form of a new smeared charge similar to the prescribed meter charge.
- Revenue already collected from Red Energy under the prescribed meter charges since 1 January 2006, when they were introduced, would be refunded with interest to Red.
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- If Red wins a new site (and no advanced interval meter has already been installed at that site by the network or another RP), it would invoice the applicable distribution business (or preceding RP) for the total prescribed meter provision charges (and new excluded service charge if applicable) collected for that site up until the date of its transfer to Red (including interest).
- Conversely, if Red loses a site (and no advanced interval meter has yet been installed), the network (or new retailer acting as RP) may invoice Red for the prescribed meter provision charges (and new excluded service charge if applicable) collected for that site up until the date of its transfer away from Red (including interest).

Our modelling indicates that these arrangements would ensure an appropriate recovery and allocation of customer charges to Red, the distribution businesses and other RPs as applicable, to meet their obligations for a progressive roll out of AMI across their respective customer bases.

Under current market arrangements, the distribution businesses can identify through MSATS all sites for which Red Energy is FRMP (and/or RP) on a particular day as this is a core requirement for their network billing arrangements. Red could nominate itself as RP for all its sites according to the National Electricity Rules to indicate its intention to install advanced metering and distribution businesses would be able to identify and ignore these sites during their planned roll out schedules. Red Energy, as RP, would seek competitive metering solutions to fulfil its roll out obligations which may include those offered by local network businesses as part of their roll out.

Thanks again for the invitation to clarify Red's intentions regarding AMI deployment. We would be happy to discuss the detail of this response further with you.

Yours sincerely,

Martin Exelby
Strategy & Pricing Manager