

A few
words.



21 May 2015

Mr John Pierce
Australian Energy Market Commission
PO Box A2449
Sydney South NSW1235

Lodged online: www.aemc.gov.au

Ref: ERC0169/RRC0002

Dear Mr Pierce,

RE: Draft Rule Determination: National Electricity Amendment (Expanding Competition in Metering and Related Services)

AGL Energy Ltd (**AGL**) welcomes the opportunity to respond to the Australian Energy Market Commission's (**AEMC**) Draft Rule Determination on Expanding Competition in Metering and Related Services (the **Draft Rule**) in the National Electricity Market (**NEM**).

As one of Australia's leading integrated energy companies with around 3.8 million retail customers, we are strong advocates of a NEM which encourages competitive players in metering services and can adapt to the needs of customers.

AGL supports the policy executed by the COAG Energy Council (**COAG EC**) during the last couple of years, particularly their ongoing commitment to the provision of smart metering as published in their communique dated 11 December 2014¹:

"The Council supports the push for competitive market-led rollouts of smart meters and the delivery of tangible benefits to consumers from new metering technology."

AGL congratulates the AEMC on their effort and positive outcomes to date that seek to transform and promote a customer driven energy market. We also commend the AEMC's management of this rule change, which has been undertaken in close consultation with industry. In our view, the AEMC has duly considered the complex layers of policy and the regulatory framework that unpins an effective competitive metering environment.

AGL's overall position on the Draft Rule

AGL considers that the AEMC's metering rule change is fundamental to enabling metering competition. The regulatory framework developed as a result will continue to support greater access to new technologies and customer choice.

We are pleased to provide general support across the proposed policy and regulatory arrangements. In our view, policy and regulatory development must continue to encourage innovation, competition, and customer choice in the NEM.

¹ <https://scer.govspace.gov.au/files/2014/05/COAG-Energy-Council-Communique-11-Dec-2014-FINAL2.pdf>

AGL firmly believes that meter provision and meter data services should be contestable in all circumstances, including new and replacement meters, and be underpinned by a framework based on national policy and rules.

We support the creation of the Metering Coordinator (MC) role and its assigned responsibilities (including compliance with the Minimum Service Specification). We acknowledge that the 'gatekeeper' functions of the MC role will be critical to maintaining competitive neutrality and ensuring open access to smart meter services, but we require clarification on how this new role will work.

AGL also strongly supports the AEMC's decision not to regulate the access and pricing arrangements to smart meter services. In our view, regulation should only be introduced (particularly to new markets) where there is a clear market failure and any competition concerns should be addressed through the Competition and Consumer Act 2010. We believe that sufficient commercial drivers will exist under a market-led rollout of smart meters to ensure that all participants seeking access to MC services are able to negotiate equitable terms in a fair but competitive manner.

AGL notes that a key characteristic of a market-led approach is that where smart meters are installed on customer's premises, the customer should have an ability to opt out of the meter replacement and face no additional charges unless they have opted into a new product or service. We therefore support the AEMC's decisions to remove metering exclusivity and enable retailers seeking to undertake market-led smart meter deployments to do so in line with this key characteristic.

Competitive neutrality is a fundamental principle to ensuring smart metering and related services are provided by market participants on an equal but contestable basis. The principle also dictates that any asset which is to operate in the same competitive market, should also have the same risk profile.

To this end, AGL believes that monopoly network businesses (i.e. distribution businesses) wishing to participate in competitive markets such as the Meter Provider (MP), Meter Data Provider (MDP) and/or MC, should be ring-fenced and should not be allowed to draw on regulated revenue to support unregulated activities or allocate the costs of any competitive metering provision to Standard Control Services. Rather, network businesses must be able to operate in a commercial manner in the same way as other contestable businesses and not be subsidised by regulated revenues.

AGL therefore strongly supports the AEMC's direction to the Australian Energy Regulator (AER) to develop a set of national ring-fencing guidelines by 1 July 2016. We request that the AEMC's final rule explicitly sets out that network businesses wishing to compete in contestable markets must ring-fence their business², and that the AER's guidelines include details on the ring-fencing requirements (dependent on the business function) and their compliance regime.

Further clarification

AGL believes that there are some other outstanding issues that require further clarification from the AEMC during development of the final rule. These include the:

² Ring-fencing must include:

- legal and structural (i.e. physical location);
- electronic (i.e. IT system processes and data storage); and
- financial (i.e. corporate services).

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- *Ability for a network business to rely on a "network device" for network operations and management purposes³.*

AGL believes there are a number of practical impediments to the installation or retention of a metering installation as a network device at a customer's premises that will impose additional cost and fees on customers.

In our view this will detract from the positive customer experience associated with smart metering arrangements. We therefore do not support this aspect of the rule change. We believe this approach introduces a number of issues and limits customer choice, which is a key focus and characteristic of the rule change.

- *Implementation of the full metering competition rule change.*

AGL is concerned that the proposed timeline for implementation of the rule change may run the risk of being delayed or pushed out further than specified in this draft rule. We are also concerned that any delays to the implementation timeline will heavily impact on a market-led approach to enabling smart services and its benefits.

We encourage the AEMC to actively participate and guide the Australian Energy Market Operator (AEMO) in the development of the detailed procedural rules which will underpin and define what and how the policy intent of this rule change is enforced, and ensure that the timeframes set, are closely monitored and met.

Our detailed views of the draft rule, including a further explanation of where we seek clarification or have concerns, are provided in the appendix.

AGL also welcomes the opportunity to participate in a further legal drafting workshop to ensure that the details and the intent of this rule change is fully captured in the NER, National Energy Retail Rules and operational procedural rules.

In addition, we request that the AEMC hold a policy and operational workshop on the role of MC to clarify how it will function in the market and interact with other parties.

Should you have any questions in relation to this submission, please contact me on (03) 8633 6836 or SBashir@agl.com.au.

Yours sincerely,



Stephanie Bashir
Manager, Metering Policy and Development

³ Where commercial negotiations with an MC have not resulted in agreement or access to the required demand management or network security services.

AGL's detail views on the core draft decisions

The role and responsibilities of the Metering Coordinator (MC)

AGL supports the AEMC's draft decision to replace the existing Responsible Person (RP) role with the newly created MC role. We believe that the creation of this contestable role will support the principle of competitive neutrality in the NEM and allow open access to smart meter services.

AGL believes that if the rules require retailers to be legally separated from the MC, the same separation rules should apply equally to all other parties selling energy to end users, including those holding a retail authorisation and/or an exemption from the requirement to register as a retailer under the NER.

We note that the MC role is fundamentally different to the RP. The new MC functions are associated with operational access to smart meter services, including negotiation of contractual access arrangements.

In our view, how the role of MC as 'gatekeeper' to meter services works from an operational perspective will be critical in ensuring open access. We therefore consider that overall, the draft rule is unclear on how the MC role and function will work. We believe that the complete set of responsibilities and roles in the operation of the market needs to be clearly defined to allow AEMO and the industry to develop procedures, determine system needs and any other requirements necessary to implement this role.

AGL requests that the AEMC explain in some detail how the various parties in the market will interact with each other so that the rule's intent can be fully implemented by AEMO in procedures and MC accreditation requirements.

Lastly, AGL notes that it is in the best interest of MCs to negotiate openly and fairly with all retailers, network businesses and other market parties, to ensure access on a competitive neutrality basis is maintained. As the AEMC have outlined, an MC who unfairly prices services or restricts access (and therefore limits customer choice or increases customer costs) risks being removed as MC by the Financially Responsible Market Participant (FRMP). In addition, retailers also risk losing customers and market share where their MC does not offer access to the products and services that their customers value. Therefore we expect that sufficient commercial drivers will ensure a fair, equitable and competitive market.

Appointment of the MC

AGL broadly supports the draft rule decisions to:

- enable the FRMP to appoint the MC as the default position;

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- not allow small customers to appoint their own MC, but to review this decision in three years from the rule commencement date;
- allow large customers to appoint their own MC (where they choose to do so); and
- appoint network businesses to take on initial MC functions for regulated assets, until the FRMP appoints another party to the MC role.

Role of MC for generation

AGL supports the AEMC's decision to allow generator FRMPs to be MC and to appoint their own MCs, as generation sites are not likely to benefit from metering competition. However, the situation is complicated by the number of ways that generators can be registered in the NEM. We therefore request the approach under the draft rule be amended such that:

- a generator FRMP is automatically entitled to be registered as an MC (at a nominal charge) where they are providing MC services to a generator's generating unit;
- where a registered generator is also a Market Customer, the generator is allowed to either be or appoint the MC for sites that are generating units;
- for non-market or exempt generators, the large customer rules would apply – i.e. they could allow the FRMP to be the MC or appoint one directly themselves; and
- where a generator is the FRMP as part of an intermediary arrangement, the FRMP must ensure that an MC is appointed but the actual contracting entity for the MC can be established by the contractual arrangements between the parties to the generating unit.

AGL also requests that for Small Generator Aggregators (SGA), the final rule decision establishes the Market Customer as the default party that appoints the MC. This will remove the complexity for small customer sites.

Liability of parties under the new arrangements

Under the new arrangements the MC appoints the MDP and the MP, however under existing rules, the FRMP or network business has direct relationships with their MDP/MP. This new arrangement means that a series of liability questions arise related to non-compliance, data errors, failure to comply with the rule etc.

Since financial responsibility for costs at a connection point sits with the FRMP, it is unclear to AGL how much liability is the responsibility of the MC compared to the FRMP. AGL requests that the AEMC clearly define the MCs liability in relation to:

- which party bears the additional meter costs where a reactive replacement must meet the MSS (i.e. the faulty type 5/6 meter must be replaced with a type 4 meter that meets the MSS);
- metering errors resulting in additional energy or network charges to customers;

- network obligations that arise where a retailer requests the MC to perform a disconnection (i.e. not to disconnect a customer who is, amongst other things, on life support, covered by a protected period or facing an extreme weather event); and
- existing network obligations outlined in standard connection contracts which transfer to the MC, such as right of access to the customer premises, right to interrupt supply or disconnect under prescribed circumstances, and the right to pass through costs associated with connection services etc.

Minimum Service Specification (MSS)

AGL has been an active participant in the development of AEMO's advice to the COAG Energy Council (COAG EC) on the development of a MSS.

We strongly support the AEMC's decision to apply the MSS to all new and replacement metering installations for small customers from commencement of the rule. We agree that the MSS should only enforce the minimum basic meter services (as established by industry) necessary to support the development of a competitive, market-led rollout of smart meters in the NEM at least cost to customers. We note that the MSS does not preclude market parties from seeking additional meter services at specific connection points through commercial negotiation with the MC.

AGL agree that the application of a meter standard that focuses on services offered (rather than the technical functions of a meter) will encourage market participants to innovate and develop an increased range of products and services offerings which are tailored to customers.

We note that network businesses have publicly expressed concern that the small list of MSS and lack of clear markers against each MSS may impact on their ability to efficiently provide network security and operational functions. However, we note, as above, that network business have the ability to commercially negotiate for the services that they consider important to them on price and/or non-price terms with the respective MC.

AGL encourages the AEMC to actively liaise with AEMO and industry in the development of the detailed procedures which will underpin and operationalise metering competition. In our view, it is imperative that the AEMC provides clarity to ensure that the intent of the metering competition rule is accurately reflected in the procedural rules.

Metering installations

AGL supports the AEMC's decisions on metering installations, particularly with respect to new meter deployments. We also agree that all smart meter deployments should be coordinated through the retailer as the primary channel to the customer in order to maintain focus on customer choice and promote innovation and competition.

Specific to new meter deployments, AGL also believes that the method of communication to customers (i.e. written notification) needs to be flexible to allow for customer preferences. In our view, being overly prescriptive may impact on customer experience where the customer's preferred communications method is via other means such as email

or phone call. We suggest that the retailer obligation to notify customers of a new meter deployment remain, but that the mechanism is flexible to suit the customer's needs.

Similarly, the draft rule outlines that retailers are not required to comply with the notifications obligation if, under its retail market contract, the retailer is authorised to undertake a new meter deployment. Although AGL has no issue with this draft rule, it appears that the customer protections embedded in the notifications obligation are lost. AGL suggests that the AEMC review this rule and clarify its intended process through the final rule to ensure customer protections are maintained.

Lastly, we believe use of the term "no opt-out" related to new connections and replacement scenarios is technically incorrect. This is because customers in these circumstances currently do not opt-out of these installations but rather accept the meter installed on their behalf.

For example in a:

- new connection scenario - the metering installation request comes from the builder or the electrical technicians working on site; and
- replacement programs scenario - where a network business identifies aged assets or faulty meters at customer sites, it will select an appropriate meter to install.

Access to MC services

AGL notes that network businesses and some third parties have argued that retail-owned MC businesses (which are set up as separate legal subsidiaries) will unfairly price access to services to their parent retailer when compared to other market participants. However, we point out that a clear disincentive exists for MC businesses who unfairly price (and therefore restrict) access to services.

Network businesses and other third parties seeking access to MC services should negotiate for such access commercially and in advance. We note that network businesses are not limited to seeking access arrangements with an MC for specific network services. Other alternative options do exist such as non-meter solutions or seeking an allowance for demand side management activities through their regulatory pricing determination. Similarly energy service companies and other third parties can also either negotiate for access directly with the MP, partner with the retailer/MC to offer innovative services (where they are not already doing so) or offer behind-the-meter solution straight to market.

AGL supports the AEMC's draft rule not to impose regulation on MC's to mandate a minimum level of service to other market parties or regulate the price of those services. Any form of regulation could restrict competition in the market for parties seeking to become an MC and/or result in existing MC businesses operating as monopoly businesses as an unintended consequence. In our view, regulations should only be introduced (particularly to new markets) where there is a clear and demonstrable market failure, and any competition concerns should be address through the Competition and Consumer Act 2010.

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Network devices

AGL believes there are a number of practical impediments to the installation or retention of a metering installation as a network device, at a customer's premises that will impose additional cost and fees on customers. In our view this will detract from the positive customer experience associated with smart metering arrangements. We therefore do not support this aspect of the rule change.

AGL believes this approach introduces a number of issues and limits customer choice which is a key focus and characteristic of the rule change.

These include:

- the provision and use of network devices by network businesses under the context of unresolved commercial negotiations with an MC to access specific services.

The concept of a network device was not part of the review process in the build of the rule change by the AEMC, and their installation is unclear in practice. The policy intent and rationale seems to contradict the overall draft rule across the principles of customer choice, competitive neutrality and national consistency.

Allowing network businesses the ability to use network devices provides them with an easy mechanism to bypass the 'access to MC services' arrangements altogether, and therefore retain part of their existing monopoly arrangements. Such an approach would encourage network businesses to maintain anti-competitive behaviours with no recourse, will potentially create a barrier to entry and overall does not align with the COAG EC's strategic direction.

- other significant concerns with the definition, use and consequential impacts of network devices.

AGL notes that discussions with industry on this subject have largely been undertaken with (and likely driven by) network businesses. As such the issue and its wider impacts have largely been untested with industry, in particular with retailers. In addition, to our knowledge, a cost benefit analysis has not been undertaken and its results have not been widely shared.

We therefore have several overarching questions that require further clarification - for example:

- the proposed definition of 'network device' is broad and unclear. An additional definition would also be necessary to capture the intent of 'network management and operations'.
- most residential premise meter boards can only accommodate one meter – where would the network device or smart meter (whichever is installed later) go?
- what are the device parameters, including use, restrictions and enforcement, and where are these to be specified – the NER or procedural rules?

- how are costs of the device managed – is it considered a regulated service? Are there any additional costs to customers, particularly where the network device is newly installed?
- can customers opt-out of having a network device? (i.e. in the same way that opt-out provisions apply to new meter deployments); and
- how are safety issues associated with having multiple metering devices on a power board managed.

AGL believes that should the AEMC wish to retain this rule:

- network devices must be ring-fenced away from any service provisioned to customers or a third party to that site;
- tangible hurdles must be enforced between an MC and a network business before a network device could be utilised/installed;
- the existing set of restrictions outlined in the draft rule, particularly with respect to access to data and tampering/security of the metering installation/network device must be reaffirmed; and
- network devices must be limited to Victoria.

Residual cost recovery

AGL supports the AEMC's decision that network business arrangements associated with the recovery of residual costs of its regulated metering services, where replaced by a competitive provider, should be determined by the AER in accordance with its existing regulatory framework.

Although AGL agrees that network businesses should be able to recover the costs for existing metering services installed prior to this rule commencement, we do not support the application of upfront exit fees or administrative fees.

AGL also notes the significant potential benefits for vulnerable customers arising from a market-led rollout of smart meters and takes seriously our responsibilities relating to the provision of services to these customers. AGL acknowledges the importance of appropriate and ongoing protections and support for vulnerable customers and has recently initiated an Affordability Initiative, which aims to improve systems, policies, processes and communications to deliver improved services to customers experiencing financial difficulties.

National ring-fencing for network businesses

AGL strongly supports the AEMC's request to the Australian Energy Regulator (AER) to develop and enforce national ring-fencing guidelines for network businesses seeking to take on the role of MDP, MP and/or MC in the competitive metering market. This is a critical element necessary to ensure that the separation of function to enable the rule

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change to be successful and that competition in metering occurs in a competitive neutral environment.

We note that several network businesses have already announced their intention to establish a competitive metering business. All network businesses seeking this approach should not be allowed to use regulated funding towards the setup of new competitive ventures or the installation of metering assets in other States.

We request that the AEMC in the draft rule change further clarify the ring-fencing guidelines to explicitly set out that network businesses wishing to compete in contestable markets must ring-fence their business⁴. The AER's guidelines must also provide detailed ring-fencing requirements (dependent on different business arrangements and market roles) and set out an appropriate compliance regime.

Clarification on remote reconnections/disconnections policy

AGL welcomes the AEMC's decision to support remote reconnections and disconnections by retailers (through the MC) or network businesses. This is an important decision that will assist retailers to offer more efficient services including remote meter readings, and completion of faster connection and disconnection (without reliance on network businesses to undertake manual action). Further, this will allow retailers to reduce administrative and regulatory costs associated with a connection or disconnection, and therefore lower the costs and improve the service for customers.

This is currently one of the key barriers to enabling the benefits of smart metering services to customers. AGL therefore provides a suggestion later in this submission that should there be delays to the implementation of the rule change, that the National Energy Retail Rules (NERR) changes be implemented immediately as they will require minimal procedural change and can, in the short term, be dealt with by retailers.

AGL would welcome some clarification from the AEMC in their final rule around the types of additional requirements that a Jurisdictional safety regulator may impose on retailers or network businesses and how this should be managed under the auspice of this rule change.

Rule implementation and the development of effective market procedures

AGL reiterates that full implementation of this rule change in the specified timeframes is critical to the success of metering competition and customer choice.

We note that as part of the AEMC's consultation on implementation of this rule change, we indicated that an appropriate amount of time must be allowed for industry to develop the necessary Business2Business (B2B) and Business2Market (B2M) procedures, and implement these procedural changes to our own systems and processes. Although the draft rule acknowledges industry comments on implementation, AGL considers that the information provided by the AEMC does not suitably address general concerns on implementation and procedural rule development.

⁴ Ring-fencing must include:

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- electronic (i.e. IT system processes and data storage); and
- financial (i.e. corporate services).

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AGL has significant concerns with any delays to the timeline and this rule change. We request the AEMC in their final rule, provide clarity on the timetable for implementation and certainty that the procedural rule development process managed by AEMO will not result in any further delays. This is particularly important given substantial amounts of detail associated with the operations of this rule change have been directed into the procedural rules.

The AEMC should consider, if it believes further delays are likely, stepping out the implementation of the rule. AGL suggests that it might be possible for the implementation to be managed in a phased approach:

- Phase One could focus aspects of the rule which support immediate competition in metering such as the AER decisions, retailer remote services and clarification of roles/responsibilities. Implementation on these policies would enable market-led smart meter deployment, innovation in products and services offerings, and increased customer choice.
- Phase Two could then focus on establishing the role of MC, including role, responsibilities, liabilities and market interactions.

As mentioned earlier in our submission, AGL has identified its concerns with the details of participant interaction (particularly the MC) and reiterates that further detailed work is required both by industry and the AEMC to ensure that the policy intent is appropriately implemented.

We request that the AEMC hold a workshop to clarify this detail with industry, separate to the workshop proposed to work through the legal drafting.

Victorian transition arrangements

Although AGL supports the AEMC's intent and draft rule to bring the Victorian arrangements into line with the rules applied under the NER, we do not support any additional Jurisdictional derogations. Allowing such derogations will have the effect of watering down or limiting the impact of the NER (and the NERR), and may delay implementation of the rule change in Victoria.

We request that the AEMC reinforce clearly in its final rule that the transitional arrangements outlined will not be modified or extended.