

A few
words.



1 October 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: Expanding Competition in Metering and Related Services: Additional Consultation on Specific Issues

AGL Energy Ltd (**AGL**) welcomes the opportunity to respond to the Australian Energy Market Commission's (**AEMC**) Additional Consultation on Specific Issues with respect to the Rule Change on Expanding Competition in Metering and Related Services (the **Additional Consultation**) in the National Electricity Market (**NEM**).

We are one of Australia's leading integrated energy companies with around 3.7 million retail customers, and as such are a strong advocate of the Power of Choice reforms and its application to NEM. Specifically, we support a NEM which applies the core policy principles of customer choice and competitive neutrality to contestable markets, which ensures that innovative products and services are developed to shape and enhance customer energy behaviours.

In reviewing and providing our views on the Additional Consultation, we acknowledge that they form part of a larger subset of issues currently being considered by the AEMC as part of its final determination and final rule on Metering Competition (AEMC Final Determination). As such we have limited the replication of our comments presented in previous submissions, but point out that it is difficult to fully gauge how and what impact our views in this Additional Consultation will have on the final arrangements associated with the larger set of issues.

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In assessing these issues, AGL considers that a number of these issues are short term and should be viewed as an exception, as the market transitions to a decentralised fully competitive framework. Therefore, we urge the AEMC to consider transition management options that provide consistency and predictability of policy positions.

AGL notes that there are some significant NEM reforms underway which we broadly support. These reforms should take effect and the market should have sufficient time to adjust and respond before the AEMC consider additional outcomes and regulate solutions.

We therefore request that the AEMC consider our views against the Additional Consultation in the context of our wider views presented in previous submission.

An overall position on the Additional Consultation is provided in Annex A, and our specific views are provided in Annex B.

Should you have any questions in relation to this submission, please contact me on 0402 060 120 or Dan Mascarenhas on (03) 8633 7874.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Stephanie Bashir', is positioned above the typed name.

Stephanie Bashir
Head of Policy and Regulation, New Energy

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Annex A

AGL's overall position on the Additional Consultation

Overview

AGL considers that the AEMC's metering rule change is fundamental to enhancing metering competition in the NEM. We note that the Power of Choice review was based on some fundamental principles that focused on the future of the energy market and its transformation towards a decentralised customer-driven environment. AGL believes that a number of these principles must be maintained throughout this rule change. These principles include:

- **Competitive neutrality:** the provision of demand side services delivered to customers on a competitive basis, which drives down costs for consumers and enables greater customer choice in the market through innovative products and services. In addition, regulated revenues are not used to support regulated business activities in contestable markets.

AGL supports decisions by the Australian Energy Regulator (AER) to reduce allowances for Network Businesses, and emphasise that further reform to network pricing regulation may be required to ensure that cost recovery and investment by Network Businesses is efficient, transparent and justifiable.

- **Ring fencing of Network Businesses:** the application of mandated arrangements on Network Businesses who wish to compete for the provision of new products and services in contestable markets.

AGL supports the establishment of a nationally consistent ring fencing guideline, developed and enforced by the AER, to address the structural and financial separation of Network Businesses wishing to participate in contestable markets so that competitive neutrality between market participants is maintained.

- **Network tariff reform:** the transition to cost-reflective tariff structures, to ensure that those with and without solar PV and other technologies (such as air conditioning) contribute equitably to the costs of providing shared energy networks.

AGL strongly considers that arbitrary barriers to the uptake of innovative technologies by consumers should be avoided, such as fixed annual surcharges for those with solar PV.

AGL believe that if these principles are not continued to be applied to each issue in the rule change, innovation and market competition will be stifled, and most

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importantly customer choice and the efficiency of the energy market's transformation will be significantly impacted.

We reiterate that although the issues raised in the Additional Consultation while for the most part are valid, in AGL's view they form part of the wider transformation to a customer driven energy future. As such, careful consideration should be undertaken to determine whether each issue should be embedded in rules and regulations.

AGL urges the AEMC to consider alternative arrangements to issues that exist over the short term in this Additional Consultation, to ensure that we retain the consistency and predictability of policy positions across the broader metering competition reform, established by the AEMC.

AGL Position

Although we have been supportive of the AEMC's efforts to develop a competitive metering environment and to provide for greater customer empowerment in their choice and uptake of products and services, we are very concerned with the AEMC's response and proposed policy approach to a number of the issues raised in this Additional Consultation. In our view, the proposed policies (and further mark-up of the National Electricity Rules (NER) and the National Energy Retail Rules (NERR), together referred to as 'the Rules') on a number of the issues, seek to gain the support of Network Businesses at the expense of market and customer benefit.

AGL strongly believe that should the AEMC embed these proposed policies into the AEMC Final Determination, these decisions, particularly the arrangements associated with network devices and removing customer consent for ambiguous network-related services, will have a significant and detrimental impact on competition in metering services. Doing so will cement the role of monopoly businesses across specific market services (which should be contestable) and result in market inefficiencies and anti-competitive behaviours, leading to increased consumer costs and less choice of products and services.

We reiterate our views that meter provision and meter data services should be contestable in all circumstances, and be underpinned by a regulatory framework that promotes customer choice, innovation, and competition.

AGL also believes that sufficient commercial drivers will exist under a market-led rollout of digital meters¹ to ensure that all participants (including Network Businesses) seeking access to Metering Coordinator (MC) services are able to negotiate equitable terms in a fair but competitive manner. As per current arrangements which we believe are sufficient, 'free' access to metering data to regulated businesses should only be provided to meet a regulatory obligation set out in the Rules and/or their associated procedures.

Lastly, we encourage the AEMC to reassess whether its proposed policy positions pre-empt the operation of the market. In particular, we have concerns with the

¹ A type 4 smart meter which meets the Minimum Service Specifications



installation of type 4A meters in place of a digital meter, where a customer has refused such a meter. In our view, instances of customer refusal will likely be limited in a market where customers are made fully aware of the benefits of digital meters and Retailers provide suitable advance notification of any meter works which impact them. As such AGL believes that this proposed policy may be unnecessary, and will add additional complexity to the new framework which could inherently impact on the overall benefits provided to customers.

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Annex B

AGL Views on Specific Issues

AGL has specific views on several issues covered under the Additional Consultation. Our views are presented below.

- ***Arrangements for accessing energy and metering data***

AGL agrees that Network Businesses require access to meter data to meet their regulatory obligations as set out in the Rules and its associated procedures. This data is provided to a group of “access parties” via the B2B Procedures² and occurs today in the contestable market.

However, AGL has serious concerns with Network Businesses (or any other party, including Retailers) obtaining a right to access a Metering Data Provider’s (MDP) metering data services database. Given Network Businesses already have access to meter data to enable them to meet their regulatory obligations, we therefore question why access to the database is necessary and what additional purpose this would serve in support of a mandated regulatory function.

AGL notes that there are several Network Businesses that are currently looking (or commencing internal discussions) to set up separate businesses to operate in contestable markets. Currently, there is nothing to prevent a Network Business from using access to an MDP metering data services database for means outside of their regulatory obligations, nor has any arrangement been expressly provided for in the additional mark-ups of the NER in this Additional Consultation. Such access, without appropriate Network Business ring fencing arrangements could allow them the ability to analyse and manipulate energy data, accessed through their regulated businesses, in such a way that it enables them to offer other discretionary services through a separate, unregulated, contestable entity.

AGL points out that the Australian Energy Regulator (AER) has been directed by the AEMC³, to develop a set of national ring fencing arrangements for Network Businesses, but that this process has yet to formally commence. We believe the AEMC’s proposed policy approach on this issue unnecessarily pre-empts ring fencing outcomes which are yet to be openly discussed.

Therefore while we consider the existing arrangements under the Rules sufficient to accommodate concerns raised by Network Businesses with respect to their regulatory obligations, access to any other data and/or information by Network Businesses should be negotiated through a commercial arrangement.

Lastly AGL notes that the proposed amendments to clause 7.15.5 of the NER would result in Retailers being unable to access NMI Standing Data which is

² <http://www.aemo.com.au/Electricity/Retail-and-Metering/Metering-Services>

³ As per the AEMC’s ‘Expanding Competition in Metering and Metering Related Services’ Draft Determination

current practice and necessary for general market operation. This therefore constitutes an inherent regulatory obligation.

Standing data is a fundamental element to the core operation of NEM settlements, transfers and billing of customers on the meter data supplied by the MDP. Such NMI Standing Data is required to validate accuracy of metering data.

AGL believes that this may be an oversight. We encourage the AEMC to revisit the mark-ups of the NER attached to this Additional Consultation.

- ***Supply interruptions for the purpose of installing or maintaining a meter***

AGL broadly support the AEMC's proposed changes which enable Retailers (through the MC) the ability to notify customers and undertake a supply interruption, where such interruption is necessary for the installation, maintenance, repair or replacement of a metering installation.

We believe that such an arrangement will allow Retailers to better plan for metering installations across customer sites, but most importantly, it will reduce customer confusion and the complexity of meter works. This is because the party initiating the interruption would be the party effecting it.

AGL acknowledges that the proposed mark-ups to the NERR, for the most part, replicate the obligations on Network Businesses with respect to 'planned supply interruptions'. However, we note that network interruptions under the NERR, are in all instances only initiated by Network Businesses for network purposes.

Generally, we support applying the same obligations that apply to Network Businesses under the NERR to Retailers, including the management of a 24 hour emergency telephone number. In most instances we agree that 4 Business Days (BDs) notification should be provided to the customer, especially where it is the Retailer who is initiating a meter works without prior customer consent. However, Retailers should also have the ability to reduce this notification period where the customer agrees to allow a supply interruption at an earlier date. Specifically, where a customer agrees, we consider that no minimum notification period should be required.

AGL also believes that the definition of 'retailer planned interruption' should explicitly exclude interruptions that are 'initiated', not 'effected' by Network Businesses, as is currently drafted in the marked-up NERR in the Additional Consultation. We believe that this nuance was an oversight and we therefore draw out its importance, particularly over the transitional period where Network Businesses will be required to undertake customer interruptions as part of a Retailer initiated activity, or through their role as initial MC for connection points.

Further, AGL points out that the current drafting of the 'retailer planned interruption' definition does not allow for an incoming Retailer to undertake a supply interruption, nor does it allow for an interruption to occur at a time, which has been agreed with a customer. This will result in delays (at least 4 BDs) and impact on the customer experience.

For example, a customer signing up to a new Retailer requires a meter replacement before it can access certain products/services. In this scenario, the incoming Retailer will not have the ability to undertake a planned interruption until the 'incoming Retailer' becomes the customer's 'Retailer'⁴. This is because according to the current Rule procedures and the AEMC rule change on meter replacement⁵, an incoming Retailer does not have any rights at a customer site until it is the appointed Retailer for the customer site in NEM market systems, which in turn restricts the 'incoming Retailer's' ability to interrupt supply.

AGL encourage the AEMC to review this inconsistency in the market process and address it accordingly across its concurrent rule changes.

We support 'planned supply interruptions' at multiple occupancy premises to remain an obligation on Network Businesses, due to the difficulties associated for Retailer's to appropriately notify all customers in a complex, especially those who are not affiliated with the Retailer undertaking a 'planned interruption'.

Lastly, AGL points out that no Retailer provisions exist for 'unplanned interruptions'. We are unsure if this is an oversight by the AEMC.

In our view, Retailers should also be able to undertake 'unplanned interruptions', particularly in the case of faults/emergencies at single occupancy premises. As is the case for a 'retailer planned interruption', we believe that this arrangement would also reduce customer confusion and would likely also speed up replacement meter works. Examples of such situations would include a malfunctioning meter which posed a safety threat to the customer's premises, or simply a meter which has stopped recording energy consumption.

For 'unplanned interruptions', AGL suggests that Retailers should use reasonable and best endeavours to notify the customer and resolve the interruption as soon as possible.

- **Customer consent provision of network-related services**

AGL does not support the changes proposed by the AEMC which would enable Network Businesses' access to a service which they identify is required for network "*monitoring, management and protection purposes*".

⁴ This nuance becomes more important when a customer is moving into a new premise and requires both connection and a new meter, often arranged for in a short time.

⁵ Refer to AEMO's Meter Churn Procedures (effective September 2015) and the AEMC's Directions Paper on the Meter Replacement Rule Change

We point out that the Power of Choice reforms seek to transform the NEM into a market that is fair, transparent, competitively neutral, and driven by customer choice and behaviour.

Providing Network Businesses with the ability to access network-related services under the banner of “wider benefits for the shared network” is neither reasonable nor justifiable and provides Network Businesses with remit to claim any network-related service under this mandate. Unless the AEMC clearly sets out the exact services or functions covered by this broad right in the NER and outlines how and why the service/function will benefit the “shared network”, AGL believes this proposed policy will compromise competitive neutrality and customer protections principles. In addition, it is likely that customers will also unnecessarily suffer through higher network charges for services that they have not requested.

Noting that Network Businesses are traditionally poles and wires businesses, the AEMC must not pre-empt decisions that currently sit within the responsibilities of the AER and risk impacting on customer choice. Specifically, we point out that the AEMC’s Draft Determination on Metering Competition (Draft Determination) directs the AER to develop a set of ring fencing guidelines⁶ to explicitly set out the requirements that Network Businesses must meet, if it wishes to operate in contestable spaces, including in behind-the-meter services. This document will regulate how Network Businesses interact with customers broadly and will ensure that it only delivers network services to the wider community where the benefits are shared across its network.

AGL maintains, that should a Network Business wish to provide network-related services to individual customers, this approach constitutes a contestable service. As such the Network Business should negotiate access through the MC and must also obtain explicit customer consent to provide such service.

Where a Network Business seeks to provide a service to customers without obtaining consent and such service is not listed in the NER as an agreed “shared network” benefit service, then a civil penalty should be applicable. Such a penalty is necessary to ensure Network Businesses do not misuse their market power through service delivery, and to ensure that customers are suitably protected from unnecessary network services and increase network charges.

- **Network devices**

AGL strongly objects to the concept of network devices on the basis that it will provide Network Businesses an option to ‘bypass’ commercial negotiations for access to services at a connection point⁷. We have no doubt that the lack of

⁶ Refer to the AEMC’s [Draft Determination](#) – section 4.8.1

⁷ AEMC acknowledges this as their rationale for allowing network devices on page 19 of the Additional Consultation.

In addition, AGL note that the AEMC on page 21 of the Additional Consultation also acknowledge that their proposed approach was “*not to provide any party with a competitive advantage in the provision of certain services*”.

compliance and enforcement provisions surrounding network devices combined with its wide scope of use⁸, will make its application even more attractive to Network Businesses.

We believe that any service delivered to an individual customer, such as load control, should constitute a contestable service by definition and therefore under a contestable market, must be delivered through competitive (not regulated) means.

We note that the application of Network Business ring fencing arrangements aim to ensure that:

- Network Businesses, as regulated monopolies, are prohibited from using regulated funding to compete in contestable markets; and
- customers are protected from excessive network prices for products and services which can be provided to market at cheaper, competitive prices.

However, enabling network devices, contradicts the aim of these arrangements and more broadly, the concept of a contestable market. It does this by allowing Network Businesses to 'exclusively' provide network-related services to customers regardless of the contestable framework, which has been designed to empower customer choice and promote an even playing field, while encouraging greater competition.

We strongly consider that no market party should have an ability to sidestep the regulatory process which is applicable to all other participants. Providing this ability to Network Businesses does not align with the Council of Australian Government's (COAG) policy direction nor the principles set out in the AEMC's Power of Choice review. It will also embed anti-competitive behaviour into the new framework for metering services and the wider Rules.

Further, we firmly consider that without a mechanism to qualify and/or evidence that a Network Business has reasonably attempted to negotiate commercial terms and conditions of access to services, in good faith with the appointed Metering Coordinator, metering competition in the NEM will be seriously impacted. This is because it is likely to become unfeasible for competitive metering providers to deploy digital meters under a market led approach.

We also note that irrespective of whether or not sufficient space exists within a meter board, digital meters deployed in the market will be capable of delivering the same network and legacy services provided by Network Businesses today. Therefore, endorsing network devices will duplicate the service delivery mechanism and will unnecessarily result in increased costs to customers (through Distribution Use of System charges).

⁸ Which allow Network Businesses to use meters and/or metering equipment as network devices to support the "safety, security and reliability" of their network, as per page 22 of the Additional Consultation. This wide scope has been set even though the required services that are necessary to support the "safety, security and reliability" of a network have not been defined.

AGL believes that Network Businesses continue to largely influence the development of this proposed policy approach. We also consider that the AEMC have not duly considered the views of other industry stakeholders, in particular with Retailers, on this issue. In reviewing the overarching questions that we posed to the AEMC as outstanding concerns in our response to the Draft Determination, we note that several critical issues remain unaddressed, in addition to our additional questions per the Additional Consultation. These include the:

- services or functions that a network devices would be capable of providing, noting that “safety, security, and reliability”⁹ of their network is too broad;
- ability for customers to opt-out of having a network device (i.e. in the same way that opt-out provisions apply to new meter deployments);
- notification obligations applicable to Network Businesses wishing to retain or install a network device;
- rationale for why a Network Business has the ability to remove a metrology meter and in place install a network device¹⁰ (presumably where there is insufficient space for both meter and network device/s);
- parameters of network devices, including use, restrictions and enforcement, and where these are to be specified – i.e. the NER or procedures; and
- how costs of network device/s are managed and whether it is considered a regulated service.

We strongly encourage the AEMC to engage with Retailers on these issues, make clear their view on these outstanding questions, and consider the wider market implications of their proposed policy approach.

Lastly, we restate that should the AEMC wish to proceed with their proposed approach to allow network devices, AGL cannot support the policy unless all of the following arrangements are put in place:

- a) the services or functions enabled by a network device must be clearly defined – see footnote 8;
- b) network devices must:
 - only be endorsed as a transitional arrangement and must be time bounded; and
 - be limited to Victoria (i.e. AMI meters) and Queensland (i.e. legacy load control) where such a case could be reasonably justified;

⁹ Refer to the fifth paragraph in section 5.3.1 of the Additional Consultation.

¹⁰ Refer to the sixth bullet point listed in section 5.4.2 of the Additional Consultation.

- c) Network Businesses must clearly demonstrate and evidence that they have attempted to undertake 'good faith' negotiations with the appointed MC at a connection point, prior to installation/use of a network device;
- d) the appointed MC at the connection point, must be satisfied that negotiations on terms and conditions of access to services at a connection point cannot be mutually agreed, and must sign off on the use of a network device;
- e) enforcement and compliance provisions/obligations, must be strengthened to avoid mis-use of network devices¹¹, and
- f) AER must be responsible for:
 - o approving the use of network devices as part their wider pricing determination responsibilities; and
 - o policing overall mis-use and non-compliance.

- **Alterations to type 5 and 6 metering installations to make them capable of remote acquisition**

AGL understands that Network Businesses (through the Energy Networks Association) have raised concerns that under certain circumstances, they, in their capacity as MC for a connection point, should have the ability to alter a type 5/6 meter to enable remote capability without reclassification to type 4. We note specifically that the AEMC have determined that it *"may be appropriate to permit a Network Business that is an MC toupgrade the meter to assist meeting its obligations to provide a safe, secure and reliable network"*¹².

Our interpretation of the AEMC's proposed policy is that Network Businesses should be able to upgrade meters to type 4 capability, but read them as basic or interval meters, where it is in the best interests of network operations, using regulated revenues. To AGL, this appears to be the very similar to the "smart ready" concept which was proposed to and rejected by the AER, on the basis that it would provide Network Businesses with an unfair competitive advantage in the market¹³.

This unfair advantage would play out if approved, especially given several Network Businesses are currently in the process of setting up their own contestable metering businesses.

¹¹ Including the addition of a civil penalty provision.

¹² Refer to section 6.3.2 of the Additional Consultation.

¹³ The AER were presented with the 'smart ready' concept by NSW, SA and QLD Network Businesses. It took a consistent approach and rejected all Network Businesses proposals. Link to the SA Preliminary Determination, as set out in section 3.2 is below:

[AER Preliminary Determination: SA Power Networks 2015-20](#)

Any 'smart ready' meter will, by its nature, operate in the competitive metering market. It will compete with digital meters which meet the Minimum Service Specification (MSS) deployed by other providers but would not be required to meet the same technical and accuracy requirements, nor would it have the same risk profile because the connection point was not 'open' to the competitive market. As a result, it would also mean that the altered meter may not be able to provide the same level of functionality required by digital meters, and this would therefore likely limit the products or services enabled onsite, and almost certainly result in higher charges to the customer.

This is because an alteration would result in multiple site visits (firstly from the Network Business to upgrade the meter and secondly from a competitive metering provider to replace the altered meter with a digital meter) and significant costs to the customer. In addition, customers would also be forced to pay for upgrades to the Network Businesses' asset management, field management and IT systems, which would be recovered through higher network charges.

On this basis, AGL does not support allowing Network Businesses the ability to alter type 5 and 6 meters with remote capability, without meter reclassification to type 4, particularly with respect to "monitoring and operational" purposes.

Instead, AGL believes that where a Network Business considers that an alteration of a meter is required, it should contact the appropriate Retailer in the first instance. The Retailer can then identify how best to upgrade the meter on a competitive basis, and within an appropriate timeframe.

- ***Metering Coordinator obligations where a customer refuses to have an advanced meter installed***

AGL acknowledges the AEMC's position that it is not practical to allow small customers to opt out of a digital meter, where the meter requires replacement due to fault, maintenance, and for new connections.

Under the proposed policy approach, the AEMC's view is that where a small customer refuses a digital meter under the above circumstances, the MC (or in the case of new connections, the Metering Provider (MP)) should install a type 4A meter. As such in this circumstance, the meter would be read as a type 5 meter but classified for metrology purposes as a type 4A meter.

AGL notes that customer refusal of a digital meter is unlikely to occur frequently, as long as the benefits of digital meters are sufficiently communicated to customers and suitable notification is provided by Retailers. We therefore question the rationale of the AEMC in setting out its proposed policy approach as a new rule set out in the marked-up NER attached to this Additional Consultation.

Instead, in our view, market rules should only be developed where an evidenced requirement to set an industry wide direction is necessary, and that any new rules should complement the overarching Power of Choice principles and the overarching metering competition framework.

As such, we do not consider it necessary at this early stage of a market led rollout approach, for the AEMC to mandate the installation of a type 4A meter where a customer refuses a digital meter.

AGL considers that this decision is premature and would allow for a deviation from the COAG's vision of a market led metering rollout. We encourage the AEMC to uphold its original position presented in the Draft Determination and instead review the situation as part of its scheduled 3 year review once contestable metering has commenced. As part of that review, the AEMC should consider whether an alternative arrangement is better suited to address the issue¹⁴ and whether the direction is better placed in the NER or the Rule procedures.

AGL does however, welcome the ability of Retailers to undertake immediate disconnection, consistent with the right of Network Business, on grounds of unsafe and unsecure access to a premises.

¹⁴ Assuming the AEMC consider that the issue remains unaddressed.

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