



AEMC ADDITIONAL CONSULTATION PAPER ON METERING CONTESTABILITY RULE CHANGE

ENA submission

1 October 2015

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EXECUTIVE SUMMARY

ENA welcomes the extensive engagement by the Australian Energy Market Commission (AEMC) in the metering rule change process and supports the intent of the AEMC proposal to expand competition in metering and related services, but considers major design flaws remain.

ENA is concerned that the AEMC has not addressed the fundamental design issues identified in submissions and forums by ENA and other parties relating to the market framework for delivery of services to networks and third parties.

In relation to the specific issues raised in the consultation paper, ENA regrets the very tight timeframe for consultation (two weeks). However, it recognises the attempt by AEMC to consult on potential improvements to operational outcomes relating to:

- » access to energy and metering data
- » supply interruptions
- » customer consent for provision of network-related services (*no drafting guidance*);
- » capability to remote read type 5 & 6 meters (*no drafting guidance*); and
- » removal of application to transmission connection points.

However, ENA is significantly concerned at the proposed amendments which would have the effect of effectively undermining the option for a Distribution Network Service Provider (DNSP) to utilise a network device:

- » to serve as a meaningful by-pass option to encourage delivery of cost-effective services by Metering Coordinators;
- » to provide network services; and /or
- » to ensure critical load management to restrain network augmentation.

The amendment would introduce a new ability for Metering Coordinators or Meter Providers (MPs) to remove, at their sole discretion, a network device without reference to, or consent from, the DNSP. This outcome makes it impractical for a DNSP to rely on a network device for commercial and operational purposes.

ENA considers that the new amendment must be removed or fundamentally revised in both the final determination and final rule so as to reinstate the ability for networks to utilise the network device as a viable option.

The risks to customers of a framework which does not provide commercial and operational certainty in the use of network devices exacerbates the design weaknesses previously identified by all Australian distribution electricity networks and other market participants including demand side participant (DSP) aggregators. Specifically the AEMC draft determination creates significant market power for a Metering Coordinator which represents an unmanageable risk to prospective MC counterparties and thereby deters investment based on such contracts with MCs. To mitigate these market power risks, the AEMC draft determination relied on:

- » implausible Framework Agreements which do not exist in any known jurisdiction with binding commercial effect; or
- » a role for DSP aggregators which has been rejected by that sector, based on their own concerns about the market power of the MC.

Despite these demonstrated weaknesses, the AEMC is yet to introduce “light –handed” regulatory frameworks to enable delivery and maintenance of reliable and cost-effective network services by Metering Coordinators. If these design flaws are not addressed, there is a high risk to the delivery of metering-enabled services to networks which would otherwise provide long term benefits to consumers.

ENA reiterates that light handed regulation is essential to achieve the balanced commercial environment which would support contracting and investment in the market environment established by the proposed rule change.

The contestable metering framework should include, at minimum, requirements that parties (Metering Coordinator and access party) must negotiate in good faith to arrive at commercial terms that:

- » are fair and reasonably reflect the cost to the Metering Coordinator to provide access;
- » do not unreasonably discriminate between parties seeking access to meter services; and
- » are supported by dispute resolution provisions.

Given the criticality of this rule change, ENA considers that it is essential that the AEMC provides the opportunity for stakeholders to review the complete draft rule prior to finalisation.

To achieve good practice stakeholder engagement, the AEMC should ensure that all stakeholders have access to the proposed final draft rule, such that the interrelated implications of drafting for roles, responsibilities, safety and operational practices can be clearly evaluated.

ENA notes that AEMC has indicated further redrafting is underway but that stakeholders may not be given the opportunity to review this material prior to finalisation of the final rule.

ENA believes that if the AEMC does not undertake appropriate consultation on the full rule change, there is an increased risk of unforeseen consequences for consumers and other stakeholders. A short extension of time for this critical review is preferable to finalisation without full review.

RECOMMENDATIONS

ENA recommends that:

1) The metering contestability framework must provide adequate support for services by networks and third parties in the long term interest of customers by:

- inclusion of light handed regulatory provisions to address market power of Metering Coordinators in access negotiations with networks and third parties; and
- by removal of the right for other parties to arbitrarily remove network devices without consultation or consent from networks.

2) Provisions relating to network devices must be amended to provide that:

- » Either party (ie the MC/MP on the one hand or the LNSP on the other) may install or replace their own meter or network device (as the case may be) if there is sufficient space to house both the metering installation and the network device within the existing facility used to house the metering installation.
- » Neither party may remove, damage or render inoperable an existing network device or meter (as the case may be).
- » If there is insufficient space, then neither party may install or replace their equipment unless they both agree.
- » The metering framework should support exchange of advice between the parties responsible for installation of meters and network devices to support mutually beneficial outcomes.
- » The metering framework must ensure the maintenance of current network load management capacity.

3) ENA considers that the redrafted rule also needs to ensure **delivery of** (rather than access to) energy and metering data required to perform roles and responsibilities, including responsibilities assigned under jurisdictional requirements. ENA proposes that the drafting in 7.10.3 (b) include a requirement for procedures to require the MDP to provide data to parties to perform their regulatory obligations under jurisdictional energy legislation (including Codes, guidelines, orders, etc).

4. AEMC must provide stakeholders with the opportunity to review the full draft rule prior to finalisation.

INTRODUCTION

The ENA is the national industry association representing the businesses operating Australia's electricity transmission and distribution and gas distribution networks. Member businesses provide energy to virtually every household and business in Australia.

ENA members own assets valued at over \$100 billion in energy network infrastructure.

ENA welcomes the opportunity to make a submission on the Australian Energy Market Commission's (AEMC) paper providing additional consultation on specific issues relating to the rule change on competition in metering and related services¹.

KEY ISSUES

This section will address the key issues identified by the ENA both with this consultation paper and with the metering rule change framework proposed by the AEMC.

Key issues considered in this section will be:

- » fundamental flaws remaining with the framework application to network operations;
- » network devices;
- » access to energy and metering data;
- » supply interruptions to install or maintain a meter;
- » customer consent for provision of network-related services;
- » alterations to type 5 & 6 metering installations for remote acquisitions; and
- » application of the framework to transmission connection points.

FRAMEWORK ISSUES

ENA has appreciated the extensive consultation and engagement that AEMC has undertaken on this complex task, but is disappointed at the failure of the AEMC to address key framework issues highlighted within submissions and comprehensive personal consultations and supplementary material provided to the AEMC by the ENA and our members.

ENA remains concerned at the lack of recognition on the part of the AEMC of the need to address the market power of the Metering Coordinator. ENA has received no assurance that any regulatory support will be provided to enable effective negotiation by networks to access service delivery by Metering Coordinators.

Within our submission to the AEMC draft determination, ENA documented a range of pragmatic and balanced solutions to major problems with the framework as proposed. ENA considers that, if these fundamental issues are not addressed, customers will pay more than necessary for the safe and reliable delivery of electricity services by retailers, networks and third parties like DSP aggregators.

Furthermore, ENA is dismayed that the latest draft released by the AEMC has undermined the utilisation of the network device by networks. This issue is comprehensively addressed below, but ENA notes that the late inclusion by AEMC of the ability for MC/MP to undertake uncontested removal of a network device² completely undermines the negotiation by-pass option for networks, further enhancing the market position of the Metering Coordinator to the detriment of both networks and customers.

In addition, the ability of parties installing meters for Metering Coordinators to remove a network device without notice adversely impacts on the guarantee that a network can maintain current essential load control services, upon which network investment has been based. Maintenance of current network load control was an agreed objective within the metering rule change³, and so comprehensively undermining this key feature is viewed with critical concern by ENA.

ENA has also previously described the adverse consequences from the decision to exclude network 'advanced services' from the minimum service specification and making service provision voluntary commercial options for Metering Coordinators for all services except basic market metrology services.

Without a framework enabling cost-effective delivery of advanced services, the functionality and long term service benefit for customers will be reduced. ENA regards such an outcome as a missed opportunity that will be expensive and sub-optimal.

¹ AEMC, Additional consultation on specific issues: National Electricity Amendment (Expanding competition in metering and related services) Rule 2015, 17 September 2015.

² *ibid*, p. 23

³ AEMC, Draft determination on metering and related services, 26 March 2015, p. 246

ENA's View

ENA refers AEMC to detail on potential options which were included in ENA's submission to the AEMC draft determination. ENA reiterates that light handed regulation is essential to achieve the balanced commercial environment which would support contracting and investment within the proposed contestable metering framework.

The contestable metering framework should include, at minimum, requirements that parties (Metering Coordinator and access party) must negotiate in good faith to arrive at commercial terms that:

- are fair and reasonably reflect the cost to the Metering Coordinator to provide access;
- do not unreasonably discriminate between parties seeking access to meter services; and
- are supported by dispute resolution provisions.

ENA also encourages consideration of the views expressed in correspondence signed by all distribution business CEOs to the AEMC Chairman on 10 September 2015:

We consider the AEMC must recognise fundamental design issues that have been highlighted in the consultation process:

- *The new market framework relies on metering coordinators contracting with NSPs and DSP Aggregators to underwrite smart meter investment – yet both NSPs and DSP Aggregators explicitly demonstrated why the market power of the MC will make such contracting commercially untenable.*
- *The AEMC has stated in its Draft Determination that 'Framework Agreements' are the key market power mitigation measure to provide commercial certainty to an MC-counterparty after MC Churn or Meter Churn. However such agreements are not operational in any jurisdiction.*
- *The new market framework, with its narrow minimum service specification and lack of an obligation to supply services, increases the risks to MC-counterparties at the point of churn. Metering manufacturers have identified the AEMC design as likely to deter the inclusion of functionality which would have broad consumer benefits, even where it has a low incremental cost.⁴*

⁴ AEMC Forum – Metering Business Perspective, by Adrian Clark, CEO, Landis and Gyr, 30 April 2015, available on AEMC website

The risks to customers of a framework which does not provide commercial and operational certainty in the use of network devices exacerbates the design weaknesses previously identified by all Australian distribution electricity networks and other market participants including demand side participant (DSP) aggregators.

Specifically the AEMC draft determination creates significant market power for a Metering Coordinator which represents an unmanageable risk to prospective MC counterparties and thereby deters investment based on such contracts with MCs. To mitigate these market power risks, the AEMC draft determination relied on: implausible Framework Agreements which do not exist in any known jurisdiction with binding commercial effect; or a role for DSP aggregators which has been rejected by that sector, based on their own concerns about the market power of the MC.

Despite these demonstrated weaknesses, the AEMC is yet to introduce "light –handed" regulatory frameworks to enable delivery and maintenance of reliable and cost-effective network services by Metering Coordinators. If these design flaws are not addressed, there is a high risk to the delivery of metering-enabled services to networks which would otherwise provide long term benefits to consumers.

ENA reiterates that light handed regulation is essential to achieve the balanced commercial environment which would support contracting and investment in the market environment established by the proposed rule change.

NETWORK DEVICES

ENA has reviewed the amendments to the NER proposed under Chapter 5 of the Consultation Paper. The new provisions proposed in section 5.4.1 of the Consultation Paper are an improvement on the position previously proposed in relation to the things for which an LNSP's network devices can be used.

ENA appreciates AEMC's expansion of network devices to be "apparatus or equipment associated with the provision or the monitoring, operating and control of network services which may include switching devices, measurement protection and control protection"⁵ and their critical role in supporting the safe, secure and reliable operation of networks.

However, in their analysis and proposed drafting AEMC then undermines the practical ability of networks to use network devices for these purposes.

⁵ AEMC, Additional consultation, p.22

Regarding the currently available AEMC amendments, ENA has noted

*The Commission's view is that the **primary purpose of a metering installation is to house a meter for billing and settlement of the customer's electricity consumption**. A functional, accurate meter is vital to the operation of the NEM. Therefore **if there is insufficient space** on a meter board to house both a meter and a network device, **the meter should have priority**. The proposed amendments set out below are intended to reflect this position.⁶ [emphasis added]*

Further, the AEMC concludes:

*Provide that **if**, at the point in time that a Metering Coordinator or Metering Provider is replacing the meter, **the Metering Coordinator or Metering Provider reasonably determines that there is insufficient space to house both the network device and the metering installation** within the existing facility used to house the metering installation, then the **Metering Coordinator or Metering Provider may remove a network device to install the meter without the LNSP's consent**⁷. [emphasis added]*

The above provisions make the retention of a network device solely and completely dependent upon the choice and judgement of an MP or its agent undertaking installation of meters.

The ability of Metering Coordinator/MP to remove a network device without consultation or consent of the network:

- » negates the benefit and utilisation of these devices to networks by removing their practical operation as a feasible by-pass option for delivery of network services;
- » combined with the provision that a Metering Coordinator does not need to provide advanced services unless they reach a commercial settlement with the network, it reduces the likelihood of cost effective network service development in the long term interests of customers; and
- » undermines network security on delivery of current load control by facilitating and encouraging removal of the network device.

⁶ *ibid*, p.22

⁷ *ibid*, p.23

As noted previously in this submission, maintenance of critical network load management capacity was recognised as an agreed objective within the metering contestability rule change.

As load management is not included in minimum services to be provided by Metering Coordinators and would be a voluntary/ commercial service offering, this negates the agreed policy position that current network load management must be maintained.

If a load management service is proposed by the Metering Coordinator after removal of the network device, the network is placed at a severe disadvantage in negotiating cost of delivery and is likely to need to pay a premium due to the specific requirements they would need to obtain. This premium cost would then be passed onto the customer.

ENA notes that, as an alternative to accepting high cost service, the network may need to reinstate their network device at another location (not in the metering installation) at its own cost and in an *ad hoc*, rather than planned and efficient manner. This does not support maintenance of cost effective and secure service delivery to customers.

ENA notes further that delivery of services enabled by Victorian AMI meters that are provided or under imminent development are placed at significant risk as Victorian AMI meters are explicitly recognised as network devices.

Under the proposed rule change AMI meters may be replaced by Metering Coordinators who are only obligated to support a significantly lower minimum level of services. AMI meter services have been paid for by Victorian customers and will risk being terminated by unilateral action by Metering Coordinators or their MPs.

Notably, the AMI meters currently incorporate load control capacity previously provided by other technology. The indiscriminate removal of the AMI meter in Victoria will result in loss of this load control capacity by the Victorian networks.

ENA's view

The network device is part of the LNSP's infrastructure and an essential piece of equipment by which it can meet both:

- » Its statutory obligations under the National Energy Retail Law (NERL) which place direct responsibility on distributors to supply, energise, de-energise and re-energise customers as a fundamental part of the "customer connection services" they must provide under the NERL; and

- » existing jurisdictional statutory rights and obligations of distributors relating to technical and safety requirements for connection of customer installations to networks. Distributors also have jurisdictional statutory protections relating to interference with distributor equipment and infrastructure.

Initially, there is a real question about whether the AEMC has power to make these proposed provisions and accordingly, whether they would be legally valid if they were made. This critical question has been raised in the previous ENA submission regarding interaction of the NERL and the proposed metering contestability rule change, but ENA has yet to see any analysis from AEMC in response.

The amendment to the operation of network services proposed by the AEMC in its consultation paper enables Metering Coordinators or Meter Providers (MPs) to remove, at their sole discretion, a network device without reference to, or consent from, the DNSP. This outcome completely undermines the workability of a DNSP relying on a network device for commercial and operational purposes.

ENA considers that the new amendment must be removed or fundamentally revised in both the final determination and final rule so as to reinstate the ability for networks to utilise the network device as a viable option.

ENA submits that these provisions must be amended to provide that:

- » Either party (ie the MC/MP on the one hand or the LNSP on the other) may install or replace their own meter or network device (as the case may be) if there is sufficient space to house both the metering installation and the network device within the existing facility used to house the metering installation.
- » Neither party may remove, damage or render inoperable an existing network device or meter (as the case may be).
- » If there is insufficient space, then neither party may install or replace their equipment unless they both agree.
- » The metering framework should support exchange of advice between the parties responsible for installation of meters and network devices to support mutually beneficial outcomes.
- » The metering framework must ensure the maintenance of current network load management capacity.

ACCESS TO ENERGY & METERING DATA

ENA is concerned to ensure that network operators are able to receive the energy and metering data to enable them to perform their regulated roles and responsibilities, including that of providing energy consumption data to customers and their authorised agents.

In their Consultation Paper, AEMC notes stakeholder concerns in response to the draft determination that distributors need energy and metering data in order to:

- » meet their statutory obligations for billing and settlement under Chapter 6 of the NER;
- » undertake tariff development in accordance with the tariff structure statement requirements in Chapter 6 of the NER; and
- » meet other jurisdictional based regulatory obligations.⁸

ENA appreciates the revision that AEMC has undertaken to clarify critical data availability and endorses the view that the revised rule needs to delineate services and responsibilities which the Metering Coordinator/ MC/ Metering Data Provider (MDP) are required to perform as part of their responsibilities and other discretionary services which may be provided on commercial terms.

ENA also notes the intention of the AEMC proposal "*to address the concern that distributors should receive any required metering data 'free of charge' by clarifying the obligations on the Metering Data Provider to provide access to the metering data services database, and to provide metering data as required under the procedures*".⁹

ENA has three significant concerns with the proposed solution:

Firstly, ENA notes that the references to provision of energy and metering data in this section, including within the summary table "Provision of metering data and access to metering data services database and metering database under proposed changes"¹⁰ refer to rights only within the NER, NERR and procedures authorised under the NER.

Further, within the redrafted rule at Appendix A, Clause 7.10.3 (b) requires AEMO to ensure that procedures under the Rules do not require the MDP to provide access to data

⁸ *ibid*, p.5

⁹ *ibid*, p.5

¹⁰ *ibid*, pp.9-10

except to the extent that the data is required by the person to perform its obligation under the Rules and NERR¹¹.

This is proposed drafting is problematic:

- » Victoria has not yet adopted NECF, so the NERR and the future amendments to the NERR do not apply in Victoria and AEMO has no obligation to make procedures consistent with the Victorian regulations where the Victorian amendments will be drafted;
- » Each jurisdiction may have additional policy initiatives or regulatory obligations which require data in a certain format (eg service standards and voltage requirements). Under the current drafting the AEMO procedures will not need to take these other data requirements into account.

These provisions must include energy and metering data required by networks to fulfil jurisdictional obligations also. For example, access to voltage data enables distributors to monitor, and hence maintain nominal voltage levels as required to meet jurisdictional obligations in every state.

Secondly, ENA notes that the AEMC proposes to ensure availability of energy and metering data by enabling **access** to the metering services database.

The proposed drafting has altered responsibility for the party providing access to the data held in a metering data services database by **delivering** the data to the entitled party in an industry agreed B2B format, with provision of **access** to the metering data services database itself. The former is a 'push' mechanism which retains security controls to the database and provides parties entitled to data with the data in the industry agreed formats. This is the standard regulated approach which is the obligation of all current MDPs and hence, for these parties, does not fundamentally change their system approach. The latter is a 'pull' mechanism where the party who is obligated to provide access would need to provide entitled parties with access into the database for the entitled party to seek out the data.

The changed obligation to provide '**access**' does not align with current industry practice. Business IT systems and processes are set up to **receive** this information from the MDP, not to undertake access from the database. Network billing systems and processes currently receive packaged meter data files for all sites within scheduled timeframes. A move to a 'pull' mechanism will result in higher operational costs to extract metering data from different metering services databases.

Whilst this may be available from some current or prospective MDPs, this would entail a significant step change in system costs for most current MDPs if this change is mandated. Under the revised model, each network business may need dozens of staff solely assigned to extracting metering data from different metering service databases to perform the essential task of network billing. This would become a 'hidden cost' of contestable metering.

In addition, implementing such a change means that the MDP will have significant security management issues by alteration to these systems to require them to enable direct access to their database by multiple parties.

Restructuring business systems to require provision of access to the metering services database in order to provide the essential energy and metering data to support performance of statutory roles will be costly and will have security implications, as noted above. There is a significant risk that if metering data needs to be extracted from metering service databases that the interfaces to the databases would not be scaled to provide the data for sites within the required timeframe.

ENA has seen no analysis and justification from the AEMC to warrant making such significant changes to current procedures.

Thirdly, the current NER 7.7(a) approach to data access is that the parties listed are entitled to access energy data or to receive metering data, NMI Standing Data, settlements ready data or data from the metering register for a metering installation.

ENA notes that the AEMC considers that settlement ready data is part of metering data. However the drafting of the proposed 7.10.3 (a) is limiting the entitlement to access data to distribution businesses and certain persons listed in proposed 7.15.5 (c) (1) to 7.15.5 (c) (5) in the following manner:

- it is no longer clear that the distribution businesses are entitled to access energy data from the metering installation; and
- drafting no longer provides access to data from the meter register.

The proposed 7.10.3 (a) and 7.10.3 (b) should reflect the entitlement to data afforded in the current NER and not be restrictive.

Finally, ENA notes that in order to clarify which services must be provided in performance of regulatory obligations and which services may be provided on commercial terms, AEMC states that further key amendments will be made.

¹¹ *ibid*, pp. 9, 40

However, limited re-drafting has been provided: Appendix A does not cover proposed amendments to support the following AEMC stated intentions:

- » Amendments will be made to provisions of Chapter 7 of the NER draft rule to ensure that any provision which intends to give rise to an obligation on the Metering Coordinator, Metering Provider or Metering Data Provider does so with sufficient clarity.
- » Clause 7.3.2 of the NER draft rule will be amended to expressly provide that the Metering Coordinator is responsible for the Metering Provider's and Metering Data Provider's compliance with obligations under the rules and procedures issued under the rules.
- » Clause 7.3.1 of the NER draft rule will be amended to provide that the Metering Coordinator is the person responsible in respect of a connection point for the performance of obligations under Part D, Part E and Part F of Chapter 7 of the NER. The amendment would be drafted to ensure that any obligation which is expressly stated as applying to a third party such as AEMO, a Distribution Network Service Provider (DNSP) or retailer under those Parts will not be considered as an obligation of the Metering Coordinator.¹²

As ENA noted previously, in order to enable meaningful review, access needs to be provided to the full re-drafted rule.

ENA's view

ENA endorses the view of the AEMC that the draft rule must provide clarity around services which must be performed by the Metering Coordinator/ Metering Provider /Metering Data Provider (as applicable) in order to fulfil their obligations under the rules and procedures and pursuant to the terms of their primary appointment, and services by these parties which AEMC terms as 'discretionary' (ie commercial) services¹³.

ENA considers that the redrafted rule also needs to ensure **delivery of** (rather than access to) energy and metering data required to perform roles and responsibilities, including responsibilities assigned under jurisdictional requirements. ENA proposes that the drafting in 7.10.3 (b) include a requirement for procedures to require the MDP to provide data to parties to perform their regulatory obligations under jurisdictional energy legislation (including Codes, guidelines, orders, etc).

¹² *ibid*, p.11

¹³ *ibid*, p.6

Some examples of drafting issues for resolution follow:

- » In 7.10.2 (a) (2) the MDP must provide entitled parties with access to data in the metering data services database, not access to data delivered from the metering data services database ;
- » In 7.11.1 (d) (1) AEMO must provide entitled parties with access to the metering database; this has been amended from AEMO providing access to data held within the metering database eg via reports;
- » The drafting in 7.10.1 (5) requires the MDP to provide access to the metering data services database as opposed to providing access to the metering data held within the metering database;
- » In 7.11.1 (d) (2) AEMO must provide entitled parties with access to the metering database. This drafting combined with other drafting in Chapter 6 may imply that network businesses need to replicate the settlement data from the AEMO metering database back into their system to allow network billing using settlement ready data for type 4 manually read and type 1-4 remotely read meters; and
- » Clause 7.10.3: provides metering data and NMI standing data, but not meter register data (ie meter settings). Consequently it is unclear whether datastream and time-switch configurations (ie matters that allow tariffs to be billed correctly) are covered.

Further, as ENA noted previously, stakeholders need access to the full re-drafted rule before finalisation in order to enable meaningful review.

SUPPLY INTERRUPTIONS

Consideration of the management of supply interruptions within the Consultation Paper is limited to provisions covering installation, maintenance, repair or replacement of meters by a Metering Coordinator. ENA notes that advice to date from the AEMC has not provided analysis or drafting to enable ENA to assess the ability of networks to perform their statutory functions relating to providing safe, reliable supply of electricity to customers.

Consultation to date provides no assessment or drafting advice on how network responsibilities to provide standard connection services under NECF will interact with ability of other parties to connect/disconnect customers. AEMC notes that "other issues raised ... in relation to supply interruptions are being considered as part of the final rule"¹⁴. ENA considers this a major void in analysis and feedback to

¹⁴ *ibid*, p.14

date and a further critical indication that stakeholders must be provided with the opportunity to review the full redrafted rules before finalisation.

However ENA notes that the draft rule within the consultation paper provides an improved outcome in removing network business responsibilities to advise and cooperate for supply interruptions and planned interruption notifications where retailer/Metering Coordinator is arranging metering installations / replacements.

Furthermore, as requested by the ENA, the drafting also now includes specific reference under section 7.3.2 that the Metering Coordinator must not arrange retailer planned interruptions except in accordance with jurisdictional electricity legislation (Section 7.3.2 (4) iii)¹⁵. This provision acknowledges critical safety requirements required by jurisdictional safety regulators.

Regarding the Consultation Paper, ENA has reviewed the amendments to the NER and NERR proposed under Chapter 3 and Appendix B and wish to bring the matters outlined below to the AEMC's attention.

However, please note that all of our comments below are subject to our previous query in relation to the extent to which the AEMC has the legal power to make some of the proposed Metering Coordinator supply interruption changes to the NER and NERR.

"Retailer Arranged Interruptions"

Proposed NERR clause 59C(1) provides that a retailer may arrange a "*retailer planned interruption*", which is defined as an *interruption* of the supply of electricity to a customer for the purposes set out in proposed new clause 59B.

From the discussion in sections 3.3 and 3.4 of the Consultation Paper (and the insertion of a proposed new clause 7.3.2(h)(4) in the NER), it seems intended that the retailer is meant to arrange this "interruption" with the Metering Coordinator (**MC**). However there is nothing in the proposed new *retailer planned interruption* provisions, to indicate who is actually entitled (or obliged) to undertake the actual physical interruption (as opposed to arranging it).

The ENA submits that further amendments are needed to clarify that:

- a) The retailer is not entitled to interrupt supply itself and must "arrange" the interruption via the

Metering Coordinator (subject to (b) below) or the distributor.

- b) Any interruption to supply undertaken by any authorised party in response to a request by a retailer must fully comply with jurisdictional laws relating to the safety and operation of electricity infrastructure and equipment.
- c) Any interruption of supply arranged by a retailer must ensure that any adverse impacts upon customers are the responsibility of the retailer.

These issues are considered further below.

Separation between the retailer planned interruption and distributor planned interruption regimes

The definition of "distributor planned interruption" under the proposed changes to NERR clause 88, should expressly exclude "retailer planned interruptions".

This is because the definition of distributor planned interruption as currently proposed in clause 88 might be argued to include "retailer planned interruptions" in some circumstances.

For example clause 88(b) currently includes supply interruptions for maintenance of metering equipment without any reference to who is doing either the interruption or the maintenance. Thus, as currently drafted, this could cover a *retailer planned interruption* to supply (for metering equipment maintenance) undertaken by either:

- a) the MC (by remote interruption); or
- b) the distributor pursuant to clause 91A, at the request of the MC.

Consistent with the positions set out in the Consultation Paper, the retailer should be responsible for all notification and related requirements for retailer planned interruptions (under proposed new clause 59C) not the distributor (under proposed amended NERR Part 4, Division 6). Accordingly, retailer planned interruptions should be expressly excluded from the definition of *distributor planned interruption*.

Distributors should not be liable to customers for any loss suffered by them as a result of supply interruptions

As indicated in our previous submission to the AEMC, distributors have supply obligations to customers connected to their networks under the NERL, the NER and their deemed standard connection contracts which apply for the great majority of connected customers under the NERL.

¹⁵ *ibid*, p.48

Where an interruption is made to supply under a retailer planned interruption, then the rules should include a clear provision to the effect that distributors cannot be held liable for any loss or damage suffered by customers (or any person or property at their premises) as a result of such a supply interruption.

Legal validity of proposed new NERR clause 91A

Consistent with the position set out in our previous submission, ENA remains concerned about proposed new clause 91A NERR, which requires distributors to effect supply interruptions and provide such assistance as the Metering Coordinator may reasonably require.

These requirements potentially present some real legal difficulties for distributors, in terms of potentially conflicting with existing jurisdictional statutory rights and obligations of distributors relating to technical and safety requirements for connection of customer installations to networks, as well as statutory protections relating to interference with distributor equipment and infrastructure.

Proposed clause 91A should therefore be made expressly subject to compliance with all relevant jurisdictionally based requirements, failing which the clause may arguably be beyond power and the scope of distributors' and Metering Coordinators' rights and obligations under clause 91A will be wholly uncertain.

Physical interruption to supply

The AEMC is proposing to amend the NERR to create a retailer planned interruption notification for installation and repair/replacement of metering where the retailer's, Metering Coordinator's, MP's, installation contractor can undertake the work at the premises and instigate the supply interruption of the LNSP's fuse to undertake the work.

The retailer's installation sub contractor is limited in this work as they can only undertake the fuse pull and interrupt supply where there is only one customer for that specific retailer being impacted. Where there is potential to impact customers of other retailers eg overhead line fusing or pit fusing where the fuse to customer allocation is unclear or may affect multiple customers ie customers of another retailers, then there needs to be a distributor supply interruption to all customers impacted and the work would have to be rescheduled.

The provisions relating to the DNSP maintaining responsibility for interruptions where it is not possible to interrupt supply to a single customer (eg multiple

occupancies; embedded networks)¹⁶ will need to be considered further as the AEMC finalises the outcome on embedded networks.

Enforcement and compliance

The NERR provides an enforcement and compliance regime in relation to an LNSP in the following circumstances:

- » Where customers are not provided at least four business days' notice of a supply interruption;
- » Where life support customers are not provided at least four business days' notification of a supply interruption;
- » Where the LNSP does not restore supply in a timely manner.

These clauses are subject to LNSP licence obligations, compliance with the NERR and an effective enforcement regime, including compliance reporting, infringement notices and civil penalties.

The new provisions in 59B, 59C (5) which cover retailer management of the meter installation and supply interruption should all face compliance and penalty clauses similar to 90 (3) applying to distributor.

ENA's view

ENA considers that the absence of feedback from the AEMC on legal and operational provisions relating to general connections and disconnections, including the interaction of the proposed redrafted metering provisions with standard connection obligations under the NECF requires urgent redress, prior to finalisation of the metering rule change.

Regarding enabling specific interruptions of supply to enable installation, repair and maintenance of meters, ENA considers that any parties undertaking supply interruptions should face compliance reporting obligations and civil penalty arrangements in a similar manner to the LNSP interruption of supply.

ENA considers that the key requirement to be enacted across these major changes is that responsibility, warranty and penalty provisions must be equitable and correctly allocated to the party responsible.

Verification of correct drafting prior to finalisation is critical due to the significant impact of the changes.

¹⁶ *ibid.* p. 15

CUSTOMER CONSENT

ENA appreciates the acknowledgement by the AEMC in the consultation paper of the unintended consequences of requiring individual customer consent for all services beyond the minimum service specification¹⁷.

In additional advice to the AEMC, ENA noted:

ENA has taken the shared nature of the network into account when examining the question of when customer prior consent for network services should be required. In principle we consider that:

- *Customer consent should not be required where the service is used by the distributor to monitor, manage or protect the shared network for the benefit of all customers.*
- *Customer consent should not be required where the service is used by the distributor to monitor, manage or protect the connection point for the benefit of the individual customer and/or surrounding customers (e.g. neutral integrity detection to detect possible electric shocks at a customer's premise etc).*
- *Customer consent should be required where the network is providing a service that is requested for a specific customer, and does not affect any other customer, and is not necessary for the purpose of monitoring, managing or protecting of the shared network.*
- *Customer consent will be required when the network is providing access to the customer's energy consumption data to an authorised (and verified) customer representative.¹⁸*

ENA notes the AEMC's acknowledgement within the consultation paper that "requiring customer consent to be obtained before LNSPs can access network-related metering services may present a barrier to the delivery of services that benefit customers and the network as a whole. This is particularly the case for the provision of services that monitor the integrity or safety of electricity supply (e.g. neutral integrity monitoring) as they do not have a detrimental impact on the quality or reliability of the customer's supply. Accordingly, the Commission proposes that Metering Coordinators should not be required to

ensure that prior consent of the customer is obtained for the provision of certain network-related services."¹⁹

Further AEMC notes their intention to make key amendments to the draft rule to establish an exception to the need to obtain prior customer consent for services where the service is provided by way of the metering installation is being provided to the LNSP for the purpose of supporting the safe, secure and reliable operation of the network and that AEMC anticipates that this would include services provided by Victorian AMI meters.²⁰ Whilst ENA welcomes the expressed intention of the AEMC to make this essential change, it is not possible to verify the success of its execution at this time as the AEMC has not provided drafting to support the proposed amendment.

ENA's view

ENA appreciates the consideration by AEMC of the counterproductive outcomes from application of individual customer consent requirements to fundamental network service delivery which will benefit customers overall. As previously expressed in this submission, ENA considers it essential for stakeholders to be provided the opportunity to review the complete draft rule prior to finalisation.

ALTERATIONS TO TYPE 5 & 6 METERS

In further advice to the AEMC following the draft determination, ENA noted the value in removing current barriers to enable networks to remotely read type 5 meters. Our advice stated:

Having the option to enable telecommunications on an existing meter, either on a temporary or longterm basis, can enable a range of operational benefits:

- *It can enable a type 5 or 6 meter to be read remotely in the case where the meter is or has become difficult to access for manual meter reading, e.g. because it is located within a secure facility or in a remote area. This is the most common case today, and the one explicitly allowed for in the rules, although the current definition of 'operational difficulties' leaves room for interpretation.*
- *Using the existing monitoring and logging capabilities of an electronic type 5 or 6 meter can be an effective and low-cost means to capture valuable data for network planning and quality of supply management purposes. For example, having communications at a number of 'bellwether' meters*

¹⁷ *ibid*, pp.16-17

¹⁸ ENA supplementary information to AEMC draft determination on expending competition in metering and related services, p.6

¹⁹ AEMC, *op.cit.* p. 17

²⁰ *ibid*, p.18

in an area of high solar penetration can enable an LNSP to monitor and manage the localised swings in network voltage that result from the intermittent nature of solar generation, to ensure regulated power quality standards are met.

At issue is the ambiguity in the current rules regarding the treatment of such meters that arises from the NER clauses now numbered as 7.8.9 (b), (c) and (d) and 7.10.6 (a) in the draft rule 1.

The issue with the drafting of these clauses is that it suggests that when a network enables remote communications on a type 5 or 6 meter for any purpose other than the specific 'operational difficulties' cited in 7.8.9 (b) and (c), this could potentially cause the meter to be re-classified as a type 4 meter even though there is no intent to operate the meter as a type 4.

This is inappropriate and undesirable for a number of reasons:

- *The LNSP may not be accredited with AEMO as a type 4 MPB / MDP, and hence may not be able to operate the meter as a type 4 in the market*
- *Even if the LNSP were to be a type 4 MPB / MDP, operating the meter as a type 4 would be an unregulated service, and could result in additional costs associated with the conversion of the regulated asset to an unregulated one, ring-fencing, and so on, that are unwarranted*
- *There may be no saving in meter reading costs if only an individual meter or a limited number of local meters match restrictive 'operational' criteria and are no longer read manually, where other meters in the neighbourhood must continue to be read manually on a quarterly basis, despite it being more economic to read all remotely.*
- *The retailer (and their end customer) may not want a type 4 metering service, as the annual cost will be significantly higher than a type 6 or type 5 service.*
- *The LNSP may not want to communicate with the meter at the frequency required for a type 4; they may only require occasional communication, e.g. to download voltage data logged over a period of several weeks or control network devices at times of localised system constraints.*
- *The LNSP may only wish to enable telecommunications for a fixed time, e.g. to allow for local network monitoring to manage a network constraint until other remediation works are undertaken – potentially causing the meter to revert*

back to a type 5, with the associated administrative cost and complexity.²¹

ENA notes AEMC's support for allowing metering installations to be upgraded where there are practical difficulties in reading a meter manually without the meter being reclassified as a type 4 meter to improve the efficiency and accuracy of meter reads and to enable an LNSP as Metering Coordinator for type 5/6 meters to enable remote reading where the primary purpose is to assist the LNSP to meet its obligations to provide a safe, secure and reliable network as determined by the LNSP acting reasonably²².

However, as previously, whilst ENA welcomes the stated intention of the AEMC to improve the drafting covering remote reading of type 5 meters, it is not possible to consider the success of the changes in meeting the intention without access to appropriately redrafted sections of the rule.

ENA's view

ENA appreciates the expansion of the ability to utilise network meters, but reiterates the view that it is essential that stakeholder receive the opportunity to review the full redrafted rule prior to finalisation of the rule change.

APPLICATION TO TRANSMISSION

Submissions by Grid Australia and ENA identified the need to recognise essential differences with transmission connection points and ensure that the competitive framework was not applied inappropriately at this level.

In the consultation paper, the AEMC acknowledge that the technology required for metering installations at transmission connection points is highly specialised and often integrated into a substation with other TNSP assets that are used to operate the transmission network. The metering required at these connection points is specialised to its purpose²³.

ENA welcomes the proposed approach by the AEMC to exclude transmission connection points from the competitive framework and instead retain the existing provisions in the NER that only permit either an LNSP or a FRMP to be the Metering Coordinator at a transmission connection point.

²¹ ENA, op.cit., pp 1-2

²² AEMC, op.cit., pp. 26-27

²³ ibid, p.36

The NER chapter 7 amendments proposed by the AEMC in Appendix D provide (among other things) that only the FRMP and the LNSP may be appointed as the MC for transmission network connection points.

It seems clear from the discussion in sections 8.3 and 8.4 of the Consultation Paper that the AEMC's intention here is to ensure that only the FRMP or the Transmission Network Service provider (TNSP) can be the MC for transmission network connection points on the TNSP's network, the implication presumably being that a TNSP should be considered the "LNSP" for transmission connection points on its own network.

Restricting the MC role for transmission connection points to the FRMP and TNSPs

The difficulty with this is that it is not clear that TNSPs will in fact necessarily be the "LNSP" for their own transmission connection points, given the way the term "LNSP" is currently defined in chapter 10 of the NER. This is because the definition of LNSP, on its face, may only in fact be capable of applying to DNSPs in respect of the local geographical area allocated to each of them under their respective jurisdictional electricity legislation (for the purposes of distribution licensing and retail customer connection).

This is actually an existing problem with the definition of LNSP or (more accurately) an existing problem with the current NER chapter 7 allocation of "responsible person" metering responsibility to FRMPs or "LNSPs" for all connection points, including transmission connection points.

To a large extent this problem seems to be ignored in the practical application of the current NER chapter 7 provisions to transmission connection points, with the relevant parties assuming that "LNSP" must mean the TNSP for the TNSP's own transmission connection points.

Nevertheless, it is difficult to see how the current definition of LNSP in chapter 10 NER can in fact correctly be read in this way.

We therefore submit that proposed new clause 7.6.3 be amended to make clear that for the purposes of connection points for a transmission network, the TNSP for that transmission network will be taken to be the LNSP.

Application of technical Metering Coordinator requirements to transmission network connection points

Under the NER chapter 7 provisions currently proposed by the AEMC, TNSPs that are appointed as MCs for their transmission network connection points continue to be subject to all of the obligations that apply to Metering Coordinators.

These include requirements which would impose additional and unnecessary costs on transmission businesses if they are required to comply. We do not consider this is warranted given that complying with these requirements serves no useful purpose in the transmission segment of the market. These requirements are detailed in the Grid Australia submission to the draft rule and include those relating to the minimum service specifications for Type 4 metering installations, B2B requirements and metering data performance standards. These requirements should therefore not apply for Metering Coordinators for connection points that connect to a transmission network.

Through discussions with the AEMC, the ENA's transmission businesses understand that TNSPs will be excluded from these requirements for transmission connection points and look forward to this being reflected in the AEMC's final rule.

ENA's view

Again, ENA reiterates our view that it is essential that stakeholder receive the opportunity to review the full redrafted rule prior to finalisation of the rule change.