


Our Ref: D15/147451
Contact Officer: Bruno Coelho
Contact Phone: 08 8213 3435

30 September 2015

John Pierce
Chairman
Australian Energy Markets Commission
PO BOX A2449
SYDNEY SOUTH, NSW 1235

Dear Mr Pierce

Re: Additional consultation regarding specific metering issues

The AER welcomes the opportunity to comment on the AEMC's additional consultation paper on specific issues concerning changes to the National Electricity Rules to expand competition in metering and related services.

Our submission only addresses issues of distributor investments in meter alterations and network devices. The consultation paper attempts to mitigate potential harm to the development of metering competition by adding further prescription to the rules concerning these two issues. However, in our view:

- Neither the current meter alterations rule nor the AEMC's further proposed amendments to that rule will effectively ensure that customers obtain energy services efficiently. There is a potentially broad scope for the clause (even with amendment) to lead to further wide-spread regulated meter investments in a manner that will work counter to the objective of expanding competition. We recommend that the existing rule be removed and no further amendments should be made.
- The network devices rules need to more closely reflect the AEMC's policy intent—regulated distributors should only install new network devices as a genuine fall-back option should competition not deliver an effective solution.

On both of these issues, we consider that:

- Competition for energy services is a key enabler of consumer empowerment. We are seeing this now with the uptake of photovoltaic and battery technology that have, and will continue to, change the way consumers engage in the energy market.
- With fundamental technological transformation underway, retailers, networks and new service providers are considering new business models for energy delivery. It is therefore difficult to foresee where the market pressures will be. Creating prescriptive rules at this time might delay, diminish or obstruct efficient delivery mechanisms.
- Distributors will have means to negotiate access to services from third-party metering providers in future, should they see value in various kinds of metering services to better manage their networks. Efficient outcomes for consumers will be provided if distributors source these services from competitive service providers, as the primary course of action. Any further regulated distributor investments to alter meters or install new network devices should only occur in limited situations as a genuine fall-back option should competition not effectively deliver a solution.

These points are set out in more detail in Attachment (1) below.

We are generally comfortable with the AEMC's proposals on the other issues raised in the consultation paper and no further comments are provided on these.

Thank you for the opportunity to provide further comments on these important issues. If you would like to discuss any aspect of our submission please contact Bruno Coelho on 08 8213 3435.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Chris Pattas', written in a cursive style.

Chris Pattas
General Manager
Networks

Attachment 1: Meter alterations and network devices

Alterations to type 5 & 6 metering for remote data acquisition

The consultation paper proposes amending an existing clause in the NER concerning metering alterations, to clarify and confine the scope of circumstances in which it might apply. The current clause allows distributors to upgrade their regulated meters¹ in situations of operational difficulty, without this alteration triggering a service reclassification.² We agree with the view of other stakeholders as noted in their submissions to the AEMC, that the clause is of uncertain utility under a competitive framework for service delivery.

The consultation paper now proposes further amendments which add more detail to the situations that might be described as comprising 'operational difficulties'. However, while designed to mitigate potential harm for competition, these amendments do not appear to sufficiently address this concern. We consider that it would be preferable for the AEMC to not make the proposed amendments and to remove the existing rule altogether given the following:

- The existence of provisions such as the meter alterations clause could affect the actual development of competition by allowing further significant and wide-spread regulated investments to be made in metering by distributors. This runs the risk of stifling new market entry, a risk could materialise under both the current and amended wording of the meter alterations clause.
- Consumers' long-term interests would be better served by regulated distributors using market-based processes to source and pay Metering Coordinators to access services enabled by meters, rather than by adding to their regulated asset bases. Market based processes should be the primary means by which distributors seek to access metering services going forward. Exceptions should be limited to where competition has not effectively delivered a solution.

These competition concerns appear to be shared by other stakeholders like AGL, as noted in the AEMC's paper.

Remote communications—efficiencies

If a distributor can invest to alter meters to allow direct control of consumer appliances the need for more network build in response to potential constraints might be reduced. This may or may not lead to greater efficiencies for the network. However, this is a limited perspective on efficiency.

Greater efficiencies in the long term interests of consumers and broader benefits for the market might arise from competitive provision of these services. To this end, we support the AEMC's position that the emergence of competition would be facilitated by *not* expanding the current clause to allow alterations for reasons of "efficiency", as proposed by distributors and the Energy Networks Association. We agree with the AEMC that:

- These services could be delivered by Metering Coordinators (MCs) competitively, via meters complying with the national minimum services specification.³
- Allowing regulated distributors to upgrade meters without having them reclassified, would allow them to use regulated funds to potentially and unfairly compete with unregulated firms. As noted above, this is a market inhibiting outcome and detrimental to the long term interest of consumers.

¹ Clause 7.3.4 of the NER refers to type 5 and 6 meters. Services pertaining to these meter types are classified as regulated services and are subject to direct price control by the AER. The exception is type 4 meters, the charge for which is not regulated.

² Altering a meter to enable remote data acquisition or remote communications could mean that a type 5 or 6 meter would be considered to be a type 4 meter and therefore become unregulated. Type 4 metering is an unregulated service in all jurisdictions other than Victoria - where government mandated smart meters are deemed to be regulated services) and South Australia - where type 4 meters have been classified as negotiated services by the AER and are not subject to direct price control. A reclassification from regulated to unregulated services would mean that the relevant costs of the service could no longer be recovered from regulated charges.

³ That is, by an MC that is not in the 'initial MC' and would therefore not be able to recover the costs of service delivery from regulated charges.

Remote acquisition—network monitoring & operation

The consultation paper did not express the same competition concerns with respect to alterations to regulated meters for remote acquisition and network monitoring, as those for remote communications. However, the principle that regulated distributors could seek to pay to access services from a MC operating in a competitive market applies equally to services enabled by remote communications and remote acquisition.

Consequently, allowing the meter alterations clause to facilitate further wide-spread investments by regulated distributors in both types of services, in the transition to competition, may prevent competitive businesses from accessing potential revenue streams. This may be detrimental to consumers.

The consultation paper contended that the harm to competition could be reduced through AER oversight. In our view the concern over the potential for continued wide-spread regulated investment is still evident, given the following:

- While the existence of the alterations clause does not provide an automatic right to have regulated expenditures approved by the AER, this might also mean that a distributor will not be prevented from making the investment. The AER approves an overall revenue allowance that distributors will have discretion to use according to their business decisions. Therefore, even if a proposal to upgrade meters is found to be inefficient in our regulatory determination, the distributor could still potentially redirect its approved funds to undertake the investment.⁴ The clause might provide scope to suggest that the meter upgrade can be characterised as a regulated service.
- Rather than proposals to upgrade meters for network monitoring being limited to a handful of sites, recent experience suggests that a number of distributors are seeking large scale investments. For example, SA Power Networks proposed a program aiming to target 63,000 locations, equivalent to seven per cent of customer premises.⁵
- There is potentially significant scope for the AEMC's revised wording of the meter alterations clause to still allow upgrades for a variety of reasons:
 - Remote locations could potentially cover vast network areas that are considered non-urban or on the fringe of urban sections of the network.
 - Secure facilities without readily available access could include an array of situations, such as properties with locked gates, medium density developments, awkwardly placed meters etc.
 - Installations considered physically difficult to access could cover many meters in urban locations such as where property owners have placed materials blocking access to meters.
 - Installations considered hazardous could be vast, potentially including sites with a dog present, an unsecure structure near a meter, a hole in the ground near a meter etc. Further, a potentially large number of meters in Australia are attached to or near boards made of asbestos.

In our experience overt rule prescription can never cover all possible circumstances and can lead to other unexpected costs and unintended consequences. Therefore, the option that poses the least harm for competition in metering would be for the meter alterations clause to be removed all together.

⁴ The founding premise of the AEMC's meter competition framework is that competitive service delivery is the optimal model to maximise benefits to consumers and the broader market. However, in practice it would be a somewhat difficult exercise to require the AER to precisely quantify the impact on consumers. That is, comparing a regulated distributor upgrade of an existing meter against a customer having access to a competitively sourced smart meter and the distributor paying to access services from that meter. This will ultimately depend on the nature of competitive business offering provided to the customer – that is, how the smart meter might be marketed together with other energy products and services.

⁵ SAPN, *Attachment 14.3 to regulatory proposal – Tariff and metering business case*, September 2014, p.51. Accessible on AER website: [<http://www.aer.gov.au>].

What this would mean in practice is that should distributors seek to alter their regulated meters in a genuinely select range of exceptional circumstances, as appears to be both the intent of the current rule and the AEMC's amended rule, then the following would occur:

- Distributors would still have the option of putting a proposal to the AER. We would have greater scope to consider the merits of specific regulated investments to upgrade meters and the circumstances therein.
- In such cases, we could consider a form of ring-fencing waiver to allow the investment to be characterised as a direct control service.
- If we did not grant the waiver, the distributor would effectively be prevented from adding the investment to its regulated asset base—a situation that cannot be guaranteed if the meter alterations clause remains in the rules.

Network devices

The AEMC's draft rule introduced a clause allowing a regulated distributor to install a network device (on or adjacent to a meter).

This was intended as a form of 'by-pass' option that would provide competitive discipline on MC's to negotiate to provide metering services to regulated distributors. It would capture various services such as direct load control of consumer appliances.

There is some interrelationship between this issue of future investments by regulated distributors in network devices and that of further investments in metering alterations. Both situations pose questions as to whether:

- There are likely greater efficiencies for consumers and the market if a regulated distributor accesses services from a MC in a competitive market or invests in-house to provide the service.
- Nascent competition is stifled; rival firms might perceive the rules would permit regulated entities to continue to invest in services that they might have otherwise been able, or prepared, to provide.

The consultation paper seeks to address competition concerns by limiting the range of means to which regulated distributor investment in network devices might be applied.

It is proposed that these exclude the on-selling of services to third parties. The exception is where the service is provided to a customer and incidental to the provision of network services that support the safe, secure and reliable operation of the network. Our view is that the potential concern for competition is unlikely to be limited to situations of on-selling.

The key principle is that, if a service can potentially be provided competitively then regulated distributor involvement should be limited. That is, regardless of the service to which network device investments might be put by regulated distributors, these should only occur as a genuine fall-back option if competitive service delivery not be possible. We recommend that the AEMC consider how this policy intent can more directly be reflected in the rules pertaining to network devices.