

Australian Energy Market Commission

Rule Determination

National Electricity Amendment (Metrology) Rule 2006 No. 17

Rule Proponent
NEMMCO

9 November 2006

Signed:

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Chairman
For and on behalf of
Australian Energy Market Commission

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About the AEMC

The Council of Australian Governments, through its Ministerial Council on Energy, established the Australian Energy Market Commission (AEMC) in July 2005 to be the Rule maker for national energy market. The AEMC is currently responsible for Rules and policy advice covering the National Electricity Market. It is a statutory authority. Our key responsibilities are to consider Rule change proposals, conduct energy market reviews and provide policy advice to the Ministerial Council as requested, or on AEMC initiative.

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Abbreviations

ACCC	Australian Competition and Consumer Commission
AEMC	Australian Energy Market Commission
Code	National Electricity Code
Commission	see AEMC
DNSP	Distribution Network Service Provider
FRC	Full Retail Competition
FRMP	Financially Responsible Market Participant
GWh	giga Watthours
JJR	Joint Jurisdictional Review of the Metrology Procedures – Final Report, October 2004
LNSP	Local Network Service Provider
MCE	Ministerial Council on Energy
MWh	mega Watthours
NEL	National Electricity Law
NEM	National Electricity Market
NEMMCO	National Electricity Market Management Company
Rules	National Electricity Rules

Summary

The Australian Energy Market Commission (Commission) makes this Rule determination and accompanying Rule under section 102 of the National Electricity Law (NEL). Fundamentally, NEMMCO's Rule proposal is seeking to implement a single metrology procedure that is harmonised for the national electricity market. The move towards metrology harmonisation has been a long term initiative within the development of the market. It has been subject to a wide range of processes for evaluation and consultation over the past decade.

NEMMCO submitted a Rule change request to the Commission on 3 February 2006 proposing the following changes to the National Electricity Rules:

- a single metrology procedure to replace the separate existing national and jurisdictional metrology procedures (Chapter 7);
- various amendments to Chapter 7 that adopt recommendations from the Joint Jurisdictional Regulators' (JJR) Report;
- editorial changes within Chapter 7 that improve readability, correct errors, and recognise the creation of the National Measurement Institute; and
- the LNSP be deemed the party responsible for type 5, type 6 and type 7 metering installations given that the jurisdictional derogations in Chapter 9 on this matter expire on 31 December 2006.

NEMMCO's proposal contained a copy of the JJR Report on which the proposal was based, the ACCC Authorisation of the Victorian metering derogations and a proposed Rule.

The Commission determined on 30 March 2006 to commence the Rule change process for NEMMCO's proposal under sections 94 and 95 of the NEL. Thirteen submissions were received from the first round consultation. The submissions made suggestions across a range of issues, including issues directly related to the NEMMCO proposal and also issues not specifically within the scope of the NEMMCO proposal.

The Commission published its draft Rule determination under Section 99 of the NEL on 22 August 2006. Sixteen submissions were received from the second round consultation. These submissions generally indicate broad support for the policy positions taken in the draft Rule determination.

The Commission has highlighted various matters arising from the NEMMCO proposal and from the submissions, including the potential to refer some of these issues for future consideration to the Ministerial Council on Energy (MCE).

In this Rule determination, the Commission has generally accepted the proposed changes to the Rules that are reflected in NEMMCO's proposal relating to:

- (a) a single metrology procedure, for which NEMMCO is responsible;
- (b) the JJR Report recommendations in regard to limits on the use of an accumulation meter; inclusion of a review by jurisdictions of the type 5 and type 6 metering

installations and the metrology procedure; and additional reporting requirements on NEMMCO;

- (c) editorial changes that improve readability, correct errors, and recognise the creation of the National Measurement Institute; and
- (d) the LNSP being deemed responsible for type 5, type 6 and type 7 metering installations consistent with the policy settings in the current derogations, which expire on 31 December 2006.

In addition, based upon the submissions received, the Commission's analysis of the NEMMCO proposal, and a review of the wording of the proposed Rule, the Commission has made a number of drafting amendments to the proposed Rule and also on some specific matters that have operational implications. This Rule determination sets out the Commission's assessment in relation to the above proposed changes. The Rule, which has been made in accordance with this assessment, is attached.

Furthermore, in assessing NEMMCO's proposed changes, the Commission has also made certain modifications and enhancements. These include:

- the extension of the sunset date for Ministers of participating jurisdictions to exercise their right to individually modify the metrology procedure. A sunset date of 1 January 2009 has been included in the savings and transitional arrangements;
- replacement of the term "jurisdictional policy directives" with the term "jurisdictional metrology material" to better reflect the full nature of the information conveyed from Ministers of participating jurisdictions to NEMMCO;
- the inclusion of a right for the Ministers of the MCE (a new defined term) to include jurisdictional metrology material in the metrology procedure;
- the potential for the LNSP to introduce remote acquisition to a metering installation without requiring the LNSP to register that metering installation as a type 4 metering installation where this potential has been restricted to situations where the LNSP identifies that operational difficulties justify the installation of remote acquisition facilities for the collection energy data;
- a provision on the FRMP, who changes the classification of a type 5, type 6 or type 7 metering installation as a result of making it capable of being remotely read, to negotiate in good faith with the LNSP (if the LNSP is the responsible person) to ensure that the LNSP is reasonably compensated for the change in classification;
- the requirement for the parameters for metering data, timeframe obligations for the extraction or delivery of metering data and the performance standards for metering data, to be included in the metrology procedure by 30 June 2008;
- the proposal to delay the jurisdictional review of type 5 and type 6 metrology by one year (to 30 June 2009);
- format changes, including 'clause' hierarchy, renumbering and repositioning to make Chapter 7 more user-friendly and the replacement of 'notes' in Schedule 7.2 with 'items'; and
- consequential changes to the Glossary terms.

The Commission is satisfied that the Rule is likely to contribute to the NEM objective, and that it therefore satisfies the Rule Making Test.

This Rule determination sets out the reasons of the Commission in accordance with the requirements of the NEL.

The Commission also notes that the issues raised by this Rule proposal together with the extensive drafting process required to give effect to a single metrology procedure means that the proposal is complex by nature. To assist discussion and understanding, the Commission has also included background material relating to the single metrology procedure and its history in Chapter 2 of this Rule determination.

The Commission has also identified a number of issues in the submissions that are not within the direct scope of NEMMCO's rule change proposal. Some of these matters may be considered by stakeholders for further consideration by way of future Rule change proposals, whilst other broader matters of policy in the metering market may be appropriate for future reference or consideration by the MCE. These matters have been reported on for further consideration by interested parties as they were raised during the Commission's consultation phases on the proposed Rule change. In this regard, the Commission intends to transmit the Rule determination to the MCE to convey the information provided by stakeholders relating to these broader policy matters and for the MCE's consideration.

1. NEMMCO's Rule Proposal

On 3 February 2006, NEMMCO submitted a Rule change request to the Commission which in summary proposed changes to Chapter 7 of the Rules relating to metrology including:

- a single metrology procedure to replace the separate existing national and jurisdictional metrology procedures - further details of these amendments are provided in section 3.5;
- various amendments to Chapter 7 that adopt recommendations from the JJR Report with the key amendments including:
 - preventing an interval meter being replaced by an accumulation meter;
 - requiring interval meter data to be available to market participants and for NEM settlements, unless otherwise advised by the jurisdictions;
 - a threshold for collecting interval meter data from an interval meter (referred to in NEMMCO's proposal as a type 5 accumulation boundary);
 - requiring NEMMCO to report on changes to Australian Standards that might introduce a barrier to economically efficient metering solutions;
 - requiring a further jurisdictional review of NEM metrology for type 5 and type 6 metering installations in accordance with the recommendation of the JJR report;
 - the deletion of clause 7.3.4(e) which relates to jurisdiction's timeframe for having type 6 metering installations;
 - a new clause to accommodate the NSW Accredited Service Provider Scheme; and
 - editorial changes that improve readability, correct errors, remove duplication or uncertainty, and the replacement of the National Standards Commission with the National Measurement Institute - further details of all these amendments are provided in section 3.6;
- other editorial changes (not part of the JJR) within Chapter 7 that improve readability, and correct errors - further details of these amendments are provided in section 3.6; and
- the LNSP be deemed the party responsible for type 5, type 6 and type 7 metering installations given that the jurisdictional derogations in Chapter 9 on this matter expire on 31 December 2006 - further details of these amendments are provided in section 3.7.

NEMMCO's proposal contained a copy of the JJR Report on which the proposal was based, the ACCC Authorisation of the Victorian metering derogations and the proposed Rule. The proposed Rule was a replication of Chapter 7 of the Rules (subject to a few minor discrepancies), marked up with the proposed changes and relevant explanations of the changes.

In its submission, NEMMCO advised that the proposal had been developed in response to the recommendations of the JJR Report and in light of the forthcoming expiry of the derogations contained in Chapter 9 of the Rules.

NEMMCO identified the following reasons as to how its proposal would contribute to the achievement of the NEM objective:

- a single metrology procedure would :
 - promote the efficient use of electricity services by reducing compliance risks and removing the disincentive to operate outside jurisdictions;
 - assist metering manufacturers to deliver common products, and facilitate investment by metering providers and metering data providers across jurisdictional boundaries, thereby promoting competition for service provision; and
 - reduce costs and limit cost increases in the long-term interest of consumers as a result of improved competition for metering service provision;
- the related recommendations arising from the JJR Report would:
 - provide greater certainty as to the application of interval meters and the data available from interval meters, which will reduce regulatory risk to service providers and participants seeking to invest in the industry, and therefore promote efficient investment;
 - in relation to interval metering, increase the volume of interval metering data available, which will contribute to the efficient use of electricity services;
 - in relation to the jurisdictional review requirement, meet public policy requirements such as the promotion of efficient use of electricity services; and
 - in relation to the availability of interval metering data for market purposes, facilitate more cost reflective pricing, and greater transparency between retailers and consumers which is expected to contribute to a more efficient market, which is in the long term interests of consumers;
- the editorial changes within Chapter 7 would:
 - in relation to a reduction in the perceived or actual risk to service providers and participants seeking to invest in NEM projects, promote efficient investment as a result of a reduction in costs;
 - in relation to the correction of errors and improved readability, improve industry understanding of the Rules, and make the operation of NEM processes and services less costly, and therefore add to efficiency; and
 - in relation to creating better understanding and clarity of the Rules, reduce regulatory risk, and thereby the need to factor higher costs into pricing and investment decisions which is for the ultimate benefit of consumers;
- LNSP responsibility for metering installations would:
 - promote the efficient use of electricity services by facilitating the harmonisation of metrology requirements across the NEM by removing derogations;
 - encourage investment by LNSPs in longer term projects; and
 - promote the long-term interest of consumers given that the choice of responsible person is based on principles of competition which involve decisions around price and service quality.

2. Background

This Rule change proposal relates to metering and the move to provide cost effective metering to the market on the basis of a single harmonised metrology procedure.

By way of background to the NEMMCO proposal, the two key structural features of metering in the NEM are explained below:

- the 'tier' structure for connection points (i.e. first tier and second tier) in section 2.1; and
- metering installation 'types' in section 2.2.

In addition, the history of moving toward to a single metrology procedure is given in section 2.3.

2.1 Tier Structure for Connection Points

A 'connection point' is an agreed point of supply established between parties on the transmission network or the distribution network. There are several different ways to configure connection points for customers¹:

1. on the transmission network for an end-use customer (example1);
2. on the transmission network for a licensed retailer (examples 2 & 5); and
3. on the distribution network for an end-use customer (examples 3 & 4).

These are shown graphically in Figure 1:

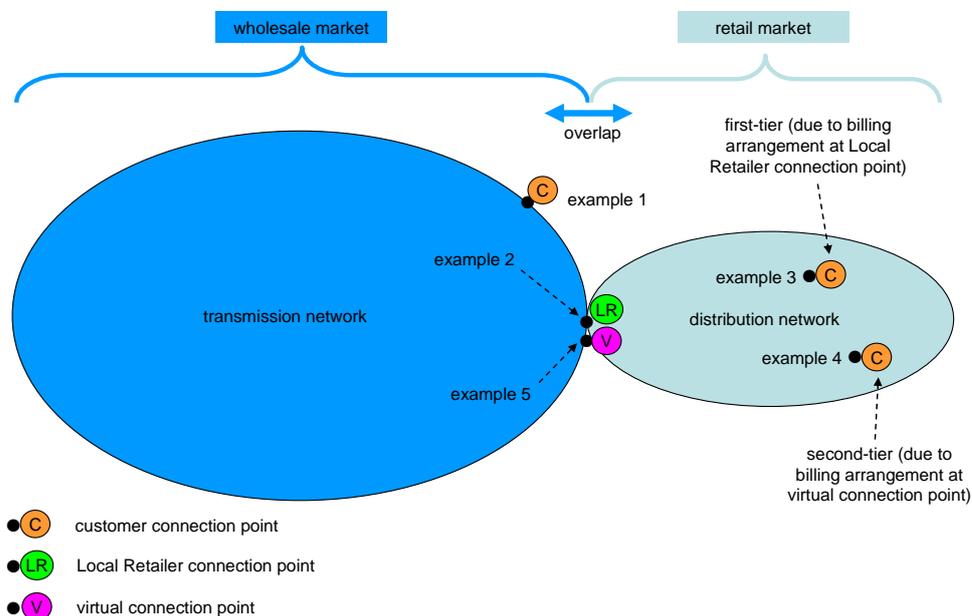


Figure 1 – Various configurations for a customer 'connection point'

A connection point in some instances is a physical concept and in other instances a virtual concept. Physically, a connection point receives its electricity from the transmission network, either directly (examples 1 and 2) or via the distribution network

¹ Connection points also apply to generating units, but these are not represented in this explanation.

(examples 3 and 4). Alternatively, a connection point receives its electricity by virtue of a referred distribution connection point (example 5).

Overlaid on the 'connection point' is the NEM wholesale billing function. In examples 1 and 2, the customer must be registered as a wholesale participant with NEMMCO, and is billed for its electricity consumption directly by NEMMCO. In example 3, the customer is billed by the Local Retailer, who is in turn billed by NEMMCO due to its example 2 connection point. In this combination, the load consumed at the example 3 connection point is classified as a 'first-tier load'². Hence, the connection point is generally referred to as first-tier. In examples 4 and 5, the customer is billed by a retailer³ who has a virtual connection point (example 5), who in turn is billed by NEMMCO due to this virtual connection point. That is, the example 4 connection point is referenced to the example 5 connection point. In this combination, the load consumed at the example 4 connection point is classified as a 'second-tier load'⁴. Hence, the connection point is generally referred to as second-tier.

2.2 Metering installation types

Another of the NEM's structural features is that each connection point must have a metering installation. The components of a metering installation include measurement transformers⁵, measurement devices⁶, and data transport facilities⁷. The characteristics of these devices vary with the quantity of electricity flowing through the connection point and the quantity separates the metering installation into the following four types:

- flows greater than 1,000 GWh per annum (type 1);
- flows between the range of 1,000 GWh and 100 GWh per annum (type 2);
- flows between the range of 100 GWh and 0.75 GWh per annum (type 3); and
- flows less than 0.75 GWh⁸ per annum (type 4)

In regard to measurement, the characteristics of the devices vary across these 4 types, and are largely differentiated by increasing accuracy requirements for higher electricity flows.

For all these types, the data transport facilities are called on to provide 2 distinct functions. One function is to provide actual measurement data for use in NEM prudential calculations⁹. The other function is to provide measurement data for use in the NEM settlements process¹⁰.

² If this customer were to choose to register with NEMMCO, then the customer would be classified as a 'First-Tier Customer'.

³ Often referred to as a 'second-tier retailer' or a FRMP.

⁴ If this customer were to choose to register with NEMMCO, then the customer would be classified as a 'Second-Tier Customer'.

⁵ Namely, current transformer and voltage transformer.

⁶ Namely, a meter which may have an internal storage register or external storage register for the measured data.

⁷ Can be electronic or manual, each with their own set of quality controls.

⁸ Most commonly known as 750 MWh which is (identical to 0.75 GWh).

⁹ The data required for NEM prudential calculations is required to be submitted to NEMMCO on a daily basis. NEMMCO will generally accept estimated data where the data collection process has failed or is not otherwise available on any one day.

¹⁰ The NEM settlements process has a weekly cycle, with four revisions over time to enable actual measurement data to be progressively provided to NEMMCO. The timeframe for NEM settlements measurement data is much longer than the time frame for NEM prudential calculations.

To provide measurement data for NEM prudential calculations on a daily basis, the data transport facilities of a metering installation need to be electronic and remotely accessible. The need for electronic remote access to measurement data for type 1, 2 and 3 load groups is undisputed. That is, all electricity flows greater than 750 MWh per annum must have remote electronic access to their measurement data.

For the type 4 load group, there is a range of views on the quantity at which remote electronic data transport facilities become economic. According to the JJR report there appears to be general agreement amongst the Jurisdictional Regulators¹¹ that this quantity should decrease over time as technological innovation occurs in the market. For this reason, the principle that one load type be available to support remote electronic transport of measurement data down to zero MWh has been adopted, with additional flexibility introduced to cater for local practices where manual data transport facilities are supported by a jurisdiction.

As agreed by all participating jurisdictions at the commencement of FRC in 2002 for Victoria and NSW, 3 local practices were identified:

- where the device is an interval meter and the data transport facility has a manual collection step - type 5;
- where the device is an accumulation meter and the data transport facility has a manual or electronic collection step - type 6; and
- where there is no measurement device and hence no data transport facility - type 7.

For continuity with the type 1, type 2, type 3 and type 4 categories, these 3 conditions were designated as type 5, type 6 and type 7, with the quantity of electricity to which they apply set as a flexible cap. For type 5 and type 6, the maximum value of the cap was 750 MWh, and the minimum value of the cap was zero MWh¹².

Type 5 currently applies for quantities in a range between 0 MWh and 160 MWh in each of the jurisdictions excluding Queensland where the range is 0 MWh to less than 100 MWh. The lower the range, the greater the coverage for type 4 metering installations. This flexibility will permit jurisdictions to gradually reduce the influence of the type 5 and 6 practices in their jurisdictions over time.

The type 7 metering installation applies to unmetered loads only. A number of typical connection point locations where the 7 types would be installed are shown in the Figure 2:

¹¹ See JJR Report, Section 4.4.1, page 49.

¹² If set at 750 MWh, the type 5 effectively replaces the type 4. If set at zero MWh, then effectively the type 5 would not be permitted, and all loads would need a type 4 arrangement.

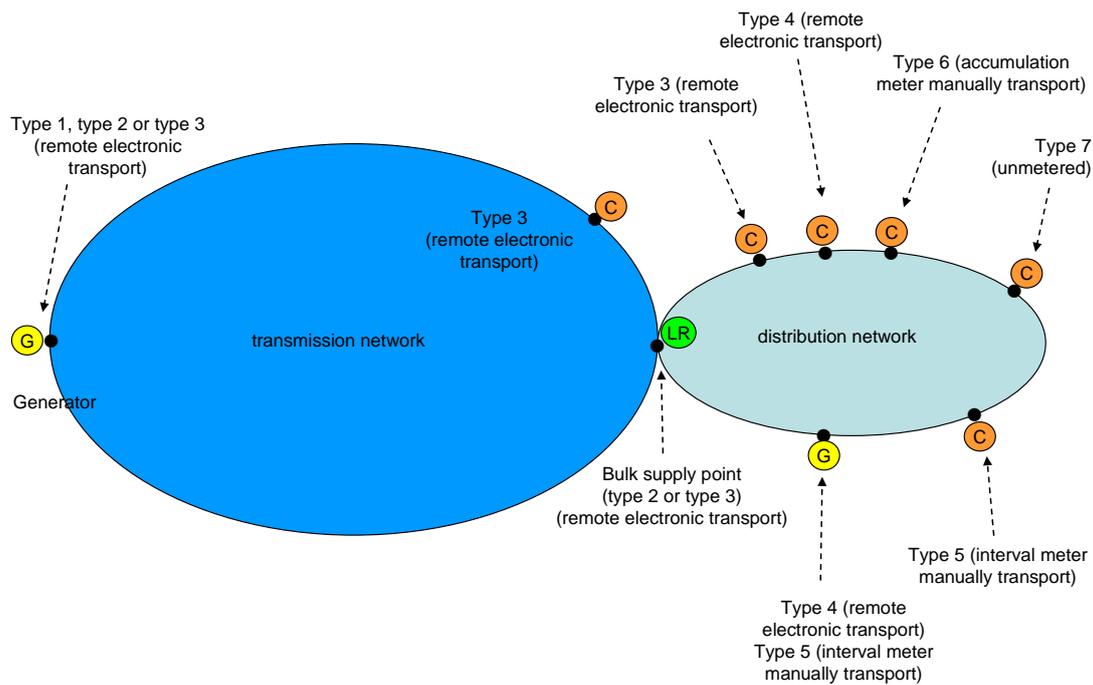


Figure 2 Typical connection point locations for types 1 to 7 metering installations¹³

Figure 2 shows that a type 5, type 6 and type 7 metering installation would only be located in the distribution network. The diagram also shows that customers who have a type 3 or type 4 connection point may be connected to a distribution network. A customer who has a type 3 connection point may also be connected directly to the transmission network. Each Local Retailer would have at least one transmission network connection point, typically classified as type 2 or type 3, but there is nothing preventing the connection point from being type 1.

The different arrangements of components of a metering installation¹⁴ are shown for metering installation types 1 to 7 in Figure 3.

¹³ For completeness, the diagram includes generator connection points as well as customer connection points.

¹⁴ It should be noted that the examples are indicative and for the purpose of explanation only.

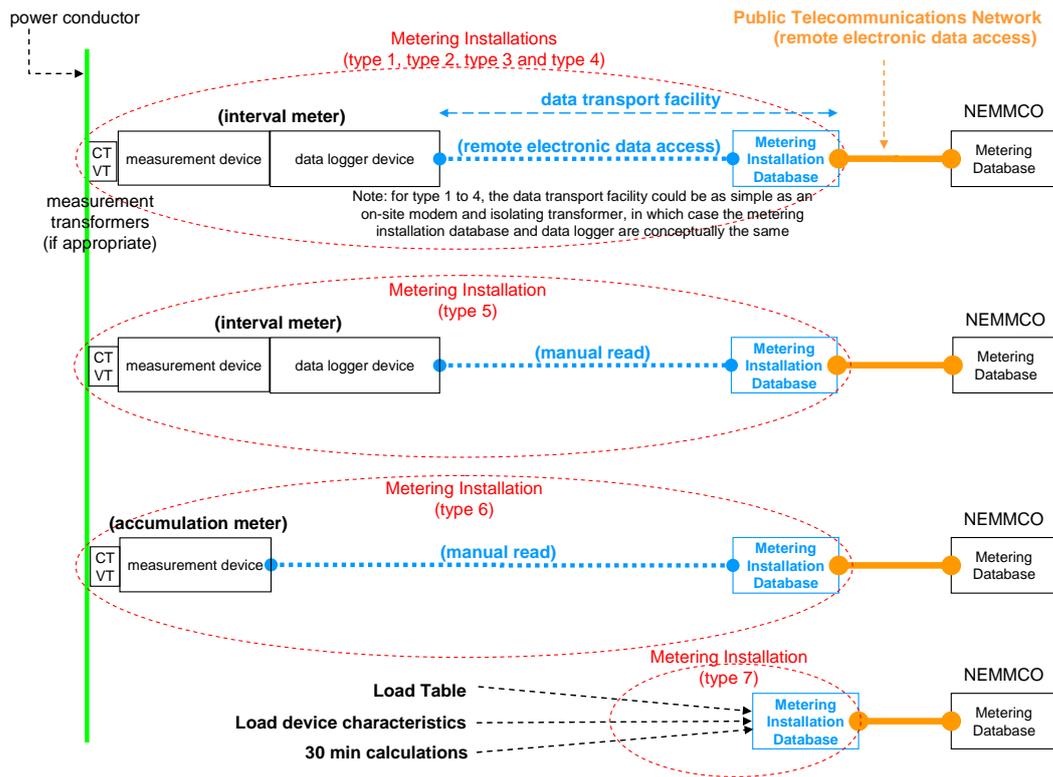


Figure 3 Components of Metering Installation types 1 to 7

Note that for types 1 to 4 metering installations, the data transport facility may be as simple as an on-site modem and isolation transformer¹⁵, meaning that a telephone line (representing the Public Telecommunications Network) is connected to the meter allowing anyone who has been provided with a meter password (including the Metering Data Agent, Metering Provider, NEMMCO and a Customer) to access the data in the meter. In this example, the metering installation database and the data logger device would be the same device.

2.3 Towards a Single Metrology procedure

A 'metrology procedure' is required to control the devices and process steps that together make up a metering installation. Currently the metrology procedures for types 1 to 4 metering installations are the responsibility of NEMMCO. The metrology procedures for 5 to 7 metering installations have been up until this Rule determination the responsibility of Metrology Coordinators (assigned to Jurisdictional Regulators).

These changes were introduced into Chapter 7 of the Code (see Figure 4 below) at the commencement of FRC in 2002.

¹⁵ Or an on-site modem and a mobile phone.

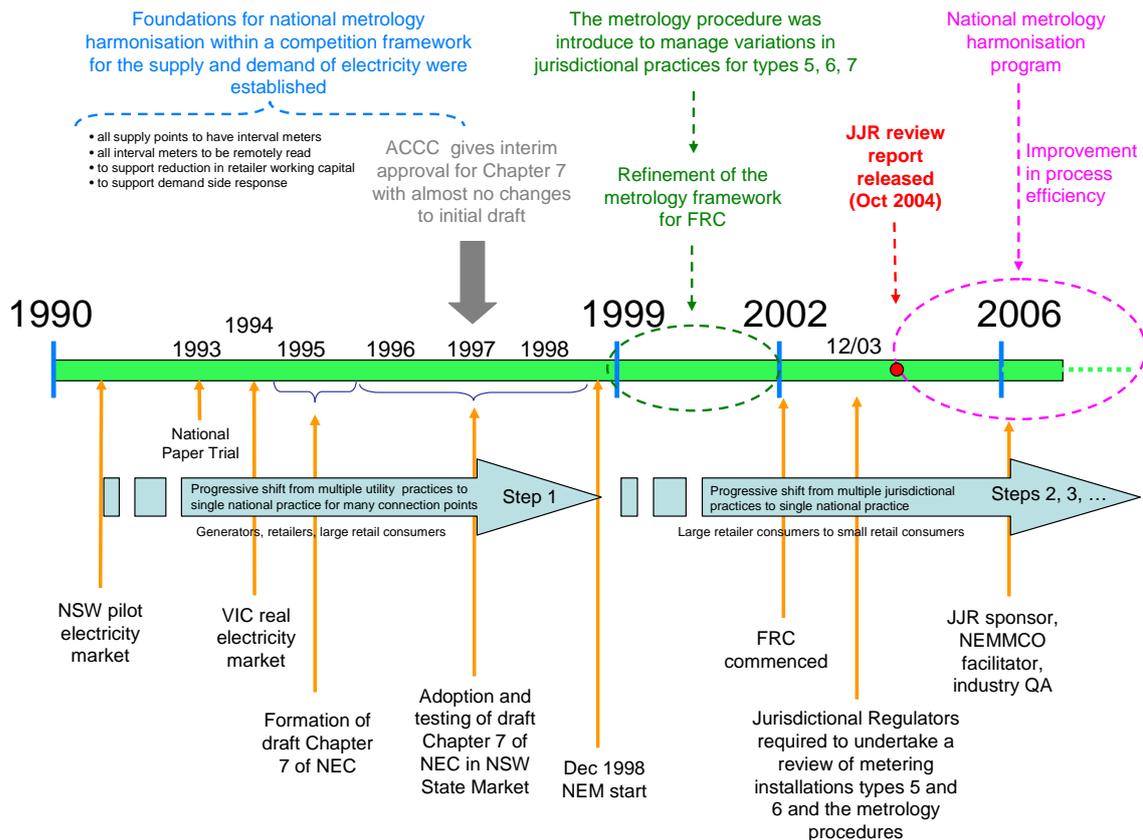


Figure 4 Timeline for Steps Towards a Single Metrology Procedure

At this time, NEMMCO produced 4 metrology procedures (for each of the types 1 to 4 metering installations). Each Jurisdictional Regulator produced one metrology procedure to cover their combined types 5, 6 and 7 metering installation responsibilities. There are now 4 jurisdictions with FRC participating in the NEM. In addition, Queensland has published a metrology procedure for types 5, 6 and 7 metering installations. In total, there are now 9 separate metrology procedures in operation in the NEM.

At the commencement of FRC in Victoria and NSW¹⁶ changes were made to Chapter 7 of the Code to enable small volume connection points to be contestable¹⁷. As part of these arrangements derogations were provided to deem the LNSP as the responsible person for metering installations in specified circumstances. The changes were carefully constructed to enable a jurisdiction's historical practices¹⁸ to be accommodated across an undefined transitional period. The major practices were identified¹⁹ and included in the changes to Chapter 7 at that time. To give confidence that these major practices would be fairly and consistently applied by each jurisdiction, controls were established in Chapter 7. The major controls were:

¹⁶ Victoria and NSW were the first of the Australian States to introduce FRC to consumers in January 2002.
¹⁷ 'contestable' in this context means that a person who receives electricity at a connection point has the choice of which licenced retailer will supply that electricity.
¹⁸ In addition to Victoria and NSW, QLD, SA, ACT and Tasmania were also keen to have an undefined transitional period in which to unwind their historical metering practices.
¹⁹ There were 3 major practices: accumulation meters that were manually read (classified as type 6 metering installations), interval meters that were manually read (classified as type 5 metering installations), and unmetred connection points (classified as type 7 metering installations).

- to appoint a 'Metrology Coordinator' to be responsible for these 3 practices;
- to require these practices to be documented in a transparent 'metrology procedure'; and
- to impose a review on the type 5 and type 6 metering installations and jurisdictional metrology procedures to be completed by December 2003.

The practices and their controls did not interfere with the existing rights for a retailer to choose to be the responsible person for type 1, type 2, type 3 and type 4 metering installations, nor the LNSP to perform this role if the retailer so chose.

However, it was recognised that the manual meter reading arrangements associated with two of these practices (interval and accumulation meters) benefited from an economy of scale process that was being managed by the LNSP. The third practice (for unmetered supplies) was closely aligned to LNSP responsibilities within the Distributor.

Accordingly, the ACCC has authorised one or more derogations for each jurisdiction that has introduced FRC in favour of the LNSP being the party deemed responsible person for a metering installation. The current set of derogations for all jurisdictions expires on 31 December 2006²⁰.

NEMMCO advised that prior to 1 July 2005, the Code included a clause²¹ which required the Jurisdictional Regulators to jointly conduct a review of metering installations types 5 and 6, and of the metrology procedures (which at that time had not been published). The JJR Report was the jurisdictional regulators' response to this requirement.

This Rule change proposal is the direct outcome of the first project from a list of identified projects which were committed to by NEMMCO in response to the JJR report²².

NEMMCO advised in its Rule change proposal to the Commission that in preparing the proposed Rule, the following set of design principles were developed and adopted by it²³:

- the changes are to be consistent with the NEL and the NEM objective;
- the changes are to align with the recommendations of the JJR Report without re-visiting the assessments made in their review;
- NEMMCO is to be responsible for establishing and maintaining the metrology procedure, and a mechanism is to be established for the injection of jurisdictional specific policy decisions as per recommendation 3.2(d) of the JJR Report; and
- where a procedure is identified in the Rules, it is to specify the key attributes of that procedure so as to clearly define its scope, which may include technical and business process attributes where non-technical matters that are to apply in each jurisdiction, such as consumer protection requirements are to continue to be the responsibility of each jurisdictional regulator.

²⁰ There have been 2 sets of derogations for Victoria and NSW. The first derogation expired on 31 December 2003. The second derogation is due to expire on 31 December 2006.

²¹ clause 7.13(f)

²² NEMMCO's response to the JJR report, entitled "The Metrology Harmonisation and Data Management Programme Plan" was published on 9 May 2005.

²³ NEMMCO's letter to the AEMC, dated 3 February 2006, 'design principles', page 1 of Attachment A

3. Rule determination

The Commission has determined in accordance with section 102 of the NEL to make the attached Rule as set out in this Rule determination. The Rule is fundamentally the proposed Rule put forward by the proponent with some modifications and enhancements.

On 30 March 2006, under section 94 of the NEL, the Commission determined to commence initial consultation on this proposal by publishing a notice under section 95 of the NEL. This Rule change proposal was open for public consultation for seven weeks. Submissions closed on 19 May 2006.

The Commission also issued a notice under section 107 of the NEL which extended the time period for the making of the draft Rule determination by 6 weeks. The basis for this extension was that the Commission was of the view that the issues raised by this proposal particularly in relation to the type 5 metering installation were of sufficient complexity that it was in the public interest to extend the time period in order to appropriately address these issues in this determination.

On 22 August, under section 99 of the NEL, the Commission determined to make a draft Rule determination, which was published on 24 August 2006. The draft Rule determination invited interested parties to make submissions on the draft Rule determination, in accordance with section 100 of the NEL, by 5 October 2006. The Commission revised its notice under section 99 on 31 August 2006 to give interested parties the opportunity to make a request for a pre-determination hearing, and revised the date by which submissions were due to 12 October 2006.

Under section 101 of the NEL, no party requested that the Commission hold a pre-determination hearing. At the close of the second round consultation period, sixteen submissions had been received from 15 parties. The Commission considered the further suggestions contained in these submissions and has made variations to the draft Rule determination to accommodate the suggestions where the Commission considered that the suggestions were consistent with the Commission's intention and contributed to a better understanding of the issues addressed in this determination.

This Rule determination sets out the Commission's reasons for making the Rule. The Commission has taken into account:

1. the Commission's powers under the NEL to make the Rule;
2. the proponent's Rule change proposal including the proposed Rule;
3. submissions received;
4. relevant MCE statements of policy principles; and
5. the Commission's analysis as to the ways in which the Rule will or is likely to contribute to the achievement of the NEM objective so that it satisfies the statutory Rule making test.

3.1 The Commission's power to make the Rule

The Commission is satisfied that the Rule proposed by NEMMCO falls within the subject matters for which the Commission may make Rules, as set out in section 34 of the NEL and in Schedule 1 to the NEL.

The Rule satisfies the criteria of section 34 of the NEL as it relates to the operation of the NEM and the activities of persons participating in the NEM.

In addition, the Rule relates specifically to matters which the Commission may make Rules that are provided for in clauses 27, 28, 29, 32 and 36 of Schedule 1 of the NEL where:

- clause 27 relates to the metering of electricity to record the production or consumption of electricity;
- clause 28 relates to the registration of metering installations used to meter electricity;
- clause 29 relates to the regulation of persons providing metering services relating to the metering of electricity;
- clause 32 relates to procedures and related systems for the electronic exchange or transfer of information that relates to consumers of electricity, the provision of metering services and connection to the national electricity system, and requiring compliance with such procedures and the use of such related systems; and
- clause 36 relates to any other matter or thing that is the subject of, or is of a kind dealt with by, a provision of the Code as in operation and effect immediately before commencement of section 12 of the NEL.

3.2 Submissions received

In the first round consultation, the Commission received 13 submissions on NEMMCO's proposal from the following parties:

- Agility Management Pty Ltd (Agility)
- AGL Energy Sales & Marketing Limited (AGL)
- Centurion Metering Technologies Pty Ltd / Metropolis Metering Assets Pty Ltd (Metropolis)
- Citipower Pty and Powercor Australia Ltd (Citipower/Powercor)
- Country Energy (Country Energy)
- Energy Networks Association Limited (ENA)
- Ergon Energy Corporation Limited (Ergon Energy Network)
- EnergyAustralia
- ETSA Utilities

- Integral Energy Australia (Integral Energy)
- Metering Dynamics
- SP AusNet
- United Energy Distribution (UED)

The Commission received a further late submission on the first round consultation which has been considered in conjunction with the second round of consultation suggestions:

- Ergon Energy Pty Ltd (Ergon Energy Retail)

In the second round consultation on the draft determination, the Commission received 16 submissions on the draft Rule determination from the following parties:

- AGL Energy Sales & Marketing Limited (AGL)
- Centurion Metering Technologies Pty Ltd
- Citipower Pty and Powercor Australia Ltd (Citipower/Powercor)
- Department of Infrastructure, Victoria (DOI)
- Energy Networks Association Limited (ENA)
- Energex
- EnergyAustralia
- Ergon Energy Corporation Limited (Ergon Energy Network)
- Integral Energy Australia (Integral Energy)
- Metropolis Metering Assets Pty Ltd (Metropolis) – two submissions
- National Electricity Market Company Limited (NEMMCO)
- Origin Energy Limited (Origin Energy)
- SP AusNet
- TransGrid
- United Energy Distribution (UED)

In regard to the single metrology procedure which was the main purpose of the proposed Rule and the Commission's draft Rule, the submissions were generally favourable. The comments and suggestions arising from these submissions have been covered in section 3.5.

In regard to the recommendations of the JJR and other minor matters, the submissions were generally favourable of the changes. The comments and suggestions arising from these submissions have been addressed in section 3.6.

In regard to the LNSP deemed responsibility for a metering installation, the submissions offered a wide range of views both supportive and unsupportive of this policy position. This matter is addressed in section 3.7.

In regard to matters raised by submissions that involve transitional issues, the Commission has addressed these in the savings and transitional arrangements in section 3.8. This section also provides the Commission's analysis and reasoning of other savings and transitional issues.

The Commission has identified a number of issues in the submissions that are not within the direct scope of NEMMCO's proposal. These issues have been grouped together in section 3.10.

3.3 Relevant MCE statements of policy principles

The NEL requires the Commission to have regard to any MCE statements of policy principles in applying the Rule Making test. The Commission notes that currently, there are no specific MCE statements of policy principles that directly relate to the national metrology procedure.

3.4 Matters arising from consultation and the Commission's analysis

The Commission has conducted two rounds of public consultation. The first round (under section 99 of the NEL) was held from 24 March 2006 to 19 May 2006, and the second round (under section 99 of the NEL) was held from 24 August 2006 to 12 October 2006. Submissions were received from interested parties from both rounds of consultation.

The Commission has addressed the suggestions that have been raised in these submissions or that have emerged during the Commission's analysis in relation to various aspects of NEMMCO's proposal in following sections:

- Section 3.5: Single metrology procedure;
- Section 3.6: JJR recommendations and other minor matters;
- Section 3.7: LNSP deemed responsibility for metering installations;
- Section 3.8: Savings and transitional provisions;
- Section 3.9: Major differences between the proposed Rule and Rule; and
- Section 3.10: Issues raised beyond rule scope.

3.5 Single metrology procedure

3.5.1 NEMMCO's proposal

The NEMMCO proposal incorporates a suite of changes that affect the current framework associated with the Metrology Coordinator and the metrology procedures. The proposed changes are contained in the following clauses:

- the deletion of clause 7.2.1A relating to the responsibility of the Metrology Coordinator;
- clause 7.2.1B relating to the responsibility of NEMMCO;
- clause 7.3.2A relating to the metrology procedure (new, which also replaces clauses 7.3.1(bc), (bd), (h), (i), (j), (k), (l), (m), (n) and expands on clauses 7.3.1(ba), (bb), (g), (o));
- clause 7.9.3(a) relating to periodic energy metering;
- table 7.2.3.1 of schedule 7.2 which relates to the types and accuracy of metering installations;
- glossary terms: metrology procedure, energy data services, jurisdictional policy directive; and
- the deletion of Glossary term: interested parties.

The NEMMCO proposal states that this suite of changes provides for the formation of a single NEM metrology procedure, with variations between jurisdictions recorded within the single instrument. The changes abolish the jurisdictional regulators' role as respective Metrology Coordinators, with responsibilities previously undertaken by the Jurisdictional Regulators being shared between Jurisdictional Ministers (policy functions) and NEMMCO (administrative functions). A clause has been proposed to facilitate synchronisation of the effective date of the NEM metrology procedure with the date the Commission makes the Rule.

Submissions in support of NEMMCO's proposal – Single Metrology Procedure

Most first round submissions were supportive of NEMMCO's proposal for a single metrology procedure. However, submissions also raised a number of suggested enhancements and modifications to the single metrology procedure. These suggestions have been largely addressed in the latter part of Section 3.5. Some second round submissions were supportive of the Draft Rule for a single metrology procedure. However, submissions also identified a number of provisions that would benefit from further clarification. These suggestions have also been addressed in the latter part of Section 3.5.

The following comments were made in submissions supporting the harmonisation of metrology procedures:

AGL stated (first round and second round):

AGL supports the move towards a national regulatory framework, and, to that extent welcomes rules and obligations that propose harmonisation of existing metering arrangements and supports the work undertaken by

NEMMCO to develop a single national metrology procedure for metering installations types 1 to 7.

AGL agrees with the majority of the proposed rules changes, such as NEMMCO taking up responsibility of metrology coordinator.

A single national metrology procedure will minimise inconsistency between jurisdiction that adds costs and complexity to participants that operate nationally in the electricity market, and will allow greater alignment of procedures and processes.

Country Energy stated (first round):

Country Energy is supportive of a single metrology procedure that encourages national consistency.

Country Energy endorses the transfer of responsibility for all technical provisions of the metrology procedures to NEMMCO while allowing jurisdictions to retain responsibility for key policy decisions that underpin the metrology procedure.

EnergyAustralia stated (first round):

A harmonised metrology procedure will reduce compliance costs and reduce risks to retailers and service providers that wish to operate across jurisdictional boundaries.

Ergon Energy Retail stated (first round):

Ergon Energy supports initiatives aimed at harmonising the existing jurisdictional and national metrology procedures and improving Chapter 7 of the Rules. Overall we believe the changes outlined in the Rules changes are a positive step in achieving these objectives.

NEMMCO stated (second round):

We support the AEMC's draft determination.

Metropolis stated (first round):

Metropolis fully supports the changes as proposed by NEMMCO.

Origin Energy stated (second round):

Origin is supportive of industry's initiatives to move towards a national regulatory framework that promotes harmonisation of rules and procedures which apply to metering arrangements for all jurisdictions.

Citipower/Powercor, ENA, Ergon Energy Network, Metering Dynamics, ETSA Utilities and United Energy all stated their support, specifically or generally, for a single metrology procedure in the Rules, however, also provided additional suggestions in their submissions which are addressed in the next part of this section.

The Commission's consideration and reasoning:

The Commission accepts NEMMCO's proposed changes to metrology procedures under Chapter 7 of the Rules which aim to create a single metrology procedure. The Commission's reasons for accepting the NEMMCO proposal are noted below.

- (i) The differences in metrology requirements across jurisdictions are currently "buried" within individual instruments and are not transparent to industry participants, regulators or policy makers. A single NEM metrology procedure will make metrology differences between jurisdictions transparent, and reduce compliance costs and risks to retailers and service providers who wish to operate across jurisdictional boundaries.
- (ii) The creation of a draft single metrology procedure has resulted in the analysis of differences in wording, and encouraged alignment of minor textual differences within the draft. In the longer term it is anticipated that the publication of jurisdictional differences within a single document will focus industry attention on the value of maintaining and removing the differences. The removal of differences between jurisdictions will reduce compliance costs for service providers, which is in the long term interest of consumers.
- (iii) The transparent harmonisation of jurisdictional practices within a single document and the progressive refinement of the metrology procedure towards a single set of procedures without any jurisdictional differences will promote an efficient use of electricity services.
- (iv) Likewise, the harmonised metrology requirements across the NEM will assist metering manufacturers to deliver common products that will meet all jurisdiction requirements. It will also facilitate investment by metering providers and metering data providers by reducing the risks of investing and operating across jurisdictional boundaries, thereby promoting competition for service provision.
- (v) The Commission notes that submissions from market participants and stakeholders were broadly supportive of the change.
- (vi) The Commission noted that clauses 7.3.2A(c)(3), (4), (5) and (6) gave NEMMCO the specific right to replicate the Rules in the metrology procedure and to provide information on the application of the Rules and the consistency in practice between different instruments. The Commission prefers that NEMMCO rely on its general right to quote the Rules where necessary rather than creating a specific power in the Rules because creating a specific right in relation to this matter is potentially duplicative and unnecessary.

In relation to the metrology procedure containing information on the application of the Rules, the Commission sees the need for guidance to be provided in this area. However, the Commission is of the view that it should be clear that the metrology procedure is a subordinate instrument to the Rules. For this reason, the Commission considers that NEMMCO must make clear when providing information on the application of the Rules, that in the event of any inconsistency between the Rules and the metrology procedure, the Rules will always prevail. Such a statement will ensure that non-legally trained people are not misled on the application of the Rules and do not have to be aware of the rules of statutory interpretation in the event of any inconsistency.

Similarly, NEMMCO may include information to maintain consistency in practice between the metrology procedure and other instruments so long as it relates to those instruments developed and published by NEMMCO.

Accordingly, the Commission has made the necessary Rules to incorporate NEMMCO's proposal, subject to the detailed variations on clauses specified below and further amendments contained in the section on savings and transitional provisions.

3.5.2 Issues relating to NEMMCO's proposed "jurisdictional policy directives"

3.5.2(a) Submissions relating to the inclusion of jurisdictional policy directives in the metrology procedure and a review date

(proposed clause 7.3.2A(c)/ clause 7.14.2 and proposed clauses 7.3.2A(c)(1)(B) and (C)/ clause 7.14.2)

Both Citipower/Powercor and ETSA Utilities stated (first round):

As a matter of principle, these provisions create further divergence in metrology procedures applicable to the NEM jurisdictions. This would be contrary to the objective of having a single national metrology procedure.

The ability for jurisdictions to individually issue jurisdictional policy directives to influence the metrology procedure should be limited to initiatives currently in progress such as the introduction of FRC in Queensland and the Advanced Metering Infrastructure project in Victoria. Such a limitation could be provided by including a sunset date for such jurisdictional policy directives, say 1 January 2008. After the sunset date all policy would be via the MCE.

The effect of clause (B) and (C) could lead to the unexpected termination of provisions created under a jurisdictional directive if the review date is overlooked. An alternative mechanism is required to ensure that a review is conducted before the provisions expire.

ENA stated (second round):

[In relation to clause 7.14.2(a)] The ENA considers, however, that the inclusion of jurisdictional metrology material in the metrology procedure has the potential to undermine the move to national arrangements, unless there are limitations on the scope of jurisdictional powers.... To address these concerns, the ENA considers that the power to include jurisdictional policy material should be restricted to the transfer of jurisdictional arrangements currently in place, as well as a limited number of areas where new policy decisions are currently being implemented...

[In relation to clauses 7.14.2.(b) and 11.6.2(b)] The ENA supports the inclusion in the draft Rules of a sunset date on the power for individual ministers to include jurisdictional metrology material in the metrology procedure. The ENA considers that the proposed date is inappropriate, provided that the above limitations on the scope of jurisdictional metrology material, as well as arrangements for phasing out arrangements, are adopted [no new date was provided].

[In relation to clause 7.14.2(c)(4)] The ENA supports the inclusion in the draft Rules of provisions for a periodic review of jurisdictional metrology material to test whether special arrangements are still justified.

EnergyAustralia stated (second round):

[In relation to clause 11.6.2(b)] EnergyAustralia supports the right for jurisdictional policy material to be incorporated into the metrology procedure for a transitional period...Care should be taken to ensure that the Rule does not allow a jurisdictional position to subvert an MCE decision during the transitional period. The Rules should only allow for jurisdictional policy material to be included in a metrology procedure in the absence of a formal MCE position.

Ergon Energy Retail stated (first round):

...albeit there is regulatory uncertainty associated with fixed term jurisdictional derogations this is outweighed by the associated benefits of competition... Given the above, it is suggested the relevant clauses be amended to more closely reflect the JJR recommendation.

Ergon Energy Network stated (second round):

[In relation to clause 7.14.2(b) 'note'] Ergon Energy considers that the right to exercise a jurisdictional policy directive should be aligned to at least the same date as that proposed for the review of type 5 and 6 metering. Any outcome from such a review may result in a jurisdiction wishing to include a policy directive in the metrology procedure.

[In relation to clause 7.14.2(g)] Ergon Energy is concerned that this clause significantly increases the risk to industry. The intended review process may not fit with Government timeframes (ie. election periods), or regulator timeframes (ie. price determinations), especially as it is intended that the MCE will revert to meeting only once or twice a year.

SP AusNet stated (second round):

[In relation to clause 7.14.2(g)] SP AusNet are concerned re the concept of jurisdictional metrology material 'derogations' to the metrology procedure expiring on a review date without a process of examination of consequences of the removing of the requirement, consultation on the implementations, and consideration of any transitional arrangements or period. Such a change could have a major impact on industry participants' systems and processes, and the impacts could lead to a down grading of performance and / or compliance.

UED stated:

(first round):

Registered Participants should not be placed in a position of possible non-conformance with the Metrology Procedure simply by the passage of time where the jurisdiction does not undertake a policy directive review within the prescribed timeframe.

UED suggested that the clause be cast in the active case, requiring the relevant Minister to consider the review and in the absence of any decision, that the status quo continues. Alternatively, the Minister could be required to provide a formal decision to preserve the status quo on a regular basis (similar to the profiling sunset requirements on the Metrology Coordinators).

(second round):

[In relation to clause 7.14.2(g)] The concept of a review date for the review of jurisdictional metrology material has been incorporated....In the absence of a national default position, this approach provides little certainty for a business as to what the procedural metrology requirements are beyond the end date. UED consider a better approach would be to let the status quo in the jurisdiction prevail in the absence of a national default position, ie. where jurisdictional tables are used.

The Commission's consideration and reasoning:

The Commission accepts the view (expressed in the first round submissions) that the 'jurisdictional policy directive' as drafted in the NEMMCO proposal has the potential to create further divergence in metrology procedures applicable to the NEM jurisdictions, which would be contrary to the objective of a single national metrology procedure. The Commission also accepts the view that the ability for jurisdictions to individually issue jurisdictional policy directives to influence the metrology procedure should be focused on initiatives currently in progress. The Commission has reviewed this decision in the light of the second round submissions and has found that there needs to be some transitional period where jurisdictions can move from their current unrestricted arrangement to a more limited arrangement. On balance, the Commission does not support the further tightening up of the content of the jurisdictional metrology material during the transitional period. Nor does the Commission accept the view that a Minister of a participating jurisdiction would, in the period between the making of the Rule and the expiry date, act out of interest of an MCE decision. Accordingly, the Commission does not consider it appropriate to adopt the suggestions on this matter.

The Commission considers that the term 'jurisdictional metrology material' rather than NEMMCO's proposed term of 'jurisdictional policy directive' more accurately reflects the nature of the information that is to be conveyed from a jurisdictional Minister to NEMMCO for subsequent insertion in the metrology procedure. The Commission has made this enhancement because it better reflects the full nature of the information conveyed from a Minister to NEMMCO.

However, the Commission considers that the suggested date for terminating the right to exercise a jurisdictional policy directive of 1 January 2008 (as contained in NEMMCO proposal) may be too early for jurisdictions and NEMMCO to achieve any change to the metrology procedure using the proposed jurisdictional policy directive provisions. Accordingly, the Commission has suggested a date of 1 January 2009 (in the savings and

transitional provisions in the Rule) at which time the right of a jurisdictional Minister to provide NEMMCO with a 'jurisdictional policy directive' will expire. The Commission considers that by that date most jurisdictional policy directions would have been submitted and no further alterations would be required. After that date, a Minister of a participating jurisdiction's request to change the NEM metrology procedure will fall in line with all other industry stakeholders. This amendment is balanced by the residual right (commencing from 1 January 2009) to include jurisdictional material in the metrology procedure resting with the Ministers of the MCE. The Commission also notes that this expiry date may give rise to the request for jurisdictional derogations. The Commission has reviewed this decision in the light of the second round submissions and has found that the suggestion to extend the termination date is contrary to the principle of harmonising the jurisdictional metrology material as soon as possible, which generally has been accepted by industry submissions. Accordingly, the Commission does not consider it appropriate to adopt the suggestions on this matter.

In relation to the termination of jurisdictional metrology material on the review date, the Commission has reviewed the principle underpinning this provision in light of the second round submissions. The Commission considers that the provision as proposed by NEMMCO is consistent with the principle of achieving metrology harmonisation in the NEM and does not support the view that the principle should be reversed to allow jurisdictional metrology material to continue unchecked if a review fails to materialise. Accordingly, the Commission does not support the suggestions on this matter.

3.5.2(b) Submissions relating to right of Ministers of participating jurisdictions to delegate that Minister's right to submit jurisdictional policy directives

(proposed clause 7.3.2A(d)/ clause 11.5.5)

Both Citipower/Powercor and ETSA Utilities stated (first round):

In clause 7.3.2A(d) it is unclear why a provision for the Minister to delegate the right to issue a jurisdictional policy directive is required. This provision should be deleted.

The Commission's consideration and reasoning:

This requirement is a legal provision to enable jurisdictional processes to operate in an effective manner where they relate to the operations of the Rules. The Commission accepts that this provision is included for avoidance of doubt rather than as a prerequisite for the delegation to occur. For this reason, the Commission has adopted the clause in the Rule.

3.5.3 Issues relating to amendments to the metrology procedure by NEMMCO or the Jurisdictional Minister

3.5.3(a) Submissions relating to minor amendments made to the metrology procedure by NEMMCO

Ergon Energy Network stated (first round):

In relation to clause 7.3.2A(f), NEMMCO should be required to publish responses made by Registered Participants or Metering Providers in accordance with clause 7.3.2A(f)(3).

The Commission’s consideration and reasoning:

The Commission accepts the merit of this suggestion. The practice of publishing responses to a consultation process is consistent with principles of good regulatory practice. The Commission has introduced a requirement on NEMMCO to publish the responses made by interested parties to changes in the NEM metrology procedure when consulting on minor and administrative revisions to that procedure.

3.5.3(b) Submissions relating to amendments to the metrology procedure (proposed clause 7.3.2(g)/ clause 7.14.2 and 7.14.4)

Both Citipower/Powercor and ETSA Utilities stated (first round):

Clause 7.3.2A(g)(1)(D) provides a potentially unsatisfactory conclusion to the consultation process required under (B) and (C). Good regulatory practice requires the rationale for the final decision to be clearly explained not simply implemented “unless advised by the Minister”. At the very least, the relevant Minister should consider the material provided under (C) and confirm the decision including the reasoning behind the confirmation.

Ergon Energy Network stated (first round):

Under clause 7.3.2A(g) a dispute or escalation process is required should the person not accept the reasons given by NEMMCO in rejecting the proposal. Ergon Energy believes that parties should have access to a low cost dispute or escalation process where NEMMCO has not shown due consideration of issues raised in consultation.

UED stated (first round):

In regard to clause 7.3.2A the basis upon which NEMMCO can reject a change proposal should be constrained in some way to ensure any such decision is not arbitrary.

The Commission’s consideration and reasoning:

In regard to the suggestion that the Minister (or given the Commission’s modification to the proposed change, the Ministers of the MCE) should consider the material arising from the NEMMCO consultation and confirm the decision, the Commission accepts the merits of this amendment as it provides greater transparency in the jurisdictional decision making process. In the Rule, the Commission has incorporated provisions in clause 7.14.2 whereby the Minister of the participating jurisdiction or the Ministers of the MCE will have the opportunity to comment on the result of consultation on the jurisdictional material.

In regard to the suggestion of a dispute or escalation process, the Commission notes that in clause 8.2 of the Rules (which relates to disputes between parties) NEMMCO is included as one of those parties. Accordingly, the dispute resolution procedures in the Rules apply to the type of disputes referred to by Ergon Energy. However, if clause 8.2 does not provide parties with an adequate dispute resolution process, then parties should bring to the Commission’s attention the details of an alternative mechanism that better meets their needs.

3.5.3(c) Submissions relating to the values of “x” and “y” as determined by the relevant Minister (proposed schedule 7.2/ schedule 7.2)

Both Citipower/Powercor and ETSA Utilities stated (first round):

Note 3 [of table S7.3.2.1] gives the Ministers of each jurisdiction direct control over the values of “x” and “y”. It is unclear why this should be the case for matters that relate directly to metrology. It would be preferable, and provide greater certainty to participants, if the current jurisdictional values were provided respectively and any future amendments were made through the normal Rules consultation process. This would also overcome the risk that jurisdictions could further diverge under the proposed arrangements.

Citipower/Powercor stated (second round):

[In relation to clause S7.2.3.1 item 3] It seems possible that the Ministers could subsequently provide a new value of “x” which would seem to be inconsistent with the arrangements established by 11.6.2 which allows only a limited time for Ministers to provide jurisdictional metrology material. If it is intended that the value of “x” only be provided once, this should be made clear. If it is intended that the Minister of a participating jurisdiction should be able to re-determine the value of “x” this power should expire in the same way as for the jurisdictional metrology material.

Clause S7.2.3.1 item 4: [a similar comment to item 3 is provided in relation to the “y” value].

The Commission’s consideration and reasoning:

In relation to the ‘x’ and ‘y’ variables, the Commission accepts the NEMMCO proposal to change the reference from the Metrology Coordinator to the relevant Jurisdictional Minister²⁴. To assist the clarity of the Rules, the Commission has made minor amendments to these provisions to reflect this position given that if such values were provided as part of the jurisdictional policy directives, this right given to Ministers would be subject to an expiry date.

In relation to the suggestion in the second round submissions, the Commission considers that the value of “x” can be provided to NEMMCO by a jurisdictional Minister independently of the provisions imposed on the Ministers of the MCE in regard to jurisdictional metrology material. This specific reference to the Minister of a participating jurisdiction separates away the requirement that this information has to be provided by the Ministers of the MCE. The Commission regards this flexibility as consistent with the negotiated FRC principle of permitting a jurisdiction to control the time horizon for the reduction of the “x” value towards a zero value. The Commission notes that individual jurisdictions are demonstrating consistency with this principle by adopting values for “x” which are below the initial commencement value of 160 MWh per annum. In a like way, the Commission considers that the value of “y” can be provided to NEMMCO by a jurisdictional Minister independently of the provisions imposed on the Ministers of the MCE in regard to jurisdictional metrology material for the reasons indicated above. The Commission has provided further comment on this matter in Section 3.9 of this determination.

²⁴ Which is a position consistent with the JJR Report.

3.5.4 Submissions relating to the content of a metrology procedure (proposed 7.3.2A(b) and (c)(2) / clauses 7.14.1 and 7.14.3)

United Energy stated (second round):

Clause 7.14.3(a)(2): UED are unclear why the metrology procedure should be able to specify in greater detail any aspects of meter accuracy, data logger standards, etc. UED consider that the metrology procedure is not the appropriate vehicle to expand the Rules and policy matters.

The Commission's consideration and reasoning:

In relation to the suggestion, the Commission notes that the phrase "specify in greater detail" qualifies the nature of the information that may be included in the metrology procedure. The Commission considers that the role of the metrology procedure is to supplement the technical detail of Chapter 7 of the Rules where such detail would benefit the efficient operation of the NEM. The technical detail must remain within the scope of the Rules and not extend the requirement of the Rules. The Commission considers that it is good regulatory design, and in the spirit of light handed regulation, to provide a mechanism for NEMMCO and industry whereby they may determine technical details of practice that sit under principles that have been included in the Rules. This feature is similar to the feature whereby participating jurisdictions issue Codes of Practice to specify agreed practices that have not been specifically detailed in legislation, but are consistent with that legislation.

3.5.5 Second round submissions relating to editorial changes or minor drafting matters

SP AusNet stated:

Clause 7.14.2: SP AusNet understand from clause (f)(1) and (f)(2) that the envisaged process for inclusion of jurisdictional government "policy" into the metrology procedure is via material in a "separate part of the metrology procedure", ie very similar to a jurisdictional derogation. Wording needs to make process clearer.

Clause S7.2.3.1 item 3b: Change "relaxed by NEMMCO" in item 3b to "relaxed in the metrology procedure" as per item 3a.

The Commission's consideration and reasoning:

In relation to the suggested amendment to clause 7.14.2(f)(1) and (2), the Commission notes that the word "separate" has been used to instruct NEMMCO to position the jurisdictional metrology material within the metrology procedure so as to allow NEMMCO to remove the material if it expires on the review date without materially disturbing the remaining provisions within the metrology procedure. NEMMCO may choose to locate the material close to other relevant clauses (similar to the table of differences technique currently adopted in the draft initial metrology procedure), or in an appendix so long as the jurisdictional material is easily distinguishable.

In relation to the suggested amendment to clause S7.2.3.1 item 3b, the Commission understands that the suggestion was put forward to create further consistency of

expression across all items in clause S7.2.3.1. On review, the Commission has found that the expressions in items 2a and 4a (“relaxed by NEMMCO”) are not consistent with the expression in items 3a and 3b (“relaxed in the metrology procedure”). Accordingly, the Commission has standardised the expression “relaxed in the metrology procedure” across all items.

The Commission considers that suggestions that are aimed at editorial drafting corrections, improving the readability and easing understanding of the Rules as being appropriate.

3.5.5 Second round submissions relating to minor matters of clarification

Citipower/Powercor stated:

Clause 7.14.1(c)(1)(i): This clause may introduce uncertainty about the operation of the clause unless “device” can be interpreted only as a physical measuring device.

Energex stated:

Clause 7.2.3(d)-(h): These clauses do not represent actual practice...Energex believes that valuable resources would be wasted implementing a formal request/accept process when industry participants currently act in a manner that achieves the same result (ie the LNSP acts as the responsible person for all types 5, 6 and 7 metering installations) without this formal process.

Ergon Energy Network stated:

Clause 7.14.2(d): “material” should be italicised.

SP AusNet stated:

Clause 7.14.3: The items in 7.14.3 should commence with the ‘leader phrase’: “The Metrology Procedure must include”.

Clause S7.2.3.1 item 4(4): change to read “the installation may provide delays in transferring the accumulated energy data ~~can be transferred~~ to a remote location where access to a *telecommunication network* has been established”.

The Commission’s consideration and reasoning:

In relation to clauses 7.2.3(d)-(h) the Commission notes that these provisions are close replica of the current participant derogations in Chapter 9 of the Rule. The Commission accepts that the purpose of the making of the Rule is to import the current derogation provisions into Chapter 7 with only minor amendments contained in the NEMMCO proposal, as sponsored by the JJR recommendations. The Commission notes that the current participant derogations have been active in the Rules (and the former Code) for several years, when they were first approved by the ACCC and then extended by the ACCC in accordance with specific applications by each participating jurisdiction. Under these conditions, the Commission would expect that Registered participants would be compliant with the Rules.

In relation to clause 7.14(c)(1)(i) the Commission notes the suggestion in regard to the meaning of the word 'device' as used by Chapter 7 and understands that the use of this word in Chapter 7 has been consistently used to represent a piece of equipment. The Commission does not consider it appropriate to examine this suggestion further at this stage of the Rule determination process.

In relation to the suggested amendment to clause 7.14.2(d) the Commission notes that the word 'material' refers to the italicised term *jurisdictional metrology material* within the same clause. In this situation, an abbreviation of the defined term is acceptable without the need for the word to be italicised.

In relation to the suggested amendment to clause 7.14.3 to mandate the additional matters to be covered by a metrology procedure, the Commission does not find an obvious reason to vary from the NEMMCO proposal, and accordingly has not adopted this suggestion.

In relation to the suggested amendments to clause S7.2.3.1 item 4(4), the Commission notes that the suggestion to introduce the concept of a 'delay' into the description of the type 6 metering installation, so as to be consistent in expression with the type 5 metering installation, does not introduce any useful benefit. The Commission considers that the concept of a delay for an interval meter is useful to differentiate between the remote acquisition facility and the manual collection facility. However, such a differentiation for the type 6 metering installation appears to offer no useful benefit. Accordingly, the Commission does not support this suggestion.

3.6 JJR recommendations and other related matters – single metrology procedure

3.6.1 NEMMCO's proposal

A number of related matters were proposed in the NEMMCO proposal relating to:

- several related matters arising from the JJR recommendations; and
- a range of matters that have 'editorial' consequences.

These matters are addressed in this section.

The NEMMCO proposal includes minor alterations to the current metering framework associated with interval meters, accumulation meters, reviews of metrology by jurisdictions, reporting by NEMMCO, and editorial amendments. The changes are contained in the following clauses:

- clauses 7.2.5(e), 7.2.5(f) relating to the responsibilities of the responsible person;
- clauses 7.13(c), 7.13(k) relating to evolving technologies and processes and development of the market;
- clauses: 7.1.4(a), 7.1.4(a)(1), 7.2.1(a), 7.2.1A, 7.2A.2(i), 7.2.5(a), 7.2.5(b), 7.2.5(d), 7.3.1A(b), 7.3.1(a)(1), 7.3.1(a)(12), 7.3.1(a)(3a), 7.3.4(a), 7.3.4(d), 7.3.6(aa), 7.4.2(ca), 7.9.4(b), 7.13(c), 7.13(e), S7.1, S7.2, S7.3.2(b), S7.4.2(c), S7.4.5; relating to matters across the different issues; clauses: 7.3.2(b), 7.3.2A(c), Schedule 7.2, Schedule 7.3 (editorial for National Measurement Institute);
- Glossary terms: active energy, estimated energy data, general purpose, metering installation, reactive energy, unmetered connection point, verifying authorities; and

- the deletion of Glossary terms: metrology coordinator, non-metered connection point.

This list of matters has been grouped by the Commission as minor matters related to the single metrology procedure.

The changes arising directly from the JJR Report relate to:

- preventing an interval meter being replaced by an accumulation meter;
- requiring interval meter data to be available to market participants and NEM settlements, unless otherwise advised by the jurisdiction;
- including a threshold for collecting interval meter data from an interval meter (referred to in NEMMCO's proposal as a type 5 accumulation boundary);
- requiring NEMMCO to report on changes to Australian Standards that might introduce a barrier to economically efficient metering solutions; and
- requiring a further jurisdictional review of NEM metrology for type 5 and type 6 metering installations in accordance with the recommendation of the JJR Report.

In addition, the changes included the deletion of clause 7.3.4(e) which required the Metrology Coordinator to advise NEMMCO by no later than 30 April each year of how much longer the Metrology Coordinator proposed to continue allowing its metrology procedure to contain type 6 metering installations within its jurisdiction.

The NEMMCO proposal includes a new clause to accommodate the NSW Accredited Service Provider Scheme.

The proposed editorial changes have been made to improve readability, correct errors, remove duplication or uncertainty and recognise the creation of the National Measurement Institute.

Submissions in support of NEMMCO's proposal

Submissions were generally supportive of NEMMCO's proposal, however, submissions also raised a number of suggestions in relation to these related matters.

The following comments were made in submissions supporting the related matters:

AGL stated (first round):

AGL supports the requirement that the responsible person must ensure that metering equipment purchased has National Measurement Institute pattern approval from an accredited laboratory.

Country Energy stated (first round):

Country Energy generally supports the Rule proposals put forward by NEMMCO, and welcomes their timely implementation.

NEMMCO stated (second round):

We support the AEMC's draft determination, but seek clarification of the following matters [in relation to the ASP scheme in schedule 7.4].

Metropolis, ETSA Utilities, EnergyAustralia, Metering Dynamics, Citipower/Powercor and Ergon Energy also supported the proposed changes.

The Commission's consideration and reasoning:

The Commission accepts the various editorial changes in the NEMMCO proposal, subject only to the reformatting and subsequent minor wording enhancements made by the Commission. The Commission accepts that the editorial changes improve readability, correct errors, remove duplication or uncertainty, and update the Rules for formal changes in institutional arrangements. The Commission accepts that amendments of the Rules in regard to these matters will:

- (i) provide a reduction in the perceived or actual risk to service providers and Registered Participants seeking to invest in NEM projects, and in doing so will enable the industry to offer lower costs and higher quality services;
- (ii) improve industry's understanding of the Rules and make the operation of NEM processes and services less costly and therefore add to efficiency; and
- (iii) reduce regulatory risk through better understanding and clarity of the Rules, which will reduce the need to factor higher costs into pricing and investment decisions to the ultimate benefit of consumers.

The Commission also notes that the submissions either support the minor changes or are silent. For these reasons, the Commission intends to generally adopt the NEMMCO proposal, subject to the enhancements identified below.

3.6.2 Issues relating to the proposed amendments to interval meters

3.6.2(a) Submissions relating to non-compliant interval meters

(proposed clause 7.2.5(e)/clause 7.2.5)

Ergon Energy Network stated (first round):

Ergon Energy supports the intent of the proposed Rule changes.... However...in relation to clause 7.2.5(e), Ergon Energy notes that LNSPs have installed manually read interval meters that are not compliant with the NER and therefore could not be registered as a type 5 metering installation; these have been registered as type 6 metering installations in MSATS. Where such a meter needs to be replaced, the metering provider should be able to replace a non-compliant manually read interval meter with a compliant type 6 meter."

EnergyAustralia stated (first round):

[The] A3 Rule changes that an installed interval meter might not be replaced by an accumulation meter, that the data is available to market participants and to encourage meter technology advances are supported. EnergyAustralia notes that the argument for those Rule changes and the benefits to the national electricity market objective are entirely sound.

The Commission's consideration and reasoning

In regard to non compliant meters, the Commission notes the comments. The Commission also notes that the current metering framework provides for this matter to be accommodated within the metrology procedure. The Commission further notes that each jurisdiction has specified the manner of compliance. Accordingly, the Commission has found that the clause works exactly as was intended in the NEMMCO proposal. For

these reasons the Commission intends to adopt this clause without alteration to its substance.

3.6.2(b) Submissions in relation to a threshold for interval meters

(proposed clauses 7.2.5(f) and 7.3.2A(c)(1)(D) / clauses 7.2.5, 7.14.1 and 7.14.2)

Both Citipower/Powercor and ETSA Utilities stated (first round):

[In] Clause 7.3.2A(c)(1)(D)(ii) the specification of a type 5 accumulation boundary other than zero as provided in this clause will present practical problems because customer's consumption is variable and unless this is accommodated in a practical way in the definition there will be relatively onerous procedures to deal with customer loads which move across this boundary. The responsible person needs to be given reasonable discretion and flexibility for collection of metering data for loads around the type 5 accumulation boundary.

Country Energy stated (first round):

[In regard to clause 7.2.5(f)] Country Energy would like to reinforce its support for NEMMCO's proposal to include a threshold whereby below this threshold, interval meters can be read as accumulation meters.

[In regard to clauses 7.2.5(f) & 7.3.2A(c)(2)(D)(ii)] Country Energy reiterates that metrology should be made nationally consistent as far as possible. In this respect, Country Energy feels that it is important for the threshold for the type 5 accumulation boundary to be consistent across jurisdictions.

The Commission's consideration and reasoning:

The Commission notes the suggestion that the type 5 accumulation boundary be made more flexible. The Commission also notes that in the draft single metrology procedure on which consultation is being conducted by NEMMCO, the Victorian jurisdiction has set the type 5 accumulation boundary to zero. For this reason, the Commission does not intend to act on this suggestion.

The Commission notes the suggestion that the new type 5 accumulation boundary principle included in the NEMMCO proposal be standardised across the jurisdictions. The NEMMCO proposal permits each jurisdiction to independently set this boundary level. The Commission accepts the view that the standardisation of this boundary across the jurisdictions would lead to the facilitation of competition across jurisdictions, whilst reducing compliance and administration costs. However, the Commission is aware that the type 5 accumulation boundary for each jurisdiction is currently recorded in the NEM metrology procedure that is undergoing consultation by NEMMCO and to impose a standardisation at this time would disrupt the formation of the initial NEM metrology procedure. The Commission notes that by introducing a date when the Jurisdictional Ministers must act in unison as Ministers of the MCE, it has made way for this standardisation to occur. After the expiry date of 1 January 2009, the Ministers of the MCE will have the opportunity to introduce a standardised value across the NEM.

3.6.2(c) Submissions in relation to NEMMCO's requirement to publish a report annually, on evolving technologies

(proposed clause 7.13(c) / clause 7.13(c))

Ergon Energy Network stated (first round):

The current version of clause 7.13(c) states that “NEMMCO must, at least annually, publish a report...” The draft version proposed by NEMMCO states that, “NEMMCO must publish a report...” Ergon Energy registers its concern that a proposed change to the NER has not been highlighted in the draft document.

The Commission’s consideration and reasoning:

The Commission notes Ergon Energy’s view as it would appear to be a drafting oversight and as a consequence has retained the requirement for NEMMCO to report annually.

3.6.2(d) Submissions in relation to another joint jurisdictional review for types 5 and 6 metering installations

(proposed clause 7.13(k) /clause 7.13(g))

Country Energy stated (first round):

Country Energy agrees that the next review of metrology needs to balance the need for allowing sufficient time for any changes [to] the NER to be implemented and their impact analysed, and the need for the next review to be close enough so that the momentum gained for reform under the NEMMCO Rule proposals is not lost. However, Country Energy does not believe that a 30 June 2008 review date will allow sufficient time for participants to gain the necessary experience to allow meaningful and full analysis of their impacts.

UED stated (first round):

The Ministers by 30 June 2008 must jointly complete a review of metering installations types 5 and 6, including a review of the outcomes from the JJR Report. Given that this set of Proposed Rule changes addresses many but not all of the JJR recommendations, it may be prudent to review the timetable to complete the Ministers review to allow all JJR recommendations to be implemented and then reviewed to ensure no additional issues are created as per the requirements of 7.13(k). In reviewing this clause, we suggest that the AEMC also consider whether / who the JJR is in 2008 and whether this terminology should be amended to JJR or jurisdictional Ministers.

(second round)

UED have a number of concerns with this time [30 June 2009]: the last JJR review took several years; NEMMCO have also advised that the JJR recommendations will not have been fully implemented until end of 2008; the first tier metering obligations are unlikely to be incorporated into approved Rules and metrology procedures until at least end of 2007; and, Victoria is likely to be in the midst of an accelerated advanced interval meter roll out. Taking all these things into account, the changes made over the preceding 1-2 years are unlikely to have been implemented for long enough at the commencement of the Ministers review to make the timing opportune.

The Commission’s consideration and reasoning:

The Commission accepts that a delay in undertaking the next review of metrology for types 5 and 6 metering installations may provide the industry with benefits, particularly

given that the Metrology Harmonisation Program published by NEMMCO indicates that it may take until at least the end of 2008 before all recommendations arising from the JJR Report are implemented. For these reasons, the Commission has altered the date of the review to 30 June 2009. The Commission has reviewed this decision in the light of the second round submissions and notes that only one submission requested a further extension of the review date but did not suggest what that new date should be. All other submissions were silent on this date, indicating to the Commission that a reasonable balance has been found between the original date contained in the JJR recommendations and the need for a review to be conducted at some time. The Commission also notes that the 30 June 2009 represents a 5 ½ year period since the date prescribed for the last review (31 December 2003) and does not consider that a further extension of this date should be entertained at this time. Accordingly, the Commission does not support the suggestion.

3.6.2(e) Submissions in relation to Accredited Service Providers²⁵

(proposed clause S7.4.5/ clause S7.4.5)

Citipower/Powercor and ETSA Utilities both stated (first round):

[in regard to clause S7.4.5] the proposalis restricted to the installation only of certain types of meters is inconsistent with S7.4.1 which requires a Metering Provider to “ensure that the metering installation is installed and maintained in accordance with...” In other words, a Metering Provider must be responsible for maintenance also which is inconsistent with the intention behind creating the ASP. It would be better not to confuse the role of the Metering Provider by referring to the ASP as a class of Metering Provider but rather a category of persons accredited to carry out certain limited functions on behalf of the Metering Provider.

Ergon Energy Network stated:

Clause S7.4.5(a): Ergon Energy is concerned by the proposal to extend the ASP scheme from type 5 and 6 metering installations to type 1-6 metering installations. It is our understanding that ASPs are generally individual contractors who have attended a course to install whole current meters as part of a customer’s responsibilities to connect supply.

Integral Energy stated (first round):

Integral Energy also notes that under proposed clause S7.4.5, an Accredited Service Provider may only perform work on a type 5 and type 6 metering installation for the purpose of installing the meter. Accordingly, any rollout of interval meters classified as type 1 to 4 metering installations cannot be undertaken by Accredited Service Providers.

NEMMCO stated (second round):

²⁵ An Accredited Service Provider (“ASP”) is the name originally adopted by NSW for a person who is permitted to install a meter on behalf of a customer, when engaged directly by that customer. NSW has agreed that this person must operate as a Metering Provider under the Rules. The introduction of this term gives NEMMCO specific responsibilities to develop an accreditation test for the ASP so as to register that person as a Metering Provider (with restricted responsibilities).

[In relation to Chapter 10] Although *Accredited Service Provider* is italicised in the draft Rule determination, implying a defined term, there is no definition of the term in the Rules Glossary (Chapter 10). NEMMCO recommends that a definition for Accredited Service Provider be added and therefore propose the following: “A person authorised as a consequence of the policy requirements of a NEM jurisdiction to install *metering installations*”.

[In relation to clauses S7.4.2(c) and S7.4.5] We assume that the intention of these clauses [as modified from the NEMMCO proposal] is to provide NEMMCO with a flexible means to recognise jurisdictional Accredited Service Provider arrangements. However, by only allowing a single category of registration it could be implied that any Accredited Service Provider registered in that category may undertake work on all types of metering installations...In practice, the skills required for installation of a type 1 or 2 metering installation are different to the skills required for installation of a type 5 or 6 metering installation. Hence a single category of Metering Provider registration (ie. *Accredited Service Provider*) covering all types of metering installation (types 1 to 6) would require skills beyond those of every *Accredited Service Provider*. We recommend that multiple “categories” of Accredited Service Provider registration be allowed, to allow capabilities between Accredited Service Provider categories to be distinguished.

SP AusNet stated (first round):

[In reference to clauses S7.4.2(c)] SP AusNet’s understanding is that an ASP is ... by definition a metering service provider with an accreditation of Metering Provider Category 5A or Category 6A. The major ... difference would appear to be the ASP can be contracted by other than the RP as allowed under ... clause 7.2.1(c)(2). Does it warrant inclusion of a separate category?

[In reference to clauses S7.4.5] The ASP would also apply to the new mass type 4B metering installation.

(second round):

Clause 7.2.5(a)(2): If the concept of Accredited Service Providers (ASP) is going to be recognised in the Rules by virtue of Schedule S7.4.2 and S7.4.5 then SP AusNet consider that this clause should more specifically recognise that ASP’s are the exception and state this clearly. This will establish the new category of Metering Provider accreditation of ASP more clearly.

Clause S7.4.5(a): The concept of extending the use of ASPs to the installation of more complex and advanced metering installations with large market loads, where the impact of installation “errors” on market settlement is more severe, appears to be an issue...Remove meter types 1, 2, 3 and 4 large from the list of installations which can be handled by ASPs.

Clause S7.4.5(c)(ii): SP AusNet is concerned that this clause appears to support jurisdictional variations between the competencies of ASPs...Remove clauses re variations.

[In reference to clause 11.6.1, SP AusNet propose a new paragraph (f)] “NEMMCO must ensure that accreditation and registration categories as

required by clause S7.4.2(b) (and associated service level requirements revisions) are in place for meter installations as defined in clause 7.11.1(c) by [date to be determined between NEMMCO and AEMC with industry consultation]”.

TransGrid stated (second round):

Clause S7.4.5(a): It is noted that the Commission’s changes to the proposed clause S7.4.5(a) extends the scope of this clause to include types 1 to 6 metering installations compared to the original proposed type 5 and 6 metering installations only. The original type 5 and 6 metering installations would generally have covered retail contestable market 240v and 415v metering installations only. Under this revised scope, ASPs may potentially now also work on wholesale market high voltage metering installations. It will be critical that the competencies of an ASP are consistent with the requirements for Metering Providers under Schedule 7.4, the Metrology Provider Service Level Rules for the scope of the metering installation work contemplated by this extended clause. There will also be a need for accredited ASPs to be qualified and certified to work under the Network Service Provider’s Safety Rules, operating practices and other OH&S guidelines applicable to the scope of any works and services to be performed at its high voltage sites.

UED stated (first round):

The clause as drafted appears to refer/enable the NSW ASP scheme. However, where other jurisdictions have not adopted this scheme, the drafting provides no clarity on who can make the decision to adopt it in a jurisdiction. UED suggest that a Ministerial policy directive be required as a threshold for introduction of the ASP scheme into a jurisdiction.

The Commission’s consideration and reasoning:

In regard to the requirements of a Metering Provider, the Commission understands that the provision in clause S7.4.1(f) is a broad provision, and doesn’t prevent a Metering Provider from being accredited for part of a metering installation or part of the duties of the Metering Provider. If this were not the case, then the provision in proposed clause 7.2.1(d) relating to terminating a Metering Provider after installation, would not work.

In regard to the addition of another category of Metering Provider, the Commission does not consider that such a provision in the Rules will enhance the NEMMCO proposal. The Commission notes that currently NEMMCO registers Metering Providers in various categories that are not specifically provided for in the Rules.

In relation to the definition of ‘Accredited Service Provider’ the Commission notes that the word was not a defined term in the NEMMCO proposal. On further review by the Commission, on consideration of the merits or otherwise of introducing a definition, and in light of the NEMMCO second round submission, the Commission has decided to include a new definition of “Accredited Service Provider category”. The Commission considers that this enhancement will improve the readability and ease understanding of the Rules.

In relation to an Accredited Service Provider (ASP) performing work on a type 1 to 4 metering installation, the Commission accepts the merits of this comment (as provided in the first round submissions), providing that the criteria for accreditation is contained in the metrology procedure. The Commission notes that the NEMMCO proposal provides a head of power for the ASP scheme already contained in the jurisdictional metrology procedures which will subsequently be contained in the single metrology procedure. The Commission also notes that the removal of the reference to types 5 and 6 metering installation in clause S7.4.5(a) would not affect the operation of the metrology procedure nor would it affect the controls currently imposed by the NSW jurisdiction. On the other hand, this change would offer additional service flexibility to consumers. Accordingly the Commission has amended the proposed clause S7.4.5(a) to broaden the reference to types 1 to 6 metering installations. The Commission has reviewed this decision in the light of the second round submissions and accepts the view that the Draft Rule could be interpreted to mean a single category of registration. To remove any doubt, the Commission has adopted the suggestion to amend 'category' to 'categories'.

In regard to the extension of the scheme to type 1 to 4 metering installations as provided for in the Draft Rule (clause S7.4.5(a)) and the nature of the accreditation for those metering installation types, the Commission notes that NEMMCO would be guided in the nature of the competencies required for this category by the Rules consultation process conducted under clause 7.4.2(ba) and the specific requirements of a jurisdiction as foreshadowed under clause S7.4.5(c)(ii). The Commission also notes that NEMMCO does not object to the flexibility available to them (and industry) from the extension of the categories to include these additional types of metering installations, if necessary and appropriate.

In regard to the inclusion of a date for the establishment of NEMMCO's accreditation and registration processes [new clause 11.6.1(f)], the Commission notes that the suggestion requires the Commission to consult with NEMMCO and industry prior to the setting of the date. The Commission notes that further consultation with interested parties is not available to the Commission at this stage of the Rule determination process.

In regard to the introduction of the ASP scheme within a jurisdiction other than NSW, the Commission understands that this can be undertaken at any time and does not require any adjustment to the Rules. If a jurisdiction wishes to adopt or include restrictive practices into the ASP scheme in the transitional stages of its introduction, then that jurisdiction will need to activate the scheme and specify these practices in the metrology procedure. For this to occur after 1 January 2009, the jurisdiction will need to seek an amendment to the metrology procedure in the same way as is envisaged for any stakeholder in the NEMMCO proposal, or seek a derogation from the provision or seek inclusion of the amendment in the metrology procedure through the MCE mechanism.

In regard to the introduction of the term Accredited Service Provider in certain clauses in Chapter 7 (eg. 7.2.5(a)(2)) the Commission acknowledges this suggestion but does not consider it appropriate to adopt this suggestion at this stage of making the Rule.

For these reasons, the Commission intends to adopt the NEMMCO proposal without alteration, other than the modification identified above.

3.6.2(f) Submissions in regard to Glossary terms

Citipower / Powercor stated (first round):

[In] clause 7.2.5(f) the reference to “type 5 accumulation boundary” would be clearer if it was “type 5 accumulation limit”.

[In regard to the type 5 accumulation boundary], this point of demarcation above which metering data must be extracted as interval energy data would be more easily understood if it were to be referred to as the “type 5 accumulation limit”.

The proposed approach may be too restrictive as it limits the demarcation to be specified by the volume of energy. It may be more appropriate to provide greater flexibility to allow boundaries based on other criteria such as customer classes or tariffs, to be used also.

Citipower/Powercor and ETSA Utilities stated (first round):

[The companies] note that the definition of jurisdictional policy directive restricts this power to type 5, 6 and 7 metering installations. This limitation will prevent the Victorian Government from using this provision to implement its plans for Advanced Interval Metering. This is because the required functionality included communications taking the metering installations outside the type 5, 6 and 7 category. This limitation should be reviewed in discussion with the Victorian Government.

Ergon Energy Network stated:

Chapter 10 *estimated energy data*: Ergon Energy believes that the definition is incorrect as currently drafted....Ergon Energy queries whether the correct terminology is *Forward Estimate Energy Data* as opposed to *Estimated Energy Data*, to avoid the confusion with estimated energy data associated with a meter failure where a data substitution has occurred.

SP AusNet stated (first round):

[In reference to ‘estimated energy data’ and Table 7.2.3.1] Note 6 appears to assume that the calculated energy data from a type 7 installation is estimated energy data whereas the definition of estimated energy data in Chapter 10 appears to specifically rule out estimates being applicable to type 6 non-metered connection points.

UED stated (first round):

The definition of jurisdictional policy directive...encompasses metering installation types 5, 6 and 7 only. UED suggest that the Ministerial Policy Directives definition should be amended so that it also applies to ‘small’ type 4 meters in addition to meter types 5-7. This would allow the small customer group to be covered by Ministerial Policy Directives as in the past.

The Commission’s consideration and reasoning:

In regard to the ‘type 5 accumulation limit’, the Commission notes the comment. The Commission also notes that there was only one submission that provided comment on this terminology. The Commission notes that the NEMMCO proposal was subject to

industry review, both at an operational level and an executive level. Without further information on the merits of this alteration, the Commission intends to adopt the NEMMCO proposal without alteration to its substance.

In the matter of the definition of a jurisdictional policy directive, the Commission notes that the existing Chapter 9 derogations specifically define the current policy settings for types 5, 6, and 7 metering installations. As the Commission has adopted a stance of transferring the status quo from Chapter 9 into the Rules, this proposal will provide authority for those policy settings which would otherwise expire on 31 December 2006. In regard to the type 5 accumulation boundary being restricted to a specified volume of energy, the Commission notes the comments. The Commission also notes that in the draft single metrology procedure on which consultation is being conducted by NEMMCO, the Victorian jurisdiction has set the type 5 accumulation boundary to zero. The Commission is of the view that the type 5 accumulation boundary is a transitional mechanism and jurisdictions should seek to reduce the boundary to zero as quickly as possible. In this regard, the Commission notes that two jurisdictions have already adopted a zero boundary level.

In regard to the definition of 'estimated energy data' the Commission notes the comments in the first round submissions. The Commission views the term 'estimated energy data' as a term that specifically applies to the forward projection of the likely actual energy data that will be delivered from the next reading of the meter. The Commission understands that the term was introduced to enable NEMMCO to receive metering data for each metering installation when the reading of the meter could not occur on a daily basis. The Commission understands that under this scenario, the 'estimated' data will only be required for a type 5 and type 6 metering installation, and is not applicable to a type 7 metering installation. Accordingly, the Commission considers that the term 'estimated energy data' works exactly as was intended by the NEMMCO proposal. The Commission has reviewed its decision in light of the second round submissions and considers that the definition is appropriate. The Commission notes that where a meter has failed, the determination of the unmetered electricity for the period until the failed meter has been replaced is a substitution in accordance with the NEMMCO adopted expressions.

For these reasons, the Commission intends to adopt the NEMMCO proposal without alteration to its substance.

3.6.2(g) First round submissions in regard to drafting suggestions

Citipower/Powercor and ETSA Utilities stated:

The provision 7.2.1B [Responsibility of NEMMCO] would be better located with clause 7.3.2A to simplify the Rule.

In clause 7.3.2A(c)(1)(E) the drafting could be improved by replacing the words "for the purpose other than for settlements" with "for any purpose other than for settlements"

In clause 7.3.2A(c)(2)(A)(ii) there is reference to 'service of meters'. If it is intended that this is a reference to 'maintenance' it would be preferable to use this term for consistency with other provisions such as clause 7.1.2.

In clause 7.3.2A(c)(6) it would be appropriate to also include reference to the need to ensure consistency with B2B procedures.

Ergon Energy Network stated:

Ergon Energy highlights the sequencing issue where clause 7.3.2A has been inserted before clause 7.3.2 and requests that the sequence be corrected.

ETSA Utilities stated:

this opportunity should be taken to renumber Chapter 7 to improve understanding and readability.

SP AusNet stated:

The items in 7.3.2A(c)(2) are mandatory coverage of the metrology procedure and hence 7.3.2A(c)(2) should become 7.3.2(ca) and commence with the 'leader phrase': "the metrology procedure must contain the following matters".

UED stated:

The diagram in Schedule 1 has been generated from the old NEC base and not the new NER. UED suggest amending the two instances of the word 'Code' to the word 'Rules'.

The proposed rule changes attempted to remove the definition of a non metered connection point and to replace this with a definition for unmetered connection point. The non metered connection point definition has been partially altered. UED suggest that the non metered definition should be removed as was the intent.

The Commission's consideration and reasoning:

The Commission has considered the drafting suggestions provided by the various submissions in relation to the single metrology procedure. The Commission considers suggestions that are aimed at improving the readability and easing understanding of the Rules as being appropriate.

In relation to the specific wording suggestions noted above by Citypower/Powercor and ETSA Utilities, the Commission has adopted the suggested wording as the Commission is of the view that it better reflects the intention of the provision.

In relation to the suggestion by Citipower/Powercor and ETSA Utilities that the metrology procedure should contain information to ensure consistency with the B2B Procedures (in addition to other instruments), the Commission has redrafted this provision to make clear that the metrology procedure may contain information to ensure consistency in practice with other instruments developed and published by NEMMCO. This redrafting in the form below, removes the need to incorporate the suggestion given the B2B Procedures are published by NEMMCO. The following information may be included in the metrology procedure:

“...contain information to ensure consistency in practice between the *metrology procedure* and other instruments developed and published by *NEMMCO*, including the practices adopted in the *Market Settlement and Transfer Solution Procedures*.”

In relation to the submission regarding the sequencing of the clauses relating to metrology procedure, the Commission notes the comment and considers the suggestion is adequately addressed by the Commission's re-drafting of the provisions in order to capture the appropriate sequence of clauses, ease understanding, and improve readability. The provisions relating to the metrology procedure have been relocated in a new provision, rule 7.14, to reflect the need to have the provisions in one location.

The Commission accepts the view that Chapter 7 should be renumbered. Accordingly, the Commission has renumbered those clauses that form part of the NEMMCO proposal, where possible.

The Commission notes the views in regard to the diagram in Schedule 7.1 and also notes that the word "Code" is not present in the current version of the Rules.

The Commission accepts the views in regard to the definition of non metered connection point and has deleted that definition.

3.6.3 Second round submissions relating to editorial changes or minor drafting matters

Citipower / Powercor stated:

Chapter 10 'metering installation': The term "metering point" is a defined term and should be italicised.

NEMMCO stated:

Clause 7.14.2(h): the comma following emanating appears unnecessary.

SP AusNet stated:

Table 7.2.3.1 item 6: Item 6 states that the calculated energy data from a type 7 installation is *estimated energy data* whereas the definition of *estimated energy data* in Chapter 10 as stated below specifically rules out estimates being applicable to type 7 non-metered connection points. SP AusNet consider that item 6 and the Chapter 20 definition must be consistent.

The Commission's consideration and reasoning:

The Commission has considered the above drafting suggestions provided by the various submissions in relation to the single metrology procedure. The Commission considers that suggestions that are aimed at editorial drafting corrections, improving the readability and easing understanding of the Rules as being appropriate. Accordingly, the Commission has adopted the suggestions.

3.6.4 Second round submissions relating to minor matters of clarification

EnergyAustralia stated:

General: Page 8 of the draft determination notes that the Rule should adopt a recommendation from the JJR report "requiring interval meter data to be available to market participants.." EnergyAustralia did not read that into the JJR report recommendations and cannot see the incidence of this

recommendation in the Rules. We would like further clarification of how this is being effected in the Rules or whether we have interpreted the issue incorrectly.

NEMMCO stated:

Clause 7.2.1(1): At clause 7.2.1, the need for sub-clause 7.2.1(1) seems superfluous given that sub-clause (3) includes Chapter 7.

The Commission's consideration and reasoning:

In relation to the general comment on the JJR recommendations, the Commission is of the understanding that the NEMMCO proposal covers this matter across clauses 7.2.5(e), 7.2.5(f) and 7.3.2A(c)(D)(ii). The Commission further understands that these clauses were sponsored by recommendations 7.1, 7.2 and 7.3 of the JJR report. These matters have been included in the Rules in clauses 7.2.5(d)(7) and (8), and 7.14.2(d) respectively.

In relation to the superfluous nature of clause 7.2.1(1), the Commission acknowledges the redundancy contained in this clause but on balance considers that it aids understanding of the Rules.

3.7 LNSP deemed responsibility for metering installations

3.7.1 NEMMCO's proposal

The existing policy and Rules arrangements includes a set of derogations that define the LNSP's deemed responsibility for metering installations. These derogations are due to expire on 31 December 2006. The NEMMCO proposal translates these derogations into the Rules given that they are about to expire and consequently will give continued effect to the current policy framework for LNSP deemed responsibility for metering installations. The changes are contained in the following clauses:

- clause 7.2.0 relating to the responsible person;
- clauses 7.2.1(c), 7.2.1(d) relating to the responsible person's responsibilities ;
- clauses 7.2.2, 7.2.3 relating to the responsibility of LNSP and the Market Participant ;
- clauses 7.2.5(g), 7.2.5(h) relating to other responsibilities of the responsible person;
- clauses 7.3.1(a)(9), 7.3.1(a)(10) relating to metering installation components ;
- clauses 7.3.4(aa), 7.3.4(ab), 7.3.4(ac) relating to metering installation types and accuracy;
- clause 7.3.6(ac) relating to payment for metering;
- clause 7.9.2 relating to remote acquisition;
- clauses 7.11(a), 7.11(aa), 7.11(ab) relating to the performance of metering installations ;
- Glossary terms: remote acquisition; and
- The consequential deletion of existing clauses 9.9A.1, 9.9A.2,9.9A.3, 9.17A.0, 9.17A.1, 9.17A.2, 9.24A.1, 9.24A.2, 9.24A.3 9.30.1(2), 9.30.1(3) and 9.30.1(4) relating

to respective jurisdictional derogations .

The NEMMCO proposal maintains the existing arrangements for determination of the responsible person for type 1, type 2, type 3 and type 4 metering installations, and introduces a new requirement that the LNSP be the responsible person for type 5, type 6 and type 7 metering installations. The new proposed requirement is an exact transfer and continuation of an existing jurisdictional derogation in favour of the LNSP. Another provision included in the current derogations is a requirement that the responsible person for a type 5 metering that has been converted to remote acquisition, to be determined in the same manner as a type 4 metering installation.

NEMMCO proposed that a type 5 metering installation should be regarded as a metering installation in which the interval meter is manually read. The addition of a remote acquisition facility to that interval meter such that the energy data from the meter could be obtained electronically from a remote location, would convert the metering installation into a type 4 metering installation.

In order to get the same effect as the current derogations, NEMMCO proposes that the type 4 metering installation be separated into two groups, one group of higher volume metering installations, and one group of lower volume metering installations. Data delivery from a higher volume type 4 metering installation would be required to be delivered to NEMMCO in accordance with the current prudential and settlement timeframes, while the data to be delivered from a lower volume type 4 metering installation may be delivered to NEMMCO on a less frequent delivery schedule, but with forward estimates provided for prudential and settlements processes until the actual data becomes available.

The NEMMCO proposal also includes various consequential changes, such as ensuring that the obligations on the responsible person are identical, whether the responsible person is a retailer or a LNSP.

Submissions with comments on the NEMMCO's proposal:

A number of submissions provided comment on the NEMMCO proposal to make the current derogation in Chapter 9 (in regard to the LNSP being deemed responsible for a type 5, type 6 and type 7 metering installation) a provision in Chapter 7. There were a wide range of views on this specific issue. A number of submissions raised matters of broader policy consideration rather than the specific matter of translating the current policy settings from the Chapter 9 derogations into Chapter 7. The Commission, in considering this specific proposal, has not analysed these broader policy questions. However the Commission intends to raise the issues and information provided to it to the MCE. The Commission has taken the view that given the importance of establishing a single national metrology procedure, it is appropriate to translate the current policy settings for the Chapter 9 derogations, which would otherwise expire, into Chapter 7 of the Rules. The Commission considers that dealing with the formal Rules rather than a set of derogations will also provide more support to a single metrology procedure. In addition, the submissions also raised a number of specific suggestions to alter and improve NEMMCO's proposal.

The following comments were made in submissions regarding the assignment of this deemed responsibility to the LNSP.

AGL stated (first round):

AGL supports this reclassification [of a type 5 remotely read interval meter to be referred to as a type 4 interval meter] on the basis that the following

conditions are met...(a) provisions are outlined in the metrology procedure that act to prevent NEMMCO from requiring retailers to provide daily interval data to NEMMCO for low volume interval meters, (b) consideration is given to a separate category in the Rules and Metrology Procedures for innovative metering products, such as prepayment meters and that these products are open to competition, and (c) the National Metrology Procedure is updated accordingly to reflect this change.

Country Energy stated (first round):

We therefore strongly support the continuation of current arrangements in relation to these metering services through an amendment to the NER that allocates responsibility for type 5, type 6 and type 7 metering installations to the distributor, rather than a continuation of current derogations. This will ensure that the metering services continue to be provided at the most efficient levels possible.

Ergon Energy Network stated (first round):

Ergon Energy supports the intent of the proposed Rule changes including ...the LNSP deemed to be the Responsible Person for type 5, 6 and 7 metering installations.

EnergyAustralia stated (first round):

[The] A2 Rule changes for the LNSP to be the party responsible for metering installations of type 5, type 6 and type 7 and that the responsible party for type 5 with "remote reading" should be determined in the same manner as for a type 4 is not supported.

The design principle submitted by NEMMCO is that retailers ought to be given the opportunity to take responsibility for the installation of meters with remote communication, where the retailer believes this is economically justified, and provision of this infrastructure by LNSPs ought to be subject to competition to create an efficiency driver on the LNSP. EnergyAustralia strongly disagrees with this view [and reasons are provided to support this view].

Integral Energy stated (first round):

Integral Energy supports the continuation of a LNSP as the responsible person for type 5, 6 and 7 metering installations.

Integral Energy considers that it is inappropriate to 'reclassify' a type 5 metering installation (that includes an interval meter) with the addition of remote reading' as a type 4 metering installation for 'small' customers with consumption less than 160 MWh per annum.

Metropolis stated (first round):

Metropolis fully supports the changes as proposed by NEMMCO.

The threat of meter churn is a necessary and vital component of a competitive metering service market. It promotes commercial and technical innovation to ensure there is no cause to remove the meter with a change of customer or market responsibilities at the site...Nevertheless, it is obvious that financiers will not fund the purchase and installation of meters by Metropolis unless sound commercial and technical strategies are in place to mitigate churn.

Metering Dynamics also supported the proposed change.

NEMMCO stated (second round):

We support the AEMC's draft determination.

Citipower/Powercor and ETSA Utilities also supported the proposal but also had additional suggestions which are noted below where relevant.

The Commission's consideration and reasoning:

Given that the existing policy settings in the current derogations will expire in the Rules on 31 December 2006, the Commission accepts NEMMCO's reasons for a transfer of the current Rules provided in Chapter 9 (in regard to the LNSP's responsibility for the type 5, type 6 and type 7 metering installation) to a provision in Chapter 7 for the following reasons noted below.

- (i) The Commission noted that the Jurisdictional Regulators had examined this matter (in the JJR Report) and recommended that a specific obligation under Chapter 7 of the Rules be provided.
- (ii) The current derogations have been granted on a jurisdiction-by-jurisdiction basis, resulting in differences in wording and outcomes. This is not consistent with the principles of a single metrology procedure.
- (iii) The transfer of the derogations from Chapter 9 to Chapter 7 facilitates harmonisation of metrology requirements across the NEM and is consistent with the public policy supporting the formation of a single harmonised metrology procedure in that it will promote the efficient use of electricity services.
- (iv) Given the importance of moving to a single metrology procedure, market uncertainty with respect to the derogation process is not appropriate. The current derogations have a sunset requirement (i.e. 31 December 2006) and are applied on a jurisdiction-by-jurisdiction basis. It is expected that administrative gains will be realised from eliminating the need for each Jurisdictional Regulator having to apply to the Commission for a continuation of the Chapter 9 derogation.
- (v) In adopting this proposal, the Commission notes that providing the LNSP with a responsibility for the type 5, type 6 and type 7 metering installations is consistent with current policy settings in the Chapter 9 derogations and it does not alter the policy setting for the choice of responsible person for types 1,2, 3, and 4 metering installations. The Commission also notes that the FRMP has the right to exercise choice for the types 5, 6 and 7 metering installations provided that the FRMP is able to alter that metering installation to a type 1, 2, 3 or 4 metering installations. The Commission recognises this right but consistent with the submissions made, a

limitation has been made for operational reasons (i.e. remote or difficult to access connection points).

- (vi) The derogation includes a clause that prevents the LNSP from receiving compensation from two sources. This requirement has been included in the NEMMCO proposal as clause 7.3.6(ac). The Commission supports the inclusion of this provision in the Rules as it is a feature of good regulatory design in preventing duplication in compensation.

The Commission notes that metrology practices in the NEM are still in a transition period and it will take a considerable amount of time to unwind the transitional practices of the type 5, type 6 and type 7 metering installations.

3.7.2 Other issues raised by submissions in relation to the LNSP deemed responsibility for the type 5, type 6 and type 7 metering installation

3.7.2 (a) Submissions relating to the responsible person

(proposed clause 7.2.0/ clauses 7.2.1, 7.2.2 and 7.2.3)

EnergyAustralia stated (second round):

EnergyAustralia is uncertain as to whether the new FRMP is deemed to be the responsible person for that meter or whether the LNSP must take on the role of the responsible person if the new FRMP does not expressly elect to do so.

Metropolis stated (second round):

The Draft Rules proposed by the...Commission drop this important clarification [that if a Market Participant elects not to request an offer or does not accept the offer...the Market Participant will be the responsible person for the metering installation] and in so doing it is not clear when the Distributor actually stops being the responsible person if the Retailer does not accept an offer from the Distributor or if an offer from the Distributor is not sought at all.

Origin Energy stated (second round):

Origin believes that the clauses under this section [clause 7.2.3] do not clearly articulate the default position for assuming the responsibility for all metering types.

UED stated (first round):

The LNSP must only be designated as the responsible person after its offer has been accepted. Insert the words "in accordance with clause 7.2.2(b)" after the words "Local Network Service Provider's network" on the third line.

The Commission's consideration and reasoning:

The Commission has noted the first round suggestion. The drafting amendments that have been introduced by the Commission have removed the need to directly accommodate this suggestion. The amendments are to provide clarity as to the inter-related nature of the provisions. The Commission has reviewed this decision in light of the second round submissions and acknowledges that the NEMMCO proposal and the

Draft Rule have varied away from the current provisions for the Market Participant to be the responsible person if the Market Participant does not elect to make an offer to the LNSP. Accordingly, the Commission has reinstated the current provision in clause 7.2.2(b)(1).

**3.7.2(b) Submissions relating to the responsible person’s responsibilities
(proposed clause 7.2.1(c) / clause 7.2.5):**

Both Citipower/Powercor and ETSA Utilities stated (first round):

The arrangements set out in Clause 7.2.1(c)(3) may not adequately provide for the circumstances where the responsible person is also the an accredited metering provider such as often occurs for LNSPs.

The agreement referred to in clause 7.2.1(c)(4) could occur at an earlier time that the installation of the metering equipment which makes it problematic to advise NEMMCO about the relevant details of the metering installation in accordance with this clause, particularly if a metering installation is installed more than 10 days after the agreement is reached by which time the window for notification has expired.

ETSA Utilities stated (first round):

[In reference to clause 7.2.2(c)] LNSPs, whether the Responsible Person or not, issues and registers with NEMMCO the NMI as per the MSATS CATS procedures. FRMP registers NMIs with NEMMCO for embedded children. We consider that the time frames for registration should be detailed in the MSATS CATS procedures as currently.

SP AusNet stated:

(first round):

[In reference to clause 7.2.1(c)(3)] if an ASP installs the meter it is obvious that the Responsible Person then has to appoint a Metering Provider to carry out the ongoing maintenance of the installation; however SP AusNet consider that the other two “aspects” of the installation need to also be covered. The meter needs to be provided by a Metering Provider, and the installation needs to be tested, including tested into service / commissioned, by a Metering Provider. AusNet suggest rewording ... “for the provision, testing and maintenance of the metering installation”.

(second round):

[in regard to clauses 7.2.5(a) and (b)] ...the wording could suggest that “engage” and “enter into an agreement” are different action. SP AusNet would consider that a responsible person would engage a Metering Provider by entering into an agreement with them.

The Commission’s consideration and reasoning:

The Commission accepts the view that the clause as drafted does not clearly address the circumstances where an LNSP is both the responsible person and the Metering Provider.

Whilst the current clause when taken in conjunction with clause 7.4.2(c) (relating to joint metering installations) does not exclude this combination of roles for the LNSP, the Commission agrees that the opportunity should be taken to re-structure and re-draft the clause to improve the understanding of the provision.

In relation to the timing of the agreement between the Metering Provider and the responsible person, the Commission noted in the draft Rule determination that this clause will only work when referring to a connection point, not a Metering Provider. Accordingly, the Commission modified the proposed clause 7.2.1(c)(4) in the Draft Rule to specify that the agreement is in relation to a connection point. On further review, the Commission considers that referring to the metering installation is the most appropriate and has made the relevant drafting amendment.

In relation to 'engage' and 'enter into an agreement', the Commission notes that the provision in clause 7.2.5(a)(2) relates to multiple parties, and consequently it is appropriate to provide for a two stage process.

3.7.2(c) Submissions relating to the responsibility of the LNSP (proposed clause 7.2.2/ clause 7.2.3)

Citipower/Powercor stated (first round):

In clause 7.2.2(b) it would be better to retain the original drafting style.

Ergon Energy Network stated (first round):

Ergon Energy considers that clause 7.2.2(ab) is not required as clause 7.2.0 automatically assigns the role of the Responsible Person to the LNSP for type 5, 6 and 7 metering installations. Clause 7.2.2(b) should be changed to remove the reference to clause 7.2.2(ab) given that this clause is not required.

The LNSP should not be required to offer terms and conditions for the type 5, 6 and 7 metering installations for which it is automatically the Responsible Person. Clause 7.2.2(ac) should be changed to reflect the terms and conditions applicable to an LNSP if not covered off in other clauses or under the Trade Practices Act.

Ergon Energy Retail (first round):

...the Joint Jurisdictional Review of Metrology Procedures (JJR) in its final report recommended the continuation of the jurisdictional derogations in relation to the role of the responsible person for metering installations types 5, 6, and 7. This recommendation has not been reflected in the proposed Rule changes, as clause 7.2.0 and associated changes to clause 7.2.2(aa) and 7.2.3(aa) are worded in such a way that the responsible person for types 5, 6, and 7 metering installations must be the LNSP.

SP AusNet stated (first round):

[In reference to clause 7.2.2(ab)] whilst SP AusNet recognises that the content of this clause has been taken largely from the derogation, and hence represents a 'soft' change, the wording is a long way off describing the actual processes which are applicable for meter installations which are the

responsibility of the LNSP... SP AusNet suggests that the clause should be reworded to simply make reference to the B2B Procedure: Service Orders.

UED stated (first round):

[In reference to clause 7.2.2(ab)(3)] any dispute under this clause must be resolved consistently with any applicable jurisdictional regulatory instruments. This concept, that was in clause 9.9A.2(c)(i) of the Victorian derogation has not been carried forward into these proposed Rules changes.

The Commission's consideration and reasoning:

In relation to the provisions dealing with the responsibility of the LNSP for types 5 to 7 metering installations, the Commission accepts the NEMMCO proposal that this clause is a transfer of the current requirements in Chapter 9 that must be imposed on an LNSP if that party is to be deemed the responsible person for type 5, type 6 and type 7 metering installations. In regard to the suggestion that the clause be replaced by a simple reference to the B2B Procedure: Service Orders²⁶, the Commission considers that such a change would not be adequate without the need to specify the principles in Chapter 7 that the B2B Procedures must include. Whilst the Commission recognises the potential merit of this suggestion, the Commission considers that it is beyond the scope of the NEMMCO proposal for such an alteration to be made by the Commission at this stage.

In regard to terms and conditions offered by the LNSP in relation to types 5 to 7 metering installations, the Commission accepts the view presented in the NEMMCO proposal that this clause is a transfer of the current requirements in Chapter 9 that must be imposed on an LNSP if that party is to be deemed the responsible person for type 5, type 6 and type 7 metering installations. The Commission notes that in translating the derogations into Chapter 7, the LNSP should only be required to provide the deemed service to a party who specifically requests that service, and for which the LNSP must respond with an offer to enable the relationship to be commercially executed.

In relation to the mechanism for resolving a dispute that might arise in regard to the offer, the Commission notes that the NEMMCO proposal has specifically provided for the dispute mechanism to be as provided in clause 8.2 of the Rules, rather than under the jurisdictional arrangements currently provided for in the derogation. The Commission is of the view that a uniform national dispute mechanism should be included in the Rules and has consequently adopted the NEMMCO proposal.

3.7.2(d) Submissions relating to the responsibility of the Market Participant (proposed clause 7.2.3/ clause 7.2.2)

Many first round submissions, including Citipower, ETSA Utilities, UED, and SP AusNet noted that clause 7.2.3(ab) contains an inappropriate cross reference.

²⁶ B2B Procedures are made under clause 7.2A.3 of the Rules. B2B Procedures are made by the Information Exchange Committee in accordance with the Rules and published on the NEMMCO website. There are a number of topics covered by the B2B Procedures. One topic is B2B Procedures: Service Orders Process, which is located at <http://www.nemmco.com.au/meteringandretail/640-0115.pdf>.

The Commission's consideration and reasoning:

The Commission accepts the views that clause 7.2.3(ab) contains an inappropriate cross-reference and has made the necessary correction.

3.7.2 (e) Submission relating to the other responsibilities of the responsible person in connection with the role of the FRMP²⁷

(proposed clause 7.2.5(g) / clause 7.2.5(d)(9))

Citipower/Powercor stated (first round):

Because clause 7.2.5(g) is an obligation on the responsible person making this clause subject to 7.2.5(e) has the effect of putting the responsible person into the role of policing the FRMP's compliance with clause 7.2.5(e) which is not appropriate. To avoid doubt, the words "in accordance with their rights under clause 7.2.3" or similar should be appended to clause 7.2.5(g).

TransGrid stated (second round):

In the Commission's consideration and reasoning response it is stated that the Commission has separated clause 7.2.5(g) into two separate clauses. It was not stated what these two separate clauses now are, however, it is assumed that they are 7.2.5(d)(9) and 7.3.4(i).

UED stated (first round):

Under clause 7.2.5(g) the Responsible Person must allow the replacement of a metering installation for which that person is responsible with another metering installation if notice is given by the FRMP. The effect of this clause is unclear.

UED considers it inappropriate under...clause 7.2.5(g) to put the Responsible Person in a policing role on the FRMP.

The Commission's consideration and reasoning:

In regard to the cross-reference to clause 7.2.5(e), the Commission accepts the view that the NEMMCO proposal has placed an inappropriate compliance role on the LNSP for type 5 and type 6 metering installations. The Commission considers that there are two principles being expressed in the proposed Rule, one relating to the responsible person and a separate one relating to the FRMP. To rectify the issue raised in the submissions, the Commission has separated clause 7.2.5(g) into two separate clauses (clause 7.2.5(d)(9) and clause 7.3.4(e)). Clause 7.2.5(d)(9) now only covers obligations that are within the discretion of the responsible person. The obligation on the FRMP, which was implied in clause 7.2.5(g) is sufficiently captured in clause 7.3.4(e).

In regard to the use of a notice from the FRMP to the LNSP, the Commission has noted the suggestion. The amendments that have been introduced by the Commission in clause 7.3.6 which make explicit the need for the LNSP to be compensated for the

²⁷ The Market Participant in relation to any end-user connection point that has classified the connection point as one of its market loads. The FRMP may also apply to certain generator connection points and network service connection points.

commercial impact that the notice would have is considered adequate to accommodate this suggestion.

3.7.2(f) Submissions relating to when responsibility transfers from one responsible person to another

(proposed clause 7.2.5(h)/ draft clause 7.2.5(e))

Agility stated (first round):

Whilst this clause reflects current industry practice, it limits the development of initiatives that would overcome existing industry concerns about Participant responsibilities during meter churn... Agility recommends that Clause 7.2.5(h) be reworded...[to include “or on a day as otherwise specified in the Market Settlements and Transfer Solution Procedures” at the end of the clause].

Citipower/Powercor and ETSA Utilities both stated (first round):

Clause 7.2.5(h) has been included to provide a head of power for accepted practice. MSATS already has a head of power under clause 7.2.8. It would be clearer to either put the required times (00:01 to 24:00) into clause (h) or delete the clause and include the obligation in MSATS.

Clause 7.2.5(h) creates difficulties if the metering installation is changed before the market load is transferred. It creates the unsatisfactory situation of the “old” responsible person being responsible for a metering installation provided under direction of the “new” responsible person by a Metering Provider that may not have a relationship with the “old” responsible person. This problem of transition of responsibility should not be enshrined in the Rules.

Ergon Energy Network stated (first round):

It is not clear as to what is meant by the “period as specified in the Market Settlements and Transfer Solution Procedures” in clause 7.2.5(h). Clarity is requested in relation to which period is being referenced.

UED stated (first round):

This clause is curiously drafted. UED does not understand the meaning of the statement “in its role as incoming responsible person”.

The Commission’s consideration and reasoning:

The Commission has accepted the view that this clause would benefit by the additional flexibility of allowing the day of transfer to be specified in the MSATS Procedures.

The Commission accepts the view that the clause proposed by NEMMCO provides a head of power for the MSATS Procedure²⁸, and therefore believes that the detailed timing within the day of transfer should be included in that procedure.

²⁸ MSATS Procedure, means the Market Settlements and Transfer Solution Procedures as provided for under clause 7.2.8 of the Rules.

In regard to the 'period' the Commission accepts that the term period requires further clarification. Accordingly, the Commission has amended the NEMMCO proposal to make clear that the period is the duration within one day.

3.7.3 Issues relating to metering installations

3.7.3(a) Submissions relating to metering installation components

(proposed clause 7.3.1(a)(9) / clause 7.3.1(a)(10))

AGL stated (first round):

Clause 7.3.1(a)(9) requires that a metering installation include facilities on site for storing the interval energy data for a period of at least 35 days. AGL does not consider that 35 days of data is sufficient, and strongly recommends that for a metering installation that produces interval energy data and that does not have a communications facility there should be a minimum storage capability of energy data to accommodate quarterly billing cycles and occasions where the meter can not be read.

The Commission's consideration and reasoning:

The Commission considers that this suggestion covers the proposed clause 7.3.1(a)(10) in addition to the subject clause. Clause 7.3.1(a)(10) would appear to be sufficient to address the recommendation for a minimum storage capacity to accommodate quarterly billing cycles and occasions where the meter cannot be read on the first round. For this reason, the Commission intends to adopt this clause without alteration to its substance.

3.7.3(b) Submissions relating to metering installations types and accuracy and specifically making types 5 to 7 metering installations capable of remote acquisition

(proposed clause 7.3.4(aa)/ clause 7.3.4)

Citipower/Powercor and ETSA Utilities both stated:

(first round):

The drafting note describes the intention of clause 7.3.4(aa) to be related to the replacement of types 5, 6 or 7 metering with type 4 metering. However, this is not reflected in the drafting which proposes a right for the FRMP to arrange alteration to type 5, 6 or 7 metering installations relating to "remote acquisition" which is inconsistent with clause 7.2.3 where the Market Participant may only elect to be responsible for type 1, type 2, type 3 or type 4 metering installations. The provision should be redrafted to restrict the option to those situations where the replacement results in a type 4 metering installation.

(second round):

As drafted this clause [7.3.4(e)] creates a possibility that metering responsibilities could be split between the type 5, 6 or 7 metering installation and the "remote acquisition" system...It would be better if the clause provided that the FRMP could arrange for the responsible person to alter the type 5 or 6 metering installation.

ENA stated (second round):

The Draft Rule provisions allow for the FRMP to install remote acquisition capabilities on a meter without changing the classification of that metering installation, where certain operational difficulties require a meter to be remotely read...The ENA considers that the Rules should also include a power for the LNSP to install remote acquisition capabilities for operational reasons without changing the classification of the metering installation.

Energex stated (second round):

Energex believes this clause needs to be split into two sections: one dealing with the retailers' right to upgrade a type 5 or 6 metering installation with communication equipment such that it becomes a type 1 - 4 metering installation for which the retailer will be the responsible person; and one dealing with the LNSP's right to add communication equipment to an existing type 5 or 6 metering installation without affecting the type 5 or type 6 status, and hence retaining the LNSP as the responsible person.

EnergyAustralia stated (second round):

We would prefer the LNSP (as opposed to another market participant) to initiate the alteration of a type 5 meter because of issues regarding chronic/remote access.

Ergon Energy Network stated (first round):

Ergon Energy questions the relevance of clause 7.3.4(ab) given that 7.3.4(aa) deals with the FRMP changing the type of metering installation at any time and 7.3.4(ac) deals with the FRMP notifying the current Responsible Person of the change of meter. Clause 7.3.4(ab) refers to the transfer of market load, which is not consistent with clauses 7.3.4(aa) and 7.3.4(ab).

In relation to clause 7.3.4(ac), Ergon Energy questions when the FRMP must advise the Responsible Person of the change of meter, ie. Do they have to give 1 days notice, 1 weeks notice, etc.

(second round):

Ergon Energy supports the intent of the AEMC by allowing an LNSP to make a metering installation capable of remote acquisition in circumstances of operational difficulties. However, there are no circumstances where the LNSP is the FRMP. Therefore in practice, as currently drafted, clauses 7.3.4(f) and (g) have no application. Sub clauses 7.3.4(f) and (g) should not be dependent on 7.3.4(e).

Origin Energy stated (second round):

By including the '[with the] responsible person' [in clause 7.3.4(e) after 'the FRMP may make arrangements'], it is made clear with whom the FRMP must make arrangements to alter the metering. Also type 7 metering is excluded, as by definition, it is an unmetered supply.

SP AusNet stated (first round):

[in regard to clauses 7.2.5(g), 7.3.4(aa), 7.3.4(ab) and 7.3.4(ac)] SP AusNet recognises that unless prevented by Jurisdictional policy, (i) the FRMP for a site ...must be able to arrange for: (a) the “upgrading” of a metering installation from type 5 or type 6 ...to a type 4A, 4B or “better” metering installation; (b) the change of a contestable meter; (ii) the industry expectation is that a “pending” FRMP for a site must also have the same ability, both (a) and (b) above, before the retailer transfer date...we pragmatically recognise that this is a current industry standard practice. SP AusNet considers that the clauses in the Rules need to support these requirements and ensure that there are no “regulatory” barriers, whilst protecting the rights of all involved parties.

UED stated:

(first round):

Similarly, it is unclear from clause 7.3.4(aa) whether the Responsible Person for a metering installation that is ‘altered’ to make it capable of remote acquisition remains the Responsible Person. This may not be the case, as the alteration from type 5 to type 4 would carry with it a contestability right for the FRMP to move to a different Responsible Person from the LNSP. As for clause 7.2.5(g), this shouldn’t be able to be done without there being an agreement or Rule dealing with the commercial issues.

(second round):

We recommend that the drafting in 7.3.4(e) be reviewed for the FRMP to make arrangements with the responsible person to make the metering installation capable of remote acquisition, part of these arrangements would need to include the ongoing responsibilities of all parties involved.

The Commission’s consideration and reasoning:

In moving to translate the Chapter 9 derogations into Chapter 7 and in interpreting the JJR recommendations, significant comments of concern have been raised by market participants and industry stakeholders regarding NEMMCO’s proposal to enable the FRMP, at the FRMP’s discretion, to alter a type 5, type 6 or type 7 metering installation to a type 4 metering installation. For the purposes of the draft Rule determination, the Commission adopted NEMMCO’s proposal with minor edits for clarity. However the Commission explicitly sought further comment from market participants and industry stakeholders on this matter before making this Rule determination. The Commission has reviewed this decision in light of the second round submissions and acknowledges that the clause does not work as intended. Accordingly, the Commission has revised paragraphs (e) and (f) and introduced a new paragraph (g). The new paragraphs are intended to permit both the FRMP and the LNSP to alter the type 5, 6 and 7 metering installations to operate with remote acquisition, but to limit the reclassification obligation on the LNSP.

3.7.4 Issues relating to the payment of metering (draft clause 7.3.6(g))

Centurion stated (second round):

Centurion approached Distributors to discuss strategies by which type 5 meters could be readily upgraded to type 4 meters, and to discuss providing

services to upgrade metering installations from type 6 to type 4 where requested by Retailers - to avoid the cost of having an interim type 5 metering installation where a type 4 metering installation is preferred...The Distribution businesses didn't care because they are guaranteed cost recovery through the electricity price controls put in place by the respective Jurisdictional Regulators. All commercial risk had been removed and with it the need to innovate or operate on normal commercial terms.

EnergyAustralia stated (second round):

We request a strengthening of "in good faith" negotiations between LNSP and FRMP with some guiding criteria to ensure a more transparent transition from regulated service provision to competitive service provision [a list of issues that should be addressed by the criteria have been provided].

There is also an important principle that should be established in the Rules to prevent unreasonable meter churn. EnergyAustralia applauds the Commission's approach regarding the need to avoid "uncontrolled" churn in meters and the need for a commercial framework...As a matter of good policy, meter churn should be limited to instances where the incremental benefits of the new meter outweigh the full economic costs of its installation (including the residual future economic benefits available from the existing meter). To ensure that the objective of commercial meter churn is facilitated the Commission has rightly identified that there needs to be a framework whereby the party investing in the replacement meter makes some manner of compensation to the investor in the current meter. This framework should allow for negotiation between parties and should consider, amongst other things the future economic loss that the incumbent responsible person will sustain.

Ergon Energy Network stated (second round):

Ergon Energy seeks clarification that compensation "for the alteration to the metering installation" includes the costs incurred through the process to alter the metering installation, aside from those for the final meter read which will be recovered through the service order process proposed in 7.3.4(g), as well as the value of any assets that are stranded as a result of the alteration.

Metropolis#1 stated (second round):

The focus of Chapter 7 of the National Electricity Rules must not turn to compensating Distributors, but rather on providing electricity Retailers with an effective mechanism to avoid the unwanted installation of type 5 metering assets and provision of metering services...Distributors should simply not be able to unilaterally upgrade those [type 6] metering assets to type 5, with a full expectation of cost recovery, while Retailers are denied the opportunity to explore competitive alternatives for type 4 metering services...In Victoria and other jurisdictions, it is inappropriate [for reasons provided] to require that "the parties must negotiate in good faith to ensure the LNSP is reasonably compensated for the alteration to the metering installation" as proposed by the Commission...

Metropolis appreciates that 'meter churn' will occur in a competitive market where metering data is inaccessible (because reading protocols have not

been shared), if the meter does not conform to market functional specifications or if a service provider's charges are commercially unacceptable. In such circumstances one would agree that swapping out the meter is perfectly justifiable to ensure that the electricity Retailer obtains what they need at the best possible price.

SP AusNet stated (first round):

This clause [7.3.6(ac)] assumes that the LNSP will not be recovering any costs of type 4 metering installations (including type 4B) from a determination made by the AER or the Jurisdictional Regulator, whereas there is some possibility that the Victorian AMI arrangements (which are fundamentally type 4) will involve a determination with respect to cost recovery by the LNSPs.

TransGrid stated (second round):

The inclusion of the Commission's draft clause 7.3.6(g) requiring the parties to negotiate in good faith to ensure that the LNSP is reasonably compensated for alterations to Types 5, 6 or 7 metering installations directed by the FRMP under clause 7.3.4 would appear to provide a mechanism for the LNSP to negotiate fair compensation. However, the effectiveness of this provision will be dependent upon the willingness of the parties to negotiate and resolve compensation payments within a reasonable time frame.

The Commission's consideration and reasoning:

The Commission has recognised that the Rules are silent on the ownership of metering. Whilst this has been a foundation principle for metering, the Commission accepts the view, notwithstanding the comment made in one of the submissions regarding the competitive benefits arising from the threat of meter churn, that some form of financial control over the transfer is required to prevent meter churn from unreasonably occurring. The Commission also recognises that the provision of a permanent right to the LNSP would effectively provide the LNSP with an ownership right on metering installations. The Commission notes that the NEMMCO proposal balances the LNSP ownership right by giving the retailer a right to terminate the LNSP ownership provisions.

However, the NEMMCO proposal is silent on the form of compensation that should accrue to the LNSP for the termination of their ownership right. The Commission recognises that this silence has the potential to unfairly disadvantage the LNSP, and may remove the incentive for the LNSP to invest in new metering technologies. Accordingly, the Commission has introduced a transparent requirement for the parties to negotiate a commercial arrangement whereby the transfer of ownership does not unfairly disadvantage the LNSP.

The Commission has reviewed this decision in light of the second round submissions. The Commission notes that two submissions do not accept the Commission's view that the LNSP should be compensated and have raised serious concerns regarding the amount of compensation already available to the LNSP through jurisdictional pricing determinations. On the other hand, several LNSPs who made suggestions on this matter did not indicate to the Commission that they already had access to cost recovery for a meter that had been removed by an FRMP. Rather, these parties requested further

clarification on the negotiation process and pointed out difficulties they may encounter if the negotiation process was not specified in greater detail. Whilst issues to be considered in developing the negotiation criteria were itemised, it was left to the Commission to develop a set of criteria.

On balance, the Commission considers that the introduction of the requirement for the parties to 'negotiate in good faith' into the Rules is a good first step in removing any unfair disadvantage to either party (the LNSP or the FRMP) as it removes the current Rule silence, and provides an initial step to improve the commercial relationship between parties. The Commission notes that the expression 'in good faith' is used elsewhere in the Rules, is a standard industry expression and is well understood by the NEM participants. The Commission does not consider it appropriate to adopt a set of negotiation criteria at this stage in the making of the Rule. The Commission notes that the expression "reasonably compensated" includes all costs that are reasonable, and if they are not reasonable then the aggrieved party may trigger a Rules dispute process (as the parties are required to negotiate in good faith) to enable the reasonable costs to be identified. The Commission does not consider it appropriate to further clarify this expression at this stage in the making of the Rule. The Commission notes that whilst the LNSP may have cost recovery mechanisms available to it via jurisdictional pricing determinations, this should work in favour of the FRMP as the reasonable compensation requested by the LNSP should include a transparent declaration of what the total cost are, and what costs they will recover from these other mechanisms, in order for a view on 'reasonable' to be agreed by the parties. The Commission considers that, as elsewhere in the Rules, the expression "negotiate in good faith" is the correct expression to be used at this initial stage to enable the transparent declaration to be made by the LNSP. The Commission notes the comment in regard to the extent that the LNSP is incentivised by this new provision and will refer this matter to the MCE for inclusion in a policy review.

In regard to meter churn, in the Draft Rule, the Commission introduced a provision to address unfavourable financial outcomes regarding meter churn. The Commission notes from the submissions that such a provision may not be adequate on its own and should be accompanied by a procedural control to ensure that the industry is aware of the protocols that should be associated with meter churn. Currently the Rules do not address meter churn practices. The Commission is aware that industry has recognised this shortfall and has developed, via NEMMCO sponsorship, a set of protocols / rules that govern meter churn behaviour of participants²⁹. The Commission is aware that the preparation of this document has been underway for several years, has been subject to industry discussion and comment, and is currently active as a code of practice for industry participants. On balance, the Commission now considers that addressing the silence on meter ownership should include both compensation triggers and procedural triggers. However, the Commission notes that the introduction of an obligation on NEM participants to adhere to a formal procedure at this stage of the making of the Rule would not be helpful. Accordingly, the Commission has determined to place an obligation on NEMMCO to develop and publish a guideline on meter churn, and to place an obligation on an FRMP to consider and manage meter churn consistently with the meter churn guidelines. Given that substantive work has already been undertaken by industry in preparing a working document, the Commission considers that it is reasonable to impose a date of 1 January 2008 as the time by which the initial meter

²⁹ The "Meter Churn Data Management Rules", NEMMCO document number ME_MA1818V004, published by NEMMCO on 9 September 2005 and effective from 1 March 2006.

churn guideline, which will be subject to the Rules consultation process, is published. This provision is included at clauses 7.3.4(j) to (m).

3.7.5 Issues relating to the performance of metering installations

3.7.5(a) Submissions relating to the performance of metering installations specifically in relation to metering data

(proposed clause 7.11(a)/ clause 7.11.1)

Ergon Energy Network stated (first round):

Ergon Energy notes that the “and” is not required at the start of clause 7.11(a)(5). Clause 7.11(a)(5)(C) and (D) should be replicated in clause 7.11(a)(4).

SP AusNet stated:

(first round):

[In reference to clause 7.11(a)]...the definition of Remote acquisition is attempting to define the “location” of the remote acquisition process. The phrase “...from a device(s) contained within the site of the metering installation” is therefore superfluous and is likely to cause further uncertainty re the definition.

[In reference to clause 7.11(a)(4)] type 1-4A data obviously needs to be substituted and estimated in a similar manner to type 4B and type 5-7 data. Hence the following clause which is within clause 7.11(a)(5) and clause 7.11(aa) should be included as 7.11(a)(4)(D): “as actual, substituted or estimated in accordance with the procedures established by NEMMCO under clause 7.9.4(b).

[In reference to clause 7.11(a)(4)(B) and 7.11(a)(4)(C)] SP AusNet would be concerned if the jurisdictional policy directive was used for other than the establishment of firm mandatory requirements for the jurisdiction involved; SP AusNet does not support the concept of the metrology procedure being used to incorporate lesser ‘recommendations’ such as would be contained in a Guideline.

(second round):

[In relation to clause 7.11.1(b)]: SP AusNet were pleased that our comments re validation and substitution for type 4 large meters were included; however on further thought “estimation” is not applicable to type 4 large meters. Remove “estimation” from 7.11.1(b).

UED stated (first round):

Sub clause 7.11(a)(5)(B) as drafted allows NEMMCO to specify data timeframes required for settlement in “procedures”. If the AEMC adopt UED’s suggested approach of providing these data timeframes in the metrology procedure, we recommend that clause 7.11(ab) be removed. As NEMMCO is in control of the Metrology Procedure, the parameters

mentioned in sub-clauses (ab)(1), (ab)(2) and (ab)(3) are already dealt with in the Metrology Procedure by NEMMCO.

The procedures referred to in 7.11(a)(5)(B) only partially cover the regulatory requirements for 'small' type 4's and do not yet exist. This Rule change allows a 'small' type 4 without corresponding review and update to the B2B procedures and CATS procedures. If the AEMC choose not to proceed with specifying a start date approach then we suggest that these procedures need to be in place for the commencement of the revised NER and the single national metrology procedure.

The Commission's consideration and reasoning:

In regard to the suggestion to remove the redundancy in regard to location, the Commission accepts this view. The Commission notes that the definition of 'remote acquisition' includes the expression "from the site of the metering point to the metering database", which makes the existing construction of the clause redundant. The Commission has adopted this alteration.

In regard to the use of 'and' in clause 7.11(a)(5), the Commission has adopted a revised format which has addressed this suggestion.

In regard to the consistency of requirements in clauses 7.11(a)(4) and 7.11(aa), the Commission has adopted a revised format which has addressed this suggestion. In light of the second round submissions, the Commission accepts that the reference to "estimation" in clause 7.11.1(b)(4) is not appropriate for the metering installations to which the clause refers.

In regard to the comment on the rigour and technical correctness of the provisions in clauses 7.11(a)(4)(B) and (C), the Commission notes that the specific nature of these requirements may impact on broader issues for the NEMMCO settlements process, and that the Commission's response to the NEMMCO proposal in this regard is not the appropriate forum to address this matter. However, the Commission has made editorial amendments to this clause to improve its format. Apart from the editorial amendments, the Commission intends to adopt this clause without alteration to its substance.

3.7.5(b) Submissions relating to procedures on metering data regarding the performance of metering installations

(proposed clause 7.11(ab)/ clauses 7.14.1(c)(4) and 11.5.4(f))

Citipower/Powercor stated (first round):

Clause 7.11(ab) has been included to provide industry with improved certainty on information requirements critical to the operation of type 4, 5 and 6 metering installations. Greater certainty would be available if the appropriate parameters were included directly into the Rules rather than incorporated into procedures.

Clause 7.11(ab) refers to "NEMMCO must establish procedures". It is appropriate that if these parameters are not included in the Rules then they should be specifically included in the "metrology procedure" rather than create additional procedures.

Ergon Energy Network stated (first round):

In relation to clause 7.11(ab), Ergon Energy questions when these procedures will be published, and what is the timeframe obligation being proposed. Depending on the content of the procedures, this proposed change to the NER may not be supported by Ergon Energy.

SP AusNet stated:

(first round):

[In reference to clause 7.11(ab)(1)] although prudential and settlement obligations and outcomes have no direct impact on SP AusNet as a LNSP, changes to the Crossover Volume Limit could change metrology requirements for meters and hence impact LNSP RP obligations. SP AusNet's expectation would be that because the Crossover Volume Limit impacts on the accuracy of settlements, that a proposal to change this would be subject to full Rules Consultation including impact on Participants. SP AusNet's view is that it should not be left "...entirely under NEMMCO's control...".

(second round):

Clause 11.6.1(e): In the first part [of this clause] it appears to give NEMMCO until 30 June 2008 to develop the necessary metrology procedure revisions which presumably puts the installation of any type 4 small meters on hold until that date...If the AEMC expects that type 4 small meters are to be "operational" before mid 2008 then SP AusNet would expect a "must" obligation to be placed on NEMMCO for the production of the necessary metrology document. We cannot also understand that why a "separate procedure" would be able to be produced by NEMMCO any faster than a revision of the metrology procedure as it would require Rules consultation.

UED stated (first round):

[In reference to clause 7.11(ab)] As stated in the explanatory note under clause 7.11(ab)...the crossover volume limit within type 4 metering installations is "entirely under NEMMCO's control". This is inconsistent with the current situation where the boundary between type 4 and type 5 is set by jurisdictions. UED is unclear how NEMMCO will consult on this issue. UED believes the cross-over volume limit should be treated in a similar manner [the X and Y limits]...UED also suggests that the cross over limit should be established by a jurisdictional policy directive.

The Commission's consideration and reasoning:

In relation to the nature of the specific 'procedure' the Commission accepts the view that it would be efficient to include this matter in the metrology procedure rather than as an unspecified procedure. Accordingly, the Commission has introduced a requirement on NEMMCO to include the procedures relating to the transfer of metering data in the NEM metrology procedure. In placing this obligation on NEMMCO, the Commission realises that it is not logical for NEMMCO to abide by this requirement by 31 December 2006. Accordingly, the savings and transitional arrangements in the Rules provide for NEMMCO to include these procedures in the metrology procedure by 30 June 2008. The

Commission has reviewed this decision in the light of the second round submissions and has found that the mandatory requirement “must” is on the metrology procedure, and the discretionary requirement “may” is on an alternate process which permits NEMMCO to introduce these requirements earlier than would be available under a revision of the metrology procedure. The Commission would see no problem if NEMMCO was not able to activate an alternate process in a shorter timeframe, as the original NEMMCO proposal did not contain a date by which the procedure was to be established. The Draft Rule and Rule to be made have placed a time limit on the commencement of this procedure as it now has to be active by 30 June 2008. If NEMMCO and the industry were not able to establish such a procedure until the 30 June 2008, then the Commission would expect that type 4 metering installations between zero MWh and 750 MWh would continue to be established in accordance with clause 7.11.1(b), which continues the current provisions and can be relaxed “as otherwise agreed between NEMMCO and the responsible person” if the parties so wish.

3.7.5(c) Submissions relating to low volume type 4 metering installations (proposed schedule 7.2.3/ schedule 7.2.3)

UED stated (first round):

[In reference to Schedule 7.2.3, Table S7.2.3.1] [The NEMMCO proposal refers] to a concept of a ‘small’ type 4 metering installation being introduced to facilitate the ACCC carve out from the LNSP’s monopoly of types 5-7 metering installations. The proposed rule changes introduce a concept of a cross over volume limit, yet as drafted in this table, any type 4 metering may be used up to a volume limit of 750 MWh pa as note of the notes to the table provide a limit for ‘small’ type 4. UED suggest that a ‘small’ type 4 should be added to the table in the row for metering installation type 5 consistent with the intent of the ACCC authorisation and that a ‘small’ type 4 also be added as a meter type in each of the notes (note 3, 3a and 3b) relating to the meter installation type 5 row.

The Commission’s consideration and reasoning:

In reference to the concept of a ‘small’ type 4 metering installation, the Commission notes that this terminology was used in the NEMMCO proposal by way of explanation only. There is no reference to this concept in the proposed Rule from NEMMCO.

The Commission understands that the type 4 metering installation from a metrology perspective covers the volume range from 0 to 750 MWh per annum. There is no requirement for the purpose of measurement to introduce a further division of this load range. However, for the purpose of NEM settlements, the volume range can be segregated into a number of energy data delivery dates. In addition, and for a separate ‘prudential’ reason, the volume range can be also segregated into a number of energy data delivery dates. The Commission understands that proposed clause 7.11(a), 7.11(aa) and 7.11(ab) (the provisions dealing with metering data now in clause 7.11.1) control these delivery dates without the need to introduce a new type of metering installation category into the Rules. The Commission also notes that for the purpose of operation, clarity and efficiency, NEMMCO procedures that are relevant to data delivery may divide the 750 MWh range into 2 or more categories. The Commission considers that

such a division would be consistent with the current NEMMCO proposal. For these reasons, the Commission intends to accept this clause without alteration to its substance.

3.7.5(d) Submissions relating to Glossary terms

Citipower/Powercor stated (first round):

[In regard to 'remote acquisition'] the use of the word "designed" in the context of "where the acquisition process is designed to transmit the metering data from the site of the metering point to the metering database" could be interpreted to mean a capability which is designed into the process but not necessarily used. The drafting should be amended to "The acquisition of metering data from a metering installation, where the acquisition process transmits the metering data from the site of the metering point to the metering database", to remove uncertainty.

SP AusNet stated (second round):

Clause 7.11.1(a) and Chapter 10 'remote acquisition': SP AusNet consider that clause 7.11.1(a) refers only to interval capable metering installations. However, our assessment is that the only specific reference to this, and hence the only exclusion of metering installations remotely delivering accumulated metering data, is within the Glossary definition of *remote acquisition*. However, this fact is not prominent or clear within the definition. SP AusNet recommend that the glossary definition be reworded to remove the issue identified above.

The Commission's consideration and reasoning:

In regard to the removal of "designed" from the definition of 'remote acquisition' the Commission accepts the merit of this change as it improves understanding and removes uncertainty.

In regard to the addition of 'interval' in the definition of 'remote acquisition' the Commission accepts the merit of this change as it improves understanding and removes uncertainty.

According, the Commission has adopted these enhancements to the definition of 'remote acquisition'.

3.7.6 Second round submissions relating to editorial changes or minor drafting matters

Citipower stated:

Clause 7.2.3(f) refers to "an offer made under paragraph (d)". This reference is incorrect as the offers are made under paragraph (e).

Clause 7.2.5(a) and (b): The restructuring of this clause may not have completely overcome the concerns previously raised in relation to the situation where the responsible person is also an accredited metering provider as often occurs for LNSPs. Clause 7.2.5(b) requires an agreement

between the responsible person and the metering provider which is inappropriate when they are the same entity.

Clause 7.11.1(d)(c) includes reference to clause 7.9.3(a) which seems to be incorrect. It should possibly refer to clause 7.9.4(b).

Clause 7.11.2 includes a circular reference. It should possibly refer to "paragraph (a)".

Energex stated:

Clause 7.2.5(a): This clause currently requires the Responsible Person to enter into an agreement with the Metering Provider it has engaged. For type 5, 6 and 7 metering installations where the LNSP is both the Responsible Person and the Metering Provider, this clause is redundant.

Clause 7.3.6(g)(3): Energex believes the reference in this clause to "is" should be changed to 'was' and additional words ['prior to the alteration being made'] added.

Ergon Energy Network stated:

Clause 7.2.3(g): the word "may" be replaced by the word "will" to provide greater clarity of obligations.

Clause 7.2.5(b)(1): this clause still does not address the circumstances where the LNSP is also an accredited metering provider. If the LNSP is both the responsible person and an accredited metering provider, the LNSP should not be required to enter into an agreement with itself.

Clause 7.2.5(c): the word "an may" be replaced by the words "and if it does, must" to provide greater clarity of obligations.

Clause 7.3.6(g)(3): this paragraph should read "the Local Network Service Provider **was** the responsible person".

Metropolis stated:

Clause 7.1.4(a)(2): [the submission in Attachment A highlighted the the reference to Local Network Service Provider needed to be given further consideration to ensure that the clause worked as intended by NEMMCO].

SP AusNet stated:

Clause 7.2.2(a): If under clause 7.2.4 the installation is a "joint metering installation" then a party other than the Market Participant (the Retailer) may be the responsible person. If addition is not made to current wording this exception could be overlooked.

Clause 7.2.2(b): Whereas this clause is applicable for a type 1, 2, 3, 4 installation it is not applicable to a type 5, 6, 7 installation.

Clause 7.2.3(a): Whilst SP AusNet recognises that, although significantly reworded, the fundamental meaning of this clause has not changed, SP

AusNet have concerns re its potentially misleading nature in that it implies that the LNSP is the “default” responsible person for all meter types...If left as currently drafted the clause will not be consistent with current accepted practice and impose undesirable responsibilities onto the LNSP.

Clause 7.2.5(a)(1): If the LNSP is an accredited Metering Provider then they do not require to engage a “metering provider”.

Clause 7.11.1(c): Under clause 7.14.1 and specifically subclause (c)(4)(ii) and (iii) the details of timeframe and performance standards for type 4 small meter installations will be in the Metrology Procedure.

TransGrid stated:

Clauses 7.2.5(a), (b) and (c): The AEMC proposed draft clause 7.2.5 parts (a), (b) and (c) does not adequately address the situation where the responsible person is both the LNSP and the Metering Provider...These provisions [clauses 7.2.5(h)(2) and 7.2.5(d)96]] appear inconsistent and confusing when the LNSP is both the Metering Provider and the responsible person and where there is no requirement to enter a responsible person-Metering Provider agreement.

United Energy stated:

Clause 7.2.3(f): Clause (f) refers to an offer the LNSP has made under clause (d). However, clause (d) refers to the Market Participant’s request for an offer, the reference in (f) would be more appropriately linked to refer to the offer the LNSP has made in clause (e).

Clause 7.2.5(b)(1): Sub clause (b)(1) requires the responsible person to engage and enter into an agreement with the Metering Provider. Where the LNSP is the responsible person and also the Metering Provider, it is not possible to have a legal agreement with the same party. In the transition from the old Rules, the AEMC has not recognised that under old clause 7.2.3(a) it was only the Market Participant which elected not to request an offer from, or did not accept an offer from, the LNSP that was the subject of these obligations.

Clause 7.11.1(d)(3): In sub clause 7.11.1(d)(c) the reference to Rule 7.9.3(a) should probably be 7.9.4(b) to be consistent with the sub clauses 7.11.1(b)(4) and 7.11.1(c)(3) above.

Clause 7.11.2: Sub clause (b) has a reference to itself. The reference to paragraph (b) should be amended to read “paragraph (a)”.

The Commission’s consideration and reasoning:

The Commission has considered the above drafting suggestions provided by the various submissions in relation to the LNSP deemed responsibility for metering installations. The Commission considers that suggestions that are aimed at editorial drafting corrections, improving the readability and easing understanding of the Rules as being appropriate. Accordingly, the Commission has adopted the suggestions.

3.7.7 Second round submissions relating to minor matters of clarification

Citipower / Powercor stated:

Clause 7.2.5(b)(1): Consideration should be given to the timeframe being referenced to the time the metering installation is installed rather than the time of entering into an agreement [currently 10 days]. It is important to note that the details required to be notified to NEMMCO (specified in Schedule 7.5) cannot be known with certainty until the metering equipment has been installed.

Clause 7.3.4(e): It is not clear how a type 7 metering installation could be modified under this clause. Reference to Type 7 should be deleted.

Energex stated:

Clause 7.2.3(h)(2): Energex and retailers will not engage in this formal process [in reference to the connection enquiry process stated in clause 5.3.7] and therefore there will be no connection agreement made in accordance with Rule 5.3.7. Rather ENERGEX will have a connection contract with each customer who is connected to and supplied from ENERGEX's distribution network. This connection contract will, in most cases, be deemed to exist between ENERGEX and the customer and does not require the customer's signature. As there is no entry into a connection agreement under Rule 5.3.7, it is not possible for the LNSP to know when the 10 business day count commences.

EnergyAustralia stated:

Clause 7.3.4(e): The Commission should also note the inter-relationships between the Rule and Jurisdictional requirements. Under section 29 of the NSW Electricity Supply Act, 1995, a DNSP may require the installation of such electricity meters as it considers necessary to ascertain the quantity of electricity supplies to a customer. This power is supplemented, and to a degree regulated, through the NSW Market Operation Rule (NSW Rules for Electricity Metering) No. 3 of 2001 made under section 63C of the Electricity Supply Act...EnergyAustralia therefore submits that the Commission should ensure that the Rules do not in any way derogate away from the general powers of DNSPs to impose requirements in relation to metering.

Ergon Energy Network stated:

Clause 7.2.3(h)(2): Ergon Energy is concerned that as these contracts are often deemed, it is difficult to determine when the 10 day period commences.

Clause 7.2.5(e): There appears to be no consistency between clause 7.2.5(e) and 7.3.5(h). 7.2.5(e) appears to allow an incoming responsible person to change a metering installation prior to the transfer of the NMI. Clause 7.3.4(h), however, only allows a type 5, 6 or 7 metering installation to be changed to a

type 1, 2, 3 or 4 metering installation after the NMI transfer has been effected. Clause 7.2.5(e) reflects current market practice and should continue to be allowed.

Clause 7.3.4(e)-(i): Where the addition of remote acquisition capabilities requires the existing meter to be replaced, the FRMP should be required to notify the existing responsible person in time to allow for arranging a final read by the LNSP and for the return of the old meter to the LNSP.

Metropolis#1 stated:

Clauses 7.2.3(d): The wording also creates the incongruous situation that Market Participants 'may' request an offer from the Distributor for that part of the market that is open to competition - namely the provision of type 1 to 4 metering installations - but 'must' request an offer from the LNSP for that part of the market that is closed to competition - that is, the provision of type 5, type 6 and type 7, metering installations. This doesn't make sense.

Origin Energy stated:

Clause 7.2.5(e): Origin understands that the responsible person is responsible for the metering installation from the time of the completion of the transfer in the Market Settlement and Transfer Solution system but is seeking clarification on clause 7.2.5(e)(2) as to how this can occur 'on any other day'.

Clause 7.3.4(g): Origin suggests that the words 'but not limited to' be inserted after ...may include... indicating that items 1 and 2 are just two examples of why 'operational difficulties' may not alter the classification of the meter.

SP AusNet stated:

Clause 7.2.3(d)-(h): Whilst SP AusNet recognise that the content of this clause has been taken largely from the derogation, and hence represents a "soft" change, the wording is a long way off describing the actual processes which are applicable for meter installations which are the responsibility of the LNSP (types 5, 6 7). If left as currently drafted the clause will not be consistent with current accepted practice and would leave the B2B Procedures inconsistent with the Rules and, given the rules hierarchy, in breach of the Rules.

Clause 7.2.3(h)(2): This clause should be relocated and redrafted...A NMI is allocated to a connection point not a metering installation...The 10 days from "connection agreement" is inconsistent with other regulatory documents and inconsistent with current practice [a reduction to two days is suggested based on an MSATS Change request].

Clause 7.2.5(b)(1)(ii): If an ASP installs the meter it is obvious that the responsible person then has to appoint a Metering Provider to carry out the ongoing maintenance of the installation; however SP AusNet consider that the other two "aspects" of the installation need to be also specifically covered [provision and testing are nominated]

Clause 7.2.5(b)(2): Clause (2) re provision of metering installation details to NEMMCO is not associated with “engagement of a metering provider” and should be relocated to (d) under metering installations.

Clause 7.2.5(c): SP AusNet are concerned that this clause could imply that the Rules overwrite commercial agreements which are the basis of the responsible person and Metering Provider relationship.

Clause 7.2.5(e)(1): SP AusNet are unclear what is intended by the words...“for the period within the day”.

The Commission’s consideration and reasoning:

In relation to clauses 7.2.3(d), the Commission notes that the mandatory requirement on the Market Participant arises from the current derogation in Chapter 9. The JJR report, the jurisdictions, and the NEMMCO proposal (which represents the considered outworking of industry views) all support the continuation of this derogation. In making the Rule the Commission is of the view that several matters have been raised that indicate to the Commission that a review of the policy principles underpinning Chapter 7 would be in order. Accordingly, the Commission intends to bring certain matters (as identified in this Rule Determination) to the attention of the MCE for their consideration.

In relation to the operation of clauses 7.2.3(d) to (h), the Commission notes that these clauses have been imported, largely unchanged, from the current derogation in Chapter 9. In light of the comments made in the SP AusNet submission, the Commission recommends that NEMMCO review the B2B Procedures to ensure that they align with the Rules.

In relation to clause 7.2.3(h)(2), the Commission understands that this clause ensures that for all connection agreements, NEMMCO is made aware of the potentially new metering installation at the earliest opportunity. This obligation is largely already imposed on participants via clause 5.3.7(e)(3). The Commission understands that the purpose of clause 7.2.3(h)(2) was to clarify that in clause 5.3.7(e)(2) the most significant item of information was the NMI, and to impose a timeframe for the provision of the NMI, and in this way clarifies the operation of clause 5.3.7(e)(3). The Commission notes the difficulty of using clause 5.3.7(e) to impose a general obligation on participants to provide the NMI to NEMMCO. The Commission does not consider that clause 7.2.3(h)(2) captures deemed connection agreements, as the information for these connection agreements would be provided under clause 7.2.5(b)(2).

In regard to the allocation of a NMI [as per clause 7.2.3(h)(2)], the Commission notes that clause 7.3.1(e) requires the LNSP to issue a unique NMI for each metering point. The clause makes no mention of a connection point.

In relation to clause 7.2.5(b)(1), the Commission considers that this clause caters for the ‘agreement’ that arises when a responsible person instructs a Metering Provider to perform certain duties on a nominated metering installation and not the general agreement that is entered into between the responsible person and the Metering Provider for the general provision of metering services. The Commission understands that the clause requires the responsible person to provide the information in schedule 7.5 to enable NEMMCO to populate the metering register. The clause requires the responsible person to provide that information to NEMMCO within 10 days of first instructing the Metering Provider to perform duties on a nominated metering

installation. The Commission is of the view that this clause generally works as was intended, however, the reference to 'connection point' should be a reference to 'metering installation' to align with the paragraphs to which the clause refers. Accordingly, the Commission has made this variation to the Rule to be made.

In relation to the inclusion of 'provision' and 'testing' in clause 7.2.5(b)(1)(ii), the Commission does not consider it appropriate to adopt this suggestion at this stage of making the Rule.

In relation to clause 7.2.5(b)(2), the Commission does not consider it appropriate to adopt this suggestion at this stage of making the Rule.

In relation to clause 7.2.5(c), the Commission does not consider it appropriate to adopt this suggestion at this stage of making the Rule.

In relation to clause 7.2.5(e), the Commission notes that clause 7.2.5(e)(1) provides the MSATS Procedures with a head of power to include a time within a day that a transfer will take place (the Commission understands that industry has agreed to 00:01 hours and this is recorded in the MSATS Procedure), and clause 7.2.5(e)(2) permits the MSATS Procedure to allow this time to occur on some other day, rather than the day on which the transfer is completed in MSATS. The Commission is of the view that the clause works as intended. In relation to clause 7.3.4(i) [draft clause 7.3.4(h)], the Commission notes that a type 5, 6 or 7 metering installation is restricted in being altered to a type 4 metering installation until the day and date that is recorded in the MSATS Procedures is reached. The Commission is of the view that clause 7.2.5(e) provides the necessary flexibility for clause 7.3.4(i), and works as was intended in the NEMMCO proposal.

In relation to the inclusion of 'type 7' in clause 7.3.4(e), the Commission notes that a type 7 metering installation can be altered to a type 4 metering installation in the same way as a type 6 metering installation with an accumulation meter may be altered to a type 4 metering installation. In both cases the Commission would expect that a new meter would be installed at the metering installation that has the attributes suitable for the type 4 metering installation.

In relation to the suggestion to include "but not limited to" in clause 7.3.4(h) [Draft Rule 7.3.4(g)] the Commission is of the view that the ability for the LNSP to install remote acquisition on a metering installation should be restricted to specific instances, and has no reason for extending this list of operationally difficult access situations. The Commission does not support the suggestion.

In relation to the need to notify the exiting responsible person of the need to perform a final meter read when a metering installation is altered to include remote acquisition, the Commission would expect that any detailed steps to be undertaken by the incoming FRMP, as agreed by industry, would be captured in the meter churn guidelines that have been included in clauses 7.3.4(j) to (m) of the Rules.

In relation to obligations imposed on a DNSP by jurisdictional legislation, the Commission notes that such legislation covers requirements for first tier metering services, and does not at this time conflict with the obligations imposed on the LNSP by virtue of the Rules.

3.8 Savings and Transitional arrangements

This section deals with any savings and transitional arrangements that are required as a result of NEMMCO's proposed changes, the Commission's modifications to NEMMCO's proposal and any other issues raised by submissions.

In relation to NEMMCO's proposal, NEMMCO proposed a clause in its metrology procedure provisions that deems the metrology procedure (currently being developed) as being made under the Rules consultation procedures. In addition, the Commission has determined that jurisdictional policy directives (as termed by NEMMCO) that are submitted by Ministers of the participating jurisdictions should have an expiry date and the residual right to submit jurisdictional policy directives should rest with the Ministers of the MCE. In addition, the following issues have been raised in submissions:

ETSA Utilities stated (first round):

Acceptance of this clause 7.3.2A is conditional on the claim that the metrology procedure does not include any new obligations on ETSA Utilities.

SP AusNet stated (first round):

Clause 7.3.2A(a) makes some arrangements for when the initial national metrology procedure will come into effect; this will be when the New Rules come into effect. This assumes of course that the metrology procedure consultation is complete and that there are no changes likely to require system changes and hence implementation time for Participants. The proposal being considered for the inclusion of Queensland specific metrology arrangements into the initial metrology procedure could put this strategy at risk.

It is unclear whether formal Jurisdictional Policy Directives must be established to ensure that matters nominated in the New Rules as requiring these Jurisdictional Policy Directives are formally established under the New Rules, eg. Jurisdictional Policy Directives for the values of "x" and "y" for type 5 and type 6 metering installations.

UED stated (first round):

[Clause 7.2.3A(a)] should only operate with a trigger. For example, where the AEMC publishes a notice that the new metrology procedure does not impose any substantively new conditions on registered participants.

The Commission's consideration and reasoning:

In relation to NEMMCO's proposed clause that the metrology procedure should be deemed as being prepared in accordance with the Rules consultation procedures, the Commission has included savings and transitional provisions that deal with this issue. In particular, the Commission has included in rule 11.5 a provision that ensures that any action taken by NEMMCO for the purposes of developing and publishing the initial

metrology procedure (for commencement on 1 January 2007) will be taken to satisfy the requirements of the metrology procedure provisions in the Rules.

As part of the Commission's assessment of this proposal, the Commission also agreed with a submission that separate procedures relating to metering data (contained in proposed clause 7.11(ab)) would be better placed within the metrology procedure. The Commission, however, acknowledges the onerous obligations that inclusion of such procedures in the metrology procedure would place on NEMMCO if the deadline for inclusion was the current date of 1 January 2007. Given these procedures are a new requirement proposed by NEMMCO and accepted by the Commission, the Commission considers that not requiring NEMMCO to include such procedures until 30 June 2008 is an appropriate timeframe. This requirement which effectively preserves the status quo until 30 June 2008 has been included in the savings and transitional provisions.

The Commission also determined that the Ministers of the participating jurisdictions should only have a transitional right in relation to providing jurisdictional material for inclusion in the metrology procedure. In giving the Ministers a transitional right, the Commission determined that the Ministers of the MCE should have the permanent right in this regard. Accordingly, clause 11.5.5 of the Rule contains the provisions that give the Ministers of the participating jurisdictions the right to include individual jurisdictional material in the metrology procedure until 1 January 2009 and the residual right given to the Ministers of the MCE is provided in clause 7.14.2. Until this date, the individual Ministers of the participating jurisdictions may provide jurisdictional material to NEMMCO for inclusion in the metrology procedure instead of the Ministers of the MCE. The savings and transitional provisions also include the right (to avoid doubt) of the Ministers to delegate their role in the metrology procedure in accordance with their respective procedures relating to delegation.

In relation to the issues raised in submissions, the Commission understands from the NEMMCO proposal that the initial single metrology procedure is an amalgamation of each of the current published metrology procedures. The Commission assumes that given the complexity of such an amalgamation that this process has been carefully managed to ensure that on the date that the new metrology procedure becomes effective, it correctly represents the existing metrology procedures without any substantive change to any of the jurisdictional practices.

On this basis, the Commission has noted NEMMCO's commentary³⁰ in their proposal that the current jurisdictional Metrology Coordinators have given NEMMCO an endorsement to proceed with the metrology procedure on their behalf. The Commission also understands that all Registered Participants have been given an opportunity to participate in the formation of the single metrology procedure, both at an operation level and an executive level. The Commission also notes that ETSA Utilities, whilst providing the Commission with conditional support of clause 7.3.2A(a), has not identified any specific concern or issue with the document that is the subject of this clause. The Commission also understands that the alterations to cover the Queensland introduction for FRC are well advanced and that all matters required to be incorporated in the

³⁰ Page 2 of the NEMMCO letter to the Commission, "...and has obtained approval from the jurisdictional metrology coordinators to conduct a single Rules consultation on their behalf...as a precondition to the adoption of the harmonised NEM metrology procedure".

metrology procedure for that event have been introduced during or before the NEMMCO consultation process.

In addition to the matters noted above which the Commission included in the draft Rule determination, the Commission has also included savings and transitional arrangements to deal with existing arrangements. In particular, rule 11.5 of the Rule to be made ensures that the metrology procedures currently in place continue to exist and to apply in accordance with the old Chapter 7 (that is, as in force before the Rule is made). The Commission has also included a provision in relation to the initial metrology procedure to be published by 1 January 2007 to dispense with the requirement in clause 7.14.1 that there must be three months between the day the metrology procedure is published and the day it commences.

The Commission has also included a clause in relation to Local Network Service Providers who are currently responsible persons under the Chapter 9 jurisdictional derogations. The Commission has included this clause to remove any doubt regarding the continuity of the current Local Network Service Providers when the derogations expire. Accordingly, Local Network Service Providers who were responsible persons in accordance with the derogations, continue to be responsible persons under the new clause 7.2.3, which deals with Local Network Service Providers as responsible persons.

3.9 Major differences between the proposed Rule and the Rule to be made

As indicated in Section 3.1 of this Rule determination, the Commission has a responsibility to make a Rule in accordance with clause 34 of the NEL. In this section, the Commission summarises the differences between the proposed Rule submitted by NEMMCO and the Commission's Rule.

In its Rule, the Commission has largely accepted NEMMCO's proposed Rule. In addition to some enhancements and modifications to NEMMCO's proposal, the Commission has taken the opportunity (given the size of the legal drafting task), to improve the structure of Chapter 7 of the Rules and also to ease the understanding of clauses. The difference between NEMMCO's proposed Rule and the Rule to be made (and Chapter 7 of the Rules) is listed below by references to rules, clauses and schedules.³¹ Any changes proposed by NEMMCO that have not been noted here are minor in nature and have been included by the Commission.

Rule 7.2 deals with responsibility for the metering installation. Given the various amendments made to responsibilities of the responsible person, the clauses have been separated between the responsibility of the LNSP and the Market Participant to identify the distinction between the two. The role of the LNSP as a responsible person has also been further delineated by headings for types 1-4 installations and types 5-7 installations. Lastly, the role of the responsible person

³¹ Commission notes that the references to rules and clauses are part of the new interpretation rules to be introduced into Chapter 1 of the Rules on the commencement of the National Electricity Amendment (Economic Regulation of Transmission Services) Rule 2006. The new interpretation rules are designed to support consistency in external and internal cross referencing. Please see the draft National Electricity Amendment (Economic Regulation of Transmission Services) Rule 2006 for further information.

has been centralised in one clause (clause 7.2.5) as opposed to two clauses. This centralisation is consistent with NEMMCO's intention in the proposed Rule.

Clause 7.3.1 relates to the various requirements for metering installation components. This clause, as proposed by NEMMCO, had numerous minor changes as a result of other changes to Chapter 7. The Commission took the opportunity when making these changes to renumber the clause to make the structure of the clause more user-friendly.

Clause 7.3.4 adopts NEMMCO's proposal in relation to allowing the financially responsible Market Participant to alter a type 5, 6 or 7 metering installation to make it capable of remote acquisition. It also includes additional clauses dealing with the Commission's view that where certain operational difficulties require a meter to be remotely read, these circumstances should not change the classification of the metering installation.

Clause 7.3.6 as proposed by NEMMCO includes a clause that ensures that an LNSP cannot recover costs in relation to a metering installation from the FRMP where the costs can be recovered by the LNSP in accordance with a determination made by the AER or Jurisdictional Regulator.

In addition, this clause includes a provision in relation to the Commission's view that a FRMP who changes the classification of a type 5, 6 or 7 metering installation as a result of making it capable of being remotely read, should negotiate in good faith with the LNSP (if the LNSP is the responsible person) to ensure that the LNSP is reasonably compensated for the change in classification.

Clause 7.9.3(a) incorporates the editorial change proposed by NEMMCO and has also been restructured to ease understanding of the provision.

Rule 7.11 incorporates NEMMCO's proposed changes regarding the requirements for metering data. The proposed clauses dealing with parameters for metering data, timeframe obligations for the extraction or delivery of metering data and the performance standards for metering data, have been moved to the metrology procedure provisions in accordance with the Commission's decision to that effect. This requirement is effective from 30 June 2008.

The Commission has also restructured clause 7.11 to ease understanding. The clause 7.11.1 deals with the requirements for metering data and clause 7.11.2 contains the clauses relating to outages and malfunctions. The Commission considers the separation of these provisions into two separate clauses, improves the readability and understanding of rule 7.11.

Rule 7.13 includes NEMMCO's proposed changes in relation to the next jurisdictional review subject to a modification in date (to 30 June 2009) and also the proposed reporting requirement on NEMMCO in relation to the developments in Australian metering standards. The Commission has re-drafted the clause so that the relevant obligations can be easily identified.

Rule 7.14 contains all the provisions relating to the metrology procedure. The Commission re-located these provisions from 7.3.2A given the large number of provisions dealing with the metrology procedure. The Commission also separated the provisions into different clauses to ease understanding.

Clause 7.14.1 contains the mandatory requirements of the metrology procedure and the “leader” clause that gives NEMMCO the power to develop and publish the metrology procedure. The mandatory requirements now also include the procedures that were previously provided in rule 7.11. These requirements also include parts of the metrology procedure definition which have been included here as the more appropriate location for direction of mandatory requirements for the metrology procedure.

Clause 7.14.2 deals with NEMMCO’s proposed “jurisdictional policy directives”. The Commission has renamed this directive as “jurisdictional metrology material”. In light of the Commission’s decision to have a sunset date in relation to Ministers of participating jurisdictions including jurisdictional metrology material in the metrology procedure (now contained in savings and transitional provisions), this clause gives the Ministers of the MCE (new defined term) the power to include jurisdictional metrology material in the metrology procedure. This clause also contains the process for including the jurisdictional metrology material in the metrology procedure which was previously contained in separate provisions in NEMMCO’s proposed Rule. As part of this process, the Commission has also distinguished between material which has gone through the Rules consultation process and, has been incorporated into the metrology procedure, with or without change by the Ministers of the MCE.

Clause 7.14.3 contains other matters that NEMMCO, at its discretion can include in the metrology procedure. It also includes a provision that NEMMCO may not include material relating to consumer protection which was previously a mandatory prohibition. The Commission considers in the context of the metrology procedure provisions, placing a strict prohibition on NEMMCO regarding this issue could lead to problems in application of the metrology procedure. This section also contains parts of the metrology procedure definition which are at NEMMCO’s discretion to include. The provisions relating to the replication of the Rules in the metrology procedure have been removed in accordance with the Commission’s determination that NEMMCO has a general right to replicate the Rules and a specific right is not necessary in these circumstances.

Clause 7.14.4 deals with NEMMCO’s proposed method of dealing with amendments to the metrology procedure. The clause encompasses NEMMCO’s proposed changes in a different clause with separate provisions for amendments that are minor and administrative, and amendments that require the Rules consultation procedures.

Rule 7.15 is a new rule that attempts to capture miscellaneous provisions that do not fit into other parts of Chapter 7. It is the intention of the Commission to include future miscellaneous provisions in this section. This rule deals with the provisions in NEMMCO's proposed Rule relating to the establishment of guidelines that clarify the application of the requirements of the National Measurement Act.

Schedule 7.2 contains the reference of "item" instead of "note" as in assessing the proposed changes to this schedule which are contained in the notes, the Commission was of the view that to avoid any doubt as to the legal validity of the notes in this schedule (given the changes being made to it) that "item" was a more appropriate term.

Clause S7.2.3 relates to the values of "x" and "y" and has been amended from the proposed Rule as a result of Commission decisions in relation to jurisdictional metrology material. Since jurisdictional metrology material is included in the metrology procedure by the Ministers of the MCE (with savings and transitional arrangements for the Ministers of participating jurisdictions), the notes (3 and 4) in this clause needed to be amended to reflect the Commission decision that the determination of the values of "x" and "y" remain with the Ministers of the participating jurisdictions. The Ministers are required to provide the values to NEMMCO for inclusion in the metrology procedure. The notes have also be re-drafted to improve understanding of the provisions.

Clause S7.4.5 relates to the capabilities of accredited service providers. The scope of the clause has been widened from types 5 and 6 metering installations to types 1 to 6 metering installations. The clause represents NEMMCO's proposed Rule subject to a little re-drafting of the clause to improve understanding and readability.

Rule 11.5 deals with the savings and transitional provisions that are required as a result of the amendments to Chapter 7. This is a new rule which incorporates one provision proposed by NEMMCO that gives the metrology procedure being developed by NEMMCO for commencement on 1 January 2007, effect under the Rules. It also includes the provisions that give the Ministers of the participating jurisdictions the power to submit jurisdictional metrology material to NEMMCO until 1 January 2009.

Chapter 10 Glossary Definitions:

- "jurisdictional metrology material" replaces NEMMCO's proposed "jurisdictional policy directive" and has also be re-drafted to be a clear, concise meaning of jurisdictional metrology material.
- "Ministers of the MCE" is a new definition to separate responsibilities that relate to the Ministers of the Ministerial Council of Energy as a body and the Ministers of participating jurisdictions as individuals.
- "remote acquisition" has been re-drafted to ease understanding and readability of a lengthy definition, and to remove reference to 'designed'.

- “Type 5 accumulation boundary” has been re-structured to distinguish between the definitional aspects of the proposed definition and parts of the proposed definition that are designed to be instructive (which have now been included in a note).
- “Minister” - references to Minister have been replaced by “Minister of a participating jurisdiction”. In consideration of NEMMCO’s proposal, the Commission became aware of a discrepancy in the meaning of Minister which relies on the National Electricity Law for its meaning. The National Electricity Law, however, defines “Minister of a participating jurisdiction.”

Other consequential changes have been made as a result of the amendments made to Chapter 7 and other parts of the Rules by NEMMCO’s proposal and also resulting from the Commission’s structural and re-drafting enhancements.

The Commission has made a variety of editorial enhancements and modifications as a result of comments made in second round submissions. The Commission has adopted editorial comments that improve the clarity of the Rules without changing the Commission’s intention for the relevant clauses.

Not all the editorial changes have been noted in this Section. The key substantive differences between the Draft Rule and the Rule to be made are:

Clause 7.2.2: The Commission has enhanced this clause by cross referencing the clause to clause 7.2.4 which deals with joint metering installations. The cross reference is designed to ease the reader in identifying the interrelationship between the two clauses.

Clause 7.2.3: The Commission has enhanced paragraph (a) of this clause to identify the difference situations where the Local Network Service Provider becomes the responsible person.

Clause 7.2.5: The Commission has enhanced this clause by addressing the issue when the responsible person is also the Metering Provider and will need to engage and enter into an agreement with a Metering Provider.

Clause 7.3.4: The Commission has redrafted this clause in relation to the alteration of a metering installation to make it capable of remote acquisition. This clause clarifies that both the Local Network Service Provider and the financially responsible Market Participant are capable of altering the metering installation. In addition, in response to submissions, the Commission has included a requirement on NEMMCO to develop and publish guidelines on meter churn for the financially responsible Market Participant to consider in managing meter churn. NEMMCO will be required to publish the first guidelines by 1 January 2008 in accordance with the Rules consultation procedures and will be able to amend and replace the guidelines in accordance with those procedures so long as there are some guidelines in place at all times.

Definition of “Accredited Service Provider category”: The Commission has included a definition of Accredited Service Provider category for the purpose of clause S7.4.2 and S7.4.5 based on the suggestion made by NEMMCO. The definition “Accredited Service Provider categories” addresses NEMMCO’s comment in its submission that there can be different categories of Accredited Service Providers within the Metering Provider accreditation and registration process, depending on the metering installation type.

Definition of “National Measurement Act”: On further analysis of the Draft Rule, the Commission decided that it was more appropriate and legally sound to italicise this term as the general practice is to italicise legislation titles. The new definition makes clear the definition relations to the Commonwealth Act as amended from time to time.

Clause 11.5.1: To improve clarity of the various savings and transitional arrangements in this rule, the Commission has included key definitions that are used throughout the rule.

Clause 11.5.2: This is a new clause that preserve the current metrology procedures in place until the new harmonised metrology procedure is published by 1 January 2007.

Clause 11.5.3: This is a new clause that ensures that the Local Network Service Providers are responsible persons under the existing derogations which are to be deleted, continue to be responsible persons under the relevant clause 7.2.3.

3.10 Issues raised beyond the scope of the proposal

This section identifies suggestions and comments made in submissions that the Commission considers to be outside the scope of the Commission’s powers in relation to this Rule change proposal.

Submissions regarding out of scope matters

AGL stated (first round):

It is AGL’s understanding that the current derogations were sought by the jurisdictions and put in place to further facilitate the transition to full retail competition by simplifying the metering arrangements. It is AGL’s view that there is a sufficient level of competition evident in Victoria, South Australia, New South Wales and the Australian Capital Territory to warrant a review on whether responsibility for all metering services should become contestable after 31 December 2006.

Should the AEMC choose to endorse the proposed changes that will limit the circumstances in which the retailer has the right to be the responsible person, AGL strongly recommends that innovative technology such as prepayment meters should not be categorised with general type 5 or type 6 meters, but rather a new ‘type’ is determined, and that new type of metering installation is open to competition...to a retailer it [prepayment meters] will provide another means of differentiating themselves from other retailers and to better meet the needs of a segment of its customers.

In addition to the Market Participant being able to elect to be the responsible person for metering types 1, 2, 3 and 4, AGL considers that where it is economically justifiable, Market Participants should be allowed to elect to be the responsible person for other metering types, subject to considerations on consequential sunk cost by the LNSPs.

Clause 7.2.5(bb) requires that the responsible person must “ensure that for each of its metering installations a communications link is installed and maintained to the telecommunications network....” This appears to be an

oversight, as this clause should not apply to metering installations 5, 6 or 7. In addition, with advanced metering technology, the communications network may not be limited to telecommunications, but rather a power line carrier, mess [sic] radio, Internet, etc...the wording of the clause should reflect the innovative technologies for communications, and not be limited to telecommunications.

In addition to metering installations, AGL strongly recommends that time clocks attached to metering installations for controlled load supply arrangements should be subject to the same level of ongoing inspection and testing requirements. AGL suggests that the inspection and testing of time clocks to ensure a reasonable level of accuracy could be undertaken annually as part of the normal meter reading schedule.

Citipower/Powercor stated (first round):

Clause 7.2.2(c) should be extended to ensure responsible persons other than the LNSP are also obliged to provide the NMI to NEMMCO within the prescribed time period.

DOI stated (second round):

We would support the views of a number of stakeholders...that "the LNSP should be permitted to become the deemed responsible person for type 4 metering installations for small customers"...We note however, notwithstanding the need to address the stranded asset issue, that there may be a valid business case for Retailers to elect to take-over the role of responsible person for individual customer sites, subsequent to the initial AMI deployment. We believed that this scenario should be allowed for...For customers with consumption above the relevant threshold value [currently 160MWh pa for Victoria] we do not see a need to change the current arrangement for type 4 meters where the Retailer has the first right of refusal to be the responsible person. We consider that through this current arrangement competition in Metering Provision and Metering Data Provision has produced cost and service benefits to these larger customers...[however] in the interest of providing certainty to stakeholders, and in the interests of securing widescale deployment of AMI over the shortest practicable time period, we believe that there is a strong case for the LNSPs to be the designated responsible person, at least for the initial AMI deployment.

ENA stated (first round):

In the last few months, and since this proposed Rule change was developed by NEMMCO in consultation with ENA members and forwarded to the AEMC, a number of key issues have emerged that have relevance to the current Rule change proposal. Most importantly: (a) COAG has agreed to the national rollout of "smart" electricity meters from 2007, where the benefits outweigh costs for residential users, and (b) a decision is expected shortly from the Victorian government on whether to add communication and other advanced metering infrastructure elements to the previously regulated.

The new pricing principles in the NEL will require the AEMC to make and maintain Rules that “provide a reasonable opportunity for a network operator to recover at least the efficient of providing services that are the subject of the network pricing determination and complying with the regulatory obligation...These issues [associated with the Victorian rollout of remotely read interval meters or a national rollout of smart meters] will have implications for the current metrology Rule changes being considered by the AEMC, in particular whether the new type of remotely read interval meter will be contestable (as currently provided in the jurisdictional derogations to the Rules). The ENA considers that this aspect of the proposed metrology Rules should be reconsidered by the AEMC in light of the COAG announcement on a national rollout of smart meters. It may be appropriate to delay this specific aspect of the proposed Rule change until further details of the COAG decision are available.

(second round):

The drafting of clause 7.14.2 could also be improved by providing further clarity as to the roles and responsibilities of the Ministers of the MCE in considering the report from NEMMCO, as well as the process NEMMCO must follow in seeking and responding to advice from the Ministers of the MCE. The Rules should also allow the MCE to refer the review of jurisdictional metrology material to the AEMC for consideration against the national electricity market objective.

EnergyAustralia (second round):

...EnergyAustralia is concerned that the above clause [7.14.3(a)(5)] could overlap with economic regulatory functions which are more appropriately dealt with in other areas of the Rules. We therefore propose a clause similar to 7.14.3(b) which would ensure that a metrology procedure should not override any economic revenue or pricing function established elsewhere in the Rules.

...the proposed delineation [of a type 4 and type 5 metering installation] based on remote reading is an attempt for Metrology Rules and procedures to address an economic rather than technical issues and should be addressed through the MCE. If this issue was addressed on a technical basis, the appropriate delineation between type 4 and type 5 metering would be on the basis of NEMMCOs settlement and prudential requirements, not on the basis of how the meter is read.

[In regard to clause 7.2.3(d)] EnergyAustralia would therefore prefer the option for an agreement between market participants and LNSPs regarding installation of type 5-7 installations such that the arrangements in place at the time a Market Participant assumes financial responsibility for a connection point are to be a deemed agreement unless the Market Participant disputes any aspect of the arrangements which are already in place. This would negate the need for a separate “request/offer/accept” arrangement for each and every metering installation.

Ergon Energy Network stated (second round):

Ergon Energy proposes that the words “from time to time” be removed from this paragraph.

ETSA Utilities stated (first round):

The time to repair specified in clause 7.11(b) is appropriate for type 1 to 4 metering installations but not for type 5, 6 and 7. Our current Metering Code allows business 10 days.

Integral Energy stated:

(first round):

Proposed clause 7.2.1(c)(2) provides that if the metering procedure so requires, an LNSP must allow another person to engage a metering provider and install the meter. Integral Energy considers that as the financially responsible person, an LNSP should have the ability to ‘elect’ to allow another person to engage a metering provider to install the relevant metering installation. Therefore, Integral Energy recommend that the proposed clause 7.2.1(c)(2) be amended [with the amended words provided].

(second round):

In order to capture economies of scale, any such rollout [in reference to the COAG policy for a national rollout of smart meters] would be undertaken by distributors. However, if the Rules do not allocate responsibility for advanced metering to a distributor then the distributor faces a significant stranded asset risk associated with such a rollout. Distributors would have no alternative but to include this risk in the price charged to customers...Integral therefore considers that the Rules should explicitly assign responsibility for all small customers’ metering, including advanced metering, to the distributor to ensure that the COAG decision can be implemented in an efficient manner.

Metering Dynamics stated (first round):

Clause 7.7(b) “via the MDP” should be added to the end of the clause after metering database. This is because MDPs do not have sufficient security protection for anybody to get into their metering database.

Clause 7.11(b), “which affects the correct registration of energy usage” should be added to alter the word ‘malfunction’. This is because the within 2 days is very hard and costly to achieve for all faults.

Metropolis stated:

(first round):

In particular, we note the preservation of competition provisions relating to type 1-4 metering installations, which will allow the Retailer to be the Responsible Person and to choose their preferred Metering Provider. This is essential to the ongoing commercial viability of our business.

A fully integrated, turn-key solution is no longer required to support advanced metering. Our due diligence confirms that with this technology ...competitive service providers can deliver advanced metering deployment and service delivery 'cheaper' than any Distributor monopoly - even with low implementation densities.

(second round):

Distributors should simply not be able to unilaterally upgrade those metering installations [type 6] to type 5 with a full expectation cost recovery, while Retailers are denied the opportunity to explore competitive alternatives for type 4 metering services. By far the simplest way to overcome this impasse is to allow the Retailer to appoint themselves (or another person) as Responsible Person for a connection point with an existing type 5, 6 or 7 metering installation, where the intention is to upgrade to a type 4 metering installation at a future point - in order to ensure that unwarranted costs are avoided in the first place.

[New clause 7.3.7 proposed] To avoid doubt, Metropolis considers that the position of the Victorian Essential Services Commission should be permanently extended to Chapter 7 of the National Electricity Rules with the inclusion of Rule 7.3.7 [new clause] as suggested [a draft clause on the economic regulation of types 1-4 metering services has been provided].

[In relation to clause 7.2.2 and 7.2.3] The National Electricity Rules only allow the Retailer or the Distributor to act as the responsible person. However, there is no legitimate reason for this restriction. There are no particular qualifications required to act as the responsible person, and the role is neither accredited nor audited. In other words, any person should be able to offer to act as the Responsible Person, thereby creating a truly competitive market place.

SP AusNet stated:

(first round):

Whilst the redrafting has added "estimation" to "clarify the breadth of these procedures" this clause [7.9.4(b)] ...fail[s] to recognise that most of the validation, estimation and substitution is carried out not in the metering database by NEMMCO and their agents, but in the metering installation database by the RP and their metering providers...SP AusNet recognises that NEMMCO do have the responsibility for higher level validation, and do estimation and substitution if the RP's metering provider fails to deliver to meet settlements. SP AusNet consider that these must be recognised separately in the New Rules to the roles of the RP and the metering provider.

[In reference to clauses S7.4.2(b)] SP AusNet ...are unclear how the accreditation and registration process for Metering Providers will recognise the different service levels associated with the differences between type 4A and type 4B metering installations.

(second round):

The introduction of a type 4 small and the related consumption limit above which a type 4 small cannot be used ...leads to the situation that the new

sub-type of type 4 (ie. the type 4 small) cannot be used up to 750 MWh. Hence the type 4 row in the table [S7.2.3.1] must be split into two rows.

[In relation to clauses 7.9.4(b), 7.9.4(d), 7.9.5(a) to (c)] SP AusNet recognise that NEMMCO do have the responsibility for higher level validation, and do estimation and substitution if thye responsible person's Metering Provider fails to deliver to meet settlements. If the Rules current wording remains unchanged the data validation and substitution process currently done by the responsible person and the Metering Providers for types 5, 6 and 7 metering installations has no Rules support.

[In relation to clause 7.3.2(b) & (d)] It is unclear to SP AusNet how this [the Victorian AMI rollout initiative] will be established in the Rules. This could perhaps be via a jurisdictional metrology material submission by the Victorian Minister, however SP AusNet consider that a more integrated set of words should be included in this drafting effort. This would better provide the long term support for the LNSPs role in the rollout. If this is considered out of scope of this Rule change then SP AusNet's expectation would be for AEMC to indicate to industry its preferred approach so that this can be appropriately covered in the next round of Chapter 7 changes.

[In relation to clause 7.3.1(e)] The requirement for the LNSP to issue a NMI is more appropriately relocated to clause 7.2.3.

UED stated (first round):

In relation to the performance of the metering installation, NEMMCO has explicit powers under clause 7.11(ba) and 7.11(bb) to establish and publish an exemption procedure, and to grant an exemption in relation to the timeframe to repair/replace a faulty meter. The current Metrology Coordinator for the Victorian Metrology Procedure covering meter types 5, 6 and 7 has a broader power relating to the Metrology Procedure and metering generally to provide exemptions of not action letters. UED consider that the same power as currently with the Metrology Coordinator role to grant exemptions should be provided to NEMMCO and made explicit within the Rules.

(second round):

Not providing a clear label/name for this meter type [the situation where NEMMCO does not require an extract of energy data from a meter with remote acquisition to be transmitted to it on a daily basis] may lead to different conventions within each of these procedures [metrology procedure, B2B Procedure].

In Victoria, participants currently have the opportunity to request no action letters from the jurisdictional Regulator / Metrology Co-ordinator for any minor breaches or concerns regarding the Metering/Metrology environment.... UED suggest that the Rule changes should provide for the continuance of at least the current processes which we consider good regulatory practice....

The Commission's consideration and reasoning:

The Commission has grouped a number of suggestions made in submissions which are not within the specific scope of the NEMMCO proposal. The Commission has made all submissions on these issues public on its website and considers there is merit in these matters being referred by the Commission to the MCE.

Accordingly, the Commission has not introduced these suggestions into this Rule Determination, other than to highlight this group of suggestions and to comment in some instances on how they might be addressed. The Commission intends to transmit the Rule determination to the MCE and draws the 'out-of-scope' issues to its attention.

Five major issues raised were:

- the requirement on the LNSP to provide the NMI to NEMMCO
- the FRMP as responsible person for types 5 to 7 metering installations
- the LNSP as responsible person for type 4 metering installations for small customers
- the use of metering data for the DNSP;
- the terminology required to describe a type 4 metering installation the situation where NEMMCO does not require an extract of energy data from a meter with remote acquisition to be transmitted to it on a daily basis.

Each of these major issues is discussed below.

3.10.1 Requirement on LNSP to provide NMI to NEMMCO

In regard to the provision that requires a LNSP to provide the NMI to NEMMCO within 10 business days of entering into a connection agreement (clause 7.2.2(c)(3)), the Commission notes that this clause has a narrow application, being in regard to entering into a connection agreement for the proposed metering installation (clause 5.3.7(e)(3)). The Commission understands that this provision has been included to ensure that the link between Chapter 5 and Chapter 7 activities are transparent. Prior to this provision, the link was silent and it required local knowledge to appreciate the importance of the clause 5.3.7 provision in regard to the Chapter 7 requirements. On this basis, the extension of the provision to all responsible persons is considered to be out of scope by the Commission.

3.10.2 FRMP as responsible person for types 5 to 7 metering installations

The Commission notes that there was only one submission regarding the right of the FRMP to be the responsible person for types 5, 6, and 7 metering installations. This suggestion incorporates a broader policy question, which is out of scope for the NEMMCO proposal.

3.10.3 LNSP as deemed responsible person for type 4 metering installations for small customers

The Commission notes that there were a number of submissions on whether the LNSP should be permitted to become the deemed responsible person for type 4 metering installations for small customers in light of the COAG announcement of a national

rollout of smart meters. There was also a couple of submissions suggesting that the transfer of the LNSP derogation from Chapter 9 to Chapter 7 should be delayed until after a policy direction had been given by the MCE. These suggestions incorporate a broader policy question, which is out of scope for the NEMMCO proposal.

3.10.4 Use of metering data by DNSP

The Commission notes the request in regard to clause 7.14.3(a)(5) for a clause that prevents the metrology procedure from including economic regulatory controls on the LNSP. For the purpose of clarification, clause 7.14.3(a)(5) is a direct extract from the definition of metrology procedure that is currently active in the Rules. In the Draft Rule, the Commission imported part of the definition into the body of Chapter 7 to improve the clarity of the definition. The residual part of the current definition has become new definition in the Rule. This change was an editorial adjustment which did not change the intent of the existing Rule. The Commission notes that the suggestion raised in the submission is beyond the scope of the existing package of Rule changes and would require consultation with interested parties before the Commission could consider a future Rule on this matter.

3.10.5 Terminology required to describe a type 4 metering installation the situation where NEMMCO does not require an extract of energy data from a meter with remote acquisition to be transmitted to it on a daily basis

The Commission notes that a suggestion has been raised regarding the terminology of the type 4 metering installation. The Commission also notes that the volume ranges for the type 1, type 2 and type 3 metering installation are fixed, whereas the volume range for the type 4 metering installation (0 to 750 MWh), whilst fixed at its extremities, contains a flexible volume marker in relation to the delivery of metering data to NEMMCO for prudential supervision and settlements processes. The flexible volume marker does not appear to be a divider in regard to technical characteristics (as is the case for the type 1, type 2, type 3 and type 4 metering installations) and consequently has not been recognised as a unique 'type'. The Commission considers that any change in terminology or relationship between metering attributes requires further consultation with interested parties, and may involve a shift in metrology policy which is beyond the scope of the existing package of Rule changes.

3.11 Assessment of the Rule: the Rule Making Test and the NEM objective

The Rule Making Test requires the Commission to be satisfied that a Rule that it proposes to make will contribute to the NEM objective. The NEM objective is defined in section 7 of the NEL.

The test requires the Commission to consider the implications of the proposed new Rule, for the efficient investment in, and efficient use of these electricity services, in respect of specified elements which impact on the long term interests of consumers of electricity. The Commission has applied the Rule Making Test to NEMMCO's proposal and has also taken into consideration alterations made by the Commission to the Rule to be made from outcomes of analysis and discussion in Section 3.4. These modifications have been compared to the provisions contained in the Rules.

The Commission has tested these various changes in three groups:

- the single metrology procedure;
- JJR recommendations and other related matters; and
- the LNSP deemed responsibility for the type 5, 6 and 7 metering installation.

Based on the Commission's assessment of the various changes below, the Commission is of the view that the Rule to be made satisfies the Rule Making Test whereby it is likely to contribute to the achievement of the NEM objective.

3.11.1 Single metrology procedure

The Commission has assessed that the national harmonisation of the jurisdictions' historical metering practices, which in some instances have been established over many decades, will:

- improve certainty for investors in metering services from the knowledge that all jurisdictions are working towards establishing a transparent set of uniform rules;
- encourage technology innovation for electricity metrology, by standardising practices, where possible at this time; and
- encourage jurisdictions to identify further jurisdictional barriers³² that need to be examined and harmonised as part of the future transitional path.

Specifically, the Commission recognises that metering services provide a material input into the ability of Market Participants to deliver improvements around the efficient investment in and use of electricity services for the long term interests of consumers of electricity with respect to price and quality of electricity. The Commission accepts that an incremental improvement in metering services will flow through to consumers of electricity through the hierarchy of service delivery, which is one of the design principles of the NEM.

The Commission has assessed that incremental improvement in metering services will be achieved through:

- (a) the replacement of 9 metrology procedures with a single national harmonised metrology procedure;
- (b) the assignment of the current Metrology Coordinator role to NEMMCO who will act as a single agent on behalf of the NEM;
- (c) the various controls imposed on the content, preparation, consultation, publication and maintenance of the metrology procedure;
- (d) the specific opportunity for interested parties to make recommendations to NEMMCO for a change in the metrology procedure;
- (e) the limited horizon available to jurisdictional Ministers to have a fast tracked process for modifying the metrology procedure, after which time the Ministers will have the same right to influence the content of the metrology procedure as any other person; and
- (f) the opportunity for the MCE to influence the content of the metrology procedure, as a united voice across the participating jurisdictions.

³² In the JJR Report.

The Commission is of the view that, taken together, these changes represent a material incremental benefit which will be translated over time into improved metering services. For this reason, the Commission has concluded that this group of changes (from the NEMMCO proposal and the additional alterations adopted by the Commission) meet the NEM objective.

3.11.2 JJR recommendations and other related matters covered by the proposal

The Commission has assessed that the related matters arising from the JJR recommendations; and a range of matters that have 'editorial' consequences presented in the NEMMCO proposal, will contribute to the incremental improvement in metering services through:

- (a) encouraging an increase in the population of interval meters and a decrease in the population of accumulation meters;
- (b) providing flexibility in the reading of an interval meter so that cost efficient metering services can be developed hand in hand with the market's need for interval energy data;
- (c) requiring a review of the metrology of the type 5 and type 6 metering installation to be undertaken at some future time, which is good regulatory policy, but recognising that there are a number of significant events that should be passed before the review is undertaken;
- (d) requiring NEMMCO to report additional matters of market interest in line with its existing reporting obligations; and
- (e) changes that correct errors and institutional changes, improve user friendliness, improve industry understanding of the Rules, and provide greater certainty as to their application.

The Commission is of the view that, taken together, these changes represent a material incremental benefit which will be translated over time into improved metering services. For this reason, the Commission has concluded that this group of changes (from the NEMMCO proposal and the additional alterations adopted by the Commission) meet the NEM objective.

3.11.3 The role of the LNSP as deemed responsible person

The Commission has assessed the proposal to translate the current policy settings for the LNSP as the deemed responsible person for type 5, type 6 and type 7 metering installations from the Chapter 9 derogations into the Chapter 7 Rules against the NEM objective. The Commission has taken the view that given the importance of establishing a single national metrology procedure, it is appropriate to translate the current policy settings for the Chapter 9 derogations, which would otherwise expire, into Chapter 7 Rules. The Commission considers that dealing with the formal Rules rather than a set of derogations will also provide more support to a single national metrology procedure.

As for the single metrology procedure, Commission recognises that metering services provide a material input into the ability of Market Participants to deliver improvements in the efficient investment in and use of electricity services for the long term interests of consumers of electricity with respect to price and quality of electricity. The Commission accepts that an incremental improvement in metering services will flow through to

consumers of electricity through the hierarchy of service delivery, which is one of the design principles of the NEM.

The Commission has assessed that incremental improvement in metering services will be achieved through:

- (a) the transfer of the derogations from Chapter 9 to Chapter 7 which will facilitate harmonisation of metrology requirements across the NEM and is consistent with the public policy supporting the formation of a single harmonised metrology procedure in that it will promote the efficient use of electricity services;
- (b) the administrative gains will be realised from eliminating the need for each Jurisdictional Regulator having to apply to the Commission for a continuation of the Chapter 9 derogation;
- (c) the consistency of one set of Rules instead of the current derogations which have been granted on a jurisdiction-by-jurisdiction basis, resulting in differences in wording and outcomes which is not appropriate for a single metrology procedure;
- (d) the retention of the right of choice for the FRMP in regard to responsibility for the types 1, 2, 3 and 4 metering installations;
- (e) the clarification that the FRMP may choose to alter a type 5, 6 or 7 metering installation to a type 1, 2, 3 or 4 metering installation based on the assumption that the FRMP will exercise this right if the economics of the alteration are attractive to the FRMP;
- (f) the formalising of the term 'remote acquisition' to assist in delineating the type 1, 2, 3 and 4 metering installation from the type 5, 6, and 7 metering installation;
- (g) the recognition that the LNSP may allow the introduction of 'remote acquisition' facilities to a metering installation to resolve operational difficulties in accessing the meter, and that in these situations the introduction of a remote acquisition facility should not be the trigger that provides the FRMP with the right to exercise choice for responsibility of the metering installation;
- (h) placing restrictions on the FRMP who wishes to exercise this choice, including the requirement to negotiate a reasonable compensation for the LNSP if the LNSP's metering assets were not required by the FRMP;
- (i) placing safe guards around the change in responsibility for the metering installation at the time of alteration of the metering installation and anchoring the change in responsibility to the transfer of a customer;
- (j) utilising the MSATS Procedures to provide additional flexibility to NEMMCO and industry in resolving, in good faith, the various issues associated with the transfer of responsibility of a metering installation;
- (k) the removal of the need for a low volume type 4 metering installation to be capable of providing actual metering data to NEMMCO on a daily basis; and
- (l) the requirement to specify performance parameters for the transfer of metering data to NEMMCO in the metrology procedure.

The Commission is of the view that, taken together, these changes represent a material incremental benefit which will be translated over time into improved metering services. For this reason, the Commission has concluded that this group of changes (from the

NEMMCO proposal and the additional alterations adopted by the Commission) meet the national electricity market objective.

Attachment 1: Rule be made