

# RULE

Australian Energy Market Commission

## CONSULTATION PAPER

### NATIONAL ELECTRICITY AMENDMENT (REDUCING CUSTOMERS' SWITCHING TIMES) RULE

### NATIONAL ENERGY RETAIL AMENDMENT (REDUCING CUSTOMERS' SWITCHING TIMES) RULE

#### **PROPONENT**

Australian Energy Market Operator

4 JULY 2019

## INQUIRIES

Australian Energy Market Commission  
PO Box A2449  
Sydney South NSW 1235

E [aemc@aemc.gov.au](mailto:aemc@aemc.gov.au)  
T (02) 8296 7800  
F (02) 8296 7899

Reference: RRC0031 / ERC0276

## CITATION

AEMC, Reducing customers' switching times, Consultation paper, 4 July 2019

## ABOUT THE AEMC

The AEMC reports to the Council of Australian Governments (COAG) through the COAG Energy Council. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the COAG Energy Council.

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# 1 INTRODUCTION

On 24 May 2019, the Australian Energy Market Operator (AEMO) submitted a rule change request to the Australian Energy Market Commission (AEMC or Commission) to amend the National Electricity Rules (NER) and the National Energy Retail Rules (NERR). The rule change has been submitted:

- In response to joint advice by the AEMC and AEMO to the Council of Australian Governments (COAG) Energy Council in December 2018<sup>1</sup> and Australian Competition and Consumer Commission (ACCC) Retail Pricing Inquiry Final Report and Recommendations,<sup>2</sup> and
- To support the delivery of AEMO's proposed high level design for a timely and improved customer transfer process and changes to its procedures.<sup>3</sup>

The requirements for retailers and other parties to undertake and complete a retail customer transfer are located within AEMO's Market Transfer and Settlement (MSATS) Customer Administration and Transfer Solution (CATS) procedures.<sup>4</sup> These are required by Chapter 7 of the NER and are subject to civil penalty provisions.<sup>5</sup> Any changes to the customer transfer procedures are largely within AEMO's remit to amend, in accordance with the required rules consultation procedures.

There are also some customer protection requirements in the National Electricity Retail Law (NERL) and NERR related to retail customer transfers, including the provision of information, cooling off periods, explicit informed consent and customer billing.

The AEMO rule change request seeks clarifications related to existing obligations and rights of parties in the NER and NERR to support the proposed changes to AEMO's MSATS CATS procedures.

## 1.1 Purpose and structure of this consultation paper

This consultation paper has been prepared to facilitate public consultation on the rule change request and is structured as follows:

- Chapter 2 sets out background information relevant to the AEMO rule change request.
- Chapter 3 summarises the rule change request, and raises issues and questions for stakeholder consultation.
- Chapter 4 sets out our proposed assessment framework for stakeholder consideration.

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1 Joint AEMC and AEMO advice to COAG Energy Council: customer transfers, December 2018. See: [www.aemc.gov.au/market-reviews-advice/aemc-and-aemo-joint-coag-energy-council-advice-customer-transfers](http://www.aemc.gov.au/market-reviews-advice/aemc-and-aemo-joint-coag-energy-council-advice-customer-transfers)

2 ACCC, Retail Electricity Pricing Inquiry — Final Report, 11 July 2018, Canberra

3 AEMO, Retailer Transfer Process in the NEM, High Level Design, May 2019. See: [www.aemc.gov.au/rule-changes/reducing-customers-switching-times](http://www.aemc.gov.au/rule-changes/reducing-customers-switching-times).

4 AEMO MSATS Procedure, CATS procedure principles and obligations, December 2017. See: [www.aemo.com.au/-/media/Files/Electricity/NEM/Retail\\_and\\_Metering/Market\\_Settlement\\_And\\_Transfer\\_Solutions/2017/MSATS-Procedures--CATS-v4.5.pdf](http://www.aemo.com.au/-/media/Files/Electricity/NEM/Retail_and_Metering/Market_Settlement_And_Transfer_Solutions/2017/MSATS-Procedures--CATS-v4.5.pdf)

5 clause 7.16.2 of the NER

## 1.2 Proposed timetable

Table 1.1 provides the indicative timelines for this rule change request. We note that AEMO will be conducting a separate consultation process on their proposed high level design for an improved retail customer transfer process. The AEMC will work collaboratively with AEMO so that any proposed changes can be aligned to the extent necessary.

**Table 1.1: Indicative timelines for the rule change request**

MILESTONE	PROPOSED DATE
Close of first round submissions	1 August 2019
Publication of draft determination	September 2019
Close of second round submissions	October 2019
Publish final determination and final rule if made	December 2019

## 1.3 Lodging a submission

Written submissions on this rule change request are due by **1 August 2019**. They must be lodged online via the Commission's website, [www.aemc.gov.au](http://www.aemc.gov.au), using the "lodge a submission" function and selecting the project reference code ERC0276/RRC0031.

The submission must be on letterhead (if submitted on behalf of an organisation), signed and dated. A template with the questions for consultation is available to help stakeholders provide their views on the issues raised in this paper.<sup>6</sup>

Where practicable, submissions should be prepared in accordance with the Commission's guidelines for making written submissions on rule change requests.<sup>7</sup> The Commission publishes all submissions on its website, subject to a claim of confidentiality.

All enquiries on this project should be addressed to Lisa Shrimpton on (02) 8296 7876 or [lisa.shrimpton@aemc.gov.au](mailto:lisa.shrimpton@aemc.gov.au).

<sup>6</sup> <https://www.aemc.gov.au/rule-changes/reducing-customers-switching-times>

<sup>7</sup> This guideline is available on the Commission's website [www.aemc.gov.au](http://www.aemc.gov.au).

## 2 BACKGROUND

This chapter outlines the background and context for the rule change request, including:

- the AEMC and AEMO joint advice to COAG Energy Council in December 2018
- a high level overview of the existing customer retail transfer process and procedures, and
- description of AEMO's proposed high level design for a timely and improved retail customer transfer process.

### 2.1 AEMC and AEMO joint advice to COAG Energy Council

On 3 December 2018, the AEMC and AEMO provided joint advice to the COAG Energy Council about improving the customer transfer process in the NEM. The advice took into account the related recommendations 8 and 9 of the ACCC Retail Electricity Pricing Inquiry Final Report (REPI).<sup>8</sup> The advice was provided in response to a request from the COAG Energy Council Senior Committee of Officials.

The AEMC and AEMO joint advice noted that changes should be made to the customer transfer process and the changes must extend beyond the proposed recommendations by ACCC. This was because there are a range of issues with the customer transfer process that may be allowing for, or contributing to, opportunities for parties to delay a customer transfer to conduct 'save activity'<sup>9</sup>. The AEMC and AEMO also noted that the existing customer transfer process is outdated and is in need of review to meet customer expectations and improve retail market competition.<sup>10</sup>

The AEMC and AEMO joint advice proposed a number of actions to improve the existing transfer process and address the recommendations from the ACCC REPI final report. These included that:

- AEMO continue to take action to monitor and enforce the existing procedures in light of non-compliant behaviour or activity by retailers.
- AEMO produce a high level design and associated rule changes for a customer transfer process that streamlines existing processes and improves retail market competition. This high level design should:
  - Enable a process that allows a customer to transfer retailers within two days after the end of the cooling off period.<sup>11</sup>
  - Have regard to the appropriate timeframes for notification and meter read options. For example, a customer self read, last billable reads, forecast or substitute and smart meter reads.
- Be guided by the following principles:
  - that there is a simple, easy and timely customer transfer process for consumers

8 Australian Competition and Consumer Commission *Retail Electricity Pricing Inquiry Final Report*, June 2018.

9 A save is generally known as a switch that is withdrawn before the customer switching process is complete.

10 Joint AEMC and AEMO advice to the COAG Energy Council: customer transfers, December 2018.

11 The cooling off period is 10 business days as defined in clause 47 of the NERR.

- the supporting procedures are streamlined, transparent and provide certainty for participants
- the obligations for parties are clear, enforceable and can be reported on, and
- that any changes have regard to the implementation and ongoing costs.

The advice also noted that any associated rule changes would take into account and consider:

- customer protection issues, including billing and contract information
- energy billing and settlement, and
- enforcement arrangements including reporting of breaches by the AER.<sup>12</sup>

At its December 2018 meeting, the COAG endorsed the AEMC and AEMO joint advice and work program to address improving customer transfers.<sup>13</sup>

## 2.2 Existing customer transfer procedures

AEMO's MSATS CATS procedures contain the core requirements and obligations of retailers and other parties to undertake and complete retail customer transfers. Generally, any changes to the customer transfer procedures that are operational and technical in nature are largely within AEMO's remit to amend, in accordance with the required rules consultation procedures.<sup>14</sup>

The main elements of the market customer transfer process and procedures are provided in Figure 2.1. A detailed description of the customer transfer procedures and process is provided in AEMO's proposed high level design at Attachment A to the rule change request.<sup>15</sup>

There are a number of associated retailer obligations and customer protection requirements in the NERL and NERR that relate to, or intersect with the retail customer transfer process. These include the provision of information, explicit informed consent, cooling off periods, billing and contract requirements.

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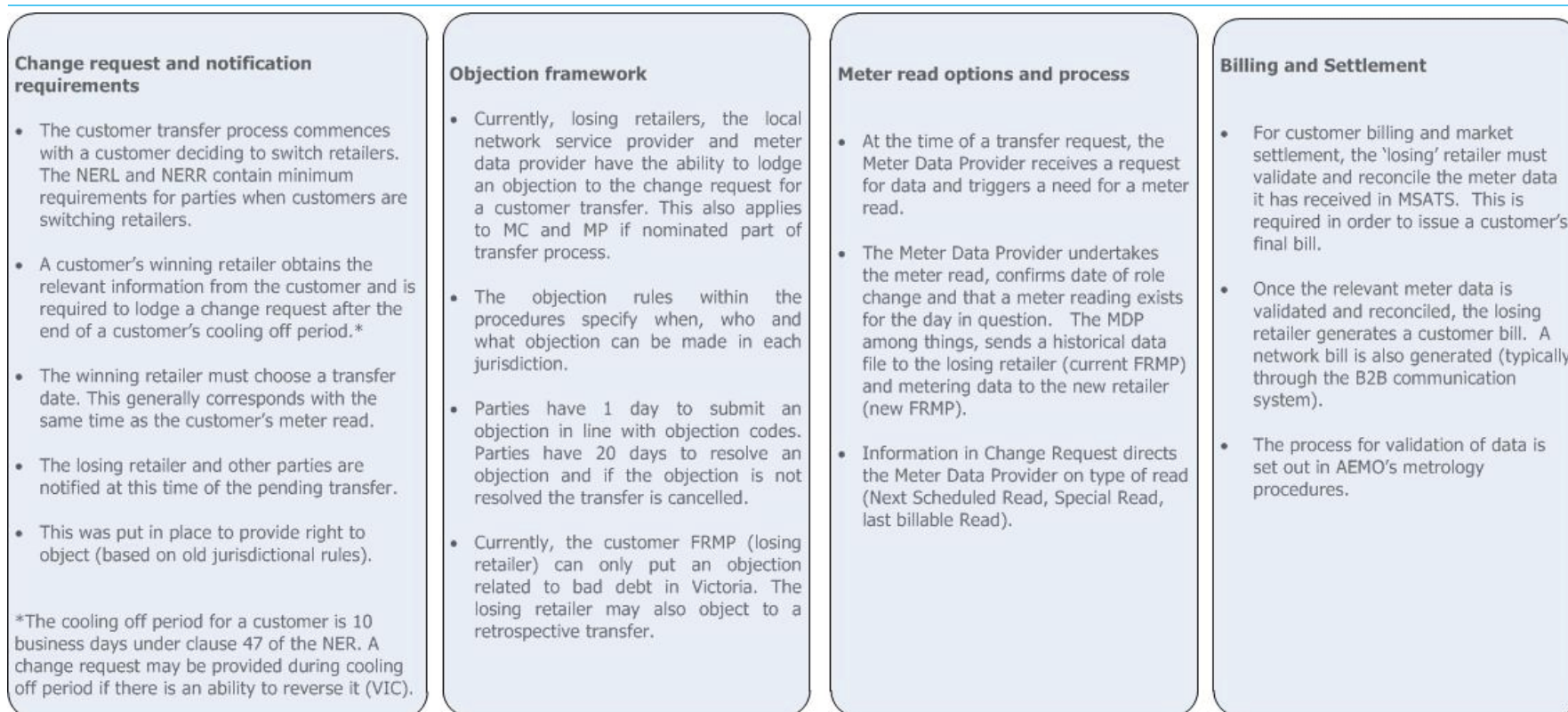
12 Joint AEMC and AEMO advice to the COAG Energy Council: customer transfers, December 2018, p.5-6.

13 [www.coagenergycouncil.gov.au/meetings](http://www.coagenergycouncil.gov.au/meetings)

14 clause 7.16.2 of the NER

15 AEMO, *Retailer Transfer Process in the NEM, High Level Design*, May 2019. See: [www.aemc.gov.au/rule-changes/reducing-customers-switching-times](http://www.aemc.gov.au/rule-changes/reducing-customers-switching-times)

**Figure 2.1: High Level Overview of MSATS retail customer transfer process and procedures**





## 2.3 AEMO high level design - retail customer transfer process

AEMO's high level design for a timely and improved retail customer transfer process is designed to allow customers to transfer electricity retailers within two days after the end of the cooling off period irrespective of metering type. For the purposes of this rule change request, the main elements of the changes to the procedures and transfer process, outside operational process improvements include:

- Limiting customer transfer change requests in MSATS to change of retailer only.
- Removing the need for notification of a pending transfer to parties, including the losing retailer. Notification will occur after the transfer has been completed in MSATS.
- Propose to remove the need for Next Scheduled Meter Read and clarifying the meter reads options that are available for use for a customer transfer, particularly in relation to those customers with manually read interval and accumulation meters. Obligations for ensuring data is delivered to support the customer transfer process is proposed to be the responsibility of the MC for the connection point.
- Review of provisions for error correction and management of concurrent transfer change requests.<sup>16</sup>

AEMO will also consider the reporting requirements to reflect compliance with the new process, including for:

- AEMO to report on time taken between raising a customer transfer change request and completion in MSATS.
- AER to include new reporting requirements in the Retail Performance Reporting Procedures and Guidelines that require retailers to provide information when they have first contact with a customer for a transfer.

In considering the changes required to the existing customer transfer process, AEMO had regard to existing work and previous reviews and rule changes. These include:

- Estimated meter reads – self reads rule change 2018
- Metering installation timeframes rule change 2018
- Using estimated meter reads for customer transfers rule change 2017
- Meter replacement processes rule change 2016
- Improving the accuracy of customer transfers rule change 2016
- Review of Electricity Customer Switching 2014
- Rollout of competition in metering, and
- Ongoing consumer data right work.

Each of the proposed amendments to the NER and NERR as they relate to the proposed high level design are discussed in Chapter three.

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<sup>16</sup> AEMO, *Retail Transfer Process in the NEM, High Level Design*, May 2019. See: [www.aemc.gov.au/rule-changes/reducing-customers-switching-times](http://www.aemc.gov.au/rule-changes/reducing-customers-switching-times)

## 3 DETAILS OF THE RULE CHANGE REQUEST AND ISSUES FOR CONSULTATION

AEMO proposes that a number of amendments and clarifications are made to the NER and NERR which are aimed at supporting the delivery of the high level design and proposed changes to the MSATS CATS procedures. The proposed amendments seek to clarify the obligations of, and rights of parties in the context of retail customer transfers.

This chapter sets out the:

- proposed amendments to the NER and NERR and proposed solutions by AEMO
- the potential issues that may require consideration as part of the rule change, and
- questions for stakeholders to consider.

### 3.1 Proposed NER amendments

AEMO, as part of the high level design intend to amend existing procedures so that only the retailer role can be nominated to change as of the customer transfer date. AEMO note that this will remove the ability for parties to object, delay or prevent a customer transfer from occurring due to role nomination. It will also remove the need for participants to be notified of a pending transfer prior to completion.<sup>17</sup>

AEMO proposes that as a consequence of the procedure changes:

- clause 7.8.9(e)(1) of the NER be removed. Where there is a requirement for appointment of these metering roles, AEMO proposed that this could be achieved following the completion of the customer transfer, via a separate change request, and
- clause 7.8.9(e)(2) of the NER be moved to the meter churn procedures, that is, matters relating to an alteration or replacement of a metering installation.<sup>18</sup>

Clause 7.8.9(e)(1)<sup>19</sup> relates to the appointment of roles in relation to meter replacement. Specifically, the clause provides the ability for an incoming customer's retailer to appoint Metering Coordinators (MC)<sup>20</sup>, Metering Providers (MP)<sup>21</sup> and MDPs<sup>22</sup> for a connection point in MSATS before a customer transfer is complete. While role nomination can occur, the intention is that the MC, MP, MDP roles cannot commence until after completion of the retail transfer. Further, a meter change cannot be initiated by the incoming retailer until after completion of the retail transfer (except by commercial arrangement).<sup>23</sup>

17 AEMO, Electricity Rule Change Proposal, Customer Transfers, May 2019, p.13

18 AEMO Rule Change Proposal, Customer Transfers in the NEM, p.11

19 Clause 7.8.9(e)1 was amended in 2016 by the *National Electricity Amendment (Meter Replacement Processes) Rule 2016*.

20 A Metering Coordinator is responsible for metering installation and appointing the Metering Provider and Metering Data Provider

21 The Metering Provider role involves installing, operating and maintaining metering installation. They have additional requirements in relation to security controls and confidentiality.

22 The Metering Data Provider is responsible for meter data services, including reading the meter or determining substituted estimates.

23 Commercial arrangements are permitted between the incoming retailer and incumbent metering parties to effect a meter churn prior to completion of the retail transfer process.

AEMO highlight that the existing clause impacts the customer transfer process because:

- The existing role nomination in MSATS of an MC, MP and MDP as part of the customer transfer process enables those parties to object and hence delay or suspend a customer transfer request from occurring. For example, an MC may object because it does not agree to be appointed to a connection point or the MDP may not be suitably accredited to perform the role to which they are appointed. As noted, objections suspend the proposed change request until the relevant objection is cleared or the change request is cancelled.
- The requirement in the NER can only be achieved in theory and not in practice. This is due to the need for an MDP to be suitably qualified and accredited following their appointment (accreditation required for type 5 and 6 metering can only provide metering data for those metering types).
- The clause provides a level of technical detail and requirement that is unsuitable for the NER and likely to lead to inefficient processes and confusion, regardless of future design of procedures for customer transfers.
- The customer transfer design is likely to continue to evolve and the NER should provide AEMO with flexibility for the design of MSATS procedures, which are subject to rule consultation requirements.<sup>24</sup>

The joint AEMC and AEMO advice to COAG Energy Council noted that the existing notification and objections frameworks related to retail customer transfers are contributing to a range of non compliant objections, delays and cancellations.<sup>25</sup> This is despite the only objection permitted is related to aged debt in Victoria.<sup>26</sup> The advice recommended that the notification and objection frameworks be reviewed and streamlined to remove outdated jurisdictional processes that are no longer permitted. This would reduce costs for retailers and other parties as a consequence of ongoing failed or objected to transfers.

A key consideration for this rule change is the extent to which the existing clause restricts the delivery of the proposed changes to MSATS and the CATS procedures. Other considerations will include whether a separate request in MSATS for role nomination of MC, MP and MDP related to metering installations and churn should be included within the NER and AEMO procedures given that:

- the transfer process will be reduced to two days
- recent changes to meter installation rules require meters to be installed within 10 days, and
- clause 7.8.9(e)(1) provides AEMO with some discretion with regard to how the MSATS procedures give effect to the nomination of metering roles and recording of appointment of these roles at a connection point and the exact timing and process for meter churn

<sup>24</sup> AEMO *Electricity Rule Change Proposal, Customer Transfers in the NEM*, May 2019, p.10.

<sup>25</sup> The AEMC and AEMO joint advice noted that in 2017, around 300,000 or 35 per cent of retail customer transfers were cancelled across the NEM.

<sup>26</sup> AEMC and AEMO joint advice to COAG Energy Council, *Customer Transfers*, December 2018.

following a retail customer transfer. AEMC, *National Electricity Amendment (Meter Replacement Processes) Rule 2016*, p.7.

**QUESTION 1:** DO YOU AGREE THAT CLAUSE 7.8.9 (E)(1) OF THE NER RESTRICTS THE DELIVERY OF THE PROPOSED CHANGES TO THE CUSTOMER TRANSFER PROCEDURES AND PROCESS?

**QUESTION 2:** ARE THERE ANY IMPACTS FROM REMOVING CLAUSE 9.8.9(E)(1) FROM THE NER AND ALLOWING THE MC, MP OR MDP ROLES FOR METERING INSTALLATIONS TO BE NOMINATED IN THE PROCEDURES BUT AS A SEPARATE REQUEST OR IN PARALLEL TO A RETAIL CUSTOMER TRANSFER?

**QUESTION 3:** ARE THERE ANY UNINTENDED IMPACTS FROM REMOVING OR CLARIFYING CLAUSE 7.8.9(E)(2) OF THE NER AND INCLUDING THE REQUIREMENT IN AEMO'S METER CHURN PROCEDURES.

## 3.2 Proposed NERR clarifications

AEMO is proposing that the MSATS CATS procedures are amended to clarify the meter read options available to consumers and retailers to facilitate retail customer transfers. The option of a Next Scheduled Read for a change request is proposed to be removed and the following meter read options will remain available for use for a retail customer transfer:

- Remote read
- Estimate (or otherwise know as substitute read)
- Last billable read, and
- Special read (actual read taken on consumer's premises)

As a consequence of the proposed changes to the MSATS CATS procedures, AEMO consider that clarifications could be made to the NERR where retail customer transfers occur using estimate reads. Specifically AEMO propose that:

- clause 21(1) is amended to accommodate the use of estimates for a final bill where the Retail Market Procedures allow for use of an estimation.
- clause 21(3A) is amended to extend the ability for a small customer to provide a customer self read for a customer transfer and final bill.

In the NEM, there are different metering types for the NEM that require different forms of meter reads. These different metering types and available meter read options associated with those metering types are provided in Box 1. The current regulatory framework does not prohibit any of the above meter read options for retail customer transfers. The Commission

understands that the meter read options currently used include next scheduled and next read (actual read from metering installation), special reads, estimated read and in some cases last billable read.<sup>27</sup>

#### **BOX 1: ELECTRICITY METERING TYPES AND METER READ OPTIONS**

- **Type 6.** Manually read accumulation meters. These metering installations are read once a quarter at the consumer's premise and record the total amount of electricity used over the period. The metering data is delivered to market participants shortly after collection.
- **Type 4A and 5.** Manually read interval meters. Records half hourly data but typically read once a quarter and delivered to market participants shortly after collection.
- **Type 4 and 4S.** Remotely read smart metering installation. Collected and delivered to market participants daily. In Victoria, there are remotely read smart metering installations. Metering data is collected and delivered to market participants by 6.00am each day for the previous day's metering data.

The proposed high level design will enable consumers to switch in two days will mainly affect consumers with metering installations that need to be manually read (Type 6, 4A and 5 metering installations). Consumers with remotely read interval or smart meters are likely to experience limited change as their data is collected remotely and is provided to MSATS and retailers daily.

Across the NEM there are around 69 per cent of customers<sup>28</sup> that have an accumulation meter or an interval meter that requires it to be manually read around every 91 calendar days.<sup>29</sup> That means, these consumers can wait up to 90 days for their transfer to complete and access the savings or new products available from switching retailers. This is unless the consumer opts for a one off special meter read<sup>30</sup> or they had a meter read shortly before they decided to switch retailers.

These consumers, if proposed changes are implemented, will be able to utilise the available meter read options to switch retailers in a two day period following the cooling off period of 10 business days.<sup>31</sup> They may also find the process simpler because of the limitations on the ability of parties to object or delay a transfer in order to conduct save activity.

Noting that different forms of meter reads are available for use but not widely utilised in the market today, it is useful to consider:

- Consumer sentiment on the ability to use different meter read options if this allowed transfer of retailers to occur quickly and without delay.

<sup>27</sup> Based on AEMO data, In 2018, around 85 per cent of customer reads were made on a next read and next scheduled read, around 6 per cent on estimated reads, and around 10 per cent on special reads.

<sup>28</sup> AEMO, Appendix A, Retailer Transfer Process in the NEM: High Level Design, May 2019, p.6.

<sup>29</sup> AEMO Electricity Rule Change Proposal, Customer Transfers in the NEM, May 2019, p.7

<sup>30</sup> AEMO, Appendix A, Retailer Transfer Process in the NEM: High Level Design, May 2019, p.9.

<sup>31</sup> clause 47 of the NERR.

- Reasons why there is not wider take up of alternative forms of meter reads for transfer. Clause 21(1) of the NERR provides that a retailer may base a small customer's bill<sup>32</sup> on an estimation of the customer consumption of energy, provided certain conditions are met. These conditions include:
  - the customer consents<sup>33</sup>; or
  - the retailer is not able to reasonably or reliably base the bill on an actual meter reading; or
  - metering data is not provided to the retailer by the Responsible Person or Metering Coordinator (as applicable).
- Current procedures for how estimates are determined and interactions with customer and retailer billing. The existing Metrology Procedures<sup>34</sup> provide rules for how and when metering data is estimated and the validation of metering data. An MDP must validate the metering data before it is sent to AEMO and other parties, including retailers. These procedures also set out the appropriate dispute resolution process for parties that can be either through commercial agreement or the dispute resolution process provided for in rule 8.2 of the NER. Under current processes AEMO do not use register readings, taken to support customer transfers from manually read accumulation meters, to determine the volumes of energy to be assigned to the previous and new retailer in the wholesale settlement process.<sup>35</sup> This is not proposed to change.
- The recent estimated meter reads rule made that makes it easier for customers to provide their own readings of their electricity and gas meter to their retailer,<sup>36</sup> and
- Situations where the last billable read for a customer has been ongoing estimates.

**QUESTION 4: ARE THE EXISTING PROVISIONS IN THE NERR RELATED TO CUSTOMER BILLING IMPACTING CONSUMERS UTILISING ALTERNATIVE METER READ OPTIONS AND SWITCHING ELECTRICITY RETAILERS IN A TIMELY MANNER?**

**QUESTION 5: IS THERE ANY EVIDENCE TO SUGGEST THAT CUSTOMERS WITH MANUALLY READ METERING INSTALLATIONS WOULD NOT TAKE UP ALTERNATIVE METER READ OPTIONS TO TRANSFER RETAILERS IN A TIMELY AND SEAMLESS MANNER?**

32 The term "bill" is not defined in either the NERR or NERL, therefore a reference bill, can include 'final bills'

33 The NERL sets out the requirements for explicit informed consent and consequences if consent was not obtained and recorded correctly.

34 AEMO Metrology Procedure: Part B: Metering Data Validation, Substitution and Estimation Procedure for Metering Types 1–7

35 For manually read accumulation meters (type 6), wholesale market settlement is based on the Net System Load Profile (NSLP). The NSLP calculates the volume of energy per half-hour trading interval that each retailer is responsible for, for each connection point, for each day in the settlement week. The best available data is used over the course of the 30-week settlement window to improve the NSLP.

36 AEMC, *National Energy Retail Amendment (Estimated meter reads) Rule 2018*, October 2018

**QUESTION 6: BASED ON AEMO'S PROPOSED HIGH LEVEL DESIGN AND CHANGES TO THE EXISTING PROCEDURES, ARE CLARIFICATIONS REQUIRED TO CLAUSE 21(1) OF THE NERR TO REMOVE AMBIGUITY ABOUT ISSUING FINAL BILLS ON ESTIMATE METERING DATA?**

AEMO also propose that:

- Clause 21(4), clause 30 and 31 is amended to accommodate over charging as a result of an estimate read. AEMO propose that the losing retailer should be required to adjust a customer's bill when a material inaccuracy in estimate has resulted in a materially higher final bill to the customer. AEMO propose that the losing retailer would not be entitled to re-bill a customer following a transfer if it is subsequently identified by the losing retailer that the customer was under-charged.

Clause 21(4) of the NERR requires retailers to provide for an adjustment on customer bills for overcharging where the small customer was issued a bill based on an estimate, and the retailer subsequently issues a bill based on an actual meter reading or on metering data. The NERR also provides general overarching and undercharging provisions.<sup>37</sup> In relation to overcharging, the retailer must inform the customer that they have been overcharged equal to or above the allowed threshold<sup>38</sup> within 10 business days after the retailer becomes aware of the overcharging. If the amount overcharged is equal to or above the overcharge threshold, a retailer must repay that amount as reasonably directed by the small customer or if there is no direction, credit the next bill. Where the customer has ceased to obtain services from the retailer, the retailer must use its best endeavours to refund that amount within 10 business days.

- Clause 4.2(b) of model terms and conditions of standard retail contracts and market retail contracts is clarified where a customer may be prohibited from transferring if the meter read is not an actual. AEMO are proposing that some amendments could be made to the existing terms of conditions of standard retail contracts and market contracts where they may restrict a customer transferring retailers where an actual meter read is not obtained. Clause 4.2(b) of the model terms and conditions of standard retail contract states that if a retailer gives a termination notice<sup>39</sup> but safe and unhindered access to a customer premises to conduct a final meter reading (where relevant) is not provided, the contract may not end until a final meter reading is carried out. We will consider the extent to which this provision may restrict customer switching retailers where customers are not transferring on an actual meter read.

<sup>37</sup> Clause 30 and 31 of the NERR

<sup>38</sup> Clause 31 (60) of the NER states that the overcharge threshold is \$50 or such other amount as the AER determines.

<sup>39</sup> Customers can also provide notices to end of contract early.

**QUESTION 7:** ARE ADDITIONAL PROVISIONS REQUIRED IN THE NERR TO ADDRESS OVERCHARGING AND DISPUTE RESOLUTION ARRANGEMENTS IN SITUATIONS WHEN A RETAIL ELECTRICITY CUSTOMER HAS TRANSFERRED USING ESTIMATE METER READ?

**QUESTION 8:** IS THERE ANY ADDITIONAL INFORMATION REQUIREMENTS NEEDED FOR A CUSTOMER TO TRANSFER RETAILERS USING DIFFERENT FORMS OF METER READS, INCLUDING SELF, LAST BILLABLE OR ESTIMATE METER READ?



## 4 ASSESSMENT FRAMEWORK

### 4.1 Rule making tests - Achieving the NEO and NERO

Under the NEL the Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national electricity objective (NEO).<sup>40</sup> This is the decision making framework that the Commission must apply.

The NEO is:<sup>41</sup>

To promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to -

- (a) price, quality, safety, reliability and security of supply of electricity; and
- (b) the reliability, safety and security of the national electricity system.

The Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national energy retail objective (NERO).<sup>42</sup> This is the decision making framework that the Commission must apply.

The NERO is:<sup>43</sup>

to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to price, quality, safety, reliability and security of supply of energy.

The Commission must also, where relevant, satisfy itself that the rule is "compatible with the development and application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers" (the "consumer protections test").<sup>44</sup>

Where the consumer protections test is relevant in the making of a rule, the Commission must be satisfied that both the NERO test and the consumer protections test have been met.<sup>45</sup> If the Commission is satisfied that one test, but not the other, has been met, the rule cannot be made.

There may be some overlap in the application of the two tests. For example, a rule that provides a new protection for small customers may also, but will not necessarily, promote the NERO.

### 4.2 Proposed assessment framework

For this rule change, we propose to use the following criteria to assess whether clarifications or amendments are required to the NER and NERO to support the delivery of AEMO's

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40 Section 88 of the NEL.

41 Section 7 of the NEL.

42 Section 236(1) of the NERL.

43 Section 13 of the NERL.

44 Section 236(2)(b) of the NERL.

45 That is, the legal tests set out in s. 236(1) and (2)(b) of the NERL.

proposed changes to the MSATS CATS procedures. AEMO will be required to assess its proposed high level design against the NEO and undertake consultation in accordance with the NER consultation procedures. The proposed assessment criteria includes whether the rule change:

- Provides adequate consumer protections related to retail customer transfers and support consumer choice of retail energy market products and services.
- Improves transparency and certainty of market processes including:
  - Certainty on the process for customer transfers and clarity on the suite of meter read options available to retailers and customers for customer transfers, and
  - The benefits to retailers and other relevant market participants from improving outdated processes that are contributing to delays and failed transfers.
- Reduces regulatory and administrative burden including the extent to which the changes improve AEMO's MSATS market systems and processes, retailers, and other relevant parties.

**QUESTION 9: ARE THERE ANY OTHER MATTERS THAT SHOULD BE CONSIDERED IN THE PROPOSED ASSESSMENT FRAMEWORK FOR THIS RULE CHANGE REQUEST?**

### 4.3 Making a more preferable rule

Under s. 91A of the NEL and 244 of NERL, the Commission may make a rule that is different (including materially different) to a proposed rule (a more preferable rule) if it is satisfied that, having regard to the issue or issues raised in the rule change request, the more preferable rule will or is likely to better contribute to the achievement of the NEO and NERO.

### 4.4 Northern Territory

Under the Northern Territory legislation adopting the NEL, the Commission may make a differential rule if, having regard to any relevant MCE statement of policy principles, a differential rule will, or is likely to, better contribute to the achievement of the NEO than a uniform rule. A differential rule is a rule that:

- varies in its term as between:
  - the national electricity system, and
  - one or more, or all, of the local electricity systems, or
- does not have effect with respect to one or more of those systems

but is not a jurisdictional derogation, participant derogation or rule that has effect with respect to an adoptive jurisdiction for the purpose of s. 91(8) of the NEL.

As the proposed rule related to parts of the NER that currently do not apply in the Northern Territory, the Commission has not assessed the proposed rule against additional elements required by the Northern Territory legislation.<sup>46</sup>

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<sup>46</sup> From 1 July 2016, the NER, as amended from time to time, apply in the NT, subject to derogations set out in regulations made under the NT legislation adopting the NEL. Under those regulations, only certain parts of the NER have been adopted in the NT. (See the AEMC website for the NER that applies in the NT.) National Electricity (Northern Territory) (National Uniform Legislation) Act 2015.

## ABBREVIATIONS

ACCC	Australian Competition and Consumer Commission
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
Commission	See AEMC
COAG EC	Council of Australian Government Energy Council
NEL	National Electricity Law
NEO	National electricity objective
NERL	National Energy Retail Law
NERO	National energy retail objective
MSATS	Market Transfer and Settlement procedures
CATS	Customer Administration and Transfer Solution