

RULE

Australian Energy Market Commission

DRAFT RULE DETERMINATION

**NATIONAL ELECTRICITY AMENDMENT
(ESTIMATED METER READS) RULE
2018**

**NATIONAL GAS AMENDMENT
(ESTIMATED METER READS) RULE
2018**

**NATIONAL ENERGY RETAIL
AMENDMENT (ESTIMATED METER
READS) RULE 2018**

PROponents

The Honourable Josh Frydenberg MP
Ms Kirsty Johnson
Dr Daryl Dodt

9 AUGUST 2018

INQUIRIES

Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

E aemc@aemc.gov.au
T (02) 8296 7800
F (02) 8296 7899

Reference: ERC0241

CITATION

AEMC, Estimated meter reads, Draft rule determination, 9 August 2018

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.

This work is copyright. The Copyright Act 1968 permits fair dealing for study, research, news reporting, criticism and review. Selected passages, tables or diagrams may be reproduced for such purposes provided acknowledgement of the source is included.

SUMMARY

- 1 The Australian Energy Market Commission (Commission) has made a more preferable draft rule (draft rule) that amends the National Energy Retail Rules (NERR) to provide customers with a process to request an adjustment to an estimated bill.
- 2 Under the draft rule, if a small customer receives an estimated bill and they consider it is based on an inaccurate estimate, the customer can request the retailer to adjust the bill by providing their own reading of the electricity or gas meter.
- 3 The draft rule requires retailers to inform small customers of their right to request an adjustment to an estimated bill using their own meter reading. In addition, the rule also includes additional measures to strengthen existing consumer protections related to estimated meter reads.
- 4 The draft rule was made in relation to three rule change requests that were consolidated. These requests, which were submitted by the Hon Josh Frydenberg MP and two private individuals - Ms Kirsty Johnson and Dr Daryl Dodt, were concerned about the impact that bills based on inaccurate estimates can have on small customers.

Case for change

- 5 Bills that are based on inaccurate estimates can have a significant impact on consumers, either through imposing financial hardship or making it difficult for customers to align their behavioural or consumption patterns with the bills they receive. Through our consultation process, state energy ombudsmen and various consumer groups have advised that billing disputes arising from inaccurate estimations are one of the most frequent category of complaints that they receive from energy customers.
- 6 The Commission considers that the NERR, in its current form, does not adequately protect consumers from the harm that can be created by inaccurate estimates. Under the current arrangements, a small customer that has received an estimated bill and believes it is inaccurate does not have a general ability to:
- obtain a replacement bill based on an actual read, or
 - obtain an adjusted estimated bill based on their own reading of the meter.
- 7 It is important to note the majority of energy bills are based on actual meter reads, with less than five percent relying on estimated reads. This is expected to decrease further over time as advanced meters that are capable of being remotely read become more common. However, the need for estimated reads cannot be fully eliminated, as there will always be instances where meters need to be manually read (for example, due to technology failures or a lack of a communications network). Therefore, the issues related to estimated reads will continue to remain relevant in the future.

Requiring retailers to adjust a bill based on an estimate

- 8 To address this, the draft rule proposes new requirements be placed on retailers to adjust an estimated bill based on a small customer's reading of the meter where requested by the

customer. The new requirement is likely to reduce the adverse effects experienced by consumers as a result of bills based on inaccurate estimates, by providing a clear process for them to obtain an adjusted bill.

9 The draft rule applies to all types of electricity and gas metering arrangements for small customers. As some metering arrangements will be more difficult for small customers to read than others, the draft rule includes a requirement on retailers to provide guidance to small customers on how to read their meter.¹

10 In order to obtain an adjusted bill, the customer will need to lodge their reading of the meter with the retailer before the due date for payment of the existing estimated bill. The draft rule does not include a requirement on metering parties or distributors to use customer self-reads for market settlement purposes.

11 The Commission considers that the new requirement strikes an appropriate balance between enhancing customer protections and maintaining flexibility for retailers to design their own approach to using self-reads, which should minimise the costs of implementation by allowing retailers to adapt their current systems.

Informing customers of their right to request an adjusted bill

12 Under the draft rule, when a bill has been issued as an estimate, retailers must inform small customers that they may provide their own reading of the meter as the basis for requesting an adjustment to their bill. This new provision is complementary to the first requirement, as it is important for small customers to be made aware of any rights they may have under the Rules.

13 The draft rule does not prescribe that retailers include this notification as part of the contents of an electricity or gas bill. The Commission considers it is appropriate to give retailers the flexibility to decide how to best notify customers, and that some may choose, for example, to include the notification as a bill insert instead of modifying their current bill layout.

14 Under the new requirements, retailers will need to indicate in advance to customers the accepted methods by which they can lodge a self-read, as well as the types of information the customer may need to include when lodging the meter read. The draft rule allows customers the right to provide a self-read if desired, while providing retailers with grounds for rejecting a self-read in necessary cases where the read does not comply with their requirements (which could include, for example, where the self-read is unclear) or is late.

Additional measures to strengthen customer protections

15 The draft rule also includes other measures to strengthen existing consumer protections applicable to bills, including enhancing the customer dispute provisions in the NERR and proposing to recommend that new civil penalties are added to protect customers from the provision of inaccurate estimates.

1 The Commission also acknowledges that there will be situations where customers will not be able to access their meter in order to carry out a self-read. For example, customers who live in strata units where access to the meter room has to be organised through the strata manager.

- 16 The Commission considers that the current customer dispute provisions contain a disincentive for customers to challenge bills, by allowing retailers to charge customers upfront for a meter data check or meter test (an issue raised in Minister Frydenberg’s rule change request).² To remove this disincentive, the draft rule requires customers to pay for the cost of the check or test only after the review has been completed and if the meter or data proves not to be faulty or incorrect.
- 17 In line with Minister Frydenberg’s request, the draft rule also amends the existing rules (as they relate to the acceptable basis for bills and the use of estimations) to make it clearer by providing an exhaustive list of the situations in which a retailer may base a small customer’s bill on an estimation, as well as the bases on which these estimations may be made. The Commission has also proposed to recommend to the COAG Energy Council (jointly with the AER) that new civil penalties are added to rule 21 of the NERR to further protect customers from the harm caused by inaccurate estimations.

² Minister Frydenberg, *Estimated meter reads*, rule change request, p. 4

CONTENTS

| | | |
|----------|---|-----------|
| 1 | Rule change requests | 1 |
| 1.1 | The rule change requests | 1 |
| 1.2 | Rationale for the rule change requests | 1 |
| 1.3 | Solutions proposed in the rule change requests | 3 |
| 1.4 | Current arrangements | 4 |
| 1.5 | The rule making process | 8 |
| 1.6 | Consultation on draft rule determination | 8 |
| 2 | Draft rule determination | 9 |
| 2.1 | The Commission's draft rule determination | 9 |
| 2.2 | Rule making test | 10 |
| 2.3 | Assessment framework | 12 |
| 2.4 | Summary of reasons | 12 |
| 2.5 | Other requirements under the NERL | 13 |
| 3 | The case for a rule change | 14 |
| 3.1 | Proponents' views | 14 |
| 3.2 | Stakeholder views | 15 |
| 3.3 | Analysis and conclusion | 19 |
| 3.4 | Commission's position | 21 |
| 4 | Requiring retailers to adjust a bill based on an estimate | 23 |
| 4.1 | Proponent's view | 23 |
| 4.2 | Stakeholder views | 23 |
| 4.3 | Analysis | 24 |
| 5 | Informing customers of their right to request an adjusted bill | 27 |
| 5.1 | Proponent's view | 27 |
| 5.2 | Stakeholder views | 28 |
| 5.3 | Analysis | 29 |
| 6 | Additional measures to strengthen customer protections | 31 |
| 6.1 | Proponents' views | 31 |
| 6.2 | Stakeholder views | 32 |
| 6.3 | Analysis | 33 |
| | Abbreviations | 36 |
| | APPENDICES | |
| A | Summary of other issues raised in submissions | 37 |
| B | Legal requirements under the NEL, NGL and NERL | 43 |
| B.1 | Draft rule determination | 43 |
| B.2 | Power to make the rule | 43 |
| B.3 | Commission's considerations | 44 |
| B.4 | Civil penalties | 44 |
| B.5 | Conduct provisions | 46 |

TABLES

| | | |
|------------|---|----|
| Table A.1: | Summary of other issues raised in submissions | 37 |
| Table B.1: | Proposed civil penalty provisions in the NERR | 45 |

FIGURES

| | | |
|-------------|---|---|
| Figure 1.1: | Metering installations in the National Electricity Market by type | 5 |
|-------------|---|---|

1 RULE CHANGE REQUESTS

1.1 The rule change requests

The Commission received the following rule change requests:

- On 6 February 2018, Ms Kirsty Johnson submitted a rule change request under the National Electricity Law (NEL) and the National Energy Retail Law (NERL) to prohibit the use of estimated meter reads.
- On 27 March 2018, Dr Daryl Dodt submitted a rule change request under the NEL and NERL to require retailers to apply a specific methodology for estimates where the customer has installed a solar system.
- On 29 March 2018, the Hon Josh Frydenberg MP, Minister for the Environment and Energy, submitted a rule change request under the NEL, NERL and the National Gas Law (NGL) to require retailers to accept a customer reading of a meter as the basis for an estimated meter read.

The three rule change requests are seeking changes to the National Electricity Rules (NER) and the National Energy Retail Rules (NERR) to address issues related to estimated meter reads. The Commission has consolidated these rule change requests under s. 93 of the NEL and s. 248 of the NERL respectively.

Minister Frydenberg's rule change request also requests the Commission to consider any requisite amendments to the National Gas Rules (NGR).

1.2 Rationale for the rule change requests

The rule change requests note that:

1. estimated meter reads can be inaccurate³
2. the ability for a customer to request that an estimated meter read be adjusted is quite limited and only available in specific circumstances.⁴

1.2.1 Inaccurate estimates

The proponents have raised concerns with the use of estimated electricity and gas meter reads, on the basis that under certain circumstances these can be inaccurate. Inaccurate estimates can occur for a number of reasons:

- **Error:** an estimate is not calculated in accordance with the approved methodology, or is transcribed incorrectly.
- **Chronic access issues:** the meter is not easily accessible and estimates are used for consecutive billing periods. This increases the likelihood that the estimate is inaccurate.
- **Changing usage patterns:** where a customer has recently changed their energy usage, for example with the installation of solar panels, new appliances or if the customer has

³ Rule change requests: Ms Johnson, p. 3; Dr Dodt, p. 1; Minister Frydenberg, p. 2.

⁴ Minister Frydenberg, *Estimated meter reads*, rule change request, p. 4.

been away from home for an extended period, an estimate based on previous usage will be inaccurate.

- **Lack of comparable previous energy usage data:** where a customer has recently moved in to a premises, their energy usage may be different from similar sized premises on which an estimate is based.

Currently, retailers must use their best endeavours to ensure customers receive at least one bill per year based on an actual meter read.⁵ At this point, any difference between the actual meter read and the previously estimated usage will be rectified. Following an estimated meter read and bill, a customer may receive an actual bill that is higher or lower than previous bills, depending, in part, on the accuracy of the estimates and how long estimates were previously used for the basis of billing.

For example, if a customer receives three successive bills that are based on estimates of usage that are lower than their actual usage for the corresponding period, the fourth bill (if it is based on an actual meter read) is likely to be significantly higher and may cause bill shock for that customer. This can be a significant issue for customers that are not able to easily manage unexpected costs.

While bills based on estimates that are higher than actual usage will eventually be rectified with the customer receiving a low bill, this can also be damaging for the customer. In this case, the customer paid higher costs than necessary and may have foregone expenditure on other items at the time.

Inaccurate estimated meter reads also make it difficult for customers to align their behavioural patterns with the bills they receive. For example, a customer may try to reduce his or her energy usage, but see no corresponding reduction in their bills and therefore cease to attempt to reduce energy usage. Alternatively, if a customer's energy use is increasing over time but he or she sees no corresponding increase in the bill, the customer has received no signal of increasing energy usage (and therefore costs). This issue is exacerbated where successive estimates are used, such as where there are chronic access issues.

1.2.2

Ability for a customer to rectify an inaccurate estimate used for billing

In his rule change request, Minister Frydenberg raised a concern with the current consumer protections outlined in the NERR. Specifically, he argued that the relevant provisions on billing do not adequately address the issue of incorrect estimates.⁶

Under the current provisions, a customer is able to request a review of a bill in accordance with the retailer's standard complaints and dispute resolution procedures.⁷ They may also request that, in reviewing the bill, the meter reading or data be checked. However, the customer must pay for the cost of the check or test and will only be reimbursed if the meter proves to be faulty or the metering data proves to be incorrect (e.g. incorrectly calculated or transcribed).⁸

⁵ Clause 20(2) of the NERR.

⁶ Minister Frydenberg, *Estimated meter reads*, rule change request, p. 4.

⁷ Clause 29(1)-(2) of the NERR.

Under clause 29(5) of the NERR, a small customer should be reimbursed for the cost of the check in the case of an inaccurate estimate or meter reading due to calculation or transcription error. However, the customer would not be reimbursed where an estimate is calculated in accordance with the approved methodology but is inaccurate due to chronic access issues, changing usage patterns or a lack of comparable previous usage data.

The NERR also allows customers to request their retailer to replace a bill based on an estimate with a bill based on an actual meter reading if a previous attempt to read the meter was unsuccessful due to an act or omission of the customer. However, the retailer may pass on any additional costs involved, such as for carrying out an additional meter read.⁹

Minister Frydenberg was concerned that the NERR does not provide a general ability for all customers who have received a bill based on an estimate to obtain a replacement bill based on an actual read. He noted that the NERR also does not address the initial issue of the customer receiving a bill based on a very inaccurate estimation, and requires a customer to pay for an actual reading.¹⁰

1.3 Solutions proposed in the rule change requests

The proponents suggested a number of possible solutions to minimise the likelihood and impact of inaccurate estimates on small customers, and to incentivise retailers to calculate their bills based on actual reads, or where necessary, estimates that are as accurate as possible. These proposed solutions included:

1. Requiring retailers to provide an adjusted bill based on a customer's reading of their meter where:¹¹
 - a. the customer requests an adjustment within 21 days of receiving the bill and that bill is not already based on a customer's reading of their meter
 - b. the customer provides a reading of their meter ('customer read estimate'); and
 - c. the retailer reasonably considers the customer read estimate to be accurate.
2. Requiring the retailer to inform small customers of their right to request an adjusted bill and that the customer may provide a reading of their meter as the basis for an adjustment.¹²
3. Applying civil penalty provisions to rule 21 of the NERR.
4. Requiring that a retailer must not use a grossly inaccurate meter estimate as the basis for a customer's bill.¹³
5. Requiring retailers to use a customer read estimate as the basis for billing, where:¹⁴
 - a. this has been requested by the customer

8 Clause 29(5) of the NERR.

9 Clauses 21(3),(4) and (5) of the NERR.

10 Minister Frydenberg, *Estimated meter reads*, rule change request, p. 4.

11 *ibid.*

12 *ibid.*

13 *ibid.*

14 *ibid.*

- b. the customer provides a reading of their meter within a seven day time period agreed with the retailer and
 - c. the retailer reasonably considers the customer read estimate to be accurate.
6. Prohibiting the use of estimated meter reads.¹⁵
 7. Requiring that estimates for households with solar panels should be based on data of energy generated by similar sized solar panels within similar latitudes. This should be used in conjunction with previous year billings for the customer to determine the estimated usage.¹⁶

In addition to the proposed rule changes, Minister Frydenberg provided a list of questions and complementary changes that should be considered to the NERR, as well as any requisite changes to the NER and NGR.¹⁷ These are discussed throughout the draft determination.

1.4 Current arrangements

The NERR sets out the obligations on retailers with regard to billing arrangements for both electricity and gas usage. The Commission notes that the NERR has not been adopted in Victoria. However, similar retailer billing requirements are set out in the Victorian Energy Retail Code.

The NER, NGR and Australian Energy Market Operator (AEMO) procedures set out the roles and responsibilities of parties involved in the collection and provision of metering data, including metering data providers (MDPs), electricity local network service providers and gas distributors.

1.4.1 Electricity metering for small customers

Types of electricity meters

Different meter types measure usage in different ways. For electricity, there are seven different types of metering services classified under the NER. Small customers often have advanced meters¹⁸, manually read interval meters¹⁹ or accumulation meters²⁰.

Accumulation meters

Most small customers in the National Electricity Market (NEM) currently have an accumulation meter, which performs basic metering functions and must be read manually. These meters record the total amount of energy used since the meter was installed, with customers billed based on the difference between reads.

15 Ms Johnson, *Estimated meter reads*, rule change request, p. 1.

16 Dr Dodt, *Estimated meter reads*, rule change request, p. 1.

17 Minister Frydenberg, *Estimated meter reads*, rule change request p. 10.

18 These are also called 'type 4' meters.

19 These are also called 'type 5' meters.

20 These are also called 'type 6' meters.

Interval meters

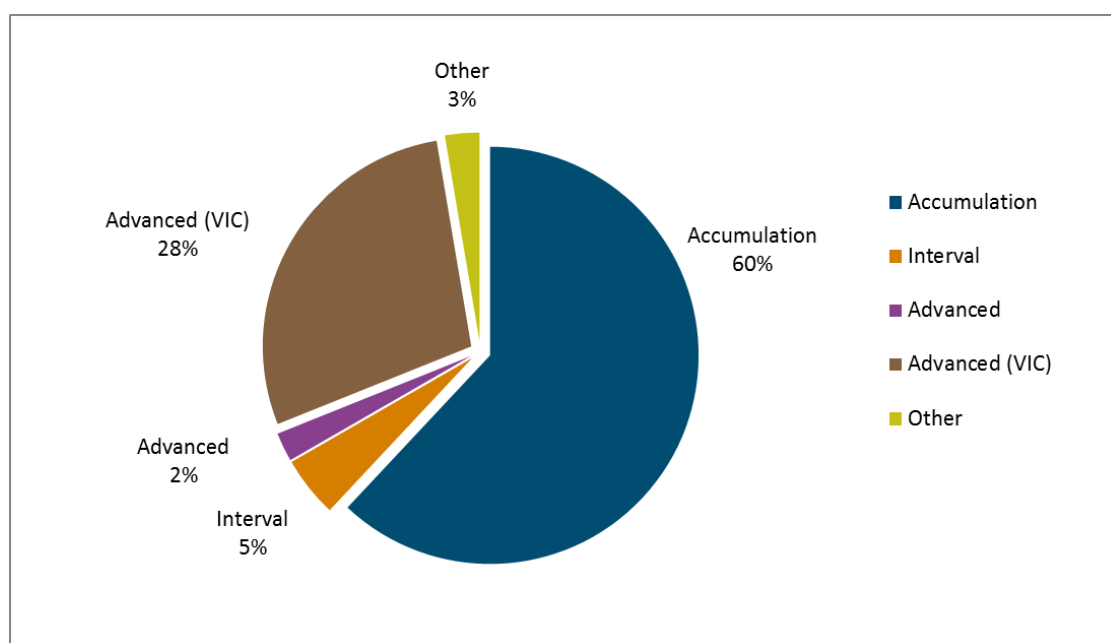
Manually read interval meters (MRIM) are also common in some distribution networks.²¹ These meters take measurements of how electricity is used in each 30-minute interval.

Advanced or smart meters are interval meters that are able to provide a minimum set of services, such as remote meter reading. On 1 December 2017, the *Expanding competition in metering and related services (Competition in metering)* rule commenced. One aspect of the rule is that all new and replacement metering installations for small customers must be advanced meters.

In some circumstances, the *Competition in metering* rule change provides that a type 4A meter can be installed.²² A type 4A meter has the same features of an advanced meter except that it has its communications functionality disabled. As type 4A meters do not have remote reading functionality, they must be manually read.

Since 1 December 2017, approximately 100,000 advanced meters have been installed across the NEM, excluding Victoria. A significant portion of the installations have occurred since the transition period ended on 31 March 2018. A large number of advanced meters were also installed during the transition to the new rules, with a total of 500,000 advanced meters having been installed outside of Victoria since the *Competition in Metering* rules were made in November 2015.

Figure 1.1: Metering installations in the National Electricity Market by type



Source: AEMO, *Market Settlement and Transfer Solutions (MSATS) - M74*, 12 July 2018.

21 In Victoria, type 5 interval meters can often be remotely read.

22 For example, this can occur where the customer has opted out of a type 4 meter roll-out or the meter would be located in a region where there is no communications network (Clause 7.8.4 of the NER).

Electricity metering roles and responsibilities

Prior to the commencement of the *Competition in metering* rule, the local distributor was responsible for the provision, installation and maintenance of a small customer's meter, as well as the collection and delivery of metering data.

The *Competition in metering* rule ended the effective monopoly of distributors over the provision of metering services for small customers by allowing any party that meets certain registration requirements to provide those metering services. This was achieved by creating a new type of registered participant, the 'metering coordinator'.²³

With the commencement of this rule, retailers are usually obliged to appoint a metering coordinator for each of their small customer's connection points.²⁴ The metering coordinator has overall responsibility for all issues related to the metering installations for which it has been appointed. For each connection point, the metering coordinator appoints a metering data provider who is responsible for providing data services, which includes reading the meter or calculating an estimate to determine the electricity usage of the customer.²⁵

1.4.2 Gas metering for small customers

The regulatory framework for gas meters is significantly different to electricity meters. Requirements for gas meters and meter reading, including estimated reads, are set out in AEMO's gas retail market procedures for each jurisdiction.

The network operator (that is, the distributor) is responsible for installing and reading the meter, including the calculation of estimates. There are no requirements for the distributor to install a certain type of meter (such as a remotely read meter) for small customers.

1.4.3 Frequency of meter reads

Requirements around the frequency of meter reads for both electricity and gas meters are set out in AEMO's procedures. These procedures impose obligations on MDPs and gas distributors regarding how often an actual meter read for manually read meters must occur:

- For electricity meters, AEMO's *Metering Data Provider Service Level Procedures* require MDPs to use reasonable endeavours to collect the metering data at least once every 3 months.²⁶
- For gas meters, AEMO's *Retail Market Procedures* for each NEM jurisdiction require distributors to use reasonable endeavours to undertake an actual meter read by the scheduled read date. For example, in New South Wales, meters must be read either daily,

23 As a transitional arrangement, per clause 11.86.7 of the NER, the distributor will be the metering coordinator (and metering provider) for type 5 and 6 metering installations, until the meter is replaced and the retailer appoints a new metering coordinator. The distributor also remains responsible for the network connection process for customers.

24 Under clause 7.2.1(a) of the NER. Under clause 7.6.2(a)(3), a large customer may appoint its own metering coordinator.

25 Clause 7.3.2(d) of the NER. Metering data services are defined in Chapter 10 of the NER as "the collection, processing, storage and delivery of metering data and the management of relevant NMI standing data in accordance with the rules."

26 Clause 3.6 of AEMO's *Service Level Procedure: Metering Data Provider Services*, Version 1.7.

monthly, bimonthly or quarterly depending on the type of customer.²⁷ In contrast, in South Australia, meters must be read at least annually.²⁸

Where a MDP or distributor is unable to carry out an actual meter read, AEMO's procedures allow for the estimation of the metering data which is used for market settlement purposes. This information is also used by the retailer to bill the customer for their energy consumption.

1.4.4 Retailer billing requirements

Under the NERR, retailers must issue bills to small customers at least every 100 days.²⁹ Retailers must base customers' energy bills on an actual reading of the meter if one is available, unless another arrangement is agreed with the customer.

For the most part, retailers use the metering data (including estimated data) that is provided by the MDP or distributor for billing purposes. In limited circumstances, some retailers generate their own estimates of a customer's energy consumption. This may occur where metering data has not been provided to the retailer in time for the customer's bill, or where a customer and the retailer have agreed to use a customer's reading of their meter .

Rule 21 of the NERR outlines the circumstances when a small customer's bill may be based on an estimation of energy consumption that is generated by the retailer, and the bases on which an estimate may be made. Specifically, subrules 21(1) and (2) outline:

1. A retailer may base a small customer's bill on an estimation of the customer's consumption of energy where:
 - a. the customer consents to the use of estimation by the retailer; or
 - b. the retailer is not able to reasonably or reliably base the bill on an actual meter reading; or
 - c. metering data is not provided to the retailer by the responsible person.
2. Where estimations are permitted to be used as the basis for a small customer's bill, the estimations may be based on:
 - a. the customer's reading of the relevant meter; or
 - b. historical metering data for the customer reasonably available to the retailer; or
 - c. the average usage of energy by a comparable customer over the corresponding period, if there is no historical metering data for the customer.

Some retailers (and gas distributors) already have voluntary arrangements that allow customers to submit their own meter reads.³⁰ However, there is no requirement for a retailer to accept a customer's reading of their meter as the basis for an estimated bill if a self-read is provided.

²⁷ Clause 3.1 of AEMO's *Retail Market Procedures (NSW and ACT)*, Version 18.

²⁸ Clause 149(3) of AEMO's *Retail Market Procedures (South Australia)*, Version 11.

²⁹ Clause 24(1) of the NERR.

³⁰ For example, Ergon will authorise customers to read their own meter in some circumstances: www.ergon.com.au/network/connections/metering/self-meter-read. Other retailers allow customers to submit their own reads to facilitate monthly billing, such as Powershop and AGL.

Where a customer's bill is based on an estimated read, the NERR requires that any over payment be repaid and allows for any under payment to be adjusted, once an actual meter read occurs.³¹ Where undercharging has occurred, the customer is able to request additional time to pay the bill in instalments.³²

1.5 The rule making process

On **17 May 2018**, the Commission published notices advising of its commencement of the rule making process and consultation in respect of the rule change request.³³ A consultation paper identifying specific issues for consultation was also published. Submissions closed on **14 June 2018**.

The Commission received 24 submissions as part of the first round of consultation. The Commission considered all issues raised by stakeholders in submissions. Issues raised in submissions are discussed and responded to throughout this draft rule determination. Issues that are not addressed in the body of this document are set out and addressed in Appendix A.

1.6 Consultation on draft rule determination

The Commission invites submissions on this draft more preferable rule and draft rule determination by **20 September 2018**. There will be limited capacity to accommodate late submissions.

Any person or body may request that the Commission hold a hearing in relation to the draft rule determination. Any request for a hearing must be made in writing and must be received by the Commission no later than **16 August 2018**.

Submissions and requests for a hearing should quote project number **ERC0241** and may be lodged online at www.aemc.gov.au or by mail to:

Australian Energy Market Commission

PO Box A2449

SYDNEY SOUTH NSW 1235

31 Clause 21(4) of the NERR.

32 Clauses 30 and 31 of the NERR set out requirements where a retailer has undercharged or overcharged a small customer.

33 This notice was published under s. 95 of the National Electricity Law (NEL), s. 303 of the National Gas Law (NGL) and s. 251 of the National Energy Retail Law (NERL).

2 DRAFT RULE DETERMINATION

2.1 The Commission's draft rule determination

The Commission's draft rule determination is:

- to make a more preferable draft rule under the NERL
- to not make a draft rule under the NEL or NGL.

The draft rule requires retailers to adjust a small customer's bill that has been based on an estimate by using a customer's own reading of their meter, if requested to do so by the customer. The draft rule also requires retailers to inform customers of this right in writing, and to advise of any changes to the customer's payment obligations.

The draft rule is based on the solution proposed in Minister Frydenberg's rule change request and adopts key aspects of the changes to the NERL proposed by Minister Frydenberg. Although the approach adopted in the draft rule is different from the solutions proposed in Ms Johnson and Dr Dodt's rule change requests, the Commission considers that the draft rule also addresses the issues and concerns raised by them.

The draft rule made by the Commission is attached to and published with this draft rule determination. The key features of the draft rule are:

- retailers must promptly provide a small customer with an adjusted bill based on a customer's reading of their meter where:
 - a small customer requests an adjustment to a bill based on an estimated meter read and provides the retailer with a reading of their meter; and
 - the retailer receives the customer's reading of their meter before the due date for payment of the bill; and
 - the retailer reasonably considers the customer's reading of their meter to be in accordance with its guidance and requirements
- retailers are required to inform customers in writing that they may request an adjusted bill (based on an estimated read) by providing the retailer with a customer's reading of their meter (customer self-read) before the due date for payment of the bill
- retailers must promptly notify the customer where a customer self-read has not been accepted³⁴ and explain to the customer the reason(s) for not accepting it
- makes explicit that a retailer may only base a small customer's bill on an estimation in certain circumstances, as well as limiting the bases on which an estimate may be made
- where a small customer requests that the meter reading or metering data be checked or the meter tested, the customer only has to pay for the cost of the check or test if the meter proves to be accurate or metering data is correct, following completion of the check or test.

³⁴ The draft rule provides limited ground for the retailer to reject the customer's self-read.

The Commission also proposes to recommend to the COAG Energy Council (jointly with the AER) that parts of rule 21 of the NERR be classified as a civil penalty provision for the purposes of the NERL.³⁵

The Commission's reasons for making this draft determination are set out in section 2.4. Further information on the legal requirements for making this draft rule determination are set out in Appendix B.

2.2 Rule making test

2.2.1 Achieving the NEO/NGO/NERO

Under the NERL, 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).³⁶ This is the decision making framework that the Commission must apply.

The NERO is:³⁷

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 is satisfied that the draft rule will, or is likely to, contribute to the achievement of the NERO to promote efficiency in the investment in, and efficient operation and use of, energy services for the long term interests of consumers (see section 2.4).

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").³⁸

A number of consumer protections are relevant to the rule change requests, including:

- clarifying when and how estimates can be used by retailers in billing small customers
- provision of information to consumers, including the requirement that retailers must notify small customers of their right to adjust a bill based on an estimate
- requiring retailers to adjust a small customer's energy bill that is based on an estimate using a customer's reading of their meter
- to strengthen the existing small customer dispute provisions in the NERR, including the requirement that the retailer must inform customers that they can lodge a dispute with the energy ombudsman if the customer disagrees with the reasons given by the retailer for not accepting their self-read.

The Commission is satisfied that the draft rule is compatible with the development and application of these consumer protections for small customers including (but not limited to)

³⁵ Refer to section 6.3.2 and Appendix B, section B.4 for more details.

³⁶ Section 236(1) of the NERL.

³⁷ Section 13 of the NERL.

³⁸ Section 236(2)(b) of the NERL.

protections relating to hardship customers and in relation to several areas enhances consumer protections.

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).³⁹ This is the decision making framework that the Commission must apply.

The NEO is:⁴⁰

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 considered that no changes to the NER are required to achieve the desired outcome of the rule change request. Therefore, the Commission did not apply the rule making test under the NEL for this draft determination.

Under the NGL, 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 gas objective (NGO).⁴¹ This is the decision making framework that the Commission must apply.

The NGO is:⁴²

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

The Commission considered that no changes to the NGR are required to achieve the desired outcome of the rule change request. Therefore, the Commission did not apply the rule making test under the NGL for this draft determination.

2.2.2

Making a more preferable rule

Under s. 244 of the 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 NERO.

In this instance, the Commission has determined that it should make a more preferable draft rule under the NERL, but it contains several elements of Minister Frydenberg's rule change request. Aspects of the draft rule that differ from Minister Frydenberg's proposed rule drafting are discussed throughout the draft determination and include:

39 Section 88 of the NEL.

40 Section 7 of the NEL.

41 Section 291(1) of the NGL.

42 Section 23 of the NGL.

- Instead of requiring retailers to provide an adjusted bill based on a customer's reading of their meter where the customer makes the requests within 21 days of receiving the bill, the draft rule requires a customer to request an adjusted bill by providing a reading of the customer's meter before the existing due date for payment of the bill. The Commission's preference is to make the process as simple and easy as possible for a customer to understand, noting that a customer is more likely to take note of the due date for payment of a bill than the date it was issued.
- The Commission has decided to not include in the draft rule a requirement that a retailer must not use a grossly inaccurate meter estimate as the basis for a customer's bill. The Commission considers that a retailer may not be able to reasonably determine whether a customer's usage has changed since the last actual meter read and therefore whether an estimate is 'grossly inaccurate'.

2.3 Assessment framework

In assessing the rule change request against the NEO, NGO and NERO, the Commission has considered the following criteria as part of its assessment of the rule change requests:

- **Efficient use of energy:** where consumers are provided with timely and accurate information about the costs of using energy, they can make more informed decisions about how they use energy.
- **Regulatory and administrative burden:** the degree to which the benefits of the proposed rule change outweigh the implementation costs that would likely pass through to consumers in a workably competitive market.
- **Consumer protection:** the degree to which the proposed rule change may improve, or at least not interfere with, consumer protections. The Commission will also consider whether the proposed new rules are compatible with the development and application of relevant consumer protections under energy laws and regulations of Victoria.⁴³

2.4 Summary of reasons

The Commission has assessed whether the proposed rule change request will, or is likely to, contribute to the achievement of the NEO, NERO and NGO and has evaluated the proposed rule change requests against the assessment framework set out above.

Efficient use of energy

Currently, small consumers whose meters are unable to be read will have bills calculated on an estimated consumption basis. Some customers, such as those with ongoing issues that limit access to the meter, could receive several consecutive bills based on estimated consumption. This limits the ability of these customers to understand their energy usage and make informed decisions about how they use energy.

⁴³ The AEMC is not required to take into account the consumer protections specific to non-NECF jurisdictions (that is, Victoria), as the proposed changes to the NERR would only apply in those jurisdictions that have implemented the NECF. However, Victorian consumer protections may have some relevance insofar as they indicate potential directions for the development of consumer protections in NECF jurisdictions.

The draft rule requires retailers to adjust and reissue an estimated bill based on a customer's reading of the meter. The Commission considers that this requirement will aid in aligning their usage patterns with the bills they receive and facilitate customers' engagement in the management of their energy bills. It may also increase their overall confidence in the accuracy of the bill they receive.⁴⁴

Regulatory and administrative burden

The Commission considered whether the implementation or operation of the draft rule would result in a disproportionate regulatory or administrative burden on retailers, compared to the benefits of the draft rule.

The draft rule includes a requirement on retailers to adjust an estimated bill based on a customer's reading of the meter. It is important to note that the NERR already allows retailers to produce a bill based on a small customer's reading of the meter. On this basis, some retailers and networks already have arrangements that allow customers to submit their own meter reads.

The Commission considers that the draft rule strikes an appropriate balance between enhancing consumer protections and maintaining flexibility for retailers to design their own approach. The draft rule is not prescriptive in the processes to be adopted by retailers to comply with the draft rule, which should reduce the implementation costs.

Consumer protection

If a bill is based on an estimated meter read that is significantly lower than the customer's actual usage, the customer can receive a large bill when an actual meter read takes place and the customer is charged for the difference between the estimated and actual usage. For some consumers this may create bill shock and potential financial distress.

The Commission considered whether the proposed changes relating to estimated meter reads would impede currently applicable consumer protections, or are consistent with such protections and are likely to be compatible with the future development of consumer protections. The Commission is of the view that draft rule is likely to improve customer protections, and may result in fewer customers experiencing bill shock and financial distress.

The Commission is also satisfied that the draft rule is compatible with the development and application of relevant consumer protections under energy laws and regulations of Victoria.

2.5 Other requirements under the NERL

In applying the rule making test,⁴⁵ the Commission has also taken into account issues that are set out and addressed in Appendix B.

⁴⁴ The Commission also acknowledges that there will be situations where customers will not be able to access their meter in order to carry out a self-read. For example, customers who live in strata units where access to the meter room has to be organised through the strata manager.

⁴⁵ Set out in section 88 of the NEL, 291 of the NGL and 236(1) of the NERL

3 THE CASE FOR A RULE CHANGE

This chapter outlines the case for the draft rule, including:

- the impact on small customers as a result of bills based on inaccurate estimates
- the ability for a customer to rectify a bill based on inaccurate estimates
- how the draft rule addresses the measures raised by proponents.

3.1 Proponents' views

3.1.1

Inaccurate estimates

In the rule change requests, Minister Frydenberg and Ms Johnson identified the issue that estimated meter reads based on the customer's historical energy usage or average energy usage by similar customers can be inaccurate. The rule change requests argued that this can result in bill shock and can have a high impact on customers. Ms Johnson noted that receiving a large bill after nine months of sequential estimates is particularly difficult for low income families that are unable to budget for unexpected costs.⁴⁶

Dr Dodt raised a related, but specific, issue with estimated reads that may occur following the installation of solar panels. Dr Dodt noted that where solar panels have recently been installed and an estimated meter read is carried out based on usage from the previous year, the estimate does not take into account the changed usage patterns.⁴⁷ As a consequence the bill will likely be based on an estimate that is significantly higher than the actual electricity use of the customer.

3.1.2

Ability for a customer to rectify a bill based on an inaccurate estimate

In his rule change request, Minister Frydenberg raised an issue with the current consumer protections provided in the NERR. Specifically, he argued that the relevant provisions on billing do not adequately address the issue of incorrect estimates.⁴⁸ In limited circumstances set out in the NERR, a customer can request for the meter to be tested, meter data to be checked or for the retailer to conduct an actual meter reading (section 1.2.2). However, in these circumstances, the customer is obliged to pay for the cost of the test, check or reading.

Minister Frydenberg was also concerned that the NERR does not provide a general ability for all customers who have received a bill based on an estimate to obtain a replacement bill based on an actual read. Under the existing NERR (rule 21(5)), small customers may request that the retailer replace an estimated bill with one that is based on an actual meter reading. However, this request can only be made where a previous attempt to read the small customer's meter was unsuccessful due to an act or omission of the customer (for example, where the meter is behind the customer's locked gate). In addition, in these circumstances, the retailer may pass the cost of the special read through to the customer.

⁴⁶ Ms Johnson, *Estimated meter reads*, rule change request, p. 3.

⁴⁷ Dr Dodt, *Estimated meter reads*, rule change request, p. 1.

⁴⁸ Minister Frydenberg, *Estimated meter reads*, rule change request, p. 4.

Where an actual meter read was unsuccessful due to circumstances outside of the customer's control, the general ability for small customers to request that an estimated bill is replaced with an actual read does not exist. However, we note that retailers have the discretion to offer this service to customers where an actual read of the meter is possible.

3.1.3

Measures proposed in the rule change requests

The proponents suggested a number of possible solutions to minimise the likelihood and impact of inaccurate estimates, and to increase the ability of a customer to rectify a bill that is based on an inaccurate estimate. As noted earlier, these proposed solutions included:

1. Requiring retailers to adjust a small customer's energy bill that is based on an estimate using a customer's reading of their meter.⁴⁹
2. Requiring retailers to inform customers of their right to request an adjusted bill based on an estimate, by providing the retailer with a reading of their meter.⁵⁰
3. Applying civil penalty provisions to rule 21 of the NERR.⁵¹
4. Requiring that a retailer must not use a grossly inaccurate meter estimate as the basis for a customer's bill.⁵²
5. Prohibiting the use of estimated meter reads.⁵³
6. Requiring retailers to use a proactive customer read estimate as the basis for billing, where this has been requested by the customer.⁵⁴ A 'proactive customer read estimate' is where a customer reads the meter during a designated time frame before the bill is produced.
7. Improving retailers' estimation techniques where energy usage has changed.⁵⁵

3.2

Stakeholder views

3.2.1

Inaccurate estimates

Most stakeholders agreed that inaccurate estimates can cause harm to consumers, and that the issue could be remedied in part by a rule change.⁵⁶

Several energy ombudsmen and consumer groups noted that billing disputes resulting from estimations are one of the most frequent categories of complaints they receive.⁵⁷ The Public Interest Advocacy Centre (PIAC) put forward that one reason for this is that the use of estimates itself is poorly understood, and consumers often are not aware that any particular

49 *ibid.*

50 *ibid.*

51 *ibid.*

52 *ibid.*

53 Ms Johnson, *Estimated meter reads*, rule change request, p. 1.

54 Minister Frydenberg, *Estimated meter reads*, rule change request, p. 4.

55 Dr Dodt, *Estimated meter reads*, rule change request, p. 1.

56 Consultation paper submissions: AEMO, p. 2; AGIG, p. 2; TasNetworks, pp. 1-3; AusNet Services, p.1; EWOSA, p. 1; EWON, p. 1; EWOV, p. 1; PIAC, p. 1; QCOSS, p. 1; Powershop, p. 1; Redback Technologies, p. 1

57 Consultation paper submissions: EWON, p.2; EWOSA, p. 1; EWOV, p. 1; QCOSS, p. 1; SA Department of Premier and Cabinet - Energy and Technical Regulation Division, p. 1.

bill is based on an estimate.⁵⁸ This can cause confusion and financial shock to customers when they later receive an adjusted bill based on an actual meter read.

Some retailers (including AGL and Origin) stated that they already provide customer meter reading services as a 'value-add' to attract and retain customers, and that these offerings have been developed in part to address customer concerns around the use of inaccurate estimations.⁵⁹ These retailers advocated that any change to the Rules should accommodate continued flexibility in retailer approach.

Some stakeholders argued that a rule change was unnecessary and would not adequately address the issues experienced by consumers as a result of inaccurate estimates.⁶⁰ Comments included that:

- Chronic access issues drive much of the sustained need for data estimation. Ultimately, it will be either customer action to address access barriers or alternatively, smart metering installation that will resolve the issue.⁶¹
- The move towards advanced metering will increase the frequency of actual meter reads at a lower cost. This will provide the solution to estimated meter reads, and should be given time to develop.⁶²

PIAC, AusNet Services and Powershop noted that the issues outlined in the consultation paper affect both retail gas and electricity customers.⁶³

3.2.2

Ability for a customer to rectify a bill based on an inaccurate estimate

Consumer groups considered that the NERR does not provide adequate protection for consumers with regard to inaccurate estimations.⁶⁴ In particular, PIAC was concerned that the existing provisions:⁶⁵

1. assumes that a customer understands that a bill is often based on an estimate, and that they are able to dispute this estimate
2. assumes that a customer is aware that bills based upon actual reads can be also be disputed
3. are likely to lead a customer who wishes to dispute their bill to request a read or check of the meter from their retailer and be liable to pay a potentially significant cost upfront.

58 PIAC, submission to the consultation paper, p. 3.

59 Consultation paper submissions: AGL, p. 1; Origin, p. 1.

60 Consultation paper submissions: Endeavour Energy, p. 1; Simply Energy, p. 1; ERM Business Energy, p. 1; Energy Queensland, p. 5; EnergyAustralia, p. 2; SA Department of Premier and Cabinet - Energy and Technical Regulation Division, p. 2.

61 ERM Business Energy, submission to consultation paper, p. 1.

62 Endeavour Energy, submission to consultation paper, p. 2.

63 Consultation paper submissions: PIAC, p. 3; AusNet Services, p. 1; Powershop, p. 2.

64 Consultation paper submissions: PIAC, p. 3; EWON, p. 2.

65 PIAC, submission to consultation paper, p. 3.

Retailers and networks as well as the South Australian Government were generally of the view that the current consumer protections outlined in the NERR are sufficient.⁶⁶ Some stakeholders suggested minor improvements to the current framework, including that:

- Rule 29 of the NERR could be strengthened by only requiring customers to pay for the costs of a requested meter read, data check or meter test after the outcome of the dispute has been determined (TasNetworks and Powershop).⁶⁷
- Retailers should be required to clearly and proactively advise customers of their options in the instance where customers receive an estimated bill (Jemena).⁶⁸

3.2.3

Measures proposed in the rule change requests

Requiring retailers to adjust a bill based on an estimate and to inform customers of their right to request an adjusted bill

Many stakeholders were supportive of the Minister's proposed requirement on retailers to adjust an estimated bill using a customer's reading of the meter, on the basis that it would reduce the problems faced by consumers as a result of bills based on inaccurate estimates (including bill shock).⁶⁹ Comments included that:

- the requirement will allow small customers to be better engaged in the management of their retail energy account and increase their overall confidence in the accuracy of the bills they receive. It may also motivate customers to pay bills which would otherwise be disputed, thus reducing debt for both consumers and retailers.⁷⁰
- the use of customer meter reads is well established and successfully practiced in various other markets around the world that have similar frameworks and levels of retail competition to the NEM (e.g. New Zealand and the UK). The example of their use in these markets shows that the concept is practically possible and, for many customers and retailers, desirable.⁷¹
- some retailers already cater for monthly or quarterly meter self-reads. Therefore, the process-related changes for retailers should be minimal, as well as the costs for implementing these changes.⁷²

Some retailers and networks were of the view that, while the proposal may address many of the issues experienced by customers as a result of inaccurate estimates, the requirement would be very costly to implement.⁷³ They questioned whether the benefits would outweigh

66 Consultation paper submissions: TasNetworks, p. 3; Aurora Energy, p. 1; Powershop, p.2; Endeavour Energy, p. 2; Simply Energy, p. 2; ERM, p. 2; Energy Queensland, p. 5; SA Department of Premier and Cabinet - Energy and Technical Regulation Division, p. 1.

67 Consultation paper submissions: TasNetworks, p. 3; Powershop, p.2.

68 Jemena, submission to consultation paper, p. 2.

69 Consultation paper submissions: AusNet Services, p. 1; AGIG, p. 2; AGL, pp. 2-3; EWOSA, p. 2; EWON, p. 1; PIAC, p. 6; EWON, p. 4; QCOSS, p. 1; Origin, p. 2; Powershop, p. 1; AEMO, p. 2; SA Government, Energy and Technical Regulation Division, p. 1; Redback technologies, p. 1.

70 EWON, submission to consultation paper, p. 4.

71 AEMO, submission to consultation paper, p. 3.

72 SA Department of Premier and Cabinet - Energy and Technical Regulation Division, submission to consultation paper, p. 2.

73 Consultation paper submissions: TasNetworks, p. 1; Endeavour Energy, p. 4; Aurora Energy, pp. 1-2; Energy Queensland, p. 4; ERM Business Energy, p. 4; Simply Energy, p. 2; Jemena, p. 8.

the costs given that advanced meters will reduce the instance of estimated reads for electricity bills over the medium to long term.

Most stakeholders were also in favour of the requirement to inform customers that they may provide a reading of their meter as the basis for requesting an adjusted bill.⁷⁴

Civil penalties

Consumer groups supported a wider application of civil penalties to rule 21 of the NERR, in order to provide incentives for retailers to undertake actual meter reads or to provide accurate estimated bills.⁷⁵ Other retailers and networks as well as the South Australian government were not supportive of introducing civil penalty provisions to rule 21.⁷⁶

Bills based on grossly inaccurate estimated meter reads

The vast majority of stakeholders did not support requiring retailers to ensure an estimated bill is not based on a meter estimate that is grossly inaccurate.⁷⁷ ERM Business Energy, TasNetworks, Origin and Energy Queensland argued that a retailer may not be able to reasonably determine whether the estimate is accurate or inaccurate given that it is common practice for retailers to use the estimated data that is supplied by the MDP (for electricity) or the distributor (for gas).⁷⁸

Prohibiting estimated reads

While stakeholders were sympathetic towards perceived challenges or shortcomings with estimated reads, they unanimously agreed that banning estimated reads would lead to more negative outcomes for consumers.⁷⁹ Comments included that there are valid circumstances where an actual read is not possible or may be impractical at a particular time. Estimated reads reduce the need for an additional site visit at extra expense and also allow an appropriate frequency of billing when no actual meter data is available.⁸⁰

Proactive customer read estimates and more accurate estimations techniques

Most stakeholders opposed the proposal to require retailers to accept proactive customer reads.⁸¹ They were also of the view that a new requirement on retailers to use customer

74 Consultation paper submissions: AEMO, p. 3; PIAC, p. 4; Powershop; QCOSS, p. 1; SA Department of Premier and Cabinet - Energy and Technical Regulation Division, p. 2.

75 Consultation paper submissions: PIAC, p. 6; QCOSS, p. 1.

76 Consultation paper submissions: TasNetworks, p. 3; Aurora Energy, p. 1; Powershop, p.2; Endeavour Energy, p. 2; Simply Energy, p. 2; ERM, p. 2; Energy Queensland, p. 5; SA Department of Premier and Cabinet - Energy and Technical Regulation Division, p. 1.

77 Consultation paper submissions: EnergyAustralia, p. 3; Energy Queensland, p. 7; ERM Business Energy, p. 3; Simply Energy, p. 1; Endeavour Energy, p. 4; Powershop, p. 4; Origin, p. 2; Jemena, p. 6; TasNetworks, pp. 1,3; EWOSA, p. 2; Tasmania Department of State Growth, p. 1.

78 Consultation paper submissions: ERM Business Energy, p. 3; Energy Queensland, p. 7; TasNetworks, p. 3; Origin, p. 2.

79 Consultation paper submissions: AEMO, p. 2-3; AGIG, p.2; AGL, p. 4; Citipower, Powercor and United Energy, p. 1; Endeavour Energy, p. 1, Energy Australia, p.2; Energy Queensland, p. 6; ERM Business Energy, p. 3; EWON, p. 3; EWOSA, p. 1; Jemena, p. 6; Origin, p. 2; PIAC, p. 3; Simply Energy, p. 1; Powershop, p. 4; QCOSS, p. 1; SA Govt. Energy and Technical Regulation Division, p. 3; Simply Energy, p. 1; TasNetworks, p. 3.

80 Consultation paper submissions: Origin, p. 1; AGIG, p. 2; Simply Energy, p. 4; PIAC, p. 3; AEMO, p. 2-3; AGIG, p. 2; Endeavour Energy, p. 3; Energy Australia, p.2; EWON, p. 3, Powershop, p.3; Simply Energy, p. 1; Energy Australia, p. 2

81 Stakeholders opposed included Aurora Energy, p. 2; ERM Business Energy, p. 4; Tasmanian Government - Department of State Growth, p. 1; Endeavour Energy, pp. 4-5; AGL, p. 1; EnergyAustralia, pp. 4-5; Simply Energy, p. 2. Stakeholders in support included Jemena, p. 1; EWON, p. 1; AusNet Services, p. 1; AEMO, p. 3.

meter readings should address Dr Dodt’s concern that inaccurate estimated reads may occur temporarily following the installation of solar panels.⁸²

3.3 Analysis and conclusion

3.3.1 Inaccurate estimates

Retailers and MDPs have strong incentives to utilise actual meter reads for customer billing and settlement purposes, including:

- requirements under the NERR⁸³ and AEMO level procedures⁸⁴ that govern the frequency by which retailers and MDPs must collect metering data (see section 1.4.3)
- reputational costs and the increased costs of managing customer complaints for retailers.

For this reason, the number of customers that receive electricity and gas bills based on estimated data is estimated to be less than five percent.⁸⁵ Despite the low volumes of estimated bills, the Commission considers that inaccurate estimates, when they occur, can have significant impact on consumers. This harm can result from:

- **Estimates that are too low:** Inaccurate low estimates may cause bill shock for customers when they eventually receive a higher bill based on an actual meter read. This can be a significant issue for customers who may have difficulty responding to unexpected increases in bills.
- **Estimates that are too high:** While bills based on estimates that are higher than actual usage will eventually be rectified by the customer receiving a lower bill after an actual meter read, this can also cause harm to customers. In this case, the customer paid higher costs than necessary and may have foregone expenditure on other items.
- **Misaligned behavioural patterns:** Inaccurate estimated meter reads also make it difficult for customers to align their behavioural patterns with the bills they receive. This issue is exacerbated where successive estimates are used, such as where there are chronic access issues.

Where the retailer has issued a bill based on estimation due to access issues, the problem is expected to diminish over time for electricity customers as advanced meters that are capable of being remotely read are progressively rolled out to small customers. The implementation of the *Competition in metering* rule should reduce the number of electricity meters that require physical access to be read.⁸⁶

82 Consultation paper submissions: AEMO, p. 5; PIAC, p. 6; South Australia Government – Energy and Technical Regulation Division, p. 2.

83 Clause 20(2) of the NERR requires retailers to issue a bill to small customers on standard retail contracts at least once every 100 days.

84 AEMO Metering Data Provider Service Level Procedures in addition require metering data providers to use reasonable endeavours to collect metering data at least once every 3 months for electricity meters, while distributors are required to use reasonable endeavours to undertake an actual meter read of gas meters based on NEM jurisdiction procedures.

85 Consultation paper submissions: AusNet, p. 1; Energy Australia, p.1; Energy Queensland, p. 11; Endeavour, p. 1; Jemena, p. 6

86 One aspect of the rule is that all new and replacement metering installations for small customer must be advanced meters that are remotely read (except in specific circumstances). Remotely read meters can be read at any point in time, subject to a functioning communications network.

However, it is important to note that there will be some ongoing need for estimated meter reads. For example:⁸⁷

- advanced meters without remote communications functionality may be installed where the communications functionality was disabled at the customer's request or where there is no communications network to service the meter
- it may take a number of years for the existing fleet of manually read interval or accumulation meters to be replaced
- there is no requirement for gas meters to be systematically upgraded to be remotely read.

In this context, it is relevant to note that the Energy and Water Ombudsman Victoria (EWOV) has indicated that it continues to receive complaints about inaccurate estimated meter reads despite the completion of the smart meter rollout for electricity customers in Victoria in 2015.⁸⁸ They have advised that these complaints primarily result from the circumstances described above (e.g. gas meters or type 4A meters) as well as advanced meters that have malfunctioned. This suggests that issues related to estimated reads could continue to be relevant even with a higher penetration of advanced electricity meters.

3.3.2

Ability for a customer to rectify a bill based on an inaccurate estimate

As discussed above, the Commission considers that bills based on inaccurate estimates can have a significant impact on consumers. The Commission also notes that the current framework as prescribed in the NERR may not provide adequate consumer protection with regard to inaccurate estimates as it does **not** confer a general ability on customers that have received an estimated bill to:

- obtain a replacement bill based on an actual read in all cases (section section 3.1.2), or
- obtain an adjusted estimated bill based on their own reading of the meter.

3.3.3

Measures proposed in the rule change requests

The draft rule proposes new requirements be placed on retailers to adjust an estimated bill based on a customer's reading of the meter as the most effective means to address the issues articulated above. In addition, retailers must inform small customers when a bill has been issued as an estimate that they may provide a reading of the relevant meter as the basis for requesting an adjustment to their bill.

The Commission considered extending the right of a small customer (under rule 29(5) of the NERR) to obtain a replacement bill based on a special meter reading in circumstances beyond where an actual read was unsuccessful as a result of the customer's actions. On balance, however, the Commission considered that applying the obligation in all circumstances was impractical. For example, there are cases where an actual reading of the meter is not physically possible due to access being hindered by a third party. The Commission considers

⁸⁷ Consultation paper submissions: QCOSS, p. 1; SA Department of Premier and Cabinet - Energy and Technical Regulation Division, p. 1.

⁸⁸ EWOV, submission to consultation paper, p. 1.

that this obligation could potentially impose an unfair cost burden on consumers where the cause of the estimated read was not due to matters within their control.

The Commission is of the view that the new requirement on retailers to allow customer self-reads is likely to provide customers with a more effective solution to the issues caused by inaccurate estimates. The new requirement will reduce the adverse effects experienced by consumers by enabling them to simply and quickly obtain an adjusted bill based on their own reading of the meter if they consider the estimated bill issued by their retailer is inaccurate.

The Commission considers that the new requirement strikes an appropriate balance between enhancing customer protections and maintaining flexibility for retailers to design their own approach. The draft rule is not prescriptive, which should reduce the costs of implementation by allowing retailers to adapt their current systems. In addition, there is scope for retailers to introduce or continue to offer additional service offerings, such as allowing proactive customer self-reads at their discretion.

The Commission considers that a retailer may not be able to reasonably determine whether a customer's usage has changed⁸⁹ since the last actual meter read and therefore whether an estimate is 'grossly inaccurate'. In addition, it is common practice for retailers to use the estimated data that is supplied by the MDP (for electricity) or the distributor (for gas). We note that AEMO procedures govern the types of estimations⁹⁰ that are allowed to be used by MDPs and distributors, with a view to making them as accurate as possible.

Estimated reads have been developed as a way to facilitate steady billing for the benefit of customers and retailers in the small number of instances where actual meter reads cannot be obtained, as well as to allow for the continuation of market settlement. While inaccurate estimated reads can be problematic to resolve for customers and for retailers, the Commission considers that the costs of prohibiting them entirely are likely to be substantially higher than the benefits for all stakeholders.

The Commission is of the view that the new requirements on retailers to adjust an estimated bill based on a customer's reading of the meter would provide customers with adequate recourse in case their estimated bill is perceived as not being accurate. In particular, the new requirements should address Dr Dodt's concern that inaccurate estimated reads may occur temporarily following the installation of solar panels. More generally, the Commission accepts the difficulty that retailers would face in attempting to improve estimation techniques where a customer's energy usage has changed, given that they do not always know about behind-the-meter changes, such as the installation of new appliances, that can affect consumption patterns.

3.4 Commission's position

Bills that are based on inaccurate estimates can cause significant harm to consumers, either through imposing financial hardship or making it difficult for customers to align their behavioural patterns with the bills they receive. The Commission has made a more preferable

⁸⁹ For example, as a result of recently installed appliances or where a customer has been on holiday.

⁹⁰ Known as 'substitutions' in AEMO's *Metrology Procedures*.

draft rule to provide customers with a method to request an adjustment to their bill if they consider it to be based on an inaccurate estimate.

The draft rule also includes a range of additional measures to strengthen existing consumer protections related to estimated meter reads, such as:

- amendments to strengthen the existing customer dispute provisions in the NERR
- amendments to rule 21 of the NERR, which should provide clarity to both consumers and retailers regarding estimated bills
- a proposal to recommend to the COAG Energy Council that civil penalty provisions are applied to certain sections of rule 21.

These requirements will be described in further depth in the following chapters.

4 REQUIRING RETAILERS TO ADJUST A BILL BASED ON AN ESTIMATE

This chapter outlines the draft requirement on retailers to adjust a small customer's energy bill that is based on an estimate using a customer's reading of their meter.

The draft rule specifies that where:

1. a small customer requests an adjustment to a bill based on an estimate by providing the retailer with a reading of their meter
2. the retailer receives the meter reading before the due date for payment of the bill
3. the retailer reasonably considers the customer's reading of their meter is provided in accordance with its guidance and requirements

the retailer must promptly provide the small customer with an adjusted estimated bill based on the customer's reading of their meter.

4.1 Proponent's view

Minister Frydenberg's rule change proposal aimed at enabling small customers to simply and quickly obtain an adjusted 'estimated bill' based on their own meter reading. To achieve this, he proposed that the following requirement be added to Rule 21 of the NERR:⁹¹

"Where:

1. a small customer requests a retailer provide an adjustment to an estimated bill and that estimated bill is not based on a customer's reading of the relevant meter; and
2. the small customer makes this request within 21 days of the issue date of the estimated bill; and
3. the small customer provides the retailer with a self-read of the meter that the retailer reasonably considers to be accurate,

the retailer must provide the small customer with an adjusted estimated bill based on the meter reading information provided by the customer."

4.2 Stakeholder views

As discussed in Chapter 3, many stakeholders were supportive of the proposed new requirement on retailers, as it would reduce the impact faced by consumers as a result of bills based on inaccurate estimates.⁹² Some retailers and networks were of the view that, while the proposal may address many of the issues experienced by customers as a result of inaccurate estimates, the requirement would be very costly to implement.⁹³

⁹¹ Minister Frydenberg, *Estimated meter reads*, rule change request, pp. 5-6.

⁹² Consultation paper submissions: AusNet Services, p. 1; AGIG, p. 2; AGL, pp. 2-3; EWOSA, p. 2; EWON, p. 1; PIAC, p. 6; EWON, p. 4; QCOSS, p. 1; Origin, p. 2; Powershop, p. 1; AEMO, p. 2; SA Government, Energy and Technical Regulation Division, p. 1; Redback technologies, p. 1.

Retailers were generally in favour of passing the customer read on to other metering parties or distributors for settlement.⁹⁴ These stakeholders were concerned about liquidity risk arising from any temporary mismatch in what the customer is billed by the retailer, versus what the retailer may be billed by the market for wholesale settlement or network charges.

AEMO was opposed to requiring customer self-reads to be used for settlement purposes, citing the cost and complexity that would arise from adjusting its metrology procedures (for electricity) and retail market procedures (for gas).⁹⁵ AEMO commented that the benefits to the market would be limited as, over 98 per cent of the time, this data will be overwritten by actual meter data prior to the final settlement revision.⁹⁶

Most retailers and some networks were of the view that certain metering arrangements should be exempt from the rule, and energy customers with the specified metering installations not permitted to provide a self-read as the basis for an adjusted bill.⁹⁷

AGL, AEMO, PIAC and the Energy and Water Ombudsman of South Australia (EWOSA) were not in favour of exempting specific metering arrangements under the rule. They considered that, although some metering arrangements can be more difficult to read, there are a range of resources currently available in the market to assist customers to read their own meter.⁹⁸

4.3

Analysis

4.3.1

Allowing customers to request an adjustment to an estimated bill

The Commission notes that the NERR already allows retailers to produce a bill based on a customer's reading of the meter.⁹⁹ On this basis, some retailers and networks have voluntary arrangements that allow customers to submit their own meter reads. However, there is currently no requirement on retailers to accept a customer's meter reading (if provided) as the basis for an estimate of energy usage at the customer's premises.

As discussed in Chapter 3, the Commission considers that providing customers with the ability to provide a meter reading is likely to reduce the adverse effects experienced by consumers as a result of inaccurate bills, by enabling them to simply and quickly obtain an adjusted bill. The draft rule therefore includes a requirement that will enable customers who receive a bill based on an estimate to seek an adjusted bill based on their reading of their meter, in addition to the adjustment occurring next time there is an actual meter read.

93 Consultation paper submissions: TasNetworks, p. 1; Endeavour Energy, p. 4; Aurora Energy, pp. 1-2; Energy Queensland, p. 4; ERM Business Energy, p. 4; Simply Energy, p. 2; Jemena, p. 8.

94 Consultation paper submissions: ERM Business Energy, p. 4; AGL, p. 6; Aurora Energy, p. 1; Energy Queensland, p. 4; EnergyAustralia, p. 6.

95 AEMO, submission to consultation paper, p. 3.

96 Under AEMO procedures, metering data providers must undertake the following:

- to deliver a minimum of 98 per cent of meter data to AEMO for settlement;
- to ensure that no more than 2 per cent of this data is substitute data, noting that metering data providers will substitute data if they are unable to obtain actual data from the meters.

97 Consultation paper submissions: Origin, p. 2; Powershop, p. 2; TasNetworks, p. 4; Energy Queensland, p. 8; EnergyAustralia, p. 5; Citipower, Powercor and United Energy, p. 1.

98 Consultation paper submissions: AGL, p. 3; PIAC, p. 5; EWOSA, p. 2; AEMO, p. 3.

99 Clause 21(2)(a) of the NERR.

Under the draft rule, customers will be able to check their meter to determine whether the estimated read provided on the bill is accurate.¹⁰⁰ If the customer considers the estimated bill to be inaccurate, the customer could request the retailer to adjust the bill and provide a meter reading in support of the adjusted estimated bill.¹⁰¹

The Commission considers that the new requirement strikes an appropriate balance between enhancing customer protections and maintaining flexibility for retailers to design their own approach. As discussed in section 5.3.1, the draft rule is not prescriptive in the processes to be adopted by retailers to comply with the draft rule, which should reduce the costs of implementation by allowing retailers to adapt their current systems. In addition, there is scope for retailers to introduce additional service offerings (for example, proactive customer meter readings) if they desire to do so.

4.3.2 **Draft rule to cover all metering arrangements**

The draft rule applies to all types of electricity and gas metering arrangements for small customers. Not all customers will know what type of metering arrangement they have installed at their premises, and may find it confusing to figure out if they are allowed to request an adjusted bill or not if the draft rule excluded certain types of meters. Further, it should be possible for customers to read their gas and electricity meters. Specifically:

- The NER requires that electricity meters must display the cumulative total energy measured by that installation in a visible or equivalently accessible display¹⁰²
- Stakeholders have indicated that it is possible for customers to read gas meters.¹⁰³

The Commission acknowledges that some metering arrangements will be more difficult to read than others. The draft rule therefore includes a requirement on retailers to provide guidance to customers on how to read their meter (see section 5.3.1).¹⁰⁴

4.3.3 **Minimising the costs of implementation**

Minister Frydenberg's proposed rule included the requirement that small customers must request an adjusted bill within 21 days of the issue date of the original bill. The Commission's preference is to make the process as simple and easy as possible for a customer to understand, noting that a customer is more likely to take note of the due date for payment of a bill than the date it was issued. The draft rule instead requires a customer to request an adjustment prior to the existing due date for payment of the bill.¹⁰⁵

100 Clause 25(1)(i) of the NERR.

101 The adjusted bill will still be classified as an estimated bill under the rules, with any adjustment for over- and under-charging occurring later when an actual meter read takes place.

102 Clause 7.8.2(a)(1) of the NER.

103 Consultation paper submissions: Jemena, p. 7; AGIG, p. 2.

104 The Commission also notes that there will be some situations where customers will not be able to access their meter in order to carry out a self-read. For example, customers who live in strata units where access to the meter room has to be organised through the strata manager.

105 The minimum due date for payment being 13 days from the bill issue date for a customer on a standard contract under clause 26(1) of the NERR.

It was clear from submissions that retailers have different perspectives on the preferred methods of adjusting a bill based on an estimate using a customer's own meter reading.¹⁰⁶ For example, some retailers want to issue a new bill based on the reading date, whilst others would prefer to apply a pro-rata calculation to align the customer's reading of their meter with the original bill date. The draft rule does not specify the method by which a retailer must adjust the bill. The Commission considers that providing retailers with discretion to determine the method of adjustment is likely to minimise implementation costs and allow retailers to design a process that aligns with their existing processes.

The draft rule also does not include a requirement on metering parties or distributors to use customer self-reads for settlement purposes. Stakeholders advised that inaccurate estimates affect a small proportion of customers, many of whom suffer chronic access issues.¹⁰⁷ Given the small scale of the issue, the Commission does not envisage that significant liquidity risk is likely to arise for individual retailers. Where electricity customers suffer chronic access issues, the Commission considers that the issue is best addressed by targeting those customers for roll-out of advanced meters.¹⁰⁸

The draft rule does not preclude customer self-reads from being used for market settlement where this is allowed by AEMO's metrology and retail market procedures. Several stakeholders noted that some customers self-reads are currently being used for settlement purposes.¹⁰⁹ The draft rule does not prevent the current arrangements from continuing.

106 Consultation paper submissions: EnergyAustralia, p. 5; Origin, p. 3.

107 Consultation paper submissions: Powershop, p. 1; ERM Business Energy, p. 1; AusNet Services, p. 1; Endeavour Energy, pp. 1-3; EnergyAustralia, p. 1; AGL, p. 6.

108 This was also noted by EnergyAustralia (p. 4) and Aurora Energy (p. 2) in their submissions to the consultation paper.

109 Consultation paper submissions: AGL, p. 4; AGIG, p. 2.

5 INFORMING CUSTOMERS OF THEIR RIGHT TO REQUEST AN ADJUSTED BILL

This chapter outlines the draft requirement on retailers to inform customers of their right to request an adjusted bill based on an estimate, by providing the retailer with a reading of their meter.

Existing rules specify the retailer must inform the small customer, on the bill, that the bill is based on an estimate.¹¹⁰ Under the draft rule, where a small customer's bill is based on an estimate, the retailer must inform a small customer in writing that they may request an adjusted bill by providing the retailer with a customer read estimate before the due date for payment of the bill. If the customer requests an adjusted bill, the retailer must also advise of any changes to the customer's payment obligations.

If the customer requests an adjusted bill, the draft rule specifies that the retailer must make clear any changes to the customer's payment obligations. It must also advise a small customer of their right to request an adjusted bill based on a reading of their meter and, at no charge, provide them in clear, simple and concise language:

- guidance on how to read their meter
- the types of information the customer is required to provide when lodging the customer read estimate
- instructions on the methods by which the customer can lodge the customer read estimate.

The draft rule also outlines that the retailer must promptly notify the customer, including reasons for its decision, where a customer's reading of their meter is not accepted by the retailer on the limited grounds:

- the reading was received on or after the bill due date for payment; or
- the retailer does not reasonably consider the customer read estimate is provided in accordance with its guidance and requirements.

The retailer must also set out a process under its standard complaints and dispute resolution procedures for a small customer to attempt to rectify a reading of their meter that is not accepted by the retailer. Following this, the retailer must inform the small customer that the customer may lodge a dispute with the energy ombudsman where the customer is not satisfied with the retailer's reason(s) for not accepting the customer read estimate.

5.1 Proponent's view

To ensure that small customers are aware of their ability to request a replacement bill based on their own meter reading, Minister Frydenberg proposed that for bills based on estimated reads, a retailer must inform customers that:

¹¹⁰ If the bill is based on a customer read estimate, the retailer must inform the customer on the bill that is based on the customer's reading of their meter.

1. they may provide a self-reading of the meter as the basis for requesting an adjustment, and
2. should the retailer reasonably consider the reading to be accurate, the retailer will issue the customer with an adjusted bill.¹¹¹

5.2 Stakeholder views

5.2.1 Informing the customer

As noted in Chapter 3, most stakeholders were in favour of the requirement to inform customers that they may provide a reading of their meter as the basis for requesting an adjusted bill.¹¹²

Some retailers were concerned that they would be required to inform customers of their right to request an adjusted bill as part of the contents of the electricity or gas bill (under Clause 25 of the NERR).¹¹³ Comments included that:

- this might lead to a substantial uplift in the number of customers requesting a billing adjustment, and hence increased costs for retailers (Simply Energy).
- bills already err on the side of containing too much information, which can be confusing for customers. Instead, information about this right could be provided to customers through the retailer's website (Energy Queensland).

5.2.2 Rejecting a customer read

The Minister proposed that a retailer should be required to reissue a customer with an adjusted bill if it reasonably considers their meter reading to be accurate. However, he did not explicitly list the conditions under which a retailer may be allowed to reject a bill.

In their submissions, EWOSA, Powershop and PIAC recommended that the retailer should be required to provide reasons to the customer if the customer's reading of their meter is rejected, as well as allowing the customer to rectify the meter reading.¹¹⁴ Specific comments included that:

- it is important that the criteria under which a read may be rejected is made available to a customer in advance. It is preferable for standard reasons to be developed across retailers (PIAC).
- the customer should be allowed to raise a formal dispute after this process if they remain unhappy with the bill (EWOSA).

Energy Queensland and TasNetworks were also supportive of the proposal for retailers to be required to provide reasons to the customer. However, Energy Queensland did not support

¹¹¹ Minister Frydenberg, *Estimated meter reads*, rule change request, p. 7.

¹¹² Consultation paper submissions: AEMO, p. 3; PIAC, p. 4; Powershop, p. ; QCOSS, p. 1; SA Department of Premier and Cabinet - Energy and Technical Regulation Division, p. 2.

¹¹³ Consultation paper submissions: Simply Energy, p. 2; Energy Queensland, p. 9.

¹¹⁴ Consultation paper submissions: PIAC, pp. 5-6; EWOSA, p. 2; Powershop, p. 6.

the proposition that customers should be provided with mechanisms to remedy the meter reading, on the basis that this may lead to an increased verification process for retailers.¹¹⁵

5.3

Analysis

5.3.1

Informing the customer

Where a customer's bill is based on an estimated read, the draft rule requires retailers to inform customers in writing that they may provide a reading of their meter as the basis for requesting an adjusted bill.¹¹⁶ This new provision is designed as a complementary measure to the requirement for retailers to accept a customer's reading of their meter, noting that it is important for small customers to be made aware of any rights they may have under the NERR.

The draft rule does not require retailers to include this notification as part of the contents of an electricity or gas bill. The Commission considers it is appropriate to provide retailers with the flexibility to decide how to best notify customers, and that some may choose to include the notification as a bill insert instead of inside the contents of the bill.

To give effect to the above, the draft rule extends the existing rule requirement that retailers must inform customers on an estimated bill that it is based on an estimation to also advise customers if the bill is based on a reading of the meter that has been provided by the customer.¹¹⁷

As discussed previously, some metering arrangements will be more difficult to read than others. For example, some electricity customers have:

- a locked meter room in an apartment block or the meter may be up high
- advanced meters or manually read interval meters that have numerous screens displaying consumption during different time periods or from different sources (e.g. solar generation or hot water load)
- clock-dial meters which are harder to read.

To assist these customers, the draft rule requires retailers to provide guidance to customers on how to read their meter, but allow retailers discretion on the form and method in which this information is provided.

The draft rule also requires retailers to indicate in advance to customers the accepted methods by which they can lodge a self-read, as well as the types of information the customer may need to include when lodging the read. For example:

- some retailers have indicated that they would be prepared to accept a self-read over the phone or by email¹¹⁸
- the types of information the customer may need to provide could include a serial number of the meter or the date of the self-read.

¹¹⁵ Energy Queensland, submission to consultation paper, p. 9.

¹¹⁶ That is, unless the bill was already based on a customer's reading of the relevant meter.

¹¹⁷ That is, the adjusted bill must inform the customer that it is based on their self-read.

¹¹⁸ Consultation paper submissions: Powershop, p. 5; Energy Queensland, p. 8.

The draft rule minimises additional regulatory burden on retailers whilst achieving a more desirable outcome for consumers, by allowing them to provide a meter reading regardless of their chosen retailer. The Commission does not expect that the proposed new requirements will lead to a large increase in the volume of customers requesting an adjusted bill based on a self-read, as the requirement to inform customers will only apply to those who are issued with a bill based on estimated reads.

5.3.2 **Rejecting a customer read**

The draft rule allows customers the right to provide a meter reading if desired, while providing retailers with grounds for rejecting a self-read in necessary cases where the read does not comply with the retailer's requirements or is late.

The Commission considers that the retailer should not be required to accept a customer self-read if it was received on or after the due date for payment of the initial estimated bill. In addition, the Commission considers there are cases where a retailer may need to reject a customer self-read on the grounds that it does not comply with the retailer's requirements. For example, reasonable reasons for rejection may include:

- a number is provided for energy consumed that is smaller than a previous actual read for accumulation meters (type 6 meters)
- a number is provided that does not correspond to the format of the meter on the property
- a photo is provided where the meter is obscured, not clear or does not show the correct meter for that property.

In the case where a self-read does not comply with the retailer's requirements, the draft rule specifies that the retailer must promptly notify the customer that the read has not been accepted, and include the reasons for its decision. The retailer must also provide the customer with an opportunity to rectify the self-read in accordance with its standard dispute resolution procedures.

If a dispute arises following the above, the Commission considers it appropriate that the customer may contact the jurisdictional energy ombudsman. To aid this, the retailer is required to notify the customer that they can lodge a dispute with their ombudsman.

6 ADDITIONAL MEASURES TO STRENGTHEN CUSTOMER PROTECTIONS

This chapter includes a discussion of the additional measures in the draft rule to strengthen consumer protections related to estimated meter reads, including:

- amendments to strengthen the existing customer dispute provisions in the NERR
- amendments to rule 21 of the NERR, which should provide clarity to both consumers and retailers regarding estimated bills
- a proposal to recommend to the COAG Energy Council that civil penalty provisions be applied to certain sections of rule 21.

6.1 Proponents' views

6.1.1 Customer dispute provisions

As discussed in Chapter 1, Minister Frydenberg raised a concern with the current consumer protections provided in the NERR. Specifically, he argued that the relevant provisions on billing do not adequately address the issue of incorrect estimates.¹¹⁹

Under the current provisions, a customer is able to request a review of their bill in accordance with the retailer's standard complaints and dispute resolution procedures.¹²⁰ They may also request that, in reviewing the bill, the meter reading or data be checked. However, the customer must pay for the cost of the check or test and will only be reimbursed if the meter proves to be faulty or the metering data proves to be incorrect (e.g. incorrectly calculated or transcribed).¹²¹

Minister Frydenberg was concerned that the NERR does not address the initial issue of the customer receiving a bill based on an inaccurate estimation, and requires a customer to pay for a meter data check or meter test.

6.1.2 Rule 21

Rule 21 of the NERR outlines the circumstances when a small customer's bill may be based on an estimation that is generated by the retailer, and the bases on which an estimate may be made. Specifically, subrules 21(1) and 21(2) outline:

1. A retailer may base a small customer's bill on an estimation of the customer's consumption of energy where:
 - a. the customer consents to the use of estimation by the retailer; or
 - b. the retailer is not able to reasonably or reliably base the bill on an actual meter reading; or
 - c. metering data is not provided to the retailer by the responsible person.

¹¹⁹ Minister Frydenberg, *Estimated meter reads*, rule change request, p. 4.

¹²⁰ Clauses 29(1)-(2) of the NERR.

¹²¹ Clause 29(5) of the NERR.

2. Where estimations are permitted to be used as the basis for a small customer's bill, the estimations may be based on:
 - a. the customer's reading of the relevant meter; or
 - b. historical metering data for the customer reasonably available to the retailer; or
 - c. the average usage of energy by a comparable customer over the corresponding period, if there is no historical metering data for the customer.

In his rule change request, Minister Frydenberg proposed that Rule 21(1) of the NERR be amended to make clear that it provides an exhaustive list of the situations in which a retailer may base a small customer's bill on an estimation.¹²²

" A retailer may base a small customer's bill on an estimation of the customer's consumption of energy **only** where:

- (a) the customer consents to the use of estimation by the retailer; or
- (b) the retailer is not able to reasonably or reliably base the bill on an actual meter reading; or
- (c) metering data is not provided to the retailer by the responsible person.

6.1.3

Civil penalties

Minister Frydenberg requested the Commission to consider whether it may be appropriate to apply a civil penalty provision to rule 21 of the NERR, including both existing requirements as well as any new requirements that may be added as a result of this rule change.¹²³ The Minister suggested that applying civil penalties may act as an effective deterrent to non-compliance and the provision of inaccurate estimations by retailers.

6.2

Stakeholder views

6.2.1

Customer dispute provisions

Consumer groups considered that the NERR does not provide adequate protection for consumers with regard to inaccurate estimations.¹²⁴ In particular, PIAC was concerned that the existing provisions:¹²⁵

1. require a customer to understand that a bill is often based on an estimate, and that they are able to dispute this estimate
2. require a customer to be aware that bills based upon actual reads can be also be disputed
3. are likely to lead a customer who wishes to dispute their bill to request a read or check of the meter from their retailer and be liable to pay a potentially significant cost upfront.

¹²² Minister Frydenberg, *Estimated meter reads*, rule change request, p. 6.

¹²³ Minister Frydenberg, *Estimated meter reads*, rule change request, pp. 2-4.

¹²⁴ Consultation paper submissions: PIAC, p. 3; EWON, p. 2.

¹²⁵ PIAC, submission to consultation paper, p. 3.

Retailers and networks as well as the South Australian Government were generally of the view that the current consumer protections outlined in the NERR are sufficient.¹²⁶ Some retailers suggested that rule 29 of the NERR could be strengthened by only requiring customers to pay for the costs of a requested meter read, data check or meter test after the outcome of the dispute has been determined.¹²⁷

6.2.2 Rule 21

Stakeholders did not provide comments on the Minister's proposed wording change to Rule 21(1) of the NERR.

6.2.3 Civil penalties

Consumer groups that have provided submissions supported a wider application of civil penalties to rule 21 of the NERR, in order to provide incentives for retailers to undertake actual meter reads or to provide accurate estimated bills.¹²⁸ Jemena was in favour of applying a civil penalty only to the new requirement on retailers to accept a customer read as the basis for an adjusted bill.¹²⁹

Other retailers and networks as well as the South Australian government were not supportive of introducing civil penalty provisions to rule 21.¹³⁰ Comments included that:

- the primary cause of estimated meter reads is access to meter issues and a civil penalty will not mitigate this issue (Powershop).
- civil penalties should only be used to deter and denounce serious contraventions under the Rules, particularly in cases where there is substantial risk of consumer harm or continued industry malpractice (Simply Energy).

6.3 Analysis

6.3.1 Customer dispute provisions

As noted earlier in the draft determination, the Commission considers that the current framework as prescribed in the NERR may not provide adequate consumer protection with regard to inaccurate estimates. The draft rule includes an amendment to the existing customer dispute provisions contained in rule 29 of the NERR.

Under the current provisions, a customer is currently able to request a review of their bill in accordance with the retailer's standard complaints and dispute resolution procedures.¹³¹ They may also request that, in reviewing the bill, the meter reading or data be checked or the meter tested. However, as raised in Minister Frydenberg's rule change request¹³², the

¹²⁶ Consultation paper submissions: Endeavour Energy, p. 2; Simply Energy, p. 2; ERM, p. 2; Energy Queensland, p. 5; SA Department of Premier and Cabinet - Energy and Technical Regulation Division, p. 1.

¹²⁷ Consultation paper submissions: TasNetworks, p. 3; Powershop, p.2.

¹²⁸ Consultation paper submissions: PIAC, p. 6; QCOSS, p. 1.

¹²⁹ Jemena, submission to consultation paper, p. 10.

¹³⁰ Consultation paper submissions: TasNetworks, p. 3; Aurora Energy, p. 1; Powershop, p.2; Endeavour Energy, p. 2; Simply Energy, p. 2; ERM, p. 2; Energy Queensland, p. 5; SA Department of Premier and Cabinet - Energy and Technical Regulation Division, p. 1.

¹³¹ Clause 29(1) and (2) of the NERR.

customer must pay for the cost of the check or test and will only be reimbursed if the meter proves to be faulty or the metering data proves to be incorrect (e.g. incorrectly calculated or transcribed).¹³³

The Commission considers that the ability for retailers to charge customers upfront for a meter data check may act as a disincentive for customers to challenge bills. To remove this disincentive, the draft rule requires customers to pay for the costs of a meter data check or meter test only after the review has been completed and the data is found to be correct or the meter was found not to be faulty.

6.3.2

Rule 21

In his rule change request, Minister Frydenberg proposed that rule 21 of the NERR be amended to make it clear that the rule provides an exhaustive list of the situations in which a small customer's bill may be based on an estimate generated by the retailer.

The Commission agrees with the Minister that retailers should only be:

- using the data provided by MDPs or distributors to bill customers (this is the most common approach), or
- generating their own estimates for billing purposes in accordance with the methods outlined in rule 21.

The Commission is not aware of any retailer that adopts a different approach from the one set out in subrules 21(1) and (2) of the NERR.¹³⁴ Current approaches include:

- only using the metering data, including estimated data, that is provided by a MDP or distributor, with customer billing delayed until this data is received
- using customer self-reads where requested; otherwise using the estimated metering data provided by the MDP or distributor
- using metering data and customer self-reads, with historical metering data or average use employed in limited circumstances where neither are available.

Despite this, the Commission considers there is merit in clarifying that rule 21 provides an exhaustive list of the situations in which a retailer may generate an estimate, as well as the bases on which an estimate may be made. It is important that the rules provide clarity to both consumers and retailers regarding estimated bills, including when estimates are able to be produced and how they are generated.

6.3.3

Civil penalties

As discussed previously, inaccurate estimates can have a significant impact on customers. The Commission therefore considers that it is appropriate to apply a civil penalty provision to key consumer protection sections of rule 21.

¹³² Minister Frydenberg, *Estimated meter reads*, rule change request p. 4

¹³³ Clause 29(5) of the NERR.

¹³⁴ In making this draft rule, the Commission surveyed a number of retailers on their current practices on how estimated bills are generated.

These provisions include the amendments and draft new provisions outlining:

1. the circumstances in which a small customer's bill may be based on an estimation that is generated by the retailer (subrule 1)
2. the bases on which this estimate may be made (subrule 2)
3. the requirement that a retailer must inform customers of their right to request an adjusted estimated bill (subrule 3A)
4. the requirement that a retailer must inform the small customer that the customer may lodge a dispute with the energy ombudsman where the customer is not satisfied with the retailer's reason(s) for not accepting the customer read estimate (subrule 3F).

It is important to note that the Commission cannot create new civil penalty provisions. However, we can recommend to the COAG Energy Council (jointly with the AER) that new or existing provisions of the NER, NGR or NERR be classified as civil penalty provisions. The Commission's recommendation on rule 21 of the NERR will be made on this basis.

ABBREVIATIONS

| | |
|------------------|--|
| AEMC | Australian Energy Market Commission |
| AEMO | Australian Energy Market Operator |
| AER | Australian Energy Regulator |
| Commisison | See AEMC |
| EWON | Energy and Water Ombudsman NSW |
| EWOSA | Energy and Water Ombudsman South Australia |
| EWOV | Energy and Water Ombudsman Victoria |
| LNSP | Local network service provider |
| MCE | Ministerial Council on Energy |
| metering parties | Metering coordinator, metering data provider, or metering provider |
| MDP | Metering data provider |
| MRIM | Manually read interval meter |
| NEL | National Electricity Law |
| NEM | National Electricity Market |
| NEO | National electricity objective |
| NER | National Electricity Rules |
| NERL | National Energy Retail Law |
| NERO | National energy retail objective |
| NERR | National Energy Retail Rules |
| NGL | National Gas Law |
| NGO | National gas objective |
| NGR | National Gas Rules |
| PIAC | Public Interest Advocacy Centre |
| QCOSS | Queensland Council of Social Service |

A SUMMARY OF OTHER ISSUES RAISED IN SUBMISSIONS

This appendix sets out the issues raised in the first round of consultation on this rule change request and the AEMC’s response to each issue. If an issue raised in a submission has been discussed in the main body of this document, it has not been included in this table.

Table A.1: Summary of other issues raised in submissions

| STAKEHOLDER | ISSUE | AEMC RESPONSE |
|--|--|--|
| Customer transfers | | |
| AGL (pp. 4-5) | AGL does not support the concept of a customer transferring on an estimated or self-meter read. Given other obligations on industry for an annual actual read, this provides an opportunity to physically view the meter, which helps to ensure that the meter has not been tampered with and does not pose a danger to the customer or meter readers. AGL also notes that if transfers on estimates or customer own reads were introduced without thoroughly addressing the above issues then we may confront a large volume of difficult billing, settlements and reconciliation issues and disputes between multiple participants, as well as potentially increasing illegal usage and reducing the capability to physically sight the meter to ensure its integrity. | Customers transferring on estimates or self-reads is not within the scope of this rule change. |
| Origin (p. 2) | We do not believe that self-reads should apply to a customer’s final bill as this may have adverse impacts on subsequent customers if the self-read is inaccurate. | |
| Central NSW Councils (p. 3) | The current rule regarding estimation of meter reads does not currently recognise the imposition to councils where the new retailer cannot take over the site from the previous retailer until an actual read has taken place. | |
| Passing the customer read on to third parties | | |
| AGL (p. 4) | If a retailer makes an adjustment based on a customer self-read and the network | The draft rule does not preclude |

| STAKEHOLDER | ISSUE | AEMC RESPONSE |
|------------------------------|---|---|
| | does not receive this self-read, then there is a mismatch in data that can impact forecasting systems. | customer self-reads from being used for market settlement where this is allowed by AEMO metrology and retail market procedures. |
| Chronic access issues | | |
| Jemena (attachment, p. 1) | Access issues are a key driver of estimated reads for both gas and water meters. The overall rate of estimation would be materially reduced if bodies corporate and commercial building owners were required to provide access to the common areas of their buildings or to install industry-standard Abloy locks, which would ensure that all Network Operators (gas, water and electricity) would have access to meters located in common areas of the building. This would enable an actual read of the meter to be performed. | The Commission agrees that the use of Abloy locks could assist in the minimisation of chronic meter access issues. However, the AEMC cannot impose such obligations on body corporates or commercial buildings through the Rules. |
| EWOSA (p. 2) | We suggest that the proposed rule could also provide retailers an option where, if they would prefer not to accept a customer self-read and particularly if there are chronic meter access issues, that they provide the customer with a remotely read Class 4 advanced meter at no cost to the customer. The existing option to opt-out of having an advanced meter would still need to be provided to the customer. | The Commission notes that, at the current time, most retailers are not charging customers for the provision of advanced meters. We also note that it should be in the retailer's interest to remedy a chronic access issue with the provision of an advanced meter. |
| Customer self-reads | | |
| Aurora Energy (p. 2) | Given their current market responsibilities, it is Aurora Energy's view that LNSPs and | The retailer is the main point of |

| STAKEHOLDER | ISSUE | AEMC RESPONSE |
|-------------------------------|---|---|
| | <p>MDPs continue to be the most appropriate participants to be responsible for meter data, including if necessary, capturing customer provided self read. Aurora Energy works closely with its LNSP and MDP to limit the instances of estimated meter readings. Ongoing refinements of the estimation process from both the LNSP and MDP may provide a more efficient level of consumer protection to mitigate the impact of estimated meter reads.</p> | <p>contact with the customer and is the entity responsible for issuing the bill. For that reason, the retailer is the most appropriate entity to receive the customer self-read.</p> |
| <p>Jemena (p. 1)</p> | <p>We recommend validated customer self-reads be given priority over estimates for the purposes of customer billing, creating a three-tier hierarchy in the energy legislation and associated procedures: 1) actual, 2) customer self-read 3) estimate.</p> | <p>The Commission is not in favour of introducing more complexity into the billing provisions, and considers it suitable for a customer read to be classified as an estimate for billing purposes.</p> |
| <p>AusNet Services (p. 1)</p> | <p>While the NERR does not apply in Victoria, the Victorian arrangements would not preclude retailers from deploying a common customer read approach across jurisdictions. These services could be offered nationally.</p> | <p>Agreed.</p> |
| <p>Redback (p. 1)</p> | <p>Redback believes the Rule would be enhanced if the definition of self-reads included energy use data provided by third party sources independently of the customer but with the customer's consent.</p> | <p>The Commission is supportive of any industry attempts to minimise the problem of inaccurate estimations, including using smart inverter information. We note that retailers should have an incentive to innovate around reducing chronic access issues, including the use of third party information if that is helpful.</p> |

| STAKEHOLDER | ISSUE | AEMC RESPONSE |
|---|---|---|
| Origin, p. 2 | In terms of tariffs, we do not consider that customer self-reads should apply to all tariff classes. For example, flat rate plans are not generally dependent on a customer’s ongoing usage; rather the cost for the plan has been determined at the outset of the contract. | The Commission notes that customers do not have an incentive to provide a meter reading on a flat rate plan, and in practice, are unlikely to do so. We are not in favour of explicitly excluding any category of customer. |
| Strengthening the requirements to carry out actual meter reads | | |
| ERM Business Energy (p. 6) | The Commission correctly notes that the obligations on MDPs and LNSPs to use reasonable endeavours to carry out actual meter reads within a specified timeframe are currently contained in AEMO procedures, not the rules. In addition to reinforcing customers’ access obligations, we recommend the AEMC work with AEMO and the AER to ensure there is greater oversight and a means of holding LNSPs and accredited MDPs accountable for the extent to which they meet their meter reading services obligations. | Noted. The AEMC has consulted with both the AER and AEMO in relation to these rule change requests. |
| Central NSW Councils (p. 5) | A number of member councils have requested the installation of smart meters on sites, specifically on sites where estimated reads are a common occurrence. Despite a request from one particular council in August 2017, the smart meters have still not been installed. Another member council has been advised by the retailer that smart meters are currently only available in the following scenarios only: <ol style="list-style-type: none"> 1. the site has solar installation and requires a digital meter 2. the site has a faulty meter and requires replacement 3. new property connection which requires a brand new meter. | The Commission considers this issue to be more relevant to another rule change that is currently being considered on <i>Metering installation timeframes</i> . |

| STAKEHOLDER | ISSUE | AEMC RESPONSE |
|---------------------|--|--|
| Alternatives | | |
| AGL (p. 4) | <p>To help improve the collection of actual reads, the AEMC should consider other options such as the installation of analogue meter readers for gas meters by gas distribution networks. Customer effort is an issue with allowing self-meter reads. We have found that some customers dislike having to do the work for the retailer/distributor. Analogue meter reads take out the effort for the customer and while simultaneously improving the quality of the reads. To save on costs, these could be placed with relative ease when an actual meter read takes place or through a customer led program to encourage customers whose gas bills are based on an estimated because of access issues to request the technology. This would also align with the current Power of Choice metering program that allows customers to proactively request to upgrade their accumulation meter with a digital and reap the benefits of more accurate billing.</p> | <p>The Commission is supportive of any industry attempts to minimise the problem of inaccurate estimations, including installing analogue gas meters where they are appropriate.</p> |
| TasNetworks (p. 4) | <p>Rather than allow customers to request an adjustment to an estimated bill, alternative solutions not contemplated by the consultation paper may provide customers more flexibility in paying estimated bills. One example might be to incorporate a lower, minimum pay now amount with a full payment reconciliation only performed for a bill based on an actual meter read. This would allow consumers to better budget for their electricity costs based on their more accurate understanding of their usage. Beyond avoiding the costs associated with self-meter reads proposals, it would also provide an incentive, but not the obligation, for retailers to obtain actual meter data. TasNetworks acknowledges that the minimum pay now amount would need to be balanced against the size of the potential reconciliation of the subsequent actual meter read but considers this is but one of potentially many ways that customer payment flexibility might be promoted. TasNetworks suggests that these options be further explored as part of the rule</p> | <p>While temporarily alleviating any financial difficulty, this option may result in a much larger bill that the customer might need to pay later. Notwithstanding this, retailers can choose to provide this service as a value-add if they wish.</p> |

| STAKEHOLDER | ISSUE | AEMC RESPONSE |
|--------------------|-----------------|----------------------|
| | change process. | |

B LEGAL REQUIREMENTS UNDER THE NEL, NGL AND NERL

This appendix sets out the relevant legal requirements under the NEL, NGL and NERL for the AEMC to make this draft rule determination.

B.1 Draft rule determination

In accordance with s. 99 of the NEL and s. 256 of the NERL the Commission has made this draft rule determination in relation to the rule changes proposed by Minister Frydenberg, Dr Dodt, and Ms Johnson, and in accordance with s. 308 of the NGL, in relation to the rule change proposed by Minister Frydenberg.

The Commission's draft determination is:

- it should not make a draft rule in relation to the rules proposed under the NEL and NGL
- to make a more preferable draft rule under the NERL.

The Commission's reasons for making this draft rule determination are set out in section 2.4.

A copy of the more preferable draft rule under the NERL is attached to and published with this draft rule determination. Its key features are described in Chapters 4, 5 and 6.

B.2 Power to make the rule

NEL and NGL

The Commission is satisfied that the subject matter of the rule change request falls within the subject matter about which the Commission may make rules. It falls within section 34 of the NEL as it relates to the activities of persons participating in the national electricity market or involved in the operation of the national electricity system, and relates to facilitating and supporting the provision of services to retail customers.¹³⁵

Furthermore, Minister Frydenberg's request falls within s. 74 of the NGL as it relates to the operation of a regulated retail gas market, activities of persons participating in a regulated gas market, and relates to facilitating, and supporting the provision of services to retail (gas) customers.¹³⁶

NERL

The Commission is satisfied that the more preferable draft rule falls within the subject matter about which the Commission may make rules. The more preferable draft rule falls within s. 237 of the NERL as it relates to the provision of energy services to customers, and to the activities of persons involved in the sale and supply of energy to customers.¹³⁷

¹³⁵ NEL sections 34(1)(a)(iii) and (aa).

¹³⁶ NGL sections 74(1)(a)(iv),(vi), and (aa)

¹³⁷ NERL section 237(1)(a).

B.3 Commission's considerations

In assessing the rule change requests the Commission considered:

- its powers under the NEL, NGL and NERL (respectively) to make the rules
- the rule change requests
- the fact that there is no relevant Ministerial Council on Energy (MCE) statement of policy principles for the rule change requests¹³⁸
- submissions received during first round consultation
- the Commission's analysis as to the ways in which the proposed rule (under the NERR, as submitted by Minister Frydenberg¹³⁹) will or is likely to, contribute to the NERO.

The Commission may only make a rule that has effect with respect to an adoptive jurisdiction if satisfied that the proposed rule is compatible with the proper performance of AEMO's declared network functions.¹⁴⁰ The more preferable draft rule is compatible with AEMO's declared network functions because it does not relate to the AEMO's declared network functions.

B.4 Civil penalties

The Commission cannot create new civil penalty provisions in the rules. However, it may recommend, jointly with the AER, to the COAG Energy Council that new or existing provisions of the NERR be classified as civil penalty provisions.

The Commission's more preferable draft rule in part amends rule 21 of the NERR.

Subrule 21(4) and subrule 29(7) of the NERR are currently classified as civil penalty provisions under Schedule 1 of the National Energy Retail Regulations. The Commission considers that subrule 21(4) and subrule 29(7) of the NERR should continue to be retained as civil penalty provisions.

The Commission's more preferable draft rule also includes changes to the existing rule 21 of the NERR and the addition of new subrules within that rule.

The Commission considers that the following new or amended provisions of rule 21 of the NERR, expressed in the more preferable draft rule as clauses: 21(1), 21(2), 21(3A) and 21(3F), as set out in the table below, should be classified as civil penalty provisions on the basis the Commission considers that these provisions contain key consumer protections and with the added enforceability together should act as an effective deterrent against retailer's use of inaccurate estimations of energy usage in small customer billing arrangements.

¹³⁸ Under s. 33 of the NEL, s. 73 of the NGL and s. 225 of the NERL the AEMC must have regard to any relevant MCE statement of policy principles in making a rule. The MCE is referenced in the AEMC's governing legislation and is a legally enduring body comprising the Federal, State and Territory Ministers responsible for energy. On 1 July 2011, the MCE was amalgamated with the Ministerial Council on Mineral and Petroleum Resources. The amalgamated council is now called the COAG Energy Council.

¹³⁹ Minister Frydenberg, *Estimated meter reads*, rule change request, p.6-7

¹⁴⁰ Section 91(8) of the NEL, and s. 295(4) of the NGL.

Table B.1: Proposed civil penalty provisions in the NERR

| NEW CLAUSE REFERENCE | RECOMMENDATION |
|---|--|
| <i>Amended clauses that we recommend should attract a civil penalty</i> | |
| 21(1) | Classify as a civil penalty provision to encourage compliance with the clarified amended clause which now constitutes the exhaustive list of when estimation of energy usage can be used by retailers for billing small customers. |
| 21(2) | Classify as a civil penalty provision to promote compliance with the clarified amended clause which now constitutes the only accepted estimation methods retailers can use as the basis for billing small customers. |
| <i>New clauses that we recommend should attract a civil penalty</i> | |
| 21(3A) | Classify as a civil penalty provision on the basis that it will act as an effective deterrent to non-compliance. This clause imposes an obligation on retailers to inform the small customer that the customer may request an adjusted bill based on an estimate (other than a customer read estimate) by providing the retailer with a customer read of the relevant meter before the due date for payment of the bill. |
| 21(3F) | Classify as a civil penalty provision to promote compliance with the new obligation on retailers to inform the small customer that the customer may lodge a dispute with the energy ombudsman where the customer is not satisfied with the retailer's reasons for not accepting a customer read of the relevant meter provided to the retailer to adjust a bill based on an estimate (other than a customer read estimate). This provision is key for consumers to have the ability to promptly seek review of their matter by the energy ombudsman after the retailer's decision. |

Note: The Commission considers that subrule 21(4) of the NERR and subrule 29(7) of the NERR should be retained as civil penalty provisions.

The Commission does not consider any other provisions of the new or amended provisions of the NERR in the more preferable draft rule (except as set out above) should be classified as civil penalty provisions.

B.5 Conduct provisions

The Commission cannot create new conduct provisions. However, it may recommend to the COAG Energy Council that new or existing provisions of the NERR be classified as conduct provisions.

The more preferable draft rule does not amend any rules that are currently classified as conduct provisions under the NERL or the National Energy Retail Regulations. The Commission does not propose to recommend to the COAG Energy Council that any of the proposed amendments made by the more preferable draft rule be classified as conduct provisions.