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Australian Energy Market Commission

## **RULE DETERMINATION**

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

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

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

### **PROPONENTS**

The Australian Government  
Ms Kirsty Johnson  
Dr Daryl Dodt

25 OCTOBER 2018

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**RULE**

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## ABOUT THE AEMC

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

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## SUMMARY

- 1 The Australian Energy Market Commission (Commission) has made a more preferable final rule that amends the National Energy Retail Rules (NERR) to provide customers with a process to request an adjustment to an estimated bill.<sup>1</sup>
- 2 Under the final rule, if a small customer receives an estimated bill and they consider it is based on an inaccurate estimate, the customer can request that the retailer adjust the bill by providing their own reading of the meter. This ability to request an adjustment to an estimated bill will be available to small customers with electricity accumulation meters or gas meters.
- 3 The final rule requires retailers to inform relevant 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 rule is made in relation to three rule change requests that were consolidated. These requests, which were submitted by the Australian Government<sup>2</sup> 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 consumer groups have advised that billing disputes arising from inaccurate estimations are one of the most frequent category of complaints that they receive.
- 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 electricity meters that are capable of being remotely read become more common.
- 8 However, while estimated reads are likely to decrease, there will likely always be instances

1 The Commission decided against making a rule under the National Electricity Law (NEL) or National Gas Law (NGL).

2 This rule change request was submitted by Hon Josh Frydenberg MP, then Minister for the Environment and Energy, now Treasurer, on behalf of the Australian Government.

where an actual read of an electricity or gas meter cannot be obtained. For example:<sup>3</sup>

- an advanced electricity meter without remote communications functionality may be installed where the functionality was refused by the customer 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 electricity meters to be replaced with advanced meters
- there is no requirement for gas meters to be systematically upgraded to be remotely read.

#### Overview of the final rule

##### ***Requiring retailers to adjust a bill based on an estimate***

9 The rule places new requirements 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.

10 The rule applies to small customers with electricity accumulation meters or gas meters. As some metering arrangements will be more difficult for small customers to read than others, the rule includes a requirement on retailers to provide guidance to small customers on how to read their meter.<sup>4</sup>

11 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 rule does not include a requirement on metering parties or distributors to use customer self-reads for market settlement purposes.

12 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***

13 Under the rule, when a bill has been issued as an estimate, retailers must inform relevant 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.

14 The 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

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

4 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.

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.

- 15 Under the new requirements, retailers will need to indicate in advance to customers a range of accessible 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 reading. The 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 or is late.

***Additional measures to strengthen customer protections***

- 16 The 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.
- 17 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. To remove this disincentive, the rule requires customers to pay for the cost of the check or test only where the retailer requires payment after the review has been completed and the meter or data proves not to be faulty or incorrect.
- 18 In line with the Australian Government's rule change request, the rule also amends the existing rules governing estimated bills to make them 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.
- 19 The Commission has also proposed to recommend to the COAG Energy Council that new civil penalties are added to rule 21 of the NERR to further protect customers from the harm caused by energy bills based on inaccurate estimation.<sup>5</sup>

**BOX 1: CHANGES BETWEEN THE DRAFT AND FINAL RULE**

The final rule largely retains the content and form of the draft rule. However, a number of changes have been made between the draft and final rule to enhance the operation of the rule and to clarify its intent.

A key change under the final rule is that the requirement on retailers to provide an adjusted bill based on a customer's own meter read will not extend to customers with electricity interval meters. However, retailers will be able to offer this service to small customers with interval meters if they choose to do so.

In deciding to exclude small customers with electricity interval meters from the rule, the Commission considered that:

<sup>5</sup> This recommendation will be made jointly with the AER.

- consumers with advanced electricity interval meters that are capable of being remotely read are very unlikely to receive an estimated read
- it may be difficult for customers to read their electricity interval meters, given the range of data displayed on the meter and the need to read multiple screens. For some tariff arrangements, the information displayed on the meter is not the information that a retailer uses to bill the customer and cannot be used to prepare a more accurate bill
- there is only a small proportion of manually read interval meters in the NEM (less than five percent), of which, approximately five percent of these customers would receive estimated bills. The proportion of customers with manually read interval meters will decrease over time as advanced meters are rolled out in the NEM. Including electricity interval meters in the final rule would add an unreasonable regulatory and administrative burden on retailers. To assist these customers, the Commission has included a range of additional measures in the final rule that will strengthen consumer protections related to estimated meter reads.

Other relevant amendments include:

- introducing a requirement that, if the retailer has advised its customer of a new date for payment as part of the bill adjustment process, the retailer must **maintain any existing benefits** that the customer would otherwise receive under the terms of their retail contract with respect to the new payment date
- clarifying that the retailer can reject a customer read where the customer read is not provided in accordance with the guidance and requirements provided by the retailer or was received on or after the due date for payment of the bill
- specifying that, when rejecting a customer's meter read, the retailer must promptly notify the small customer in writing of the **specific** reasons for its decision
- allowing retailers to have **discretion** under the customer dispute provisions as to whether to impose a cost on the customer in cases where a customer has requested a meter data check or meter test and the data is found to be correct or the meter was found not to be faulty.

The Commission has also included an explanatory note in the final rule outlining examples of specific reasons a retailer may provide for rejecting a customer's meter reading. In addition, it has included a recommendation in the final determination that the AER consider requiring retailers to report on the use of estimated bills and self reads.

### Implementation

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The final rule will commence operation on 1 February 2019. The Commission considered that a period of approximately four months between the publication of the final determination and the commencement of the rule would be sufficient for retailers to implement any necessary changes to their systems and processes required by the final rule.

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# 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 Australian Government<sup>6</sup> submitted a rule change request under the NEL, NERL and the National Gas Law (NGL) to require retailers to accept a customer's 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.

The Australian Government'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 inaccurate<sup>7</sup>
2. the ability for a customer to request that an estimated meter read be adjusted is quite limited and only available in specific circumstances.<sup>8</sup>

### 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

<sup>6</sup> This rule change request was submitted by Hon Josh Frydenberg MP, then Minister for the Environment and Energy, now Treasurer, on behalf of the Australian Government.

<sup>7</sup> Rule change requests: Ms Johnson, p. 3; Dr Dodt, p. 1; The Australian Government, p. 2.

<sup>8</sup> The Australian Government, *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.<sup>9</sup> 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 as 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 its rule change request, the Australian Government raised a concern with the current consumer protections outlined in the NERR. Specifically, it argued that the relevant provisions on billing do not adequately address the issue of incorrect estimates.<sup>10</sup>

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.<sup>11</sup> They may also request that, in reviewing the bill, the meter reading or data be checked or the meter tested. 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).<sup>12</sup>

<sup>9</sup> Subrule 20(2) of the NERR.

<sup>10</sup> The Australian Government, *Estimated meter reads*, rule change request, p. 4.

<sup>11</sup> Subrules 29(1)-(2) of the NERR.

Under subrule 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.<sup>13</sup>

The Australian Government 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. It 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.<sup>14</sup>

### 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:<sup>15</sup>
  - 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.<sup>16</sup>
3. Applying civil penalty enforceability broadly to the provisions relating to estimation as the basis for bills (rule 21 of the NERR).<sup>17</sup>
4. Requiring that a retailer must not use a grossly inaccurate meter estimate as the basis for a customer's bill.<sup>18</sup>

<sup>12</sup> Subrules 29(5) of the NERR.

<sup>13</sup> Subrules 21(3),(4) and (5) of the NERR.

<sup>14</sup> The Australian Government, *Estimated meter reads*, rule change request, p. 4.

<sup>15</sup> *ibid.*

<sup>16</sup> *ibid.*

<sup>17</sup> *ibid.*

<sup>18</sup> *ibid.*

5. Requiring retailers to use a customer read estimate as the basis for billing, where:<sup>19</sup>
  - a. this has been requested by the customer
  - b. the customer provides a reading of their meter within a seven day time period agreed with the retailer
  - c. the retailer reasonably considers the customer read estimate to be accurate.
6. Prohibiting the use of estimated meter reads.<sup>20</sup>
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.<sup>21</sup>

In addition to the proposed rule changes, the Australian Government 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.<sup>22</sup> These are discussed throughout the 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 have either an advanced meter<sup>23</sup>, manually read interval meter<sup>24</sup> or accumulation meter<sup>25</sup> installed at their premises.

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<sup>19</sup> *ibid.*

<sup>20</sup> Ms Johnson, *Estimated meter reads*, rule change request, p. 1.

<sup>21</sup> Dr Dodt, *Estimated meter reads*, rule change request, p. 1.

<sup>22</sup> The Australian Government, *Estimated meter reads*, rule change request p. 10.

<sup>23</sup> These are also called 'type 4' meters.

<sup>24</sup> These are also called 'type 5' meters.

<sup>25</sup> These are also called 'type 6' meters.

### **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 meter readings.

### **Interval meters**

Manually read interval meters (MRIM) are also common in some electricity distribution networks.<sup>26</sup> 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.<sup>27</sup> 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.

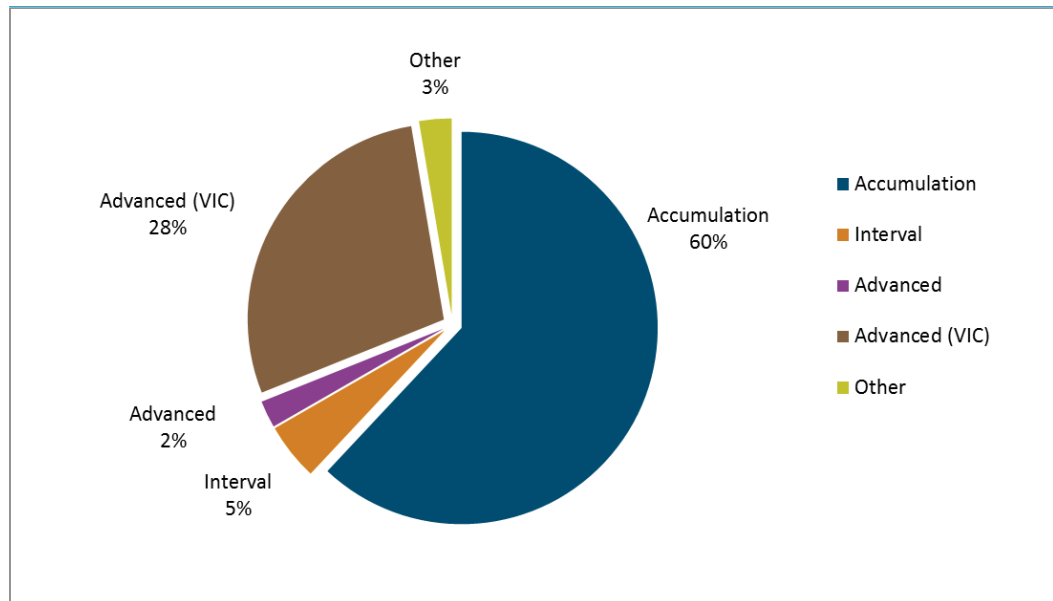
A large number of advanced meters have been installed during the transition to the new rules, with a total of 500,000 advanced meters having been installed outside of Victoria since the *Competition in metering* rules were made in November 2015. Since 1 December 2017, approximately 151,000 advanced meters 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.

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<sup>26</sup> In Victoria, type 5 interval meters can often be remotely read.

<sup>27</sup> 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 (subrule 7.8.4 of the NER).

**Figure 1.1: Metering installations in the NEM by type**



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

### 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’.<sup>28</sup>

With the commencement of this rule, retailers are usually obliged to appoint a metering coordinator for each of their small customer’s connection points.<sup>29</sup> 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.<sup>30</sup>

28 As a transitional arrangement, per subrule 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.

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

30 Subrule 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.”

#### 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.<sup>31</sup>
- For gas meters, AEMO's *Retail Market Procedures* for each 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, monthly, bimonthly or quarterly depending on the type of customer.<sup>32</sup> In contrast, in South Australia, meters must be read at least annually.<sup>33</sup>

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.<sup>34</sup> 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:

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

32 Clause 3.1 of AEMO's *Retail Market Procedures (NSW and ACT)*, Version 19.

33 Clause 149(3) of AEMO's *Retail Market Procedures (South Australia)*, Version 13.

34 Subrule 24(1) of the NERR.

(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 or metering coordinator.

(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.<sup>35</sup> 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.

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.<sup>36</sup> Where undercharging has occurred, the customer is able to request additional time to pay the bill in instalments.<sup>37</sup>

## 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.<sup>38</sup> A consultation paper identifying specific issues for consultation was also published. The Commission received 24 submissions. Issues raised in these submissions were summarised and responded to in the draft rule determination.

On 9 August 2018, the Commission published a draft rule determination and a draft rule. Submissions on the draft rule determination closed on 20 September 2018. The Commission received 21 submissions on the draft rule determination.

<sup>35</sup> For example, Ergon will authorise customers to read their own meter in some circumstances: [www.ergon.com.au/network/connections/metering/self-meter-read](http://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.

<sup>36</sup> Subrule 21(4) of the NERR.

<sup>37</sup> Subrules 30 and 31 of the NERR set out requirements where a retailer has undercharged or overcharged a small customer.

<sup>38</sup> 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).



In making this final rule determination, the Commission has considered all issues raised by stakeholders in the first and second consultation rounds. Issues raised in submissions are discussed and responded to throughout this final rule determination. Issues that are not addressed in the body of this document are set out and addressed in Appendix A.

## 2 FINAL RULE DETERMINATION

The Commission's final rule determination is to:

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

The rule requires retailers to adjust a small customer's estimated bill using a customer's own reading of their electricity accumulation meter or gas meter, if requested to do so by the customer. The 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 rule is broadly based on the solution proposed in the rule change request submitted on behalf of the Australian Government and adopts key aspects of its proposed changes to the NERR. Although the approach adopted in the rule is different from the solutions proposed in Ms Johnson and Dr Dodt's rule change requests, the Commission considers that the rule also addresses the concerns raised by them.

The Commission's reasons for making this final 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.

### 2.1 The Commission's final rule determination

The more preferable final rule made by the Commission is attached to and published with this final rule determination. The key features of the more preferable final 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 has an electricity accumulation meter or gas meter and requests an adjustment to an estimated bill by providing the retailer with a reading of their meter
  - the retailer receives the customer's reading of their meter before the due date for payment of the bill
  - the customer's reading of their meter is in accordance with the retailer's 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 accepted<sup>39</sup> and explain to the customer the specific 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

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<sup>39</sup> The rule provides limited grounds for the retailer to reject the customer's self-read.

- where a small customer requests that the meter reading or metering data be checked or the meter tested, the retailer may only charge the customer for the cost of the check if the meter proves not to be faulty or the metering data is found to be correct.

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.

#### **BOX 2: CHANGES BETWEEN THE DRAFT AND FINAL RULE**

The final rule largely retains the content and form of the draft rule. However, a number of changes have been made between the draft and final rule to enhance the operation of the rule and to clarify its intent. Relevant amendments include:

- not extending the requirement on retailers to provide an adjusted bill based on a customer's own meter read to customers with **electricity interval meters**
- introducing a requirement that, if the retailer has advised its customer of a new date for payment as part of the bill adjustment process, the retailer must **maintain any existing benefits** that the customer would otherwise receive under the terms of their retail contract with respect to the new payment date
- clarifying that the retailer can reject a customer read where the customer read is not provided in accordance with the guidance and requirements provided by the retailer or was received on or after the due date for payment of the bill
- specifying that, when rejecting a customer's meter read, the retailer must promptly notify the small customer in writing of the **specific** reasons for its decision
- allowing retailers to have **discretion** under the customer dispute provisions as to whether to impose a cost on the customer in cases where a customer has requested a meter data check or meter test and the data is found to be correct or the meter was found not to be faulty.

The Commission has also included an explanatory note in the final rule outlining examples of specific reasons a retailer may provide for rejecting a customer's meter reading. In addition, it has included a recommendation in the final determination that the AER consider requiring retailers to report on the use of estimated bills and self reads.

## 2.2

### 2.2.1

## Rule making test

### Achieving the 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).<sup>40</sup> This is the decision making framework that the Commission must apply.

<sup>40</sup> Section 236(1) of the NERL.

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

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

The Commission is satisfied that the rule will, or is likely to, contribute to the achievement of the NERO (see section 2.4 for reasons).

The Commission must also, where relevant, satisfy itself that the rule is “compatible with the development and application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers” (the “consumer protections test”).<sup>42</sup>

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
- strengthening 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 or request a formal review of the bill, if the customer is not satisfied with the retailer’s decision after attempting to rectify the meter reading.

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

### 2.2.2

#### Achieving the NEO

Under the NEL, the Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national electricity objective (NEO).<sup>43</sup> This is the decision making framework that the Commission must apply.

The NEO is:<sup>44</sup>

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

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

41 Section 13 of the NERL.

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

43 Section 88 of the NEL.

44 Section 7 of the NEL.

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 determination.

### 2.2.3 Achieving the NGO

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).<sup>45</sup> This is the decision making framework that the Commission must apply.

The NGO is:<sup>46</sup>

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 determination.

### 2.2.4 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 made a more preferable rule. The reasons are summarised in section 2.4.

## 2.3 Assessment framework

In assessing the rule change requests 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 changes 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 changes may improve, or at least not interfere with, consumer protections. The Commission also considered whether the proposed new rules would be compatible with the development and

<sup>45</sup> Section 291(1) of the NGL.

<sup>46</sup> Section 23 of the NGL.

application of relevant consumer protections under energy laws and regulations of Victoria.<sup>47</sup>

## 2.4 Summary of reasons

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

### **Efficient use of energy**

Currently, most small consumers whose meters are unable to be read will have their energy 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 energy consumption.<sup>48</sup> This limits the ability of these customers to understand their energy usage and make informed decisions about how they use energy.

The rule requires retailers to adjust and reissue an estimated bill based on a customer's reading of their electricity accumulation meter or gas meter. The Commission considers that this requirement will allow these customers an opportunity to align their energy usage patterns with the bills they receive and facilitate customer engagement in the management of their energy bills. It may also increase their overall confidence in the accuracy of the bill they receive.<sup>49</sup>

### **Regulatory and administrative burden**

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

The 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 rule strikes an appropriate balance between enhancing consumer protections and maintaining flexibility for retailers to design their own approach. The 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**

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47 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.

48 Currently, retailers must use their best endeavours to ensure customers receive at least one bill per year based on an actual meter read per subrule 20(2) of the NERR.

49 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.

If a bill is based on an estimated meter read that is significantly lower than the small 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 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 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,<sup>50</sup> the Commission has also taken into account issues that are set out and addressed in Appendix B.

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<sup>50</sup> Set out in section 236(1) of the NERL

## 3 THE CASE FOR A RULE CHANGE

This chapter outlines the case for a rule change, 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 an inaccurate estimate
- how the rule addresses the measures raised by proponents.

### 3.1 Proponents' views

#### 3.1.1 Inaccurate estimates

In the rule change requests, the Australian Government 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 significant 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.<sup>51</sup>

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.<sup>52</sup> 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 its rule change request, the Australian Government raised an issue with the current consumer protections provided in the NERR. Specifically, it argued that the relevant provisions on billing do not adequately address the issue of incorrect estimates.<sup>53</sup> In limited circumstances set out in the NERR, a customer can request for the meter to be tested or meter data to be checked. However, in these circumstances, the customer is obliged to pay for the cost of the test or check.

The Australian Government 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 rules, small customers may request that the retailer replace an estimated bill with one that is based on an actual meter reading.<sup>54</sup> 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.

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

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

53 The Australian Government, *Estimated meter reads*, rule change request, p. 4.

54 Subrule 21(5) of the NERR.



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.<sup>55</sup>
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.<sup>56</sup>
3. Applying civil penalty enforceability broadly to provisions relating to estimation as the basis of small customer billing under rule 21 of the NERR.<sup>57</sup>
4. Requiring that a retailer must not use a grossly inaccurate meter estimate as the basis for a customer's bill.<sup>58</sup>
5. Prohibiting the use of estimated meter reads.<sup>59</sup>
6. Requiring retailers to use a proactive customer read estimate as the basis for billing, where this has been requested by the customer.<sup>60</sup> 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.<sup>61</sup>

## 3.2 Stakeholder views - submissions to the consultation paper

### 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.<sup>62</sup>

Several energy ombudsmen and consumer groups noted that billing disputes resulting from estimations are one of the most frequent categories of complaints they receive.<sup>63</sup> 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

<sup>55</sup> *ibid.*

<sup>56</sup> *ibid.*

<sup>57</sup> *ibid.*

<sup>58</sup> *ibid.*

<sup>59</sup> Ms Johnson, *Estimated meter reads*, rule change request, p. 1.

<sup>60</sup> The Australian Government, *Estimated meter reads*, rule change request, p. 4.

<sup>61</sup> Dr Dodt, *Estimated meter reads*, rule change request, p. 1.

<sup>62</sup> 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

<sup>63</sup> 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.<sup>64</sup> 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.<sup>65</sup> These retailers advocated that any change to the rules should accommodate continued flexibility in retailer approach.

Other stakeholders argued that a rule change was unnecessary and would not adequately address the issues experienced by consumers as a result of inaccurate estimates.<sup>66</sup> 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.<sup>67</sup>
- 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.<sup>68</sup>

PIAC, AusNet Services and Powershop noted that the issues outlined in the consultation paper affect both retail gas and electricity customers.<sup>69</sup>

### 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.<sup>70</sup> In particular, PIAC was concerned that the existing provisions:<sup>71</sup>

1. assume that a customer understands that a bill is often based on an estimate, and that they are able to dispute this estimate
2. assume 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.

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

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

66 Consultation paper submissions: Endeavour Energy, p. 1; Simply Energy, p. 1; ERM Business Energy, p. 1; Energy Queensland, p. 5; EnergyAustralia, p. 2.

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

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

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

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

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

Retailers and networks were generally of the view that the current consumer protections outlined in the NERR are sufficient.<sup>72</sup> 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.<sup>73</sup>
- Retailers should be required to clearly and proactively advise customers of their options in the instance where customers receive an estimated bill.<sup>74</sup>

### 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 Australian Government'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).<sup>75</sup> 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.<sup>76</sup>
- The use of customer meter reads as the basis for small customer billing is well established and successfully practiced in various other energy markets around the world that have similar frameworks and levels of retail competition as exist in the Australian retail energy market (e.g. New Zealand and the UK). The example of the use of customer meter reads in these markets shows that the concept is practically possible and, for many customers and retailers, desirable.<sup>77</sup>
- Some retailers already cater for monthly or quarterly meter self-reads. Therefore, the process-related changes for retailers and associated costs to implement these changes should be minimal.<sup>78</sup>

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

<sup>72</sup> 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.

The draft determination also attributed these views to the South Australia Government in error.

<sup>73</sup> Consultation paper submissions: TasNetworks, p. 3; Powershop, p.2.

<sup>74</sup> Jemena, submission to consultation paper, p. 2.

<sup>75</sup> Consultation paper submissions: AusNet Services, p. 1; AGIG, p. 2; AGL, pp. 2-3; EWOSA, p. 2; EWOV, p. 1; PIAC, p. 6; EWON, p. 4; QCOS, p. 1; Origin, p. 2; Powershop, p. 1; AEMO, p. 2; SA Government, Energy and Technical Regulation Division, p. 1; Redback technologies, p. 1.

<sup>76</sup> EWON, submission to consultation paper, p. 4.

<sup>77</sup> AEMO, submission to consultation paper, p. 3.

<sup>78</sup> SA Department of Premier and Cabinet - Energy and Technical Regulation Division, submission to consultation paper, p. 2.

would be very costly to implement.<sup>79</sup> They questioned whether the benefits would outweigh the costs given that electricity 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.<sup>80</sup>

### 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.<sup>81</sup> Other retailers and networks were not supportive of introducing new civil penalty provisions into rule 21.<sup>82</sup>

### Bills based on grossly inaccurate estimated meter reads

The vast majority of stakeholders did not support a rule change requiring retailers to ensure an estimated bill is not based on a meter estimate that is grossly inaccurate.<sup>83</sup> 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).<sup>84</sup>

### Prohibiting estimated reads

While stakeholders were sympathetic towards perceived challenges or shortcomings with the use of estimation as a basis for small customer billing, they unanimously agreed that banning estimated reads would lead to more negative outcomes for energy consumers.<sup>85</sup> 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.<sup>86</sup>

79 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.

80 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.

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

82 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.

The draft determination also attributed these views to the South Australia Government in error.

83 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; Tasmanian Government - Department of State Growth, p. 1.

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

85 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 Department of Premier and Cabinet - Energy and Technical Regulation, p. 3; Simply Energy, p. 1; TasNetworks, p. 3.

86 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

### Proactive customer read estimates and more accurate estimation techniques

Most stakeholders opposed the proposal to require retailers to accept proactive customer reads.<sup>87</sup> They were also of the view that a new requirement on retailers to use customer meter readings should address Dr Dodt's concern that inaccurate estimated reads may occur temporarily following the installation of solar panels.<sup>88</sup>

## 3.3 Stakeholder views - submissions to draft determination

In response to the Commission's draft determination, the Energy Ombudsman of Queensland (EWOQ) and the South Australian Government agreed that inaccurate estimates can cause significant harm to consumers.<sup>89</sup> EWOQ concurred with the views expressed by consumer groups in response to the consultation paper; in particular, that the NERR does not provide adequate protection for consumers with regard to inaccurate estimations.

Jemena and PIAC were generally supportive of the measures in the draft rule, but considered that the final rule could go further to ensure that customers are adequately protected from the negative impacts associated with estimated bills.<sup>90</sup> In particular, PIAC was in favour of including a requirement that retailers must ensure that actual meter reads occur every 100 days, or at least once every six months. It was of the view that such a requirement may minimise the potential for small customers to suffer from accumulated bill shock.<sup>91</sup>

Simply Energy did not support the draft rule on the basis that the existing rules in the NERR provide "principles-based safeguards [that] are adequate in balancing customer and industry interests".<sup>92</sup> Similar views were also expressed by some retailers and the Tasmanian Government.<sup>93</sup>

The Australian Gas Infrastructure Group (AGIG) and EWOQ were supportive of the draft rule continuing to permit the use of estimated meter reads where an actual read cannot be obtained.<sup>94</sup> EWOQ noted that estimated billing remains a necessity in circumstances where it is not possible or may be impractical to read meters, or access is hindered by a third party.

87 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; EWOV, p. 1; AusNet Services, p. 1; AEMO, p. 3.

88 Consultation paper submissions: AEMO, p. 5; PIAC, p. 6; SA Department of Premier and Cabinet - Energy and Technical Regulation, p. 2.

89 Draft determination submissions: EWOQ, pp. 1-2; SA Department of Premier and Cabinet - Energy and Technical Regulation, p. 1.

90 Draft determination submissions: Jemena, p. 1; PIAC, p. 1.

91 PIAC, submission to the draft determination, p. 2.

92 Simply Energy, submission to the draft determination, p. 1.

93 Draft determination submissions: Aurora Energy, p. 1; Momentum, p. 1; Tasmanian Department of State Growth - Office of Energy Planning, p. 1.

94 Submissions to the draft determination: AGIG, p. 1; EWOQ, p. 2.

## 3.4

## Analysis

### 3.4.1

#### Inaccurate estimates

The Commission considers that retailers, metering parties and distributors (where applicable) have strong incentives to utilise actual meter reads for customer billing and settlement purposes, including:

- requirements under the NERR<sup>95</sup> and AEMO service level procedures<sup>96</sup> that govern the frequency by which retailers and others must collect metering data (see )
- 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.<sup>97</sup>

Despite the low volumes of estimated bills that are produced, 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.<sup>98</sup>

However, it is important to note that there will be some ongoing need for estimated meter reads. For example:<sup>99</sup>

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

96 AEMO's *Metering Data Provider Service Level Procedures* 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.

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

98 One aspect of the rule is that all new and replacement metering installations for small customers 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.

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

- advanced electricity meters without remote communications functionality may be installed where the functionality was refused by the customer 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 electricity 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.<sup>100</sup> 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.

#### 3.4.2 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 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, or
- obtain an adjusted estimated bill based on their own reading of the meter.

#### 3.4.3 Measures proposed in the rule change requests

The final 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 relevant 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 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.<sup>101</sup> 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 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.

<sup>100</sup> EWOV, submission to consultation paper, p. 1.

<sup>101</sup> Under subrule 29(5) of the NERR.

The Commission is of the view that the new requirement on retailers to allow customer self-reads, in relevant circumstances, 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 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 changed<sup>102</sup> 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 estimations<sup>103</sup> 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 a bill based on an estimate with a customer's reading of the meter would provide customers, in the relevant circumstances, with adequate recourse in case their bill is perceived as not being accurate. 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.

### 3.5 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 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.

<sup>102</sup> For example, as a result of recently installed appliances or where a customer has been on holiday.

<sup>103</sup> Known as 'substitutions' in AEMO's *Metrology Procedures*.



The 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, jointly with the AER, 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 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 final 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 gas meter or electricity accumulation 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.

### BOX 3: CHANGES BETWEEN THE DRAFT AND FINAL RULE

The final rule largely retains the draft rule 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.

However, a number of changes have been made between the draft and final rule to enhance the operation of the rule and to clarify its intent. Key amendments include the following:

- not extending the requirement on retailers to provide an adjusted bill based on a customer's own meter read to customers with **electricity interval meters**
- introducing a requirement that, if the retailer has advised its customer of a new date for payment as part of the bill adjustment process, the retailer must **maintain any existing benefits** that the customer would otherwise receive under the terms of their retail contract with respect to the new payment date.

In addition, the Commission has included a recommendation in the final determination that the AER consider requiring retailers to report on the use of estimation and self reads for small customer billing.

### 4.1 Proponents' views

The Australian Government's rule change proposal was aimed at enabling small customers to simply and quickly obtain an adjusted 'estimated bill' based on their own meter reading. To achieve this, it proposed that the following requirement be added to Rule 21 of the NERR:<sup>104</sup>

"Where:

1. a small customer requests a retailer provide an adjustment to an estimated bill and

<sup>104</sup> The Australian Government, *Estimated meter reads*, rule change request, pp. 5-6.

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 - submissions to consultation paper

As discussed in Chapter 3, many stakeholders were supportive of the proposed requirement on retailers, on the basis that it would reduce the impact faced by consumers as a result of bills based on inaccurate estimates.<sup>105</sup> 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.<sup>106</sup>

Retailers were generally in favour of passing the customer read on to other metering parties or distributors for settlement.<sup>107</sup> 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).<sup>108</sup> 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.<sup>109</sup>

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.<sup>110</sup>

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

<sup>105</sup> Consultation paper submissions: AusNet Services, p. 1; AGIG, p. 2; AGL, pp. 2-3; EWOSA, p. 2; EWOV, p. 1; PIAC, p. 6; EWON, p. 4; QCROSS, p. 1; Origin, p. 2; Powershop, p. 1; AEMO, p. 2; SA Department of Premier and Cabinet - Energy and Technical Regulation, p. 1; Redback technologies, p. 1.

<sup>106</sup> 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.

<sup>107</sup> Consultation paper submissions: ERM Business Energy, p. 4; AGL, p. 6; Aurora Energy, p. 1; Energy Queensland, p. 4; EnergyAustralia, p. 6.

<sup>108</sup> AEMO, submission to consultation paper, p. 3.

<sup>109</sup> 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.

AEMO, *Service Level Procedure: Metering Data Provider Services*, p. 12, 1 December 2017.

<sup>110</sup> 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.

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.<sup>111</sup>

## 4.3 Stakeholder views - submissions to draft determination

In response to the Commission's draft determination, the majority of stakeholders expressed support for the proposed requirement on retailers to adjust a small customer's estimated bill using the customer's reading of their meter.<sup>112</sup> Comments included that:

- it may reduce the number of disputes arising from estimated reads, leading to lower costs for retailers<sup>113</sup>
- the requirement provides a clear, simple and binding process by which a customer can provide his or her own meter read<sup>114</sup>
- it is a cost effective solution for both the customer and the retailer as it avoids fees associated with special reads<sup>115</sup>
- it is likely to reduce the negative impacts of bill shock and make it easier for energy consumers to manage their energy bills.<sup>116</sup>

Some retailers and the Tasmanian Government were opposed to the requirement in the draft rule on the basis that it will be costly for retailers who do not already offer this service to invest in systems and processes to receive customer self-reads.<sup>117</sup> Aurora Energy was also of the view that customers should avoid physical interaction with their electricity meter in the interests of safety and convenience.

The following sections provide a more detailed discussion on specific issues raised by stakeholders in their submissions.

### 4.3.1 Types of metering arrangements included in the rule

#### Interval meters

Most retailers and some distributors were of the view that interval metering installations<sup>118</sup> should be exempt from the rule, with these customers not permitted to provide a self-read as the basis for an adjusted bill.<sup>119</sup> Comments included that:

- The process of conducting a self-read for interval meters is inherently complex and likely to lead to customer confusion. In many cases, customers would be required to cycle

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

112 Draft determination submissions: Red Lumo, p. 1; EWOQ, p. 3; EnergyAustralia, p. 1; SA Department of Premier and Cabinet - Energy and Technical Regulation, p. 1; AGIG, p. 1; EWOSA, p. 1; EWON, p. 1; Energy Queensland, p. 1; TasNetworks, p. 1; AER, p. 1; AGL, p. 1; Powershop, p. 1; Citipower, Powercor and United Energy, p. 1; Origin, p. 1; AEMO, p. 1.

113 TasNetworks, submission to the draft determination, p. 1.

114 SA Department of Premier and Cabinet - Energy and Technical Regulation, submission to the draft determination, p. 1

115 Red Lumo, submission to the draft determination, p. 1.

116 EWOSA, submission to the draft determination, p. 1.

117 Draft determination submissions: Simply Energy, p.1; Momentum p.1; Aurora, p. 1; Tasmanian Department of State Growth - Office of Energy Planning, p. 1.

118 Including both advanced and MRIM metering installations.

119 Draft determination submissions: Aurora Energy, p. 2; EnergyAustralia, p. 1; Energy Queensland, p. 2; AGL, p. 2; Origin, p. 1; Citipower, Powercor and United Energy, pp. 1-2; EnergyAustralia, p. 2.

through multiple screens on a meter, correlate these to the individual tariffs on their bills and then transpose them in a form that is auditable by the retailer.<sup>120</sup>

- A manual read of an interval meter is particularly complex for customers with time of use or demand tariffs, where the interval meter displays a cumulative read but the retailer derives the bill from the interval usage data. For customers on variable tariff arrangements, a self-read provided using the record of the customer's cumulative energy consumption would not increase the accuracy of the adjusted bill but may diminish its accuracy.<sup>121</sup>
- Some retailers indicated that they do not currently collect the cumulative energy used by interval meters and thus would have difficulty validating a customer read provided on a cumulative energy consumption basis.<sup>122</sup>
- Smart meter displays are not always reliable for capturing continuous energy consumption at a site as distributors can apply firmware upgrades which re-set meter displays to zero.<sup>123</sup>
- Some retailers indicated that it would be costly for retailers to change their systems to accommodate self-reads for these meters and to train staff to provide guidance to customers on how to read them.<sup>124</sup>

The NER currently requires that all electricity meters display the cumulative total energy measured by the metering installation in a visible or equivalently accessible display. In its submission to the draft determination, AEMO considered that the final rule should require advanced meters to also display the cumulative energy for each recorded channel of interval data.<sup>125</sup> It considered that this amendment would allow small customers on variable tariff arrangements (such as a time of use tariff) to provide self-reads to their retailer.

#### **Other types of metering installations**

Ombudsmen were not in favour of exempting specific metering arrangements under the rule.<sup>126</sup> EWON expressed the view that, given that many gas meters are within apartments, the opportunity for small gas customers to provide self reads is the only practical way to ensure that there is greater billing accuracy.<sup>127</sup>

Citipower, Powercor and United Energy requested that faulty meters be carved out from the requirement on retailers to adjust a small customer's bill, on the basis that they are likely to display inaccurate data.<sup>128</sup>

120 Aurora Energy, submission to the draft determination, p. 2.

121 AGL, submission to the draft determination, p. 2.

122 EnergyAustralia, submission to the draft determination, p. 2.

123 Citipower, Powercor and United Energy, submission to the draft determination, pp. 1-2.

124 Draft determination submissions: Energy Queensland, p. 2; Citipower, Powercor and United Energy, pp. 1-2.

125 AEMO, submission to the draft determination, p. 2.

126 Draft determination submissions: EWON, p. 1; EWOSA, p. 1.

127 EWON, submission to the draft determination, p. 1.

128 Citipower, Powercor and United Energy, submission to the draft determination, pp. 1-2.

### 4.3.2 Using customer self-reads in settlement

A few retailers were concerned that the draft rule did not include a requirement on metering parties or distributors to use customer self-reads for settlement purposes.<sup>129</sup> These stakeholders remained primarily concerned about the liquidity risk involved for retailers. AGL noted that providing self-read data to distributors and metering parties may also have the added benefit of indicating where a meter is faulty.<sup>130</sup>

AGIG and TasNetworks were supportive of the flexibility provided by the approach taken in the draft determination towards market settlement. They considered it appropriate that the draft rule did not preclude self-reads from being used for market settlement where this is allowed by AEMO metrology and retail market procedures.<sup>131</sup>

### 4.3.3 Other considerations raised

EnergyAustralia indicated its support for the approach taken by the Commission in the draft determination to allow retailers the flexibility to have different methods of adjusting a bill based on an estimate using a customer's self-read.<sup>132</sup>

EWOSA and EWON were concerned that the draft rule did not include a requirement on retailers to honour a pay on time discount when adjusting a small customer's estimated bill using a customer's reading of their meter.<sup>133</sup> They considered that it should be made explicit in the final rule that, if a customer's self-read leads to an adjustment of the bill, then any pay on time discount specified in the terms of their market contract should apply to the adjusted bill.

The AER submitted that the final rule should provide clarification as to whether a customer requesting an adjustment to a bill based on an estimate would be considered an official request for a retailer to review a bill under subrule 29(1) of the NERR.<sup>134</sup>

Jemena recommended that retailers be required to report to the AER quarterly (as part of current National Energy Customer Framework reporting) on the number of customer self-reads received and the proportion accepted as adjustments to an estimated bill. Jemena maintained that this would provide important information to the market about the effectiveness of the rule.<sup>135</sup>

AGL recommended that further guidance be provided to retailers on the expected hierarchy of customer self-reads against other estimated and actual reads.<sup>136</sup> In particular, it indicated it expects that if a customer provides a self-read on the same day as an actual read is provided to the retailer by a distributor or metering data provider, then the actual read should take priority over the customer read.

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129 Draft determination submissions: Red Lumo, p. 2; AGL, p. 2; Momentum, p. 3.

130 AGL, submission to the draft determination, p. 2.

131 Draft determination submissions: AGIG, p. 1; TasNetworks, p. 2.

132 EnergyAustralia, submission to the draft determination, p. 2.

133 Draft determination submissions: EWOSA, p. 2; EWON, p. 1.

134 AER, submission to the draft determination, p. 2.

135 Jemena, submission to the draft determination, p. 3.

136 AGL, submission to the draft determination, p. 1.

## 4.4

## Analysis

### 4.4.1

#### 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.<sup>137</sup> 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 final rule therefore includes a requirement that will enable small customers who:

- receive an energy bill based on an estimate, and
- have an electricity accumulation meter or any type of gas meter

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.

Under the final rule, eligible small customers will be able to check their meter to evaluate whether the estimated read provided on the bill is accurate. If the customer considers the estimated bill to be inaccurate, the customer could request the retailer adjust the bill by providing a meter reading in support of the adjusted estimated bill.<sup>138</sup>

The Commission considers that the new requirements strike an appropriate balance between enhancing customer protections and maintaining flexibility for retailers to design their own approach. As discussed below, the rule is not prescriptive in the processes to be adopted by retailers to comply with the 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.

### 4.4.2

#### Types of metering arrangements included in the rule

Under the final rule, the requirement on retailers to provide an adjusted bill based on a customer's own meter read will not extend to customers with electricity interval meters. However, retailers will be able to offer this service to small customers with interval meters if they choose to do so.

This is a change from the draft rule, which applied to all types of electricity and gas metering arrangements for small customers.

<sup>137</sup> Subrule 21(2)(a) of the NERR.

<sup>138</sup> 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.

### **Small customers with electricity interval meters to be excluded from the rule**

In deciding to exclude small customers with electricity interval meters from the rule, the Commission considered that:

- consumers with advanced electricity interval meters that are capable of being remotely read are very unlikely to receive an estimated read
- it may be difficult for customers to read their electricity interval meters, given the range of data displayed on the meter and the tariff arrangement the customer is on.

The NER currently requires that all electricity meters display the cumulative total energy measured by the metering installation in a visible or equivalently accessible display. However, most interval meters also display a range of additional information across different screens, depending on the meter configuration at the customer's premises.

For example, a premises with solar PV panels may have a metering installation that also displays the gross and net electricity generated at the premises. Other displays may include the electricity consumed by a dedicated circuit, such as a controlled load.

Having regard to stakeholders' submissions, the Commission concluded that it may be difficult for customers to read their electricity interval meters, given the range of data that is often displayed across different screens.

In addition, the Commission considered that small customers on variable tariff arrangements may face the following difficulties when attempting to conduct a meter reading:

- the standard display for advanced meters may not allow customers to read detailed information regarding the energy consumed for each recorded channel of interval data
- for some variable tariff arrangements, the information displayed on the meter is not be the same information that is used by the retailer to bill the customer
- any adjustment to a small customer's estimated bill based on cumulative total energy consumption is likely to be less accurate than the initial estimated bill.

For example, a customer may be charged a demand tariff by their retailer which reflects the maximum demand over a set period of time. The standard display for an interval meter is unlikely to show the information necessary to conduct a self-read in this case.

The Commission also decided against requiring retailers and metering parties to reprogram advanced meters to display the data that may be required to conduct a meter reading for variable tariff arrangements. This is because we consider that the costs to reprogram the meters are unlikely to outweigh the benefits, given that fewer customers with advanced meters receive estimated reads in the first instance.

It is important to note that there a small proportion of customers in the NEM (less than five per cent) who have electricity interval meters that must be remotely read, either due to the older technology of the meter or other factors such as a lack of communications network. Of these customers, the Commission understands that approximately five per cent will require an estimated bill at a given time. The Commission therefore concluded that including electricity interval meters in the final rule would add an unreasonable regulatory and administrative burden on retailers, particularly when the proportion of customers with



manually read interval meters will decrease over time as advanced meters are rolled out in the NEM. To assist these customers, the Commission has included a range of additional measures in the final rule that will strengthen consumer protections related to estimated meter reads. These measures are discussed in further detail in Chapter 6.

#### **Small customers with gas or electricity accumulation meters to be included in the rule**

The final rule requires retailers to adjust a small customer's energy bill that is based on an estimate using a customer's reading of their gas meter or electricity accumulation meter. The Commission acknowledges that, in practice, some of these metering arrangements will be more difficult to read than others. The rule therefore includes a requirement on retailers to provide guidance to customers on how to read their meter (see Chapter 5).

The Commission decided against excluding faulty meters from the rule as requested by Citipower, United Energy and Powercor, on the basis that the NER requires metering coordinators to repair a small customer's faulty meter as soon as practicable, but otherwise within a short specified timeframe.<sup>139</sup> We consider that most faulty meters should be replaced before they have a substantial impact on a small customer's bill.

#### **4.4.3 Minimising the costs of implementation**

The Australian Government'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 rule instead requires a customer to request an adjustment prior to the existing due date for payment of the bill.<sup>140</sup>

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.<sup>141</sup> 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 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 Commission agreed with submissions from consumer groups that customers should not face a disincentive when requesting an adjusted bill, such as in the case where a retailer does not honour the pay on time discount specified in a customer's market contract. The final rule specifies that, if the retailer has advised a small customer of a new date for payment as part of the bill adjustment process, the retailer must maintain any existing benefits that the

<sup>139</sup> Subrule 7.8.10 of the NER. This subrule is currently the subject of another rule change request being considered by the AEMC regarding metering installation timeframes.

<sup>140</sup> The minimum due date for payment being 13 days from the bill issue date for a customer on a standard retail contract under subrule 26(1) of the NERR.

<sup>141</sup> Consultation paper submissions: EnergyAustralia, p. 5; Origin, p. 3.

customer would otherwise receive under the terms of their retail contract with respect to the new payment date.

In response to AGL's submission regarding the expected hierarchy of customer meter readings against actual reads, the Commission notes that 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. Any actual meter read undertaken after an estimated bill has been produced will flow through to the small customer's next bill; therefore, it should not be used by retailers as a basis for rejecting a customer's meter reading.

It is important to note that when a small customer requests an adjustment to their bill under the final rule, this is not considered a review of the bill for the purposes of the customer dispute provisions in the NERR. Rather, it is a separate mechanism available to customers to mitigate the impact of an inaccurate bill produced by the retailer. If the customer's meter read is rejected by the retailer and the customer remains dissatisfied with their bill, they are able to separately request the retailer review their bill under rule 29 of the NERR.<sup>142</sup>

#### 4.4.4 Using customer self-reads in settlement

The rule 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.<sup>143</sup> 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.<sup>144</sup>

The 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.<sup>145</sup> The rule does not prevent the current arrangements from continuing.

#### 4.4.5 Retail market performance reporting

The Commission recommends that the AER consider requiring retailers to report on:

- the use of estimated meter reads for small customer billing
- the proportion of adjusted bills that have been provided to customers as a result of this rule.

The Commission considers that additional reporting around the use of estimated reads, including customer self-reads, should promote market transparency and good industry practice. In particular, additional reporting may assist key energy stakeholders in determining

<sup>142</sup> Further, the retailer must inform the customer that they can do so, under subrule 3G(b) of the final rule.

<sup>143</sup> 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.

<sup>144</sup> This was also noted by EnergyAustralia (p. 4) and Aurora Energy (p. 2) in their submissions to the consultation paper.

<sup>145</sup> Consultation paper submissions: AGL, p. 4; AGIG, p. 2.

whether the rule has been implemented successfully and is reducing adverse customer impacts.

We understand that the AER has recently revised its (Retail Law) Performance Reporting Procedures and Guidelines, which will come into effect on 1 January 2019. The Commission recommends that the AER consider introducing the above requirements into a subsequent iteration of the Guidelines, noting that the version commencing early next year has already been finalised after an extensive consultation process.

#### **RECOMMENDATION 1: RETAIL MARKET PERFORMANCE REPORTING**

The Commission recommends that the AER consider requiring retailers to report on:

- the use of estimated meter reads for small customer billing
- the proportion of adjusted bills that have been provided to customers as a result of this rule.

## 5 INFORMING CUSTOMERS OF THEIR RIGHT TO REQUEST AN ADJUSTED BILL

This chapter outlines the 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.<sup>146</sup> Under the final rule, where a small customer's bill is based on an estimate, the retailer must also inform the customer in writing that they can request an adjusted bill by providing the retailer with a reading of their meter before the due date for payment of the bill.

If the customer requests an adjusted bill, the final rule specifies that the retailer must make clear any changes to the customer's payment obligations. It must also provide, at no charge, 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 final rule also outlines that the retailer must promptly notify the customer, including specific 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 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. In addition, the retailer must inform the small customer that they may lodge a dispute with the energy ombudsman or request the retailer review the bill where the customer is not satisfied with the retailer's decision after attempting to rectify the meter reading.

### **BOX 4: CHANGES BETWEEN THE DRAFT AND FINAL RULE**

The final rule largely retains the draft rule 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.

<sup>146</sup> Subrule 25(1)(i) of the NERR.

However, a number of changes have been made between the draft and final rule to enhance the operation of the rule and to clarify its intent. Key amendments include the following:

- clarifying that the retailer can reject a customer read where the customer read is not provided in accordance with the guidance and requirements provided by the retailer or was received on or after the due date for payment of the bill
- specifying that, when rejecting a customer's meter read, the retailer must promptly notify the small customer in writing of the **specific** reasons for its decision.

The Commission has also included an explanatory note in the final rule outlining examples of specific reasons a retailer may provide for rejecting a customer's meter reading.

## 5.1 Proponent's views

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

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.<sup>147</sup>

## 5.2 Stakeholder views - submissions to consultation paper

### 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.<sup>148</sup>

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 subrule 25 of the NERR).<sup>149</sup> 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<sup>150</sup>
- 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.<sup>151</sup>

<sup>147</sup> The Australian Government, *Estimated meter reads*, rule change request, p. 7.

<sup>148</sup> 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.

<sup>149</sup> Consultation paper submissions: Simply Energy, p. 2; Energy Queensland, p. 9.

<sup>150</sup> Simply Energy, submission to the consultation paper, p. 2.

<sup>151</sup> Energy Queensland, submission to the consultation paper, p. 9.

### 5.2.2 Rejecting a customer read

The Australian Government 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, it 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.<sup>152</sup> 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<sup>153</sup>
- the customer should be allowed to raise a formal dispute after this process if they remain unhappy with the bill.<sup>154</sup>

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 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.<sup>155</sup>

## 5.3 Stakeholder views - submissions to draft determination

### 5.3.1 Informing the customer

In response to the Commission's draft determination, the majority of stakeholders expressed support for the draft requirement on retailers to inform small customers that they may provide a reading of their meter as the basis for requesting an adjusted bill.<sup>156</sup> EWOQ concurred with the Commission's approach to make the process as simple and easy as possible for a customer to understand; noting that in their experience, customers identify streamlined information provision as a key area that would assist better engagement with their energy retailer.<sup>157</sup>

A few stakeholders considered that the draft requirements should include additional protections for consumers. Comments included that:

- the final rule should require retailers to take into account the information needs of disadvantaged households, including those without ready access to the internet and those with language difficulties, when developing their customer self-read processes<sup>158</sup>

<sup>152</sup> Consultation paper submissions: PIAC, pp. 5-6; EWOSA, p. 2; Powershop, p. 6.

<sup>153</sup> PIAC, submission to the consultation paper, pp. 5-6.

<sup>154</sup> EWOSA, submission to the consultation paper, p. 2.

<sup>155</sup> Energy Queensland, submission to consultation paper, p. 9.

<sup>156</sup> Draft determination submissions: EnergyAustralia, p. 3; SA Department of Premier and Cabinet - Energy and Technical Regulation Division, p. 1; EWOQ, p. 2; AGL, p. 3; EnergyQueensland, p. 3; TasNetworks, p. 1; AGIG, p. 1; EWOSA, p. 1; EWON, p. 2.

<sup>157</sup> EWOQ, submission to the draft determination, p. 2.

<sup>158</sup> Draft determination submissions: SA Department of Premier and Cabinet - Energy and Technical Regulation Division, p. 1; PIAC, p. 3; Jemena, p. 1.

- the initial notice to customers advising them that they can request an adjusted bill should also include the specific reason why an actual read could not be taken and their bill has been produced as an estimate<sup>159</sup>
- retailers should be required to implement measures, systems and processes to help actively address any chronic access issues related to obtaining actual meter reads at a small customer's property<sup>160</sup>
- small customers should be provided with a minimum of five business days between the issuing of their adjusted bill and when the payment of that adjusted bill is required.<sup>161</sup>

### 5.3.2 Rejecting a customer read

Most stakeholders were supportive of the approach taken in the draft determination to provide retailers with grounds for rejecting a customer self-read in necessary cases where the read does not comply with the retailer's requirements or is late.<sup>162</sup> Comments included that the final rule would lead to a more efficient and less disputed billing process, and increase transparency for small customers.

Some retailers requested greater flexibility under the rule to reject a customer's reading of the meter.<sup>163</sup> Comments included that:

- retailers should be able to reject a customer read over the phone, providing they keep records of the phone conversation<sup>164</sup>
- retailers should be allowed to reject a customer self-read where the previous bill was also adjusted using a self-read, on the basis that consecutive self reads may diminish the incentive to provide safe access to the property<sup>165</sup>
- a customer should only be able to request a reissue where the variance between the estimated read and the customer's read is 25 per cent or less.<sup>166</sup>

PIAC and Jemena were in favour of adding more prescription to the rule around when retailers are allowed to reject customer self-reads and how they communicate this to customers.<sup>167</sup> For example, they suggested:

- inserting an explanatory note into the rule outlining examples of reasonable reasons for rejecting a self-read
- retailer's guidance to customers on how to provide a self-read should include the specific reasons that may lead to a read being rejected

159 Draft determination submissions: PIAC, p. 2; EWON, p. 3.

160 PIAC, submission to the draft determination, p. 2.

161 EWOSA, submission to the draft determination, p. 1.

162 Draft determination submissions: Origin, p. 1; EnergyAustralia, p. 3; EWOQ, p. 2; Energy Queensland, pp. 1-2; TasNetworks, p. 2; AGIG, p. 1; EWOSA, p. 1.

163 Draft determination submissions: Origin, p. 1; Aurora, p. 3; Red Lumo, pp. 1-2; Energy Queensland, pp. 1-2; Momentum, p. 3.

164 Origin, submission to the draft determination, p. 1.

165 Draft determination submissions: Aurora, p. 3; Red Lumo, pp. 1-2; Energy Queensland, pp. 1-2.

166 Momentum, submission to the draft determination, p. 3.

167 Draft determination submissions: PIAC, p. 3; Jemena, p. 2.

- that the retailer’s notification rejecting a customer provided read must state the specific reason for rejection, include direction on how to rectify the issue, as well as the contact information for the relevant energy ombudsman.

The AER requested to remove the words “reasonably consider” from subrule 21(3D)(b) to make the rule more objective from an enforcement and compliance perspective.<sup>168</sup>

## 5.4

### Analysis

#### 5.4.1

#### Informing the customer

Where a customer’s bill is based on an estimated read, the final 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.<sup>169</sup> 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 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 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.<sup>170</sup>

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

- a meter that is inside a locked meter room in an apartment block or installed in a manner that may be difficult to reach
- clock-dial meters which are harder to read.

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

The final rule also requires retailers to indicate in advance to customers a range of methods<sup>171</sup> by which small customers 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 email<sup>172</sup>

<sup>168</sup> AER, submission to the draft determination, p. 3.

<sup>169</sup> That is, unless the bill was already based on a customer’s reading of the relevant meter.

<sup>170</sup> That is, the adjusted bill must inform the customer that it is based on their self-read.

<sup>171</sup> For example, retailers will need to give consideration to customers that have limited access to specific technologies or are not native English speakers.

<sup>172</sup> Consultation paper submissions: Powershop, p. 5; Energy Queensland, p. 8.



- 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.

The final 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 considered that it is not necessary to include additional prescription into the final rule, such as including notice of the specific reason that an actual meter read could not be conducted on the bill as suggested in one submission to the draft determination, on the basis that it was likely to increase costs for retailers without delivering proportionate benefits for consumers.

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.

#### 5.4.2 Rejecting a customer read

The 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
- 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 rule specifies that the retailer must promptly notify the customer in writing that the read has not been accepted, and include the specific reasons for its decision.<sup>173</sup> The Commission considered that the customer may find written notice with the specific reasons for the retailer's rejection helpful if they decide to later contest the retailer's decision with their local energy ombudsman. The retailer must also provide the customer with an opportunity to rectify the self-read in accordance with its standard dispute resolution procedures.

If the retailer does not accept the customer's second attempt at providing a meter reading, and the customer remains dissatisfied with the retailer's decision, 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:

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<sup>173</sup> The Commission has removed the words "reasonably consider" from the final rule in line with the AER's submission to the draft determination.

- lodge a dispute with their ombudsman
- request the retailer to review the bill under rule 29 of the NERR.

## 6 ADDITIONAL MEASURES TO STRENGTHEN CUSTOMER PROTECTIONS

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

- amendments to strengthen the existing customer billing disputes provisions in rule 29 of 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.

### BOX 5: CHANGES BETWEEN THE DRAFT AND FINAL RULE

The final rule largely retains the additional measures to strengthen consumer protections that were included in the draft rule.

The final rule amends the customer dispute provisions in the NERR to allow retailers discretion as to whether to impose a cost on the customer in cases where a customer has requested a meter data check or meter test and the data is found to be correct or the meter was found not to be faulty.

### 6.1 Proponents' views

#### 6.1.1 Customer dispute provisions

As discussed in Chapter 1, the Australian Government raised a concern with the current consumer protections provided in the NERR. Specifically, it argued that the relevant provisions on billing do not adequately address the issue of incorrect estimates.<sup>174</sup>

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.<sup>175</sup> 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 (which the retailer may require to be paid in advance) 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).<sup>176</sup>

The Australian Government 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.

<sup>174</sup> The Australian Government, *Estimated meter reads*, rule change request, p. 4.

<sup>175</sup> Subrules 29(1)-(2) of the NERR.

<sup>176</sup> Subrule 29(5) of the NERR.

### 6.1.2

#### Rule 21 of the NERR

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.
- (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, the Australian Government 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.<sup>177</sup>

- "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

The Australian Government requested the Commission to consider whether it may be appropriate to recommend making rule 21 of the NERR a civil penalty provision, including both existing requirements as well as any new requirements that may be added as a result of this rule change.<sup>178</sup> It suggested that applying civil penalties may act as an effective deterrent to non-compliance and the provision of inaccurate estimations by retailers.

<sup>177</sup> The Australian Government, *Estimated meter reads*, rule change request, p. 6.

<sup>178</sup> The Australian Government, *Estimated meter reads*, rule change request, pp. 2-4.

## 6.2 Stakeholder views - submissions to consultation paper

### 6.2.1 Customer dispute provisions

Consumer groups considered that the NERR does not provide adequate protection for consumers with regard to inaccurate estimations.<sup>179</sup> In particular, PIAC was concerned that the existing provisions:<sup>180</sup>

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.

Retailers and networks were generally of the view that the current consumer protections outlined in the NERR are sufficient.<sup>181</sup> 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.<sup>182</sup>

### 6.2.2 Rule 21 of the NERR

Stakeholders did not provide comments on the Australian Government'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.<sup>183</sup> 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.<sup>184</sup>

Other retailers and networks were not supportive of introducing civil penalty provisions to rule 21.<sup>185</sup> Comments included that:

- the primary cause of estimated meter reads is access to meter issues and a civil penalty will not mitigate this issue<sup>186</sup>

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

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

181 Consultation paper submissions: Endeavour Energy, p. 2; Simply Energy, p. 2; ERM, p. 2; Energy Queensland, p. 5

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

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

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

185 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.

186 Powershop, submission to the consultation paper, p.2.

- 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.<sup>187</sup>

## 6.3 Stakeholder views - submissions to draft determination

### 6.3.1 Customer dispute provisions

In response to the Commission's draft determination, the majority of stakeholders expressed support for the draft amendments to strengthen the existing customer dispute provisions in the NERR.<sup>188</sup> Comments included that:

- the proposed change will provide customers with a greater ability to challenge unusually high bills<sup>189</sup>
- this change more fairly balances the initial costs of billing disputes and removes the disincentive for customers to challenge a reading<sup>190</sup>
- the requirement that a customer 'must' pay for a meter data check or test could be changed in order to allow retailers discretion as to whether to impose a cost on the customer<sup>191</sup>
- while improving outcomes for consumers, the final rule could include more prescription to specify that retailers need to notify customers that they can request a meter data check or meter test when they dispute a bill.<sup>192</sup>

Aurora Energy and the Tasmanian Government were opposed to the draft amendments on the basis that, in the vast majority of cases where a customer requests a meter test, they are likely to end up paying for the test due to the low meter failure rate.<sup>193</sup> Aurora Energy considered that customers should instead engage with their retailer to critically examine their energy consumption and ensure they have considered all elements of their usage and its effect on their bill.

### 6.3.2 Rule 21 of the NERR

Consumer groups and the AER were supportive of the draft amendments proposed to rule 21 of the NERR, on the basis that they should provide clarity to both consumers and retailers regarding estimated bills.<sup>194</sup>

PIAC and Jemena proposed that retailers should be required to publish their methodology for estimating meter reads on their website.<sup>195</sup> They considered that this requirement would give customers greater transparency over how their estimate is calculated.

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187 Simply Energy, submission to the consultation paper, p. 2.

188 Draft determination submissions: EWOQ, p. 3; EnergyAustralia, p. 3; AGIG, p. 2; EWOSA, p. 2; Jemena, p. 4; TasNetworks, p. 1; AER, p. 2.

189 EWON, submission to the draft determination, p. 2.

190 TasNetworks, submission to the draft determination, p. 1.

191 AER, submission to the draft determination, p. 2.

192 Draft determination submissions: Jemena, p. 4; PIAC, p. 2.

193 Draft determination submissions: Aurora, pp. 2-3; Tasmanian Department of State Growth - Office of Energy Planning, p. 2.

194 Draft determination submissions: EWOQ, p. 1; EWON, p. 3; PIAC, pp. 2-3; Jemena, p. 3.

195 Draft determination submissions: Jemena, p. 3; PIAC, pp. 2-3.

The AER proposed to change draft subrule 21(2), which outlines the three estimation bases available to retailers for creating a small customer's bill, to indicate that a retailer must use a customer self-read or a customer's historical metering data as a basis for estimation, and may only use the average usage of energy by a comparable customer if the others are not available.<sup>196</sup> It considered that clarifying the hierarchy of bases for estimated bills may reduce the occurrence of customers receiving bills based on inaccurate estimates.

### 6.3.3 Civil penalties

Consumer groups, the South Australian Government and TasNetworks supported the Commission's draft approach to recommending new civil penalty provisions, on the basis that these provisions may provide incentives for retailers to undertake actual meter reads or to provide accurate estimated bills.<sup>197</sup>

Retailers were not supportive of introducing any new civil penalty provisions related to estimated bills.<sup>198</sup> Comments included that:

- the imposition of an additional civil penalty requirements would merely dilute the legitimacy of the civil penalty regime without furthering consumer interests<sup>199</sup>
- imposing penalties may create perverse behaviours, such as unsafe practices to gain access for a meter reading<sup>200</sup>
- retailers are already heavily incentivised to ensure that small customer bills based on estimates are as accurate as possible.<sup>201</sup>

## 6.4 Analysis

### 6.4.1 Customer dispute provisions

As noted earlier in the 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 rule includes an amendment to the existing small customer billing disputes 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.<sup>202</sup> 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 request<sup>203</sup>, the customer must pay for the cost of the check or test and will only be reimbursed if the meter

<sup>196</sup> AER, submission to the draft determination, p. 1.

<sup>197</sup> Draft determination submissions: EWOSA, p. 2; TasNetworks, p. 4; EWOQ, p. 1; SA Department of Premier and Cabinet - Energy and Technical Regulation Division, p. 1

<sup>198</sup> Draft determination submissions: Simply Energy, p. 2; Energy Queensland, p. 4; AGL, p. 4; Momentum, p. 2; EnergyAustralia, p. 3; Red Lumo, p. 1.

<sup>199</sup> Simply Energy, submission to the draft determination, p. 2.

<sup>200</sup> Energy Queensland, submission to the draft determination, p. 4.

<sup>201</sup> Momentum, submission to the draft determination, p. 2.

<sup>202</sup> Subrules 29(1) and (2) of the NERR.

<sup>203</sup> Minister Frydenberg, *Estimated meter reads*, rule change request p. 4

proves to be faulty or the metering data proves to be incorrect (e.g. incorrectly calculated or transcribed).<sup>204</sup>

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 final rule allows for retailers to charge a customer 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.

The Commission agreed with the AER's submission to the draft determination that it is appropriate to allow retailers discretion as to whether to impose a charge on customers; consequently, the final rule allows the charge to be imposed at the discretion of the retailer.

#### 6.4.2

#### **Rule 21 of the NERR**

The Australian Government's rule change request 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 Australian Government 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.<sup>205</sup> 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.

However, the Commission does not consider that rule 21 should be altered to include a defined hierarchy of bases for estimated bills, as suggested by the AER in its submission to the draft determination. Instead, the Commission considers that the rules should provide

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204 Subrule 29(5) of the NERR.

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



retailers with the flexibility to choose the most appropriate method of estimation for customers.

The Commission decided against including a requirement in the final rule for retailers to publish their methodology for estimating meter reads on their website. As noted earlier, it is the Commission's understanding that retailers rarely undertake their own meter estimates, but instead rely on the estimated data provided by meter data providers. We consider that a requirement on retailers to publish their methodology may further confuse customers if the estimate has been made by a MDP or distributor using a different methodology.

### 6.4.3

#### **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.

These provisions include the amendments and 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 3B)
4. the requirement that a retailer must provide, promptly and at no extra charge, the small customer with an adjusted bill (subrule 3D)
5. the requirement that a retailer must, in its written rejection notice, inform the small customer that they may lodge a dispute with the energy ombudsman after failing to rectify the customer read. The retailer must also inform the small customer that can request the retailer to review the bill under rule 29 (subrule 3G).

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
Commission	See AEMC
EWON	Energy and Water Ombudsman New South Wales
EWOQ	Energy and Water Ombudsman Queensland
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

### A.1 Summary of other issues raised in submissions to the consultation paper

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. Another table follows that sets out the issues raised to the draft determination.

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
<b>Customer transfers</b>		
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.	

STAKEHOLDER	ISSUE	AEMC RESPONSE
<b>Passing the customer read on to third parties</b>		
AGL (p. 4)	If a retailer makes an adjustment based on a customer self-read and the network does not receive this self-read, then there is a mismatch in data that can impact forecasting systems.	The draft rule does not preclude customer self-reads from being used for market settlement where this is allowed by AEMO metrology and retail market procedures.
<b>Chronic access issues</b>		
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.
<b>Customer self-reads</b>		
Aurora Energy (p. 2)	Given their current market responsibilities, it is Aurora Energy's view that LNSPs and MDPs continue to be the most appropriate participants to be responsible for meter	The retailer is the main point of contact with the customer and is

STAKEHOLDER	ISSUE	AEMC RESPONSE
	<p>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>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>
<p>Origin, p. 2</p>	<p>In terms of tariffs, we do not consider that customer self-reads should apply to all</p>	<p>The Commission notes that</p>

STAKEHOLDER	ISSUE	AEMC RESPONSE
	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.	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.
<b>Strengthening the requirements to carry out actual meter reads</b>		
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)	<p>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:</p> <ol style="list-style-type: none"> <li>1. the site has solar installation and requires a digital meter</li> <li>2. the site has a faulty meter and requires replacement</li> <li>3. new property connection which requires a brand new meter.</li> </ol>	The Commission is considering this submission as part of another rule change under review, called <i>Metering installation timeframes</i> .
<b>Alternatives</b>		
AGL (p. 4)	To help improve the collection of actual reads, the AEMC should consider other options	The Commission is supportive of

STAKEHOLDER	ISSUE	AEMC RESPONSE
	<p>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 estimate 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>any industry attempts to minimise the problem of inaccurate estimations, including installing analogue gas meters where they are appropriate.</p>
<p>TasNetworks (p. 4)</p>	<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 change process.</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>

## A.2 Summary of other issues raised in submissions to the draft determination

**Table A.2: Summary of other issues raised in submissions**

STAKEHOLDER	ISSUE	AEMC RESPONSE
<b>Implementation</b>		
Energy Queensland (p. 3)	In our initial response to the Consultation Paper, we raised concerns regarding the costs involved to upgrade systems to validate and accept customer self-reads on a broad basis. We therefore request the AEMC consider granting a reasonable period to allow for these system changes to occur to ensure retailers are provided the opportunity to comply with the final rule.	The final rule will commence operation on 1 February 2019. The Commission considered that a period of approximately four months between the publication of the final determination and the commencement of the rule would be sufficient for retailers to implement any necessary changes to their systems and processes required by the final rule.
Red Lumo (p. 2)	<p>Many terms and conditions between customers and retailers must need to be amended to reflect the new rules. As such, we request that the Commission provides retailers with adequate time to make the required changes to systems, terms and conditions, collateral and potentially bill design that need to be taken into account.</p> <p>We consider that as a minimum it may be prudent to allow a minimum of 9 months for implementation, which may need to be more depending on the extent of the changes made to the draft rules.</p>	
Aurora (p. 3)	<p>In the event that the AEMC proceeds with the Draft Determination as proposed, Aurora Energy urges the AEMC acknowledge the distinct circumstances of all retailers. With no self-reading systems or processes established, Aurora Energy will need an extended timeframe to prepare. This preparation is also being conducted within an environment already subject to significant regulatory change.</p> <p>A long lead time for implementation will assist retailer preparedness through not only provision of adequate system development time, but also allowing a greater period of time in which advanced meters can be rolled out to target customers.</p>	
<b>Chronic access issues</b>		



STAKEHOLDER	ISSUE	AEMC RESPONSE
AGIG (p. 4)	<p>We support stakeholder comments regarding the need to address chronic access issues and that consideration should be given to the installation of gas meters that have the capability to be read remotely.</p> <p>AGIG also supports ERM comments that customers are unaware of their obligations to provide safe and unhindered access to meters at all time. We have also found that customers are confused with their relationship with retailers and gas distributors, which is also contributing to the frustration on the part of customers regarding who they should contact. We would support further clear communications to customers to educate them on their responsibilities as improved site access will see a reduction in estimate reads for customers.</p>	<p>The Commission is supportive of retailer and distributor efforts to resolve chronic access issues, and considers that there is a natural incentive for these bodies to continue their work. We do not consider that additional prescription is required in the rules on this matter.</p>
EnergyAustralia (pp. 1-2)	<p>Our greater concern is customers with chronic no access to their meters. Customer own reads will only be a short-term solution for these customers. There is a risk that the proposed rule will provide an incentive for customers to restrict access to their meters and be less amenable to helping retailers organise an actual read every 12 months. As such, bill shock is a likely result if a retailer eventually gets an actual read. While the AEMC has acknowledged stakeholders concerns with chronic no access, we request the AEMC consider further, in its final decision, the necessity for customers to provide access to their meters to mitigate against bill shock.</p>	
Jemena (p. 5)	<p>As mentioned in our previous submission, we recommend that the AEMC help ensure body corporates install universal Abloy locks to provide clear and unhindered access to meters installed beyond locked doors (e.g. basements).</p> <p>While the AEMC can't guarantee access, we would like to understand why the AEMC could not put in place measures which standardise responses make sure that all of the procedures in the NERR support accessibility.</p>	

STAKEHOLDER	ISSUE	AEMC RESPONSE
Momentum (p. 3)	<p>We support the current requirement for retailers to contact the customer to arrange access but consider that the obligations on customers should also be clearly defined to the extent that they are ultimately the party who can ensure that the MDP has safe access.</p> <p>Often when Momentum is able to contact a customer to arrange access to a meter they are unwilling to make access available during the MDP's appointment window, or we receive feedback that either of the two parties has not attended the scheduled appointment as arranged. The move to remotely read metering will eventually solve this problem, but in the interim, imposing addition requirements on retailers will not address the issue.</p>	
<b>Alternatives</b>		
PIAC (p. 3)	PIAC recommends the final rule include changes to Rule 21 (1)(2)(3) to ensure that communication that a bill is based upon an estimate is required to be prominently displayed on the primary billing information (for instance, on the first page of a bill).	Subrule 25(1)(i) of the NERR already requires retailers to indicate on a customer's bill whether the bill was issued as a result of a meter reading or an estimation. The Commission considers that any further prescription is unnecessary.
<b>Drafting of the legal rule</b>		
AER (p. 2)	The AER highlighted what it considered were minor inconsistencies in the draft rule in relation to the timing of the estimated reads. In particular, it noted that subrule 21(3A)(a) referred to a customer providing the read estimate before the due date for payment of the bill while subrules 21(3C)(a)-(b) referred to the retailer receiving the customer read estimate before the due date. To ensure the timings are aligned, the	The Commission considered that the current rule drafting is appropriate. Under the draft rule, the customer is required to provide the self-read before the

STAKEHOLDER	ISSUE	AEMC RESPONSE
	<p>AER suggested both subrules should reference the customer providing the customer read estimate before the due date.</p>	<p>due date for payment of the bill. If the retailer receives this self-read on or after the due date for payment, the retailer is able to reject the self-read.</p> <p>The Commission considers that, in the vast majority of cases, the self-read will be received by the retailer at the same time that the customer provides it. It is rare that self-reads will be lodged by mail, which would result in the read being received at a later date by the retailer.</p>
<p>AGL (p. 3)</p>	<p>AGL recommend the use of the term "Customer Read" or "Customer Own Read" instead of additional use of the word 'estimate' as this may cause customer confusion. The Rules should ensure that the language is not prescribed so long as it is made clear to a customer where an estimate or customer read has been used.</p>	<p>The term 'customer read estimate' was chosen to make clear that a customer's reading of the meter supplied for the purpose of obtaining an adjusted bill is still considered an estimate under the NERR.</p>
<p>AER (p. 2)</p>	<p>The AER was concerned there may be ambiguity in the draft rule as to the processes a retailer must follow to inform the customer about the status of the bill once a customer has requested an adjustment. In particular, it requested that the rule specify that retailers are required to:</p>	<p>The rule requires retailers to inform customers in writing of any changes to their payment obligations if they request an adjustment to their bill. We</p>

STAKEHOLDER	ISSUE	AEMC RESPONSE
	<ul style="list-style-type: none"> <li>inform the customer that they do not need to pay the bill if they have requested an adjustment to it</li> <li>provide a rejection within 10 business days from submission or receipt of the customer estimated read.</li> </ul>	<p>consider that this measure is clear and should not result in customer confusion.</p> <p>We consider that it is adequate for the final rule to specify that the retailer's response to customers must be 'prompt', in the interests of not adding unnecessary prescription into the rules.</p>
<b>Additional comments</b>		
Jemena (p. 4)	<p>Our understanding is that requirements for exempt sellers, including in relation to estimated reads and customer self-reads, are reliant on the AER's Exempt Selling Guideline.</p> <p>The AEMC may wish to consider how any new initiatives will apply to exempt sellers given that the AER's Guideline is separate to the NERR.</p>	<p>The AEMC is currently conducting a review into embedded networks and stand-alone power systems, which will consider all aspects of the regime.</p>
Momentum (p. 4)	<p>Momentum considers that there is the potential for this rule change to exacerbate hardship issues as some customers will have the incentive to 'game' the system by providing false reads (photos taken at earlier dates) in order to provide them to their retailer in a bid to have their bill adjusted. This approach will provide temporary relief but ultimately end up causing issues when the customer receives a bill based on an actual read which reconciles their usage against previous estimates.</p>	<p>The Commission considers that the current framework as prescribed in the NERR does not provide adequate consumer protection with regard to inaccurate estimates. We do not expect that 'gaming' is likely to be widespread amongst small</p>

STAKEHOLDER	ISSUE	AEMC RESPONSE
		customers.
EnergyAustralia (p. 3)	<p>The AEMC should consider the risks to customers from potential hazards associated with customers accessing their meter. We have seen instances of latent electrical faults in meter boxes, snakes and spiders present and other physical hazards related to the site/property itself. While, meter reader technicians are trained to navigate hazards and have equipment to check for any hazardous voltage on the metal boxes enclosing electricity meters, customers are not and are usually unaware of the condition of their meter boxes. To mitigate this risk, EnergyAustralia will be incorporating some messaging into our information regarding customer own reads to emphasise that customers need to approach their meters with care, or to request a special read if they are not sure that it is safe to access their meter</p>	<p>The Commission is supportive of retailer efforts to inform customers of the potential safety risks associated with reading an electricity or gas meter.</p>

## 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 final rule determination.

### B.1 Final rule determination

In accordance with s. 102 of the NEL and s. 259 of the NERL the Commission has made this final rule determination in relation to the rule changes proposed by the Australian Government, Dr Dodt, and Ms Johnson, and in accordance with s. 311 of the NGL, in relation to the rule change proposed by the Australian Government.

The Commission's final determination is:

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

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

A copy of the more preferable final rule is attached to and published with this final rule determination. Its key features are described in Chapters 4-6.

### B.2 Power to make the rule

#### B.2.1 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 s.34 of the NEL as it relates to the activities of persons participating in the NEM or involved in the operation of the national electricity system, and relates to facilitating and supporting the provision of services to retail customers.<sup>206</sup>

Furthermore, the Australian Government'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.<sup>207</sup>

#### B.2.2 NERL

The Commission is satisfied that the more preferable final rule falls within the subject matter about which the Commission may make rules. The more preferable final 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.<sup>208</sup>

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<sup>206</sup> NEL sections 34(1)(a)(iii) and (aa).

<sup>207</sup> NGL sections 74(1)(a)(iv),(vi), and (aa)

<sup>208</sup> 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 requests<sup>209</sup>
- 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 the Australian Government<sup>210</sup>) 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.<sup>211</sup> The more preferable final 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. However, it may (jointly with the AER) recommend to the COAG Energy Council that new or existing provisions of the NERR be classified as civil penalty provisions.

The Commission's final more preferable rule in part amends rules 21 and 29 of the NERR.

Subrules 21(4), 29(1) and 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 subrules 21(4), 29(1) and 29(7) of the NERR should continue to be retained as civil penalty provisions.

The Commission's more preferable final 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 final rule as subrules: 21(1), 21(2), 21(3B), 21(3D) and 21(3G), 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. It also considers that the civil penalty provisions together should act as an effective deterrent against retailer's use of inaccurate estimations of energy usage in small customer billing arrangements.

<sup>209</sup> 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.

<sup>210</sup> The Australian Government, *Estimated meter reads*, rule change request, p.6-7

<sup>211</sup> Section 91(8) of the NEL, and s. 295(4) of the NGL.

**Table B.1: Civil penalty provisions in the NERR as proposed in the more preferable final rule**

NEW RULE REFERENCE	RECOMMENDATION
<i>Amended rules that we recommend be classified as civil penalty provisions</i>	
21(1)	Classify as a civil penalty provision to encourage compliance with the clarified amended rule 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 rule which now constitutes the only accepted estimation methods retailers can use as the basis for billing small customers.
<i>New rules that we recommend should attract a civil penalty</i>	
21(3B)	Classify as a civil penalty provision on the basis that it will act as an effective deterrent to non-compliance. This rule 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; of any changes to the customer's payment obligations if the customer makes such a request; and how the customer can obtain the information on how to carry out and lodge the customer read estimate.
21(3D)	Classify as a civil penalty provision to encourage retailer compliance. This rule requires that where a small customer requests an adjustment to a bill based on an estimate, by



NEW RULE REFERENCE	RECOMMENDATION
	<p>providing the retailer with a valid customer read estimate before the due date for payment of the bill, the retailer must promptly, and at no extra charge, provide the small customer with an adjusted bill based on the customer read estimate.</p>
<p>21(3G)</p>	<p>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 decision after the customer has followed the process under subrule 21(3F) to rectify a customer read estimate. This provision is key for consumers to be made aware of the ability to seek review of their matter by the energy ombudsman after the retailer’s decision.</p>

Source: some source details

Note: The Commission considers that subrule 21(4) of the NERR and subrules 29(1) and 29(7) of the NERR should be retained 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 final 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 final rule be classified as conduct provisions.